



STAFF REPORT ACTION REQUIRED

Undocumented Workers in Toronto

Date:	October 22, 2012
To:	Community Development and Recreation Committee
From:	Executive Director, Social Development, Finance & Administration
Wards:	All
Reference Number:	AFS# 15467

SUMMARY

This report responds to the Community Development and Recreation Committee request for information pertaining to the status of undocumented workers in Toronto, a summary of Federal policies and programs related to undocumented workers without a criminal record, including the possibility of offering amnesty to undocumented workers and their families.

The research demonstrates that undocumented workers, individuals working in Canada without legal status, face a variety of challenges. These include: inability to access programs and services available for legal residents, and a limited ability to deal with employment-related issues. When an undocumented worker, with or without a criminal record, is discovered, he/she will be dealt with according to current Federal legislation and regulations, which consists of removal procedures. There are no amnesty programs in Canada.

RECOMMENDATIONS

The Executive Director, Social Development, Finance & Administration recommends that:

1. The Community Development and Recreation Committee receive this report for information.

Financial Impact

There is no financial impact associated with this report.

The Deputy City Manager and Chief Financial Officer has reviewed this report and agrees with the financial impact information.

DECISION HISTORY

At its meeting of February 22, 2012, the Community Development and Recreation Committee requested the City Manager, in consultation with the Executive Director, Social Development, Finance and Administration, to research and report back on the state of undocumented workers in Toronto and Federal policies and programs related to undocumented workers without a criminal record, including the possibility of offering amnesty to those workers and their families.

A number of reports have been submitted for Council's consideration with respect to undocumented workers. In 2005, the City of Toronto produced the following Committee reports pertaining to undocumented workers.

- Policy and Finance Committee Report 4 – Support for the Efforts of Undocumented Workers Committee. The report recognizes the significant contribution to Canada's economic development made by undocumented workers as well as their difficult circumstances. Additional information may be found:
<http://www.toronto.ca/legdocs/2005/agendas/council/cc050504/pofcl019a.pdf>
- Administration Committee Report 6 – Council Resolution on Support for Undocumented Workers. Council reaffirmed its support towards undocumented workers, requesting that the Federal Minister of Citizenship and Immigration consider normalizing their legal status, and requesting the federal opposition parties advocate with the Minister for a long-term solution. Additional information may be found:
<http://www.toronto.ca/legdocs/2005/agendas/council/cc050719/adm6rpt/cl003.pdf>

In November 2011, Toronto Public Health and Access Alliance Multicultural Health and Community Services released The Global City: Newcomer Health in Toronto report. It stated that undocumented newcomers face unique and serious health issues and many barriers in accessing care. Signs of trauma, chronic stress and depression are often persistent. The Board of Health requested the Medical Officer of Health to undertake further research related to the health of undocumented residents, focusing on appropriate intervention that may be helpful to this community. For further information, refer to: HL9.1, Motion 5(b)

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2011.HL9.1>

ISSUE BACKGROUND

It is difficult to estimate how many people live in Canada without authorized migratory status. There are currently no efforts to collect large-scale systematic data about individuals with unclear or no migratory status. As a result, the estimates range significantly. Reports indicate there may be between 20,000 and 500,000 undocumented people living in Canada (Goldring et al., 2007). Some reports approximate that Vancouver, Montreal and Toronto have the highest number of undocumented migrants, with nearly 50% believed to be residing in Toronto (Magalhaes et al., 2010). Appendix A provides a list of resource reports related to undocumented workers.

COMMENTS

Definition

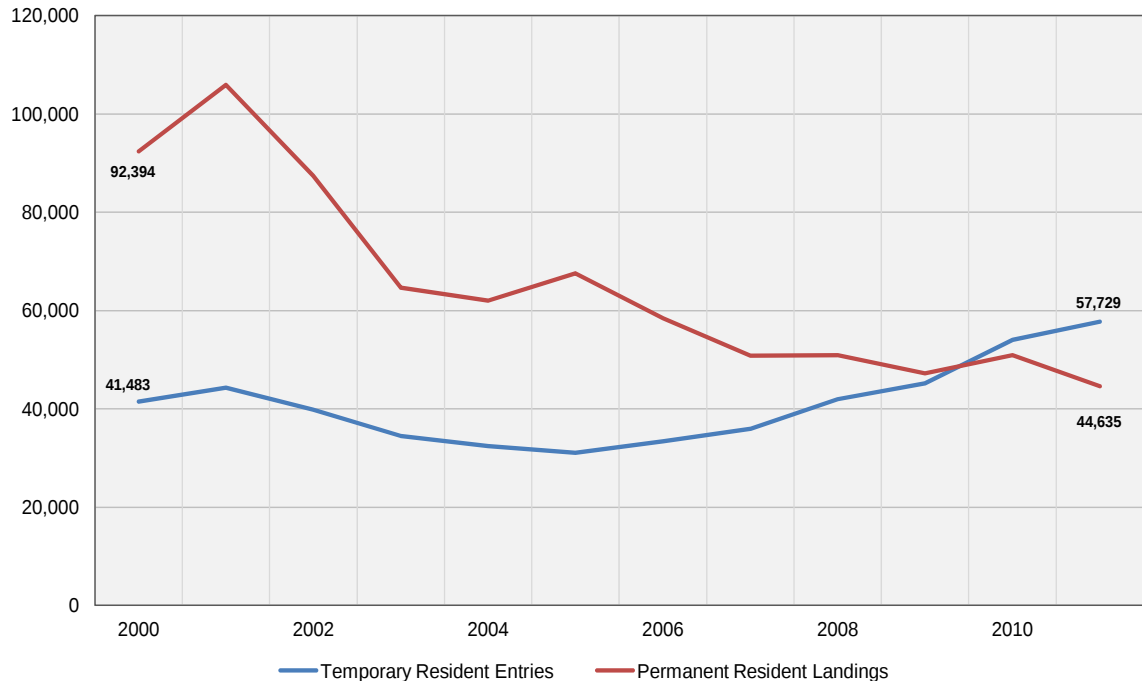
In North America and Europe the term "unauthorized" and "undocumented" is used to describe people working without authorization. In Canada, academics and activists have introduced the term "non-status" because many people in this situation are documented: they are known to the state but no longer have lawful status. The Canadian Council for Refugees uses the term "person without status/undocumented. This means a person who has not been granted permission to stay in the country, or has overstayed their visa."

Unauthorized land entry, commonly seen in the United States of America (USA), is a far less common occurrence in Canada. Instead, the majority of undocumented workers and their families enter the country through authorized channels as refugee claimants, or as individuals with a valid student, temporary foreign worker, or visitor visa. In some cases, undocumented persons pay money to be smuggled into the country. Once a person becomes an undocumented worker, they have limited or no access to essential services and supports, and can become vulnerable to employer exploitation and mental health issues.

Over the past few years, unauthorized migrants have received media and public attention in Toronto due to several factors, including a labour shortage in the construction sector, high-profile raids and deportations and the work of activist organizations. (Goldring et al., 2007).

In recent years, there have been shifts in Canada's immigration policy including a significant increase in temporary migration rather than permanent residency. The shift started in 2006 with the expansion of Temporary Foreign Worker Program and continued with the introduction of the Canadian Experience Class in 2008. The number of migrant workers with temporary status who enter Canada each year now exceeds the number of economic immigrants who are granted permanent resident status (Metcalf, 2012). The following graph shows the impact this Federal policy change is having on the number of permanent and temporary landings in Toronto.

Permanent and Temporary (Non-Visitor) Landings into Toronto (2000-2011)



Note that these data are for landings/entries only and do not take into account where individuals move after entering the country.

Permanent resident data includes family class, economic immigrants, and refugees granted permanent resident status. Temporary entries include students, workers, and refugee claimants who have not yet been granted PR status, but does not include visitors or other temporary resident permit holders.
Source: Citizenship and Immigration Canada 2012 RDM Extracts

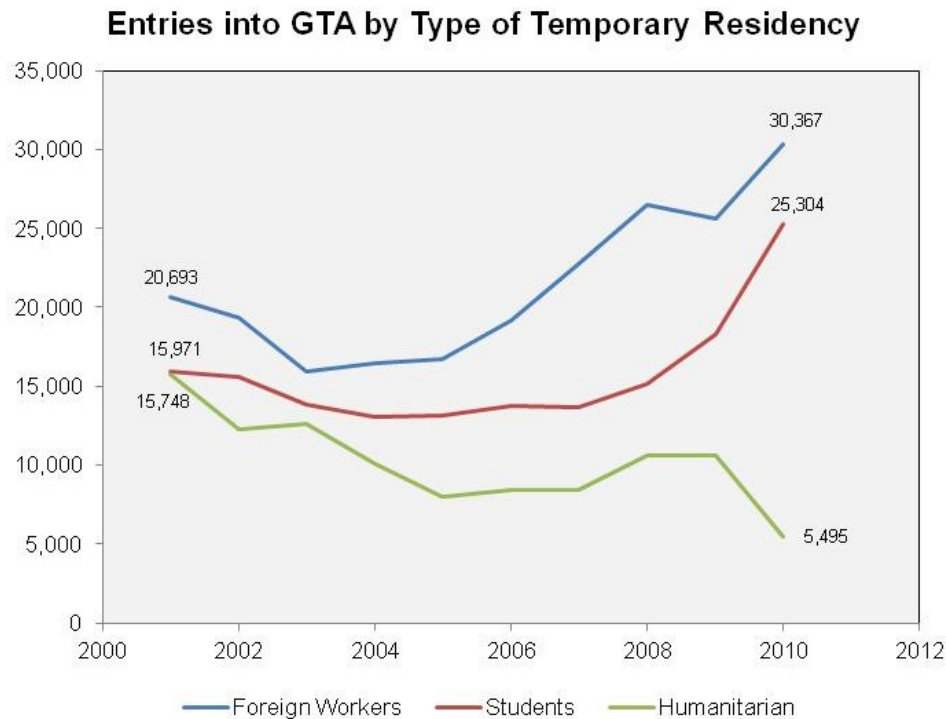
Pathways to Becoming Undocumented

The mismatch between labour demands and the type of immigrants who qualify for acceptance into Canada is a major factor in becoming undocumented. Temporary resident immigration categories often do not provide concrete pathways to permanent residence or citizenship. Temporary resident categories include seasonal workers, temporary foreign workers, construction workers and caregivers.

Most temporary worker programs bind workers to a particular employer, making them vulnerable to mistreatment. If an employment relationship is severed, the worker may be left without any valid status. Temporary foreign workers often never become eligible for permanent residence.

Other temporary residents include visitors and students. Canada does not have exit controls, which makes it impossible to know how many people who enter Canada with a student or visitor visa remain in the country when their permits expire.

The graph below shows the number of entries into the Greater Toronto Area based on three types of temporary residencies: foreign workers, students and humanitarian. Citizenship and Immigration Canada defines humanitarian as "temporary residents who are primarily refugee claimants but also includes other foreign nationals allowed to remain in Canada on humanitarian or compassionate grounds under 'special considerations'."



Refugee claimants may lose their temporary status if their claim is not successful. Of the 40,408 refugee claims finalized in 2004, only 40% were accepted (Goldring et al., 2007). Not all rejected applicants are immediately removed from Canada. Some reasons for delay include appeals and legal proceedings, lack of travel documents, and failure of the person being removed to appear for removal.

For many years people have entered Canada as refugee claimants through the United States. In 2002, the Immigration and Refugee Protection Act introduced the Safe Third Country Agreement. It states, with some exceptions, refugee claimants must claim asylum in the first country in which they arrive; the Agreement applies only to the US or Canada. It has ended the possibility for many people to enter Canada through the US as a refugee claimant. This may have increased the number of people entering Canada from the US on other types of visas, and then staying in Canada and becoming undocumented workers. The Agreement came into effect on December 29, 2004.

In 2012, the Federal Government introduced Bill C-31, which passed in Parliament in June. The Bill enables the Minister of Citizenship and Immigration Canada to designate countries that are unlikely to produce refugees. Claimants from these countries will have 30 days to prove their claim instead of the 60 days given to everyone else, and will have no right to

appeal. The Bill also affects people who have been smuggled into Canada. Under this new legislation, they will be barred from applying for permanent residence or sponsoring family members for five years, among other things. This extends periods of separation between claimants and their family members.

State of Undocumented Workers

It is important to explore the state of undocumented workers, which includes: the working conditions, situations they face as an individual, worker, and family member.

Undocumented workers in Canada face multiple barriers to living healthy fulfilling lives and achieving a sense of wellbeing and belonging to society. They contribute to the Canadian economy, by paying for basic needs of shelter, food and other services, as well as paying provincial sales tax on goods and services.

Generally, non-status individuals work in agriculture, construction, hospitality and manufacturing industries or as domestic workers. They are particularly susceptible to situations where they are required to work for low wages, under poor and unsafe work conditions, and where they have no protection against unfair dismissal, abuse and/or exploitation by their employers (Magalhaes et al., 2010). They have no access to Employment Insurance, Ontario Works, or the Ontario Disability Support Program. Access to these programs is limited and inconsistent even for temporary foreign workers, who have legal status in Canada. Since their status is time limited, there is minimal incentive for employers to address working conditions. According to a recent report released by the Metcalf Foundation, temporary working class is "unable to organize, unable to enforce its rights and, as non-citizens, is unable to participate in the democratic process to change the terms of their disempowerment" (Metcalf, 2012).

Studies reveal that undocumented workers suffer from high levels of anxiety, depression, chronic stress and stress-related physical illnesses. Feelings of worthlessness, fear of deportation, distrust of authority, isolation from family separation and a sense of disconnection from society combine to impact profoundly on undocumented workers' health and wellbeing (Magalhaes et al., 2010).

Toronto Public Health staff will be bringing forward a report to the Board of Health in 2013, which will identify priority health issues for newcomers, including undocumented residents in Toronto, the health implications of being undocumented, as well as suitable solutions that would be beneficial to these residents.

Undocumented individuals currently have limited ways to gain immigration status in Canada, with very low rates of success. Some options available to undocumented workers, depending on their specific circumstances may include:

1. Applying for a Pre-Removal Risk Assessment (PRRA), if they have been issued a deportation or removal order. Applicants must demonstrate that if returned home, they would face a serious risk not faced by others in that country. In 2005, 3% of people assessed were deemed at risk and granted legal status in Canada (Goldring et al., 2007); and

2. Applying for permanent residence based on humanitarian and compassionate considerations. Applicants must prove that they face "undue hardship" due to circumstances beyond their control if they were to return to their home countries and demonstrate "successful establishment" in Canada. Applications can take several years to be determined, and submission of an application will not automatically stop a removal or deportation order. Estimated application approval rates are between 2.5 % and 5% (Goldring et al., 2007).

The report Access Not Fear (2006) has stated that regularization programs can also result in undocumented individuals from certain countries gaining status. The programs are usually implemented when governments are introducing new immigration laws. Examples include:

1. Special Regularization Programs for Haitians (1981) and Algerians (2002) residing in Quebec;
2. The Adjustment of Status Program of 1973, which regularized about 39,000 people from over 150 countries in a two-month period; and
3. The Deferred Removal Orders Class, which regularized approximately 3,000 failed refugee claimants between 1994-1998.

In Canada, immigration status plays a decisive role in shaping the rights and services to which individuals are entitled and/or have access. Many barriers limit undocumented people's access to healthcare, education and training, income support programs, employment protection, affordable housing, settlement services, social assistance and legal services (OCASI, 2012). Even access to emergency food banks and shelters can be restricted due to identification requirements by organizers and staff. This leaves many undocumented workers extremely vulnerable and with no supports (OCASI, 2006).

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Appendix A

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