

## **Shamed in China, denied in Canada**

c Linda Diebel (Toronto Star, May 31, 2007)

Canadian immigration officials have refused to allow Avvy Go's client to bring her daughter to live with her in Canada. They've been saying no since the child was 11, and she's 14 now, living with her grandmother in China.

That's fine with Go – as long as men continue to get pregnant.

But wait! Men don't get pregnant.

Go's point exactly.

What's more, men don't get pregnant as a result of having been raped, unlike Go's unfortunate client who is now in her mid-30s.

And because they don't, Go has built an appeal for her client – whom we will call Mei – based on the gender equality provisions of the Canadian Charter of Rights and Freedoms. She is arguing before the appeal division of the Immigration and Refugee Board that her client's constitutional rights are being abused because officials are not taking into account the systemic discrimination Mei faced in her homeland as a result of the rape.

In other words, none of this would have happened had she not been born a woman in China. She wouldn't have been raped, borne a daughter, given her up for adoption, and failed to declare her daughter's existence when she came here.

First, the decision:

Immigration refused to allow Mei to bring to her daughter to Canada in 2004 because of that initial failure to declare the daughter – a regulation that applies equally to male and female sponsors. But Go argues it isn't fair. Women can find themselves "for reasons of their disadvantaged position and the stereotyping that they face, (having) no choice but to refrain from disclosing the existence of certain of their family members."

Go wants to change the system. She believes that immigration officials should be given the authority to make allowances when traditions and cultures fail to value women and to interpret regulations with respect to equality rights. Go sees it as the responsibility of the immigration system in a multicultural society.

Go is one of Toronto's strongest, toughest and most tireless advocates for the rights of the poor and the powerless. As director of the Metro Toronto Chinese and Southeast Asian Legal Clinics, she has seen unusual cases. But even for Go, this is an innovative defence. If she wins, she could

be setting a precedent for women's rights that goes far beyond immigration hearings.

On a recent evening in Go's downtown offices, Mei sits, head bowed, tears falling, and says she can't bring more dishonour to her family by revealing her identity in the Star. She is ashamed of having been drugged and raped when she was 19 in China and, as a result, of having had a baby out of wedlock.

A girl, too. Doubly cursed.

"We can't tell anybody and you can't keep the baby," she remembers her mother telling her. "We would never be able to show our faces again. We would never be able to go outside our home."

Mei, the daughter of farmers, says she was a virgin when she was raped while looking for work in a city. Her rapist threatened to kill her if she went to the police. Not that she would have; she was too ashamed.

Her mother arranged for an "informal adoption" with a farming couple. But the woman was involved in a traffic accident in 2003 and, her health impaired, gave the adopted child back to Mei's mother.

By this time, Mei had immigrated to Canada with her husband. Living in Toronto, he had gone back to China to find a wife and Mei considers herself fortunate indeed that this man, 20 years her senior, didn't consider her damaged goods.

They married in 1997 and, in 2001, he had sponsored Mei for permanent residency in Canada. They began a life together in Toronto, eventually having two children.

Then, in 2003, her mother called with the news about her daughter. Immediately, Mei contacted immigration officials and began the paperwork to sponsor her daughter under family class provisions, only to be turned down.

The Star didn't contact immigration officials to discuss what would have been an anonymous case (as per our agreement with Mei). Besides, Go admits officials followed regulations, as they now exist.

But she is trying to change them.

In 2005, Go appealed the decision on humanitarian grounds. It failed.

Her final argument to the immigration appeal division – a hearing date has not been set yet – includes an affidavit from Weiguo Zhang, a University of Toronto sociologist, on the position of women in Chinese society: the lack of value of girls compared with boys; the prevalence of rape and the reluctance to admit to having been raped; and the problems of unwed mothers. As he notes: "Being not a virgin anymore, for whatever reasons, reduces the marriage prospects for women. ... Having a child adds further to difficulties for an unmarried woman in getting a spouse."

For Mei, it's a double-edged sword. She appears to be the victim of sexual discrimination in two countries. For Go, the subordinate nature of women in China is a critical part of Mei's case. But

it also revolves around the inequality she may be facing under Canadian law.

Mei "went so far as to give her daughter away to hide the shame she experienced as a rape victim. ... The option of keeping her daughter simply did not exist."

Go argues that only by giving her baby away was Mei able to "carry on her own life with some level of dignity." She didn't disclose her daughter's existence to Canadian immigration officials because it "would have forced her to confront a 'shameful' event that she had spent over a decade trying to forget."

Go says the immigration regulation creates a "differential burden" for women. "It is only women who will be placed in situations where they are forced to hide an unwanted pregnancy and thus an unwanted child who is born as a result."

She continues: "Men will never have to face this difficult dilemma as they will never get pregnant – even though they may be raped. Women are most likely to be placed in this dilemma when they become victims of sexual violence."

Mei's husband is ready to adopt her first-born and the couple has travelled to China to see the girl. Her mother says her daughter is "confused" and a photograph shows a sad-looking child.

"This case is so important to (Mei) because she wants to bring her daughter to Canada," says Go.

"But it also highlights the absurdity of the position that the regulation is genderless. When they are not able to see the stigma she has lived with, it shows how inhuman the immigration system has become."

## **Marriage of Convenience**

c 2011 by Avvy Yao-Yao Go, Anita Balakrishna,  
and Atulya Sharma (The Star, Apr. 26, 2011)

In this federal election, all major political parties are waving the “family friendly” flag. The Conservatives are particularly eager to win what they call the “very ethnic votes” as well as “women” votes.

But while their campaign slogans say one thing, the Conservatives’ policies have been something else altogether, especially when it comes to immigration.

The Harper government reduced the intake of parents and grandparents under family class immigration, especially from countries like India, while doing little to reduce excessive delays in processing time. Since the Conservatives took over in 2006, the number of family-class immigrants has gone down by 15 per cent, in contrast to the 31 per cent increase in the number of temporary foreign workers who entered Canada over the same time period.

But what has yet to capture public attention is the move by the Conservatives to introduce “conditional visas” on women who come to Canada as sponsored spouses. Conveniently, the notice about this new proposal was made just one day before the government fell.

The proposed measure, if passed, would apply to spouses and partners who have been in a relationship with their sponsor for two years or less at the time of the sponsorship application. The period of conditional status under consideration could be two years, or longer, from the time that the sponsored spouse or partner becomes a permanent resident in Canada. Officially, the stated objective of the proposed conditional visa is to deter so-called “marriages of convenience.”

While its timing is suspect, the fact that these regulations are being proposed should come as no surprise. Last year the concept of conditional visas was tested in a government online consultation on so-called marriage fraud. At the same time, Immigration Minister Jason Kenney was busy drumming up public sympathy for sponsors — most of whom are men — who complain about women they have sponsored using marriage as a ticket into Canada.

For every sponsor who feels genuinely betrayed by the person he or she has brought here, there is a sponsored immigrant — most likely a woman — who finds herself in a controlling and sometimes even abusive relationship after landing in Canada.

These women often are too ashamed and mostly too afraid to speak out for fear of losing their immigration status. Abusive partners, often men, who cry “marriage fraud” after the relationship breaks down have all the power and privilege to access support and legal assistance. On the other hand, sponsored women who have been abused often are isolated and alone. By characterizing the issue as “marriage fraud,” the government has shifted attention away from the wider systemic problem of violence against women and in so doing laid the blame on the

victims.

The vast majority of the people who want to bring their families to Canada just have one goal in mind — to be reunited with their families. Yet many Canadian immigration officials (particularly those stationed in India and China) routinely treat every sponsorship application as a fraudulent case, until proven otherwise.

Viewed through such a biased lens, many genuine marriages are being unfairly rejected. While sponsors have the right to appeal and often win, the resulting delay forces a much longer period of family separation, causing considerable financial and relationship stress.

Indeed, the conditional visa is nothing new. It was part of the Canadian immigration law once before. Back then, a woman who came to Canada as a sponsored fiancée had to marry her sponsor within 90 days of arrival. Failure to do so would result in her status as a permanent resident being revoked.

In no time, the requirement became a tool for all too many male sponsors to control their sponsored spouse. After years of advocacy by immigrant and women's groups, the provision was finally removed. Reintroducing conditional visas will not only set our law back 20 years, it will create a subclass of immigrant women who are forced to choose between a life of servitude and deportation.

Marriage is never convenient. The majority of marriages in Canada do fail. That does not mean, however, those who enter into it do so with fraudulent intent.

Canada's immigration legislation already has provisions that can be used to charge (even criminally) immigrants for misrepresentation in their applications. If marriage fraud were indeed a widespread problem, more charges should have been laid. Already, the Conservatives have spent significant sums on beefing up scrutiny at visa offices abroad to combat so-called fraudulent marriages. Adding another layer of with the "conditional visa" is not only harmful to women but a waste of taxpayers' money.

Rather than proposing a one-sided solution to a problem that is multi-faceted, the government should try to facilitate immigration through other means, including expanding the definition of family class and relaxing other types of immigration rules. Canada needs immigrants, and if there are more ways than one to immigrate to Canada, getting married would likely be the last resort for most people.

Reuniting families has long been one of the core objectives of Canada's immigration legislation. Family reunification is an integral part of the settlement process. Immigrants who have family support within Canada are better able to cope with challenges of migrating to a new country.

If political parties are serious about promoting family values, then they should be working on promoting family reunification for immigrants.

## **Ottawa to target ‘marriages of convenience’**

c Raveena Aulakh  
Toronto Star, Nov 06 2011

In a crackdown on fraudulent marriages, the Canadian government is proposing a period of conditional permanent residence requiring a sponsored spouse stay in a “bona fide” relationship with their sponsor, possibly for two or more years.

Another proposal would prevent a person who has been sponsored as a spouse from sponsoring a new partner for five years.

(In 2009, nearly 45,000 people immigrated to Canada as spouses. Citizenship and Immigration Canada says 1,000 fraudulent marriages are reported annually. Many others go unreported.)

Those who claim to be victims of marriage fraud welcome the proposed changes.

But social workers say it’s a step backward and will hold some women hostage.

“It’s like going back in time,” says Avvy Go, director of the Metro Toronto Chinese and Southeast Asian Legal Clinic, referring to a former law whereby fiancés had to get married within 90 days after entering Canada or face deportation.

That law was eliminated in 2002, says Go. “Now instead of 90 days, it’s a two-year trial period that the government is proposing.”

It will be lethal for women, says Go. “Domestic abuse is a big problem and if these women speak up against it, they could get deported.”

In a recent case, a woman who married in March 2010 in India says she was physically and sexually assaulted by her husband within days of landing in Toronto last January. She endured the abuse until August when her husband’s family told her they would throw her out if she didn’t get \$20,000 from her parents in New Delhi.

“I couldn’t ask them for money ... and I knew the beatings would get worse,” she says. She left her husband’s home in the summer and now rents a room in a Mississauga basement, is getting a driver’s licence and looking for work.

If Ottawa’s proposed changes had been in effect, she says she would still be with her husband in that house.

“And I could have done nothing.”