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# THE 2006 ANNUAL CHURCH & CHARITY LAW™ SEMINAR

Toronto – November 8, 2006

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## An Immigration Primer for the Church: Obtaining Visas for Clergy, Religious Workers and Refugees

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By Jeremiah A. Eastman, B.A., LL.B.

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**VISA – TO WORK IN CANADA**

**The Rule**

- Foreign nationals wishing to “work” in Canada must first obtain a work permit
- Church employer must make application to Human Resources Skills Development Canada (“HRSDC”) for a confirmation that employment would not adversely affect employment opportunities for Canadians

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- “Work” is defined in the *Immigration and Refugee Protection Regulations* as being “an activity for which wages are paid or commission is earned, or that is in direct competition with the activities of Canadian citizens or permanent residents in the Canadian labour market.”
- This means that some volunteer activities are considered work

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**The Exception**

- Religious workers performing spiritual duties may work in Canada without a work permit for congregation or group
- Main duties must be to preach doctrine, perform functions related to congregational or group meetings, or provide spiritual counselling
- Must help congregation or group achieve its spiritual goals

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- Admitted as visitor to Canada
- May need visitor visa
- Onus on religious worker to prove they are coming to Canada for a temporary purpose and will leave Canada after the expiry of their valid immigration status in Canada

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**Spouse**

- Has right to apply for an open work permit – needs one if she will be doing non-ministerial work in church i.e. church secretary
- Spouse can apply after entering Canada
- Does not require a Human Resources and Skills Development Canada (HRSDC) confirmation before a work permit can be issued

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**Non-spiritual duties**

- Within a church, e.g. church secretary – need a work permit, generally speaking
- Need HRSDC confirmation
- Church or group may have to prove that it has made attempts to hire a Canadian; prove salary/benefits are at market rates (this prevents the hiring of cheap overseas labour) and provide details of foreign worker will be doing

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**The Other Exception**

- Religious worker who works for religious parachurch organization is by definition not helping a congregation or organization achieve its spiritual goals
- Therefore, not eligible for “religious” exemption from being required to first obtain a work permit before working in Canada for organization

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- But parachurch worker may be issued a work permit without first having to obtain a HRSDC confirmation if they intend to perform work in Canada that is of a “religious or charitable nature”
- Worker can be remunerated
- Some examples of this type of worker would be person coming to Canada to work for World Vision Canada, Yonge Street Mission, Campus Crusade for Christ Canada

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**VISA – TO LIVE IN CANADA**

**The Application**

- Skilled worker class – need 67 points (subject to change); Minister of Religion - NOC 4154: based on six (6) selection factors:
- Education – max 25 points
- Language – max 24 points
- Experience – max 21 points
- Age – max 10 points
- Arranged employment – max 10 points
- Adaptability – max 10 points

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- Need medical certificate and police check certificate from country of origin
- Processing times vary from visa post to visa post presently taking on average 5 years to process permanent residence applications depending on where in the world you are from and at which visa office you submit your application
- Don't have to leave Canada to apply for permanent residence: mail application to Buffalo ("the Buffalo shuffle"), but may have to attend interview

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**The Fees**

- Application fees \$550 – paid by both applicant and spouse and accompanying children
- Additional fees for Medical certificate, police certificate, language testing
- Right of Permanent Residence Fee is \$490

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**The Visa Officer**

- A visa officer will assess your application for permanent residence and decide whether or not reject/accept your application at the paper stage or arrange for an interview with you or waive your interview and simply requests your medical certificate (the best case scenario)
- The visa officer has the final discretion as to approving or refusing your application for permanent residence

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- Must put your “best foot forward”: visa office will only consider evidence/documents that you submit – if you neglect to submit some piece of information that is critical to your application logically it will not be considered
- That missing information could be the difference in you receiving 67 points instead of 66 points
- Visa officer cannot consider a piece of information that you did not submit with your application that s/he has not first disclosed to you and allowed you to comment on

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- If your application is refused you can “appeal” (file an application for leave and judicial review) to the Federal Court of Canada
- Have to do so within 60 days of the refusal being communicated to you

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VISA – TO FLEE TO CANADA

The People

- *A refugee is a person who "owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group, or political opinion, is outside the country of his nationality, and is unable to or, owing to such fear, is unwilling to avail himself of the protection of that country..."*

*The 1951 Convention relating to the Status of Refugees*

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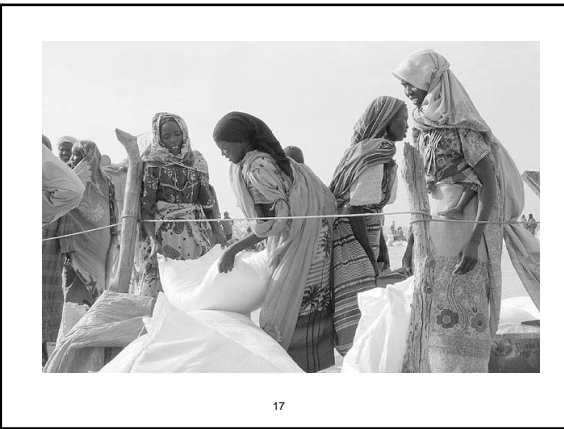
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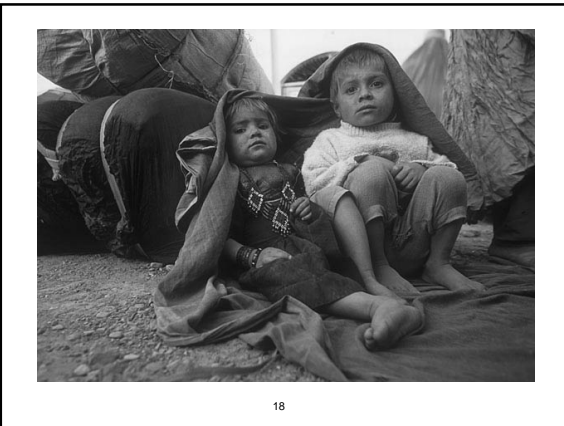
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**Presently there are 8.4 million refugees worldwide**

**ORIGIN OF MAJOR REFUGEE POPULATIONS - 1 JAN 2006**  
[Ten largest groups]

Origin	Main Countries of Asylum	Total
Afghanistan	Pakistan / Iran / Germany / Netherlands / UK	1,908,100
Sudan	Chad / Uganda / Kenya / Ethiopia / Central African Rep.	693,300
Burundi	Tanzania / DR Congo / Rwanda / South Africa / Zambia	438,700
DR Congo	Tanzania / Zambia / Congo / Rwanda / Uganda	430,600
Somalia	Kenya / Yemen / UK / USA / Ethiopia	394,800
Viet Nam	China / Germany / USA / France / Switzerland	358,200
Palestinians	Saudi Arabia / Egypt / Iraq / Libya / Algeria	349,700
Iraq	Iran / Germany / Netherlands / Syria / UK	262,100
Azerbaijan	Armenia / Germany / USA / Netherlands / France	233,700
Liberia	Sierra Leone / Guinea / Côte d'Ivoire / Ghana / USA	231,100

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**Community Sponsors**

- **Organizations, associations and corporations who have the necessary finances to provide adequate settlement assistance, and have representatives in the community where the refugee will live**
- **A community sponsor must meet the following requirements:**
  - **Must have financial capacity to fulfill the sponsorship undertaking for the duration of the sponsorship period (generally 12 months)**

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– **Must provide evidence of settlement capacity to provide emotional/social support to a refugee and their family**

– **Must be based in the community where the refugee(s) are expected to live**

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**Group of Five (G5)**

- **A group of five or more Canadian citizens or permanent residents who are 18 years of age or older and who live in the community where the refugee is expected to settle**
- **Group members act as guarantors that the necessary support will be provided for the full duration of the sponsorship, which is generally 12 months**
- **The group is expected to show that they have the necessary financial resources, expertise and commitment required to fulfill the terms of the sponsorship undertaking**

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**Selection of Refugees**

- **Citizenship and Immigration Canada relies on the United Nations High Commissioner for Refugees (UNHCR), other referral organizations and private sponsoring groups to identify and refer refugees for resettlement**
- **The Canadian visa officer decides whether or not a person meets the requirements of Canada’s refugee resettlement program and if the person will be admitted to Canada**

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- **There are three refugee classes:**
  1. **Convention Refugee Abroad Class**
  2. **Country of Asylum Class**
  3. **Source Country Class**
- **In exceptional circumstances, refugees from specific countries may apply directly for resettlement to Canada**

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**Assessing the Sponsoring Group’s Finances**

- **In order for Citizenship and Immigration Canada to determine that your group has sufficient financial resources to fulfill the terms of the undertaking, you must show all sources of funding, including in-kind and cash donations, that will be combined to provide support**
- **You must also include the necessary documentation that confirms the availability of the committed funds**

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**Settlement Needs-Details**

- **Rent: consider cost of accommodation (ensure refugee(s) will be able to afford payment after sponsorship ends)**
- **Utilities: include electricity, heat and water**
- **Food: consider the refugees' need to have some of their national food in their diet**
- **Transportation: bus or metro passes, tickets, etc.**
- **Clothes: consider winter clothes as well**

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- **Telephone:** decide whether to fund long distance calls; the refugee(s) will need to communicate with family and friends back home
- **Health:** plan for costs not covered by the provincial health plan or Interim Federal Health plan
- **Education:** school trips, day care to allow parents to attend language training, transition into work force
- **Incidentals:** pocket money, recreation, unanticipated expenses

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