Canada to create new class of political refugees with far fewer rights

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Canadian Public Safety Minister Vic Toews and Jason Kenney, the federal Minister of Citizenship, Immigration and Multiculturalism, announced October 21 the details of Bill C-49, new Conservative legislation against illegal immigration and human trafficking.

The "Preventing Human Smugglers from Abusing Canada's Immigration System Act" would give the Immigration Minister the right to arbitrarily decide if the arrival of an individual claiming refugee status in Canada is "irregular." Those deemed by the government to be "irregular" refugee claimants will be subject to much harsher treatment and denied key fundamental rights. Furthermore, under the provisions of Bill C-49, even when the government ultimately accepts that an "irregular" refugee claimant is in fact a bona fide refugee who merits asylum under international and Canadian law, it will continue to deny him or her rights accorded other refugees. Thus the proposed legislation would create new categories of "irregular" refugee claimants and "irregular" refugees with far fewer rights.

The government has said that the "irregular" designation will be made when it has reason to believe that a terrorist organization or illegal traffickers out to make a profit have been involved in the transit of refugee claimants to Canada. According to human rights and refugee advocacy groups, the bill's language is so broad that its sanctions could be applied to the vast majority of asylum seekers and to organizations seeking to aid refugees. According to these same groups, the adoption of Bill C-49 would place Canada in violation of its international obligations under three treaties, including the International Refugee Convention, as well as violate the Canadian Charter of Rights and Freedoms.

The proposed law would impose prison terms of at least ten years for persons convicted of smuggling more than 50 foreigners into the country. While the government claims that the bill is directed against human traffickers, in fact most of its provisions target refugees, robbing them of basic rights. In other words, in the name of cracking down on human traffickers, Stephen Harper's Conservative government is targeting their victims.

Under Bill C-49, the government would be empowered to imprison "irregular" refugee claimants—men, women and children—for up to one year, without any legal right to release, or even for their detention to be reviewed by the courts. This is in direct contravention of international law which forbids states from punishing refugees who enter their country illegally.

"Irregular" claimants who are given the status of refugees will face a five year probationary period, during which they will be forbidden to leave the country, apply for landed immigrant status, or sponsor the entry into Canada of their spouse or children. This contravenes Canada's international obligations under the UN Convention on the Rights of the Child, the International Bill of Human Rights, and the Canadian Charter of Rights.

At the end of the five year probationary period, those classified as "irregular" refugees will be subject to a new evaluation to determine if they still need Canada's protection or if they can be sent back to their countries of origin. Under Bill C-49, the government is thus seeking to give itself the power to withdraw the right to asylum from those who have already been recognized as refugees.

The United Nations Convention on refugees states that refuges have the same rights to health services as Canadian citizens. However, under existing Canadian law, refugees receive only a bare minimum, markedly inferior to the comprehensive health coverage of Canadian citizens and landed immigrants. The new law would go even further and deny "irregular" refugee claimants and refugees the right to subsidized medications, wheelchairs, canes and walkers.

Bill C-49 comes on the heels of a reactionary refugee law enacted last June, the Balanced Refugee Reform Act. In passing that bill, the Conservative government received the support of all three opposition parties—the official opposition Liberals, the social-democratic NDP and the Bloc Quebecois—after it accepted several amendments that left the basic thrust of the law unchanged. Under the Balanced Refugee Reform Act, the government now has the right to all but automatically reject and deport refugee claimants coming from countries it designates as "democratic." Government officials claim that this law will stop "bogus refugees" and "abusers" of the system from coming to Canada.

The new law also states that the Refugees Appeal Divisions is

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"not bound by any legal or technical rules of evidence," meaning that it can base its decisions on hearsay testimony, allegations from the country's security services that would not stand up in a criminal court, or evidence obtained from foreign security services through abuse and torture.

Not content with having significantly weakened the rights of refugee claimants, the Harper Conservative government exploited the arrival of 490 Sri Lankan Tamil refugees on the ship *Sun Sea* in August of this year to mount a propaganda blitz aimed at portraying them as potential terrorists. This included mounting a major military operation, involving a Canadian Armed Forces frigate and other ships and planes, to forcibly board the *Sun Sea*. When the boat was escorted to a naval base docked in British Columbia, Toews announced that the government was readying new, tougher immigration laws.

According to media reports, the Conservatives toyed with the idea of seeking a site outside Canada for the incarceration of "irregular" refugee claimants and also with blocking ships bearing refugees from entering Canadian waters, but ultimately decided that these approaches would not be able to withstand challenge in Canada's courts. Another factor may have been fear of a hostile public reaction. A government-funded opinion poll last spring found considerable opposition to harsher treatment of refugee claimants.

The Liberals and New Democrats have announced that they will not reject Bill C-49, but instead will propose amendments.

The Conservative government justifies its attack on those fleeing persecution and seeking refuge in Canada, by accusing them of "playing the system" and "jumping the queue". The truth is that Bill C-49 is part of the Harper government's reactionary anti-crime and anti-terrorism agenda, which serves the double purpose of strengthening the powers and repressive apparatus of the state and seeking to divert mounting popular anger through rightwing furors.

Although it is currently the Conservatives who are spearheading the attack on refugees' rights, they are in this, as in so many other questions, following the trail blazed by their Liberal predecessors. It was under the Liberal government of Jean Chretien that in 2004 the US-Canada Agreement on Safe Third Countries came into force. This agreement gives Canadian authorities the right to refuse refugee status to anyone arriving in Canada, via the United States.

Certainly the exploitation of refugees by human traffickers is monstrous. (Some of the Sri Lankans on the *Sun Sea* are said to have paid thousand and even tens of thousands of dollars to reach Canada). But if such smuggling occurs, it is because the Canadian bourgeoisie, like its rivals, is determined to make it as difficult as possible for refugees to exercise their right to asylum.

In 2009, the United Nations High Commissioner for Refugees (UNHCR) calculated that worldwide there were 43 million people who were forcibly displaced due to political conflict and persecution. Yet last year Canada accepted less than 20,000 refugee claims. Moreover, as a result of recent reactionary administrative changes the number of refugee claimants fell, according to the Canadian Council for Refugees, by as much as one third in 2009.

And like other imperialist countries, Canada treats so-called "economic refugees"—those who it claims are fleeing poverty rather than political persecution—as pariahs, denying them the right to live and work in the country of their choice.

Canada's immigration policy has always been closely connected to big business' labor force needs. But over the past two decades, the ruling elite has pushed for immigration to be subordinated evermore completely to its drive for profit, urging the government to curtail "family class" immigration and make refugee status increasingly difficult to obtain.

Thus after last January's devastating earthquake in Haiti, Canadian authorities issued only a paltry number of visas to Haitians, preventing thousands, if not tens of thousands, from reuniting with family members in Canada.

In a recent speech at a citizenship ceremony in Ottawa, Prime Minister Harper vowed that his government will adopt new laws to solve "the growing problem of a massive influx of illegal immigrants." At the same time, he declared that the Canadian economy "will need many more immigrants" in the years to come.

The Harper government's hue and cry over the *Sun Sea*—300 of whose passengers remain in jail—and its latest anti-refugee bill are part and parcel of an international attack on refugees and immigrants. Recent months have seen France adopt legislation directed against Muslims and embark on mass deportations of Roma in violation of European Union law. Meanwhile in the US, there have been various laws and police actions directed against Latin American immigrants.

In Canada, as elsewhere, the bourgeoisie is seeking to scapegoat immigrants so as to divert the growing popular frustration and anger over mounting poverty, economic insecurity and social inequality along reactionary lines. The defence of the rights of refugees and immigrants is a crucial element in the struggle to unite and mobilize the working class against big business and its attempt to make the working class pay for the capitalist crisis.

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