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July 12, 2019

Maureen Silcoff, Canadian Association of Refugee Lawyers (CARL)  
Leigh Salsberg, Refugee Lawyers Association of Ontario (RLA)

Via email: [Erin@erinsimpsonlaw.com](mailto:Erin@erinsimpsonlaw.com)

Dear Ms. Silcoff and Ms. Salsberg,

Thank you for taking the time to write to me regarding the current state of legal aid funding for immigration and refugee law services in Ontario.

The Ford government cancelled legal aid funding for immigration and refugee services in Ontario, and the federal government has so far failed to negotiate a new funding formula. Like you, I am gravely concerned about these cuts to Legal Aid Ontario. For those who need legal expertise with their immigration or refugee claims, that means refugee hearings without representation, detention reviews without legal assistance and deportation orders without the help of lawyers. The stakes are high for these individuals, for some, it can be a matter of life and death.

I and the Federal NDP are of the view that the Federal government must provide emergency funding for immigration and refugee law services to Legal Aid Ontario (LAO) to alleviate the current crisis, and to put in place robust and sustainable funding for the future, consistent with current and future trends in global migration. Additionally, given the risk that this presents for refugees, we demand that the Federal government cease carrying out deportations until this legal aid crisis was resolved.

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When the Ontario provincial government eliminated the province's legal aid funding for immigration and refugee law services as part of the overall cuts to Legal Aid Ontario's budget, LAO had to rely entirely on Federal funding for its immigration and refugee law program for the foreseeable future. It is my understanding that this year, LAO expects to receive approximately \$16 million from the Federal government, which is not nearly enough to cover LAO's approximately \$34 million refugee and immigration law program.

As a result, as of April 16th, LAO has announced that it will only fund new certificates for preparation of the initial Basis of Claim form for refugee claimants. This means that refugee claimants, many of whom are traumatized and do not speak English or French, will not be issued legal aid certificates for a lawyer to assist them at their refugee hearings and with any subsequent appeals. Analysis of the government's refugee decision data has shown that refugee claimants who are represented by lawyers have a much higher acceptance rate (57%) than those who are unrepresented (15.2%). The cuts to LAO's immigration and refugee law work will directly result in people being returned from Canada to situations in which their lives are at risk.

Legal representation is vital to protecting refugees' and immigrants' section 7 Charter rights to life, liberty and security of the person. Last year, LAO issued approximately 16,000 certificates for immigration and refugee law matters, and assisted many more clients through its Refugee Law Office and community legal clinics. LAO's certificate program has already been all but eliminated, and the futures of the Refugee Law Office and legal clinics are uncertain. Refugee claimants in Canada face torture, detention, and even death if deported.

The Federal government must consider these severe impacts and intervene to protect the fundamental rights of those who come to Canada seeking protection. Canada prides itself on its willingness to welcome and protect refugees. The Federal government has itself has openly welcomed those "fleeing persecution, terror and war". Canada's own Immigration and Refugee Protection Act enshrines our obligation to protect the displaced and persecuted, offer them procedural fairness, and fulfill our international legal obligations to refugee claimants. In 1969, our government signed the United Nations 1951 Convention Relating to the Status of Refugees and the 1967 Protocol Relating to the Status of Refugees, and now the UN Global Compact on Refugees (GCR), which confer legal rights to refugee claimants where they would otherwise be subject solely to the whims of foreign governments. As well, Canada has committed to uphold the core principle of non-refoulement. Countries that have acceded to the Convention and its Protocol have done so to show their willingness to treat refugees according to international legal and humanitarian standards, as well their willingness to hold themselves accountable to the international community.



The core principle of the Convention is that a refugee must not be returned to a country where they face serious threats to life or freedom. The text further enumerates refugees' right to access the courts of law in all contracting nations. In the refugee's country of residence, they have the same rights as a national to access the courts and to legal assistance.

As you know, Canada's immigration system and refugee determination system are complex areas of law. A drastic cut to legal aid funding for migrants and refugees, such as we have seen in Ontario, is a de facto breach of our duties and is in contravention of the agreements we have willingly undertaken. Many refugees have already suffered violence and trauma unfathomable to our ordinary imaginations. To subject these individuals to further barriers to protection, in the country where they expect safety and fairness, is a breach of our moral and legal duties.

Refugees are not the only migrant group affected by the cuts. Other groups of immigrants, for example separated families seeking reunification, exploited migrant workers, and people seeking permanent residence on humanitarian and compassionate grounds will no longer receive assistance from LAO. These are also complex applications which require specialized knowledge of Canadian law and legal processes. There is no question that without legal assistance, immigrants in Ontario will have no recourse to protect their rights, reunite with their families, and remain in Canada.

I note that adequate legal aid funding for immigrants and refugees is a cost-effective measure. As noted above, refugee claimants who are represented by legal counsel are far more successful at their hearings before the Immigration and Refugee Board. Successful refugee claimants are eligible for permanent residence and have the opportunity to become contributing members of Canada's economy. Unsuccessful claimants may go on to costly appeals and applications for judicial review at the Federal Court, as is their right. Appeals, court costs, detention, and enforcement of removal from Canada are all costly to the Canadian government, and are more likely to be unnecessarily engaged when migrants and refugee claimants are not represented.

The Provincial government's decision to defund immigration and refugee law services came as an abrupt blow to refugees and migrants, as well as lawyers and advocates across Ontario. The immediacy of the decision has created a crisis with immediate repercussions, as we can see from the story of Janos Timku, who was profiled in the Toronto Star on April 15, after the cuts to LAO were announced. Mr. Timku had applied

for LAO to assist with his pending removal from Canada, and cannot afford to pay a lawyer to assist with his imminent removal proceedings. Mr. Timku will no longer qualify for legal aid assistance under the current scheme. His story illustrates the news that is being given to refugee claimants and migrants across Ontario.

If an NDP government is elected, as Prime Minister, to address the current crisis, I would act with urgency and instruct the Minister of Public Safety and Emergency Preparedness, who oversees the Canadian Border Services Agency (CBSA) to halt carrying out removals of individuals whose claims were presented without access to legal aid services and given a negative determination. Additionally, I would ensure there is emergency interim funding to restore services until the new agreement reached.

I and the NDP recognize that Canada's asymmetrical federalism often creates situations of jurisdictional overlap; in this case, immigration is federal jurisdiction, whereas legal aid provision is provincial, despite receiving funding from the federal government. It is my view that the Federal Government must also recognize that the legal aid system has been chronically underfunded for some time, and that the current influx of asylum claimants has placed further strain on the system.

With that in mind, it is clear to me that legal aid funding needs to be increased both in total, and specifically for immigration and refugee services. An NDP federal government would then work with provinces and territories to ensure there is robust and sustainable funding for the future, consistent with current and future trends in global migration.


I am very cognizant of that fact that globally, we are experiencing an unprecedented forced migration crisis, with over 70.8 million people impacted. Of those, 3.5 million are asylum seekers. Additionally, a growing anti-immigrant and anti-refugee sentiment has begun having serious impacts on Global North countries, has resulted in even fewer resettlement opportunities for the world's most vulnerable. With this in mind, it is no wonder that Canada has seen an influx of asylum seekers arriving here seeking protection.

To deny these people access to legal counsel to present their claim properly is arguably no different than shutting our doors to them as well. That is not the Canadian way. As such, the NDP will also propose a number of policy changes in this area, including but not limited to the repealing of Part 4, Division 16 contained in Bill C-97, the ominous budget Bill and the suspension of the Safe Third Country Agreement.

I hope that this letter clearly lays out what you could expect from an NDP government and myself as Prime Minister..

Should you have any additional questions, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, reading "Jagmeet Singh". The signature is fluid and cursive, with the first name "Jagmeet" and the last name "Singh" clearly distinguishable.

Jagmeet Singh  
Leader of the New Democratic Party of Canada