Canada resistance to Iraq War resisters must end

The reasons to send American soldiers back fails both legal and moral arguments

By CRAIG SCOTT
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Former U.S. Marine Cpl. Dean Walcott is seen with his wife and two of his Canadian-born children in Toronto on Friday, July 22, 2016. After two tours in Iraq, Walcott, who now lives in Peterborough, Ont., fled to Canada to avoid fighting in the war. (Colin Perkel / THE CANADIAN PRESS)
The time has come for Prime Minister Trudeau to allow American deserters who resisted the war begun in Iraq by the U.S. and the U.K. in 2003 to stay in Canada. During the election, he signalled this was where his moral instincts lay. Unfortunately, so far his Liberal government is not showing leadership on this issue.

I have a double worry about where a Trudeau government may be heading. One is that this government is prone to buying into certain Harper-era ‘moral’ and geopolitical arguments. A second worry is that factual confusion amongst Canadians who are against allowing these conscientious objectors to stay will be used as a political shield by the government.

Let’s start with this second worry. Letters to the Editor in the Star’s pages following a column by Bob Hepburn (“Trudeau should act on U.S. war resisters,” July 20, 2016) show some think they have a knock-down argument against the war resisters because the Vietnam analogy does not work. We are told that, when former Prime Minister Pierre Trudeau’s government gave sanctuary to war resisters, they were “draft dodgers” being compelled to fight whereas the current Iraq War resisters are “deserters” who volunteered.

In actuality, during the Vietnam War, resisters were both draft dodgers and deserters who had enlisted voluntarily. The reasons of conscience Canada accepted at that time — whether framed as opposition to an immoral war, to an illegal war or to a war being fought using illegal or immoral methods — did not depend on any conscripted-versus-volunteered distinction.

Also, even if we focus on the core case of Vietnam as a situation of draft dodging, it is wrong to categorize the Iraq War as a volunteer-soldier’s war. In 2004, current U.S. Secretary of State John Kerry described the situation for soldiers in Iraq as a “backdoor draft” because their tours of duty could be extended beyond the period they volunteered.

The most important problem for critics of war resisters is that this distinction between volunteers and draftees has not been the focus of
the many decisions the Federal Court has handed down in which it has ruled against the previous Conservative government — in case after case — on different legal questions related to Canada’s effort to return deserters to the U.S. Instead, multiple panels and levels of that court have consistently found one or more of a half-dozen reasons why Canadian authorities have erred in their assessments of refugee claims, of “person in need of protection” exceptions to deportation, and of “humanitarian and compassionate” applications.

With four more cases in the pipeline, I return to the first worry I expressed above — that the Liberals are actively considering making the Conservatives’ legal battles their own, notwithstanding losses in some dozen cases to date.

Two key findings of our courts have been that American war resisters returned to the U.S. are at risk of unfair trials before non-independent military tribunals and also at risk of persecution through disproportionate sentences received after being ‘differentially’ prosecuted (meaning the U.S. policy is generally an administrative discharge for deserters but criminal prosecution for those deserters who also speak out against the war).

The Federal Court has also ruled that Canadian immigration officials have ignored that U.S. violations of the laws of war were, as it was found in one case, “routine and authorized” in Iraq.

Other, wider issues, are also at stake. Most notably, we need asylum as an expression of solidarity with those who dare resist warrior culture gone amok, and to affirm that humanitarianism and compassion can triumph over militarism and manifest abuse of power.

Unfortunately, when it comes to moral questions touching on war, a pattern is developing of the Liberal government acting as obsequiously in its relationship to America as the previous Conservatives. As just one example, Liberals in opposition were part of the majority of MPs who adopted a House of Commons resolution directing the government to convene a commission of inquiry on torture of detainees transferred by Canada to Afghanistan. Prime Minister
Harper refused to do so and Prime Minister Trudeau’s government has now adopted the Harper policy.

Similarly, a House of Commons motion to allow the Iraq War resisters to remain in Canada was also adopted with the support of the Liberals in Official Opposition. Will Prime Minister Trudeau again backtrack, or will he now do the right thing? That remains to be seen.

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