Sanctuary City: Opportunities for Health Equity

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Wellesley Institute works in research and policy to improve health and health equity in the GTA through action on the social determinants of health.

Statement on Acknowledgement of Traditional Land
We would like to acknowledge this sacred land on which the Wellesley Institute operates. It has been a site of human activity for 15,000 years. This land is the territory of the Huron-Wendat and Petun First Nations, the Seneca, and most recently, the Mississaugas of the Credit River. The territory was the subject of the Dish With One Spoon Wampum Belt Covenant, an agreement between the Iroquois Confederacy and Confederacy of the Ojibwe and allied nations to peaceably share and care for the resources around the Great Lakes.

Today, the meeting place of Toronto is still the home to many Indigenous people from across Turtle Island and we are grateful to have the opportunity to work in the community, on this territory.

Revised by the Elders Circle (Council of Aboriginal Initiatives) on November 6, 2014

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Introduction

The global Sanctuary City movement calls on cities to be leaders in providing access to services and a safe haven for individuals without immigration status. In Canada, non-status individuals have restricted or no access to public services and have limited protections under legislation. This can leave non-status individuals in a vulnerable situation that can negatively impact their health and well-being.[1] While the federal government determines immigration policy, and provinces have lead responsibility for many core services, Canadian municipalities are responsible for providing significant services to residents. A number of Canadian cities are now becoming sanctuary cities by committing to providing services to all residents regardless of immigration status. Becoming Canada's first Sanctuary City in 2013, Toronto is a leader in supporting residents without status. Toronto's Sanctuary City policy is called Access T.O.

This think piece provides an overview of the Sanctuary City movement and explores how Toronto's Sanctuary City policy can advance health and health equity by improving access to services and fostering an inclusive city. Given jurisdictional complexities and constraints, this think piece explores opportunities for Toronto to realize the goals of Sanctuary Cities by: a) providing full access to city-run services, b) fostering a welcoming and inclusive city, c) convening stakeholders, and d) advocating for change at both the provincial and federal level where appropriate.

As the city has recognized, more work is needed to fully implement Access T.O. in order to ensure all city-run services, like libraries, food banks, shelters, public health services and public parks, are accessible to residents regardless of status and without fear of detention or deportation. Where services fall outside of the city's authority, the city can advocate to provincial and federal governments and convene stakeholders to expand access to services for residents without status. Through further implementation, advocacy and convening, the City of Toronto can fully realize the goals of being a Sanctuary City and can increase the ability of all Torontonians to be healthy and thrive regardless of status.
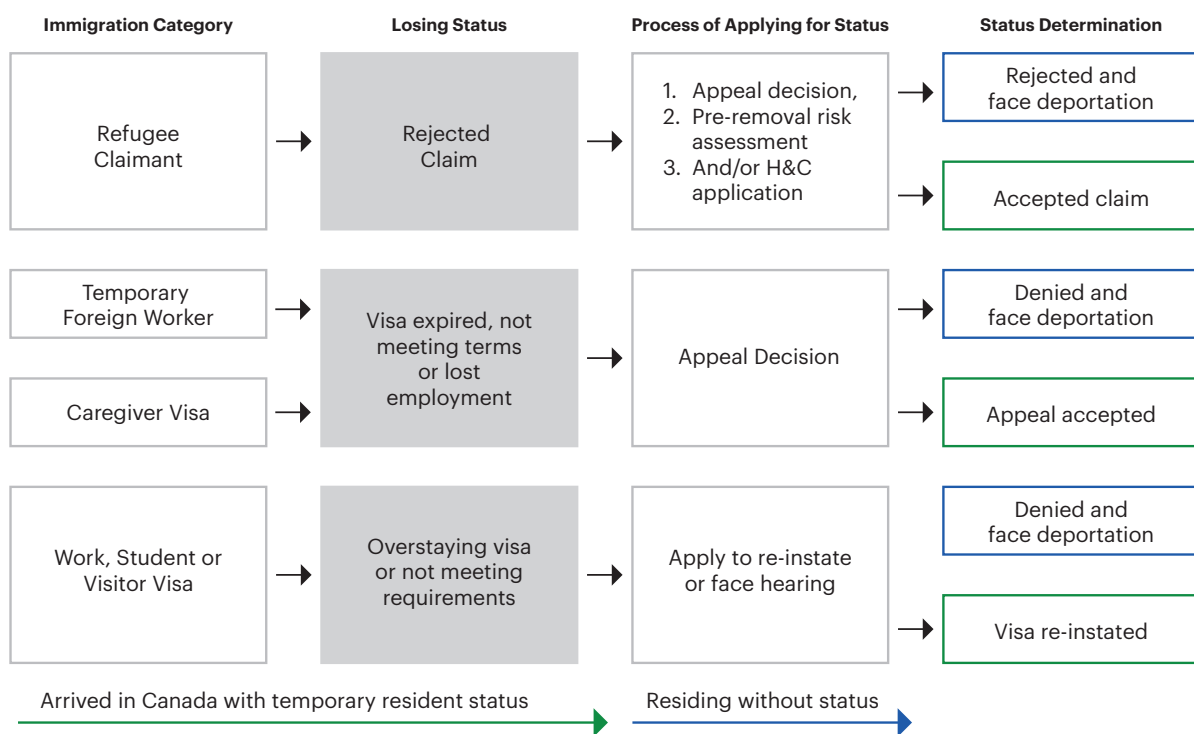
Background

Who is Without Status in Canada and How? Pathways to Non-status

There are an estimated 200,000 residents without status in the City of Toronto and almost 500,000 in Canada.[gaps] Individuals who are not authorized to enter or remain in Canada under the Immigration and Refugee Protection Act do not have legal status to stay in Canada.[2] Individuals without status are often referred to as non-status, undocumented, living with precarious legal status or irregularized.[3,4] Throughout this paper we will use the term non-status to refer to individuals who are residing without status.

The Canadian immigration system is complex and individuals can face many challenges in obtaining permanent status, regardless of the merits of their case. In Canada, there are different pathways that can lead to an individual not having status. Immigration primary falls under federal jurisdiction, with policies and status determination as the responsibility of the Ministry of Immigration, Refugees and Citizenship Canada. Immigrants and refugees arrive into Canada under different immigration categories and each immigration category has distinct requirements to maintain eligibility.[5] In fact, the majority of non-status individuals in Canada have arrived legally as temporary residents. Figure 1 provides an overview of how individuals may lose status and the limited options for regaining status and attaining permanent residency.

Figure 1: Who is without status in Canada and why? Overview of Pathways to Non-Status

Immigration Category	Losing Status	Process of Applying for Status	Status Determination
Refugee Claimant	Rejected Claim	1. Appeal decision, 2. Pre-removal risk assessment 3. And/or H&C application	Rejected and face deportation / Accepted claim
Temporary Foreign Worker / Caregiver Visa	Visa expired, not meeting terms or lost employment	Appeal Decision	Denied and face deportation / Appeal accepted
Work, Student or Visitor Visa	Overstaying visa or not meeting requirements	Apply to re-instate or face hearing	Denied and face deportation / Visa re-instated

Arrived in Canada with temporary resident status → Residing without status →

Individuals who arrive on temporary visas, through temporary worker programs or as refugee claimants, are most at risk of losing status. International students, visitors and workers in Ontario arrive with visas that have specific terms and limits on how long they can reside in the country. Individuals may lose temporary status when their visas expire or if they fail to meet their visa conditions.[6] Canada also accepts many foreign workers through the Temporary Foreign Worker Program (TFWP) and Caregiver program (formerly the Live-in Caregiver Program). In 2014 there were over 120,000 temporary foreign workers in Ontario.[7] These workers are granted temporary status that is tied to their employer and have limited options for leaving unsafe or exploitative workplaces which can jeopardize their status and ability to legally work in Canada.[8]

Finally, refugee claimants who make a claim from inside Canada must await a hearing to determine if their claim is accepted. Rejected refugee claimants may appeal decisions and ultimately may be granted permanent residency as a refugee but in the interim period they are living without status.[9] Many refugee claimants wait years before their claims are accepted. Inconsistencies with the appeal process and short timelines for filing claims or appeals creates barriers for claimants seeking refuge in Canada. Under the Safe Third Country Agreement with the U.S., refugees are required to request protection in the first safe country they arrive in, unless they fall within one of the exceptions related to family unity, best interests of children or public interest.[10] In the wake of increased fears of deportation in the U.S., there has been increased attention on asylum seekers making unauthorized entry into Canada from the U.S. and subsequently making refugee claims. However, these asylum seekers make up a small proportion of individuals without status in Canada, who generally have had authorized entry into the country.

These different immigration pathways, in particular for temporary residents and refugee claimaints, demonstrate the complex and intensive process of getting and maintaining status. Advocates have highlighted that harmful immigration practices, such as indefinite detention for immigration purposes, disproportionately impact racialized people.[11] The UN Committee on the Elimination of Racial Discrimination recently expressed concern and made recommendations about a number of Canada's immigration practices such as the use of indefinite detention, detention of migrant children, exploitation at work and lack of access to services for temporary foreign workers, lack of access to health care coverage for undocumented migrants and the Safe Third Country Agreement with the U.S. given the recent increased irregular border crossings of asylum seekers. [12]

What are Sanctuary City Movements?

Globally, Sanctuary City movements have developed to respond to the needs of residents without status. Sanctuary City movements vary considerably between countries, but share common elements of promoting cities as a space of belonging for all residents regardless of status and challenging exclusionary attitudes and practices.[13] American sanctuary city policies have focused in the last few decades on making cities safe for long-term migrants without status through municipal policies that prevent the collection and sharing of personal information about residents' immigration status and by ending cooperation of municipal services and police with federal immigration authorities. By contrast, the City of Sanctuary movement in the UK and Ireland is a network of over 90 communities that focuses on culture change rather than policy change. Cities of Sanctuary are endorsed by local government but focus on creating a culture of hospitality and inclusion for asylum seekers and refugees.[14]

In Canada, a number of cities have adopted sanctuary city policies that aim to provide municipal services to all residents regardless of immigration status. In 2013, Toronto was the

first Canadian city to adopt this type of sanctuary city policy, followed by Hamilton in 2014,[15] Vancouver in 2016,[16] and London and Montreal in 2017. Canadian sanctuary city movements also aim more broadly to define cities as spaces of belonging that include residents regardless of status.[17]

In Toronto, community organizations, activists, city staff and local residents have all played a significant role in changing attitudes towards non-status individuals, improving access to services and protections, and championing the city as a safe and inclusive environment. In recognition of the City of Toronto's responsibility to serve all people living in the city, Toronto city council proactively affirmed its commitment to providing access to city services without fear for all immigrants without full status in February 2013.[18] The City's Access T.O. initiative was rolled out to support this commitment and has included: program-specific customer service information, a staff training pilot, an audit of city services conducted in 2015, and a public awareness campaign.[19] On January 31, 2017, city council adopted an urgent motion that re-affirmed Toronto as a Sanctuary City where all residents have full rights to access city services and city-administered services without fear.[20] The motion explicitly responded to "hateful and discriminatory acts and policies," and was introduced by Mayor John Tory in response to both U.S. President Trump's executive immigration orders that targeted citizens of Muslim-majority countries, and the Quebec City mosque shooting, which occurred the previous week.[21] The motion stated that city council "stands united with cities around the world against islamophobia, xenophobia and racism."[22]

Toronto and other Canadians cities are becoming sanctuary cities in a complex jurisdictional context. This has implications for how Sanctuary City policies can be implemented. For example, the provinces have jurisdiction over health, municipalities, and education, while the federal government has jurisdiction over naturalization and employment insurance.[23] Provinces have delegated certain political powers to municipalities. For Toronto, Ontario's City of Toronto Act sets out the city's legislative framework, which includes authority to provide necessary or desirable services and create by-laws in relation to a number of matters.[24] The Act defines the City of Toronto as a municipality "composed of the inhabitants of its geographic area. "[25,26]

As such, the City of Toronto provides a range of services for residents regardless of status such as emergency services, recreation centres, and water treatment. Many city services are impacted by provincial laws and policies. The city is also responsible for delivering a number of provincial services. For example, the City of Toronto administers some aspects of the provincial social assistance program (Ontario Works); when providing these income and employment supports, the city must follow parameters set out by the Ministry of Community and Social Services which require that all Ontario Works applicants must be a citizen or

"legally entitled to reside in Canada permanently," with a few limited exceptions.[27] Despite Toronto's commitment to becoming a sanctuary city, some city-administered programs and services, such as income supports, will not be accessible for residents without status because they are impacted by provincial laws and policies that restrict access for residents without status.

It is within this complex jurisdictional context, that municipal governments in Canada have declared themselves Sanctuary Cities and in doing so have shown leadership in providing access to services for residents without legal status. The federal and provincial government have eligibility requirements that limit many services to residents with legal status, like health care and social assistance. This has significant implications for the implementation of sanctuary city policies because city services are so often shaped by federal and provincial laws and policies.

How Can the City of Toronto Use Sanctuary City Policy to Promote Health Equity?

Without access to publicly funded health coverage non-status individuals often face significant barriers accessing health care and experience significant health care needs such as reproductive health care, mental health care, acute care for urgent medical issues (e.g. injuries, stroke, heart attacks), care for communicable diseases such as tuberculosis and HIV, ongoing care for chronic conditions, and care for children and youth.[28,29,30]

Non-status individuals are among the most vulnerable residents in Toronto and face considerable health equity issues. For example, non-status workers often make less than minimum wage, face poor working conditions and have limited access to support services, all of which negatively impacts their health.[31,32] Health issues can be caused or exacerbated by fears of deportation, exploitative workplaces and lack of access to health care services. When non-status residents have health issues they often delay seeking health care due to fear of deportation, prohibitive out-of-pocket costs, experiences of discrimination, language barriers, knowledge and information gaps, and cultural barriers.[33,34] This exacerbates poor health outcomes connected to these and other social determinants of health.

The City of Toronto can leverage Sanctuary City policy (Access T.O.) to promote opportunities for all residents to be healthy and thrive. To promote health equity, we need to improve access to quality health care to treat and prevent illness and act to improve the conditions in which Torontonians live, work, play, and age which ultimately impact health outcomes. Through its services and policies, the City of Toronto can considerably improve these conditions by advancing the social determinants of health. In this section, we describe how the City of Toronto's Access T.O. initiative can advance a number of social determinants of health for residents without status including access to health care services, employment and income, housing, education, food security and sense of belonging and neighbourhoods.

Access to Health Care

Our health care system is meant to not only treat illness and injury, but also to help us prevent getting sick in the first place. In Ontario, the provincial government pays for many health services through the Ontario Health Insurance Plan (OHIP). However, residents without status do not have access to publicly funded health care through OHIP because eligibility is dependent on citizenship or immigration status. Toronto Public Health (TPH) is an agency of the City of Toronto that focuses on improving the health of the whole population through disease prevention, health protection and health promotion. The Board of Health which oversees Toronto Public Health is bound by Ontario's Health Protection and Promotion Act, which outlines, for example, the mandatory programs and services that public health units like TPH must provide.[35] TPH provides some direct health services that residents without status can access without OHIP including TPH clinics that focus on sexual health, vaccination, dental health, tuberculous, and harm reduction. TPH dental clinics can be used by residents without status but are targeted at low-income residents and therefore require documentation of income.[36]

While many TPH services do not technically require proof of status, the 2015 audit of Access T.O. suggests that more needs to be done to fully implement the policy in practice throughout TPH services. Over half of the 17 contacted health services required documentation or did not have accurate information about required documentation.[37] However, it is unclear whether these audited services were all TPH services (e.g. getting a health card would not be a municipal or TPH service). This suggests both a need to more fully implement Access T.O. at TPH and for greater clarity and awareness about what TPH services entail.

Improving access to TPH services such as vaccination, dental, and sexual health clinics, for residents without status has the potential to prevent disease and promote health for both this population and the whole city. However, TPH, like other public health units, are not mandated to provide comprehensive health care services. Because health services are largely under the jurisdiction of the provincial government, residents without status will likely face substantial barriers when trying to access health care services such as family doctors and emergency care. This has implications for health outcomes. For example, TPH has noted that a lack of OHIP coverage can limit the effectiveness of TPH tuberculosis treatment services, which can result in negative health outcomes for impacted individuals and the wider community.[38] Ultimately, TPH services are most effective when residents also have access to comprehensive health services.

Through Access T.O., TPH has the opportunity, and has taken steps, to further expand access to health care services for residents without status. This can be done by increasing staff training, improving audit information, bringing more clarity about services that are available, and building partnerships to improve access to more comprehensive health care services. For example, to improve access to comprehensive health care services, community health centres

in Toronto launched the On Board pilot in 2017 in partnership with TPH.[39] This pilot is a centralized referral and intake system that allows city staff in select shelters and TPH clinics to refer non-status residents to community health centres to receive continuing primary health care that is not provided by TPH or the city. Enhancing access to health care services for residents without status is an important way the City of Toronto can improve the health of Torontonians.

Employment & Income

Jobs that are safe and stable and offer financial security provide opportunities for Torontonians to be healthy and reach their full potential.[40] Without work permits, residents without status must often work under the table and are at risk for exploitation from employers.[41] The requirements of the Employment Standards Act do not distinguish between workers with and without status. In this way, all workers fall within its protections. However, the provincial complaint systems may be difficult to access due to fear of losing employment and deportation.[42] Exploitative jobs and insufficient income are significant health risks for residents without status.[43]

Residents without status are able to access employment centres without identification through City of Toronto's Employment & Social Services. However, income supports through social assistance programs like Ontario Works and basic needs allowances for residents in shelters require identification with proof of immigration status.[44] Although Ontario Works is administered by the City of Toronto, it is funded by the province. This can lead to a disconnect between the city's intention to support all residents and restrictions in eligibility requirements that limit the ability of residents without status to access city-administered income supports.

Housing

Access to safe, affordable and adequate housing is an essential part of maintaining good health and well-being and developing communities where people feel safe and included.[45] In a city with limited affordable housing options many people without status may struggle finding housing for themselves and their families.

A recent City of Toronto staff report indicated an increase in both refugee claimants and undocumented residents using city-run emergency shelters.[46] The City of Toronto's Shelter, Support and Housing Administration (SSHA) division provides direct services to residents without status through assessment and referral services, emergency shelters, drop-in centres, street outreach and housing help. Residents without status have access to city-run emergency shelters and are not required to provide any identification. However, it is unclear if in practice shelter staff consistently does not ask for immigration status information as part of eligibility

requirements. The emergency energy fund offered for low-income families does not require immigration status but proof of identification, such as a telephone bill, must be supplied.

While the City of Toronto provides some housing and shelter supports, there are limitations to what the city can currently offer to support housing needs. Like other newcomers to the city, non-status residents may be unaware of their rights as tenants and may face discrimination by private landlords.[47] For example, landlords may stereotype against immigrants or refugees and require guarantors or a substantial amount of rent paid in advance.[48] In cases where residents without status are experiencing violations of their rights as tenants there is a) limited awareness of their rights as non-status individuals and barriers to accessing information and b) both a perceived and real risk of discrimination if the tenant accesses formal dispute resolution processes.

Education

Education is a key social determinant of health and higher education is linked to better health outcomes. Individuals with higher education have better access to other social determinants of health such as having higher income jobs with better working conditions and more stable employment.[49] Additionally, higher education levels can lead to increased health literacy where people make more-informed decisions about their health and have a better understanding of health risks.[50]

Elementary and secondary schools in Ontario are governed by local school boards and the provincial Ministry of Education; the powers of the board and Ministry are outlined in Ontario's Education Act.[51] Under the Education Act all children under 18 can attend public schools regardless of their immigration status or immigration status of their parents.[52] It is unclear what provisions exist for non-status students over 18 who have not completed high school. These students may face additional barriers to accessing continuing education opportunities in order to complete their high school education. A major gap in education policy is that residents without status face many barriers accessing post-secondary education. They may be charged international student fees or not be formally able to register without immigration status.[53] Barriers to higher education can perpetuate a cycle of poverty and social exclusion.[54] While education is under provincial jurisdiction, the City of Toronto works with local school boards on a number of issues; for example, Toronto Public Health is a partner organization of Student Nutrition Toronto, which provides nutritious meals and snacks in Toronto schools.[55]

Outside of formal education, the City of Toronto supports learning for many communities through libraries that offer many practical workshops, resources and access to internet; for example, classes can include newcomer English language courses, basic computer skills or workshops on financial literacy.[56] Toronto Public Libraries aim to provide free and equitable services to all Torontonians by promoting universal access to knowledge,

information and ideas. [57] Residents can have access to a library card by providing two forms of identification. Since 2014, a postcard can be mailed to an address by the library as one form of identification, which improves access for non-status residents.[58] While education falls under the jurisdiction of the province, the city has a number of opportunities to support access to education for Torontonians without status: a) through existing library services and partnerships with local school boards, b) by convening local stakeholders and school boards to reduce education barriers, and c) by advocating to the province to expand access to education.

Food Security

Food helps keep people and their families healthy and can bring individuals together and connect them with their community.[59] Many Torontonians have trouble getting affordable, healthy and nutritious food.[60] However, a major driver of food insecurity is income and without access to social assistance or stable employment it can be a challenge for individuals without status to afford safe and nutritious food.[61] The City of Toronto runs food banks to meet emergency needs of families struggling to afford nutritious food. Toronto Public Health also offers free health education workshops that include information on nutrition. However, most food banks require proof of address, identification and income verification which often requires documents that only a person with status would have (for example a tax assessment).[62,63]

Sense of Belonging & Neighbourhoods

An individual's sense of belonging including having social ties and feeling connected to their community has important implications for health. People who have social connections and social ties have lower rates of disease, improved mental health and feel less isolated.[64,65,66] The City of Toronto's Sanctuary City policy can shift values, attitudes and practices on what it means to be an inclusive city. Through improving access to shared public spaces for all residents, increasing knowledge on experiences of non-status residents, and challenging stigma and discrimination, the City of Toronto's Sanctuary City policy can improve a sense of belonging for non-status residents; this can be enriched by more fully implementing Access T.O.

The City of Toronto runs many neighbourhood spaces, which provide opportunities to foster a sense of belonging. As discussed, Toronto Public Libraries have taken many steps to reduce barriers for residents without status, which provides opportunities to access workshops, books and computers. Similarly, city-operated recreation facilities, classes and programs do not require identification to participate, which provide opportunities for exercise, education, and increased sense of belonging. However, the city's fee subsidy program for low income families, the Welcome Policy, does require identification (including proof of identity,

name, address, date of birth, and income).[67] While residents without status whose family income is below the Low Income Cut-Off are eligible for the Welcome Policy,[68] the current documentation requirements are a barrier to accessing affordable recreation.[69]

Although the city can contribute to health and sense of belonging through the Access T.O. Initiative, undocumented residents continue to live in fear of deportation and face barriers to seeking help from the Police in particular. The Toronto Police Service Board's "don't ask, don't tell" policy in 2006 (amended 2010) commits to "ensuring that undocumented residents have equal access to policing services without the fear that contact with police will lead to inquiries about their immigration status."[70] Despite this commitment, community feedback has indicated that residents without status, particularly victims and witnesses of crime, and women in domestic abuse situations, continue to fear exposing status and risk deportation when interacting with police who can -- and do -- ask about immigration status for "bona fide law enforcement reasons."[71] The City of Toronto has noted that despite shared goals of protecting victims of crime, the lack of clarity regarding police procedures are a continued concern; as a result, the City's Access T.O. website indicates that undocumented residents should contact 911 in case of emergency, rather than Toronto Police Services directly.[72] It is clear that Torontonians without status continue to face barriers when accessing police services despite the city's Access T.O. policy.

It is important that city council has affirmed and reaffirmed its commitment to serving all Torontonians as well as rejecting racism and discrimination. Racism and discrimination have a negative impact on health. Structural racism contributes to inequities where racialized groups have differential access to resources, services and limited access to power.[73] People face discrimination in their day-to-day interactions with health care, employment and police services.[74] Persistent experiences of racism and discrimination can lead to stress and negatively impact health. The city's commitment to inclusion and valuing the dignity, worth and contributions of all residents is one of the ways municipal governments can respond to racist, exclusionary rhetoric, policies and actions, and contribute to sense of belonging of all residents.

The City of Toronto's report on undocumented workers recognized the valuable contribution workers without status make to our city everyday.[75] Their skills, diverse perspectives and resilience are valuable assets to our communities and raising awareness on their contributions challenges discriminatory assumptions. The Access T.O. initiative has the potential to shift the attitudes of the public services and Torontonians more broadly to be more inclusive of undocumented residents through staff training, audits, and public engagement. However, there is a need to address implementation gaps to fully realize the opportunities of Access T.O. to contribute to inclusion and sense of belonging in Toronto.[76]

Gaps & Opportunities

Cities can enhance residents' opportunities to be healthy and thrive through policies and services such as parks, recreation, libraries, food banks, shelters and public health. Offering city services to all residents regardless of status sends a clear message to Torontonians that we are a city for everyone that values diversity and inclusion. Toronto has made a bold move to become a sanctuary city, but this has only been partially implemented. If fully implemented, the city can support non-status residents to meet their basic needs despite precarious immigration status.

If Toronto were to expand staff training, develop clear mechanisms for evaluation and accountability, and address existing policy and service barriers, it would better realize its goal of fostering a sanctuary city. For example, this could include a reform of income-related identification requirements for city services like food banks, recreation and employment support programs, which can be a barrier for residents without status. Moreover, after the 2015 audit of Access T.O., the City of Toronto indicated that additional work is needed to improve the accuracy of information and customer services for non-status residents.[77] Adequate training and capacity building would ensure city staff are aware of how their work fits with Access T.O. policy and therefore better serve non-status residents.

There are limitations to what the city can do given that many services and policies fall under provincial (e.g. health care) or federal jurisdiction (e.g. immigration). However, there are many untapped opportunities for the City of Toronto to be a convener of a more inclusive city for all residents, with or without status. Through partnerships and advocacy to provincial and federal governments, the city could increase access to income supports, health care services and employment protections to advance health and health equity for residents without status. For example, the Toronto Public Health's involvement in the On Board pilot project demonstrates the opportunities that city agencies have to expand access to provincially-funded services that are safe and affordable for residents without status through funded partnerships, referrals and coordination.

Due to jurisdictional limits there can be confusion over what services the city has authority over, and what is possible within the framework of Access T.O. It would be useful for the city to provide clear and up to date information about the level of implementation of Access T.O. policies throughout its services to ensure that residents and communities understand what Sanctuary City means in practice in Toronto. As well, it would be useful for the city to communicate what services fall outside of the city's jurisdiction (e.g. Ontario Works eligibility, health care services, school boards).

Conclusion

The Sanctuary City movement globally champions inclusion, equity and the power of cities to be leaders and changemakers. This think piece highlights that Sanctuary City policies can improve health equity in Toronto by ensuring the ability of residents without status to participate and contribute to our city life without fear of deportation. Moving forward, the city can increase the health, well-being and inclusion of non-status residents by increasing access to city services necessary for health and well-being through full implementation of Access T.O with clear accountability, funding and enforcement mechanisms. Despite jurisdictional complexities and constraints, where services fall outside of the city's authority, the city can advocate to provincial and federal governments and convene stakeholders to expand access to services for residents without status. As the first Sanctuary City in Canada, Toronto is a leader in protecting the rights of residents without status. By building on this commitment through full implementation, advocacy and convening, Toronto can foster an inclusive city where residents can thrive and participate fully regardless of status.

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