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**August 24, 2022**

**Rt. Hon. Justin Trudeau**  
Prime Minister of Canada  
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[justin.trudeau@parl.gc.ca](mailto:justin.trudeau@parl.gc.ca)

**Hon. Sean Fraser**  
Minister of Immigration, Refugees and Citizenship  
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[sean.fraser@parl.gc.ca](mailto:sean.fraser@parl.gc.ca)

**cc: Migrant Rights Network - [info@migrantrights.ca](mailto:info@migrantrights.ca)**

Dear Prime Minister Trudeau and Minister Fraser,

**RE: We Support Permanent Residence for All**

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The South Asian Legal Clinic of Ontario (“SALCO”) is a not-for-profit legal aid clinic funded by Legal Aid Ontario that serves low-income South Asians in Ontario. We provide legal services in many areas of law, including a large volume of work in immigration. We are also involved in law reform initiatives on issues that impact low-income South Asian communities and racialized communities more broadly throughout Canada. We believe that a broad response to the problems that our clients face can have a greater impact in changing legislation, policy, and unfair practices. In the past, we spearheaded the campaign to raise awareness on the issue of forced marriage in Canada. At present, we work with and/or support the work of organizations like Migrant Rights Network to improve Canada’s immigration laws to be more inclusive of low-income, racialized, and/or undocumented people.

**I. Our Demands:**

The Migrant Rights Network has alerted us that recently Prime Minister Trudeau asked the Immigration Minister to create a “regularization program” for undocumented migrants. In a recent media interview Minister Fraser noted that this is a priority for Immigration, Refugees and Citizenship Canada. Additionally, Parliament unanimously passed a motion asking the Immigration Minister to create a plan by this Fall to give permanent residency to low-waged migrant workers with temporary or insecure immigration status. At SALCO we believe these asks are steps in the right direction to make a life-changing difference in the lives of many people living in Canada. However, we also believe that more can be done by your government.

There are two choices here:

1. this program will be small and exclusionary, giving rights to only a few individuals and denying the rights of most; or
2. this program can be one which gives equal rights to all by extending permanent residence to 1.7 million migrants, including 500,000 undocumented migrants.

**Our key demands are: 1) the regularization of all undocumented people without exception and 2) permanent residence for all migrants, particularly those in low-waged jobs.**

## **II. Why Status for All?:**

There are over 500,000 people, including families, living in Canada without any valid study or refugee claimant permits, most of whom have no opportunity to remain permanently in Canada.

**Permanent resident status is the mechanism through which all other rights are accessed.**

We know from our direct legal work with clients that undocumented people, migrant workers and refugees are being exploited in substandard working conditions, because regressive immigration and labour laws restrict their agency and leave them open to abuse. Lack of permanent resident status makes it difficult, and often impossible, for migrants to speak up for their rights or access services, including those they may be eligible for, because of a well-founded fear of reprisals, termination, eviction, deportation, and sometimes even violence. Migrants experience insecure housing, discrimination, abuse at work, poverty and fear. The uncertainty about the future, constant stress of making ends meet and risk of detention and deportation negatively impacts their health.

Canada, like most of North America and Europe, has not seen a real inclusive regularization program for undocumented people in decades. Moreover, migrants on work and study permits in low-waged industries, like care workers, farmworkers and gig-workers, have only a few tiny and difficult-to-access immigration programs to get permanent residency. The vast majority of undocumented and temporary status migrants living and working in the country are excluded from permanent residence. It is important to note that a large portion of these populations are racialized and the impact of current immigration legislation is to create an unintended form of systemic racism for these workers.

## **III. How to Achieve Status for All:**

Migrants Rights Network has come up with a way to achieve this demand. They have created a Brief which contains set of proposals to guide the development of a regularization program. SALCO endorses this Brief. Some of the principles included in it are: clear and simple application processes, no detention or deportation, and no exclusions or inadmissibility. We have enclosed a copy of their Brief to this letter.

We urge Prime Minister Trudeau and the rest of the Liberal government to remember their ongoing commitment to values including equality, fighting racism, and welcoming immigrants and refugees. The regularization of all undocumented people without exception and permanent residence for low-waged jobs migrants is a step the government can take to fix a historic injustice.

At SALCO, we make it a priority to fight for equality in everything we do. We work with many South Asian migrants, including undocumented people, refugees, and low-waged migrants. Many of these migrants have heartbreaking stories of fleeing situations of violence back home (like civil or economic unrest or persecution) and all are desperate to build a life of stability and security in Canada. Through our work we witness firsthand the struggles they face in Canada as a result of their unequal immigration status. We have watched them worked in perilous environments, we have watched them work for wages lower than minimum wage, we have seen them and their families struggle with housing, income, and food insecurity, and we have seen the tremendous contributions that they have made in Canada, in particular during the pandemic.

If the government puts equality at the forefront by meeting the demands in this letter, it would ensure equal status for millions of migrants. Equal status would enable SALCO's migrant clients to access secure housing and services. It would also remove the incredible stress and anguish our migrant clients feel due to their risk of being detained or deported.

We urge you to use the enclosed Brief as a roadmap to meaningful change for these most vulnerable populations in Canada.

Sincerely,

**SOUTH ASIAN LEGAL CLINIC OF ONTARIO**



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**Shalini Konanur**  
**Executive Director / Staff Lawyer**



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**Fiza Malik**  
**Summer Law Student**

Encl.

# Regularization in Canada

*Policy Submission - Migrant Rights Network, July 2022*

## Regularization and Equality

There are over 500,000 people, including families, living in Canada without any valid immigration permits.<sup>1</sup> Without permanent resident status, we are unable to assert our rights at work or access basic healthcare, and we face discrimination and exploitation because of the well-founded fear of deportations.

Non-status people are part of communities. We are neighbours, classmates, parents, spouses, children, coworkers and caretakers. We experience insecure housing, abuse at work, poverty and fear. The uncertainty about the future, constant stress of making ends meet and risks of detention and deportation negatively impacts our health. Living without status requires a tremendous amount of resilience.

One of the tools to address this harm is regularization of status. Getting secure immigration status (Permanent Resident status) is the primary concern of most undocumented people. It is rightly seen as the most direct way to living a life of dignity and safety. Once regularized, a person can access the same rights as any other resident. This is why migrants and over 483 organizations are calling for regularization and full and permanent immigration status for all residents now, and in the future.

## Why regularization?

Prime Minister Trudeau instructed the Minister of Immigration to “explore ways of regularizing status for undocumented workers”.<sup>2</sup> This move took place after a massive two year campaign led by migrants for “Status for All”. It is clear that the Liberal government plans to move in the right direction, now what is important is the kind of regularization program that is introduced.

If the regularization program only grants temporary residence is permitted, not all rights will be accessible, the relief will be short lived and many people may become undocumented again. If strict criteria are applied then few people will qualify and others will become at greater risk of detention and deportation.

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<sup>1</sup> Hershkowitz, M. G. Hudson, and H. Bauder. 2021. “Rescaling the Sanctuary City: Police and Non-Status Migrants in Ontario, Canada.” *International Migration*. 59(1): 38-57

<sup>2</sup> Minister of Immigration, Refugees and Citizenship Mandate Letter, December 16, 2021.

<https://pm.gc.ca/en/mandate-letters/2021/12/16/minister-immigration-refugees-and-citizenship-mandate-letter>

On the other hand, regularising all undocumented people reduces inequality and social exclusion because people are more able to participate in all the economic, social and cultural facets of the society we all live in. It ensures that all of us that live here have equal rights.

Regularization of all non-status people will increase labour rights and address the labour shortage crisis. Undocumented people in Canada already live and work here, and provided with permanent resident status will be able to move freely to take available jobs<sup>3</sup>.

Most non-status people pay taxes through rent, Harmonized Sales Tax on purchases, and often income tax. Their employers, many of whom are very profitable businesses, do not pay their fair share through employer statutory remittances. Regularizing all non-status people would increase Canada's tax base substantially and contribute to essential programs such as EI, CPP and workers compensation.

Full regularization will also create more effective social policy. Currently, there are no reliable statistics on undocumented people in Canada. Creating a regularization program will ensure that these workers and families enter into everyday life, allowing for more informed and effective social policy to be created.

## How do people become undocumented?

People are forced to become undocumented through a number of ways:

- Canada's refugee determination system arbitrarily and unfairly excludes many applicants who are not granted asylum.
- As Canada has moved towards a greater number of temporary permits, including study, work, and super-visas, many thousands of people eventually are not able to renew their permits. Most low-waged racialized migrants have no access to permanent resident status.
- Migrant spouses or partners of abusive Canadian citizens, often women, also become undocumented because their sponsors promise to but never submit applications.
- Many people are the victims of unscrupulous and ineffective immigration lawyers, consultants, and employment agencies who misrepresent immigration options, and mislead people forcing them to eventually become undocumented.
- Others simply are not able to navigate the complex immigration system without support, and support is difficult and expensive to access.

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<sup>3</sup> Goldring, L. and P. Landolt. 2022. "From Illegalised Migrant Toward Permanent Resident: Assembling Precarious Legal Status Trajectories and Differential Inclusion in Canada." *Journal of Ethnic and Migration Studies*. 48(1): 33-52.

## Regularization is an effective strategy

From 1960 to 2004, Canada had a number of regularization programs, the largest of which was the Adjustment of Status Program created by Prime Minister Pierre Trudeau in the early 1970s<sup>4</sup>. Two regularization programs, both quite small and exclusionary, were piloted during COVID-19.

Regularization is a feature of immigration policy in the European Union. Ireland is currently regularizing undocumented people. Between 1996 and 2008, 24 of 27 EU Member States implemented regularization programs, and some several times. An estimated 5.5 to 6 million people were regularized in that time.<sup>5</sup> The largest programs were the Italian 2002 program that regularized 634,000 people and the Spanish 2005 program that regularized 578,375 people.<sup>6</sup>

## Recommendations for Regularization

We need a comprehensive regularization plan so that all undocumented people are able to access it. A smaller or more exclusionary program will not meet the potential gains outlined above. Regularization should be considered a minimum floor of rights whereby when any group is excluded, the overall economy suffers. If the pandemic taught us anything, it is that everyone is connected and the exclusion of any person or group of people from equal rights and services is harmful to the whole.

## Overall principles

### Develop a simple broad program

- The goal of the program must be regularization of all undocumented people residing in Canada. Undocumented should be defined as any person in Canada without a valid immigration permit.
- If residency in Canada is defined, it should as simple as possible and should include all periods in Canada, including prior to being undocumented, and should be as short as possible. A residency requirement should be no more than two years in Canada.

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<sup>4</sup> Jean McDonald. Migrant Illegality, Nation-Building and the Politics of Regularization in Canada. *Refuge* Vol 26 Number 2.

<sup>5</sup> Baldwin-Edwards, M. and A. Kraler. Eds. 2009. *REGINE: Regularisations in Europe*. Brussels: Pallas Publications.

<sup>6</sup> Kraler, A. 2019. "Regularization of Irregular Migrants and Social Policies: Comparative Perspectives." *Journal of Immigrant and Refugee Studies* 17(1): 94-113, and Moffette, D. 2018. *Governing Irregular Migration: Bordering Culture, Labour and Security in Spain*. Vancouver: UBC Press.

- Dependents, spouses, and de facto family members must be included and a wide range of documents must be allowed to prove family relations.
- There should be first-stage processing of work permits so that non-status residents can prepare to normalize their life as applicants await a final decision. Permits should be automatically renewed until the application is fully processed.
- Organizations of migrants and migrant rights organizations are crucial partners for successful implementation of the regularization program. A permanent coordinating table must be established with Migrant Rights Network so that undocumented people are involved from design to implementation to evaluation.
- The program should be permanent and available on an ongoing basis because the factors leading to people becoming undocumented will continue for the foreseeable future. Changes must also be made to immigration and refugee policy to ensure that all migrants including workers, refugees, international students and others are guaranteed permanent resident status so that they do not become undocumented<sup>7</sup>.

#### Clear and simple application process

- Applications must be simple, such that undocumented people are able to apply themselves, online via mobile devices or on paper. There should be a large selection of acceptable documents for the purposes of establishing identity and residence in Canada, none should be mandatory.
- The application should not depend on anyone else (e.g., job letters or proof of work in occupations or spousal ties to Canadian citizens). This will reduce dependency on employers and risks of exploitative or violent relationships. The recent pilot programs required proof of previous employment in specific jobs which excluded many people.
- Third-party applications including from employers and support organizations should be allowed, but they should not be mandatory.
- If applications from third-party groups, lawyers or consultants are not successful, applicants must be given a second opportunity to update their application to mitigate inadequate representation by exploitative third-parties.
- Resources should be made available to legal clinics and community groups to support undocumented people in accessing the program.
- Decisions must be based on clear, objective criteria. Reasons for refusal should be documented and argued.

#### No Exclusions or Inadmissibility

- People should not be excluded based on past failures to comply with immigration law. Being undocumented creates the conditions for such non-compliance.

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<sup>7</sup> See Migrant Rights Network letter to Cabinet, October 2021 with initial proposals for changes: <https://migrantrights.ca/wp-content/uploads/2021/10/Letter-to-Cabinet-Migrant-Rights-Network-October-2021.pdf>. More specific proposals can be provided.

- Inadmissibility criteria must be suspended. If there are inadmissibility grounds, there must be a simple procedure for applicants to challenge their exclusion on these grounds.

#### No Detention or Deportations

- There must be a prohibition on detentions and deportations throughout the course of the regularization program; without this, the regularization program will fail as undocumented people will not apply.
- No one should be deported if their application is rejected.

#### Comprehensive Communications strategy

- The regularization program must be announced at least 6 months in advance to allow for dissemination of information to more isolated undocumented people. The full list of documents required and a sample application must be provided at this stage so that migrants are able to prepare.
- Information must be provided in the top languages spoken by undocumented people.
- Social media friendly content in a range of languages and mediums must be created to help communicate the program.
- Clear and timely communication must be made to civil society organisations including the Migrant Rights Network that have strong links to undocumented people.

**Migrant  
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*Migrant Rights Network is Canada's largest migrant-led coalition with 43 member organizations in 8 provinces consisting of thousands of migrant workers, students, refugees, families and non-status people.*