

OUT/LAW IMMIGRATION NEWSLETTER

ISSUE 5

Welcome to the 5th issue of the Out/Law Immigration Newsletter. Newsletters are issued periodically when we have information of interest to persons considering immigrating to Canada. This newsletter includes articles on the federal Conservative government's immigration policies, an upcoming vote in Parliament on same-sex marriage, and a budding immigrant rights movement. If you do not want to continue receiving newsletters or email from us, please contact Rob Hughes at rhughes@smith-hughes.com and request to be removed from the list.

Spinning Immigration

By charlie smith

Publish Date: 25-May-2006

On May 23, hundreds of people met at Lumberman's Arch to commemorate a major event in the history of Canadian immigration. The group gathered on the 92nd anniversary of the arrival of the Komagata Maru into Burrard Inlet.

Even though the 376 South Asian passengers were British subjects, they encountered a hostile reception. Under the law of the day, immigration officers could refuse entry to anyone who did not arrive in a continuous journey from his or her country of origin. The Komagata Maru remained in the harbour with the passengers, mostly Sikhs, before being sent back to India on July 23, 1914.

For several years, the Prof. Mohan Singh Memorial Foundation has been seeking a federal-government apology for the Komagata Maru incident. Spokesperson Jasbir Sandhu told the Georgia Straight that he hoped the May 23 event in Stanley Park would get the attention of Prime Minister Stephen Harper, because Harper sidestepped a question about the Komagata Maru during a recent visit to Vancouver. "This issue is not just for the Indo-Canadian community," Sandhu said. "We live in a multiethnic, multicultural city."

This isn't the only immigration-related issue facing the Harper government. As the Straight went to press, the B.C. Federation of Labour and human-rights groups were scheduled to hold a May 24 news conference to highlight the plight of a Mexican migrant worker, José Marcos Baac. His lawyer, Zool Suleman, claimed that his client lost his job and was told he must go back to Mexico. Suleman told the Straight that many farmworkers, including Baac, have voiced concerns about working conditions with that employer in the Fraser Valley.

"The issue that we wish to raise is what happens to migrant Mexican workers who come here when they have disputes with their employers," Suleman said, adding that the employer was responsive to many of the workers' concerns. "There is no proper, impartial, transparent dispute-resolution process."

At 2 p.m. on Saturday (May 27), human-rights activists are planning a third immigration-related event for the Conservative government. They are joining a "National Day of Action" with a protest at the Vancouver Art Gallery for hundreds of thousands of people who live without legal status in Canada. It will coincide with protests across the United States on the same day on behalf of undocumented workers.

One of the organizers of the Saturday event, Harjap Grewal, told the Straight that there is a "crackdown" on immigrants taking place in Europe, the U.S., and Canada. He cited recent roundups and deportations of workers in Toronto, which included enforcement officials visiting schools. "The tactics are becoming very similar to what they've been doing in the United States," Grewal said.

Since the January election, Harper and the Minister of Citizenship and Immigration, Monte Solberg, have tried to portray themselves as supporters of immigration. In speeches posted on his ministry's Web site, Solberg has explained that he lives in Brooks, Alberta, which is home to 1,200 former Sudanese refugees. On more than one occasion, Solberg has noted that his government pumped more than \$300 million into settlement funding and committed \$18 million to hasten the recognition of foreign credentials. He did not make himself available for an interview with the Straight.

"There's no question that Canada has the most wide-open and compassionate immigration system in the world," Solberg said in one of his speeches. "But that doesn't mean we can sit on our hands: we're going to make it even better."

At the same time, Solberg has also claimed that Canada's refugee-determination system is "complex, slow, costly, and inefficient". In a May 10 presentation to a parliamentary committee, Solberg claimed that "significant resources are spent on claims made within Canada by individuals who do not need refugee protection".

Earlier this month, Harper gave a speech in Ontario, surrounded by nonwhite faces, in which he noted that the government had cut the permanent-residence fee in half, to \$490. Harper also announced that foreign kids adopted by Canadian parents would gain citizenship with minimal hassles.

Grewal told the Straight that he thinks it's "disgusting" that nonwhite "community leaders" would pose for Harper photo ops, considering the Conservatives' stance on guest workers and Harper's recent decision to arm border guards. Grewal described the federal government's live-in caregiver program and the seasonal agricultural workers' program as "being the equivalent of the slave trade". He said the government wants to bring in labourers but deprive them of their human rights. Last year, more than 95,000 foreign workers came to Canada under the Temporary Foreign Workers program.

"If you put them under a guest-worker program, you don't have to give them full rights or full standards of employment in Canada, which basically allows it to be a more exploitable labour market," Grewal said. "It's a very tactical way of allowing for a flexible labour market, which can reduce wages and increase profits for some companies."

Some of Solberg's right-wing supporters, however, would like the guest-worker program expanded. In a paper published last year for the Fraser Institute, economist and former Reform MP Herb Grubel proposed a new immigrant-selection process: foreigners would enter Canada on renewable, temporary work visas. They could only do this if they had a valid employment contract. These temporary visas could lead to permanent immigration status.

"Unemployed holders of temporary work visas would face deportation," Grubel recommended in the paper. "Private firms in a public-private-partnership arrangement would collect and maintain information needed by government to enforce the regulations. As taxpayers, the holders of temporary work visas are entitled to all government benefits available to Canadians."

Grubel, who once sat in the same caucus as Harper and Solberg, recommended that the government issue temporary work visas over two-year periods at Canadian embassies abroad. After four years in Canada, these workers could obtain permanent immigration visas. Their spouses and families could be admitted under "family work visas", which would enable them to work. Those who lost their jobs would have to find another job or leave the country within three months.

Grubel cited four problems associated with allowing people to come to Canada under the "family class" to be reunited with relatives. He claimed that parents were unlikely to find jobs because of their advanced age and language difficulties. He added that parents who come sometimes have young unmarried children who "can also

become immigrants without having to pass the points test applied to economic immigrants”. Then he cited Fraser Institute researcher Martin Collacott’s contention that these children, once in Canada, marry spouses overseas who sponsor their parents. Finally, Grubel claimed, sponsors do not keep “a substantial proportion” of their commitments to guarantee that immigrants won’t become a burden on the public treasury.

Burnaby-Douglas NDP MP Bill Siksay told the Straight that he was troubled that Solberg didn’t emphasize family reunification during the minister’s recent appearance before the Commons citizenship and immigration committee. “It’s a concern of thousands of Canadian immigrants right now who are trying to have family members join them, and lots of other Canadians who want family members to join them as well,” Siksay said. “To leave it out of the overall characterization of the immigration system, I think, was significant.”

Siksay claimed that family-class immigrants usually have an easier time adapting to Canada because they don’t have as high expectations as economic-class immigrants. Meanwhile, Liberal MP Andrew Telegdi told the Straight that he is concerned that Solberg has abandoned the traditional practice of setting annual immigration levels. “One of the key things for Canada is that immigration has been in the past and will continue to be in the future the lifeblood of our country,” Telegdi said. Both Telegdi and Siksay also criticized the Conservative government for not creating a refugee-appeal division.

Even though approximately 60 percent of immigrants came in under the “economic category” in 2002 and only 28.5 percent were in the family class (just 9.8 percent were parents and grandparents), Grubel still expressed concerns about immigrants bypassing the “points” test, which is based on such factors as age, education, language proficiency, and so forth. Grubel also claimed that the live-in caregivers “typically have low educational achievements and their work experience does not qualify them for high-paying jobs”. He provided no evidence to back this up.

Charlene Sayo, an organizer with the Philippine Women Centre, strongly rejected Grubel’s contention that live-in caregivers have “low educational achievements”. She claimed that many are extremely well-educated in the Philippines.

“It’s quite erroneous for Herbert Grubel to say they have low education,” Sayo told the Straight. “It’s just not true.”

Collacott, also a senior fellow of the Fraser Institute, claimed in a 2002 paper that immigrant-service organizations have “played a significant role in opposing reforms and in lobbying for changes that drive policy even further away from serving the interests of the country and, in some respects, from those of the immigrants themselves”. He cited their opposition to proposals that newcomers have a working knowledge of French or English. “They might have added (but did not), that if immigrants already possessed such skills when they arrived in Canada, the services of such organizations would be in less demand and they would stand to lose a good deal of their government funding,” Collacott wrote.

He also warned of the impact of Sikhs exerting their political influence on the Liberal Party of Canada. “In response, there are rumblings in the Chinese community in Vancouver over the success of Sikhs in extending their political influence far beyond their numbers; questions are being raised about whether the Chinese should not also consider voting as a block in order to serve more effectively their community’s interests,” Collacott wrote, without documenting this particular claim. “In the event the Chinese were to respond by themselves resorting to block voting, it is not inconceivable that people of European origin would eventually follow suit in order to ensure their interests received sufficient attention.”

Collacott’s recommendations included the following sentence: “Immigration should only be used on an exceptional basis to meet such shortages where they are particularly severe and the market cannot rectify them in the short term.” He also called for restrictions on the family class to one’s immediate family.

When Harper was the Reform party's policy director in its early days, it opposed affirmative action for minorities and opposed allocating any government funds for ethnic groups. Sponsorship would be limited to immediate families and major changes to immigration policy would be dealt with in a national referendum.

Over the years, Harper and Solberg have reflected the views of the Fraser Institute on many economic issues. However, they haven't publicly reflected Grubel's and Collacott's more recent recommendations on immigration.

Suleman, a veteran immigration lawyer, said he thinks the new Conservative government will stay the course on immigration, though he senses a slight tightening on humanitarian cases. Suleman suggested that as long as the Conservatives remain in a minority in Parliament, he doesn't anticipate major changes on the enforcement side.

"I think people want to see a bogeyman where there may not be one," he said. "In all due fairness to this government, I have not seen anything in my practice to indicate that things are harsher or worse due to this government."

However, Suleman added that if the Conservatives ever form a majority with a longer mandate, he would expect to see "fairly significant" changes in immigration policy. As long as Solberg continues dodging interview requests, the public will not be able to find out if those changes could include adopting Grubel's controversial recommendations on guest workers.

<http://www.straight.com/content.cfm?id=18029>

Tories shy away from same-sex quagmire

JENNIFER DITCHBURN

Canadian Press

Ottawa — A growing number of Conservative cabinet ministers and MPs are questioning the wisdom of reopening the divisive debate on same-sex marriage — a development that could close the book on the issue for good.

Prime Minister Stephen Harper has promised to hold a vote some time before the next election on the issue, most likely this fall.

The motion is expected to ask MPs if they want to reopen discussion of same-sex marriage, rather than asking flatly if they approve of the unions or not.

More and more Tories are wondering aloud whether they shouldn't just let the matter die.

"At this stage, we've debated it pretty thoroughly," said Fisheries Minister Loyola Hearn, who described the issue as more divisive than the mission to Afghanistan.

"Once you've reached the optimum, nobody is really happy, but if it's the best that you can do, then it's probably best to just leave it alone."

Trade Minister David Emerson observed: "If it ain't broke..."

"Candidly, I'm not excited about reopening the issue," Mr. Emerson said. "Even in the last election, when I ran as a Liberal, it was not a big issue that I was confronted with at the doorstep."

Foreign Affairs Minister Peter MacKay said of his constituents: “I haven't had a single person come up to me to talk about it.”

“It certainly isn't in line with the five priorities that we've set out,” he added.

Alberta Conservative MP James Rajotte said some of his constituents who are committed to the traditional definition of marriage might now feel it's a “done debate.”

“Personally, I have mixed feelings on that.... I recognize that same-sex marriage has been the law in Canada for some time now, and I also recognize the difficulty in reversing it to the point where traditional marriage is the only legal union in Canada,” he said.

“For that reason I would say I'm undecided about it, but I'm thinking seriously about it now.”

Nova Scotia MP Bill Casey said, “I'm reflecting on it, that's all I can tell you.”

Perhaps one cabinet minister, speaking on condition of anonymity, summed it up best: “I wish it would just go away.”

Other cabinet ministers who spoke openly against same-sex marriage in the past, are now cagey about the future bill.

“We'll have to see what the motion looks like and how it's phrased, I have no idea exactly what it's going to say so I'll have to have a look at it,” said Agriculture Minister Chuck Strahl.

Said Health Minister Tony Clement: “I'd have to see what the motion read at the time and consult with my constituency.”

During the last Commons vote on the issue a year ago, only three Conservative MPs voted in favour of same-sex marriage: Jim Prentice (now Indian Affairs minister), James Moore and Gerald Keddy.

Mr. Keddy said his caucus colleagues should take him as example of what happens when you support gay rights: absolutely nothing.

His Nova Scotia riding is predominantly rural and socially conservative, but he was re-elected with a bigger majority.

“Now, people have moved on, it's just not an issue. It is for a very small minority of people,” Mr. Keddy said.

“At the end of the day Canadians are much more interested in how the federal government is going to tax them, what our stance is on the increasing crime on our streets, what's the role of the military ... and not same-gender marriage.”

Mr. Harper made the commitment to hold the vote in response to complaints from many MPs the Liberals rushed through the law that legalized same-sex unions.

But now that his party is trying to make inroads in Bloc Québécois and Liberal ridings in Quebec, Ontario and British Columbia, wading into the debate might seem like a no-win situation.

Add to that the fact that thousands of gay and lesbian Canadians have married since the law was passed, and you find cold feet in Conservative quarters.

Charles McVety, one of the most prominent defenders of traditional marriage in Canada, says he already recognizes the uncertainty of a motion that doesn't specifically pin MPs down on their view of gay unions.

“That's a double-edged sword because with a soft motion like that it might not be taken seriously...it could give them an easy out,” Mr. McVety said.

<http://www.theglobeandmail.com/servlet/story/RTGAM.20060531.wsex0531/BNSStory/National/home>

Same-sex vote set for fall

GLORIA GALLOWAY

From Saturday's Globe and Mail, 3 June 2006

MPs will vote on the contentious issue of same-sex marriage after Parliament returns from its summer break, Prime Minister Stephen Harper said yesterday.

“The vote will be in the fall,” he told reporters after a speech to the Federation of Canadian Municipalities.

He said he has not set an exact date but “it will be a free vote, we committed to that in our [election] platform.”

MPs will vote on a motion asking whether they want to reopen debate on same-sex marriage, said Sandra Buckler, Mr. Harper's communications director. There has been speculation that the Tories might ask MPs to vote directly on the existing legislation.

Same-sex marriage is a tricky issue for Mr. Harper. Many in his core constituency — members of the old Canadian Alliance and Reform parties — oppose it, and he has promised to give them a chance to reinstate a definition of marriage that excludes it.

But a large number of people in Ontario — and more particularly Quebec — support gay marriage. And it is in those regions that Mr. Harper must win more seats if he is to come out of the next election with a majority government.

Several Conservatives, most recently Fisheries Minister Loyola Hearn, who originally said no to same-sex unions, now say they would not vote to reopen the issue, arguing that Canada has moved on.

During the last Commons vote on the issue a year ago, only three Conservative MPs voted in favour of same-sex marriage: Jim Prentice (now Indian Affairs minister), James Moore and Gerald Keddy.

But there are more Conservatives in the House than there were when the unions were first approved. And with the matter set to come once again before Parliament, both sides of the battle have been working to gain the upper hand.

The confirmation that a vote will be held to reopen the matter discouraged those who had fought to extend marriage to gay and lesbian couples.

“Canadians know this issue was settled,” said Laurie Aaron of Canadians for Equal Marriage.

“If Mr. Harper wants to show leadership, he should admit this issue is settled and move on: no vote, no divisive debate, no unconstitutional legislation.”

Mr. Aaron said a vote to revisit same-sex marriage would ultimately prove problematic for Mr. Harper because courts across the country have said it is unconstitutional to deny homosexual couples the right to marry — and the Prime Minister has said he would not use the override clause of the Constitution to limit the institution to heterosexual couples.

The leaders of the fight against same-sex unions have said they will encourage large numbers of their supporters to attend the nomination meetings of the handful of Tory MPs who voted in favour of same-sex unions with an aim to replace them with candidates who favour restoring the traditional definition of marriage.

That prompted outspoken Conservative MP Garth Turner to complain on his Internet blog about the Conservative Party's refusal to guarantee the nominations of sitting MPs.

He said it means “MPs have to worry about mustering more supporters in a hall on a certain night than any challenger who might come along.”

Charles McVety is president of the Canada Family Action Coalition and one of the leaders in the campaign to restore the traditional definition of marriage.

He argues that promoting a point of view through the nomination process is the very essence of democracy.

“We have this wonderful system of nominations and it is the grassroots getting involved. And Garth Turner is quite happy when those grassroots support him,” Dr. McVety said.

<http://www.theglobeandmail.com/servlet/story/RTGAM.20060603.wharpgalloway0603/E-mailBNStory/National/home>

Off Campus Work Permits for Students

The Off-Campus Work Permit Program was announced on April 27, 2006. This program is now available in BC. The Program allows foreign students on study permits to work part-time during their regular academic sessions (up to 20 hours per week) and full-time during scheduled breaks without a labour market opinion from Human Resources and Social Development Canada (HRSDC). Off-campus work is available for students studying at participating institutions. A list of the participating institutions can be found at www.cic.gc.ca/english/study/guide-list.html. For more information about the program visit the CIC website at www.cic.gc.ca or contact Rob.

Immigrant Rights Movement Lands in Canada

Groups Call on Government to Recognize Non-Status Workers

By Cindy Drukier and Joan Delaney

May 31, 2006

Epoch Times Toronto and Victoria Staff



A group of Filipino would-be immigrants to Canada attend an orientation seminar to familiarize themselves with Canadian culture and weather. (Joel Nito/AFP/Getty Images)

Canadian organizations are hoping to capitalize on the momentum of the immigrant rights movement that has swept the U.S. in recent months to raise the profile of the plight of undocumented workers in Canada. On May 27, rallies similar to those held in the U.S. all spring were held in Toronto, Vancouver, Montreal, Ottawa and Fredericton to protest an apparent recent rise in illegal worker deportations. Activists also seek to press the new Conservative government to give legal recognition to the country's non-status labour force.

Since taking power in January, the Conservative government has taken a hard line on illegal immigration, stepping up efforts to deport transgressors. Immigrant rights activists say that as a result, the Canada Border Services Agency has become much stricter with its application of the law.

"Examples have been going to schools and using children as bait to get to their parents, going to malls and asking people for identification...These are tactics that we had never heard of before, but in the last three or four months we're hearing more and more that the CBSA are using these tactics to get to undocumented people and to deport people," says Sonja Nerad, Community Health Program Manager with Access Alliance.

Craig Fortier, an organizer with No One Is Illegal Toronto, calls these methods "U.S.-style enforcement" giving rise to a "climate of fear" in non-status communities where people are afraid to leave their homes to get vital medical care or are keeping their children back from school.

"The decision to remove someone from Canada is not taken lightly. The CBSA has an obligation to remove any person that has been issued a removal order... as soon as possible," says CBSA spokesperson Cara Prest.

Despite some parallels with the U.S. situation, Liberal Member of Parliament Mario Silva, Associate Critic for Canadian Heritage, thinks that in terms of magnitude, there's little comparison between the two countries. Canadian estimates for non-status workers are anywhere between one quarter to half a million people, compared to approximately 11 million in the U.S. "So it's a totally different scale," says Silva, who attended the May 27 march near his Toronto riding.

Another difference is that Canada does not have an issue of porous borders as is the case between the U.S. and Mexico. Many undocumented workers in Canada arrive legally, as visitors, temporary workers or students, and then overstay their visas.

Many of the illegal labourers in Canada are here for years, enrolling their children in schools and becoming part of mainstream society.

"Most of these people are really well integrated, they have families, they really contribute to society. So Canada needs them," says Silva.

This is particularly true of the construction industry, says Silva, which is a primary beneficiary of

non-status labour. Canada is currently experiencing a construction boom and there is a serious shortage of skilled workers to fill the need.

"The average age of construction workers now is 50 years old, and we're going to have a huge crisis in another 10 years," notes Silva.

In British Columbia alone, 20,000 additional construction workers will be needed over the next three years to prepare for the 2010 Vancouver Olympics. There's a huge labour crunch in Ontario, and in Winnipeg they are scrambling for factory workers. Help wanted signs are ubiquitous in Alberta, where immigrant workers are also in high demand to work in the oil sands. The Liberal government was planning to increase immigration targets by roughly 40,000 people per year - a plan which the Conservatives have now scrapped - to meet shortfalls in the labour market.

"I think it's a contraction - many of these industries are crying out about labour shortages," says Deena Ladd, Workers Action Centre Coordinator. Ladd says that, similar to the situation in the U.S., most non-status workers are doing jobs considered undesirable by many Canadians, such as construction, cleaning, delivery, kitchen work, care-giving etc.

One way the shortages could be solved, Ladd argues, is by regularizing non-status labourers. "These workers are all surviving - they're working, they aren't accessing benefits. They are making huge contributions to the economy and aren't being recognised for it."

In an interview with CTV News, Immigration Minister Monte Solberg defended the government's stance against recognizing non-status immigrants.

"We have an obligation to the hundreds of thousands of people waiting to get into this country to make sure we don't reward those who don't play by the rules," he said.

But supporters of regularization—granting legal recognition to people already working in Canada—argue that the queue-jumping argument doesn't make sense because there is no queue for working class jobs.

"There is no queue for working people in this country. There is definitely a queue for professionals and people who have the money to buy their way into Canada, but there's no queue for working people. You can't get into Canada using the points system," says Fortier.

Canada's point system for determining immigrant eligibility strongly favours high levels of education, strong language abilities and experience in certain highly-skilled categories of employment. Low scores in any two of those categories guarantees exclusion through normal channels. The point system has been criticized for creating an immigrant population packed with engineers and other professionals, while failing to attract enough of the trades people and labourers who are so sorely needed.

But while the Conservatives are taking a tough stance on non-status immigrant, the government has also taken measures to make it easier for some newcomers to work. For example, new regulations allow foreign students to take off-campus jobs, immigration landing fees have been cut in half, and steps have been taken to streamline the citizenship process.

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