

Delays in Family Reunification of Protected Persons in Canada

*A submission to the Standing Committee
on Citizenship and Immigration*

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CITIZENS *for* PUBLIC JUSTICE



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SUMMARY

Citizens for Public Justice (CPJ) wishes to address the issue of family reunification, specifically *delays in reuniting families of Protected Persons following the Immigration and Refugee Board determination process.*

Based on extensive research we have undertaken and consultations we have had with a large community of refugee advocates, CPJ offers two specific recommendations aimed at addressing the delays in reuniting families of Protected Persons:

Recommendation 1:

Grant permanent resident status immediately upon conferral of protected person status¹ and

Recommendation 2:

The Standing Committee commissions a study that would:

- **thoroughly investigate causes and effects of delays in family re-unification,**
- **identify bottlenecks,**
- **gather the shared knowledge around the issue of family re-unification of Protected Persons ,**
- **and examine various policy alternatives that would deal with the issue in a just and compassionate manner.**

¹ Attached to this submission is a policy paper produced by CPJ titled “PERMANENT PROTECTION: Why Canada should grant permanent resident status automatically upon conferral of protected person status.” Andrew Brouwer (September 2004).

INTRODUCTION

We wish to thank the Committee for this opportunity to appear before you and contribute to improving Canada's immigration and refugee system. Given the importance of this area of policy, we are grateful that the Standing Committee on Immigration and Citizenship has highlighted specific areas of immigration and refugee policy that require change.

Citizens for Public Justice is a Christian not-for-profit member organization seeking to bring biblical principles of justice and stewardship into Canada's public life. Over the past 40 years CPJ has fostered citizen participation in public policy debates and proposed policy options reflecting CPJ's core values² in a number of areas. We have done this in many ways: by undertaking in-depth research and analysis, articulating sound, alternative policy proposals and supporting the implementation of just public policies at all levels of Canadian government.

Citizens for Public Justice began focussing on refugee policy in the early 1990s and since then has contributed to policy decisions to: eliminate the Right of Landing Fee for refugees, introduce an alternative route to determining identity (the Aden Agreement) and to make student loans accessible to Protected Persons. Because refugee policy deals with issues of life and death for many of the world's most vulnerable people, CPJ works both to increase awareness of the plight of refugees and to shape Canadian legislation and policies affecting immigration and refugees. The Getting Landed Project³ is such an initiative that seeks to promote policies that deal with Protected Persons in a just and fair manner, in keeping with Canadian values of compassion and equity.

² See Appendix A for a list of CPJ's core values.

³ A project that addresses policy that specifically targeting Protected Persons who are in "limbo." Attached is a brochure "Refugees in Limbo," which is intended to give the reader an overview of the issue of limbo and its consequences.

DELAYS IN FAMILY RE-UNIFICATION (Protected Persons)

Current realities:

Asylum claimants whose claims for protection are found credible by the Refugee Protection Division of the Immigration and Refugee Board, are recognized as Protected Persons under Canadian and/or international law. It is at this point that the refugee is *permitted to apply* for permanent resident status in Canada. Experience has shown that this point is the beginning of another long wait; typically, longer than the 8-to-12 month average length of time that claimants have already waited for their IRB hearing. This second wait often stretches into years, while the initial checks for fraud, criminality, security issues etc., are repeated, this time with more rigid criteria. Because of the legal uncertainty and debilitating limitations built into this time of waiting for permanent resident status in Canada, it has earned the nickname “refugee limbo.”

Consequently, claimants who make an inland claim and are accepted as persons needing Canada’s protection face formidable challenges in bringing their families into Canada. Many times such family members languish in refugee camps overseas or live in temporary shelters at great risk to life. Some perish in the long delay to have all formalities completed while life is an agonizing wait for the principal applicant in Canada.

Existing legislation and regulations (the Immigration and Refugee Protection Act) do not allow families of Protected Persons to be united in Canada until they have completed security and medical screening and the protected person in Canada has received permanent resident status. In an increasing number of cases, due to the unwarranted use of discretion by CIC officers requesting DNA tests, families are subjected to immense hardship and costs just to be able to establish their relationships. All these give rise to a conundrum of issues for the protected person, society and the state, issues that create unnecessary delays and frustration to all concerned.

Impacts of delays in family reunification

Delays in family re-unification impact every dimension of Canadian life.

Refugees and their families lose hope and go through long periods of depression and mental illness. Their dysfunctionality often leads to family breakdown and loss of income.

Canadian society is impacted by the lost contribution of refugees and their families to Canadian communities and its own inability to live out our values and fulfill our responsibility under international human rights conventions. Often entire communities are called upon to compensate for the lack of family support, thus placing unnecessary burdens on themselves.

Government suffers too. The opportunity costs to the government in terms of unearned taxes and reduced economic activity due to refugees being kept in limbo is enormous⁴.

Policy issues

The refugee community over the past three years has identified specific issues that arise from the current policy that governs family reunification of Protected Persons. The following list of concerns was compiled consequent to two consultations (Canadian Council for Refugees) held in 2003 and 2004.

Concerns:

- Limitations in the definition of who constitutes “family” members
- Processing of security certificates and medical clearances
- Unaccompanied minor Protected Persons are not able to be reunited with their parents
- Fees and costs
- Identity documents
- Establishing relationships, use of DNA testing

⁴ *Refuge Journal, Betwixt and Between: Refugees and Stateless Persons in Limbo* Vol.22, No.2 (forthcoming). PJRC study on cost/benefits of limbo conducted during summer 2003; Tim Coates.

- Access to the system
- Security and the stereotyping of refugees
- Obtaining exit visas/transit documents
- Locating and including family members on the application

The above may be categorized into four broad areas of concern. They are:

1. Defining family and establishing relationships
2. Processing delays
3. Documentation issues
4. Financial costs

Delays caused by a combination of these factors are not justifiable and should have no place in Canada's refugee determination and settlement process. As the news release on the cross-country hearings of the Standing Committee rightly highlights, IRPA objectives are clear in their call to ensure that the legislation facilitates family reunification of refugees. This clearly reflects the will of Parliament in this vital aspect of offering protection and a new lease of life to those who seek Canada's protection. The core values⁵ of Citizens for Public Justice demand that refugees be treated with fairness and that we show justice and equity in our dealings with them, the right to be reunited with their family being no exception. These values are also clearly reflected in the international conventions and protocols that Canada has ratified in the past such as the Convention relating to the Status of Refugees, the Convention against Torture and the Convention of the Rights of the Child. It is incumbent on the Canadian government, therefore, that the values and principles enshrined in these instruments be mirrored in the policies that affect such vulnerable individuals and communities and that every effort be made to protect the integrity of these binding agreements.

Current policies are inadequate in addressing all the complexities of family reunification. Piecemeal attempts at "fixing" some parts of the problem are really not solutions at all and

may sometimes cause even more dysfunctionality within the system. New policies based on appropriate core values and assumptions must be introduced if the injustices caused to those we are trying to protect are to be eliminated.

CPJ is acutely aware of the many interests that need to be balanced in addressing the issue of family reunification of Protected Persons. The issue has been rendered even more complex in the context of North America's preoccupation with matters of national safety and security. However, in spite of the prevalent security concerns, the interests of the refugee need to remain of primary importance. Our sense of duty and commitment towards those seeking Canada's protection must conquer the fear and xenophobia that our society has come to live with. If not, Canada as a nation runs the risk of losing her long cherished values of compassion and respect while being isolated from the realities of the rest of the world.

CALL FOR ACTION

Given these realities, CPJ proposes that the following steps be taken in dealing with the issue of family reunification of Protected Persons.

- 1. Grant permanent resident status immediately upon conferral of protected person status⁶ (referred to as Automatic landing). This would be a fundamental change in the status of the Protected Person which would help in greatly reducing the delays in re-uniting with family member overseas.**
- 2. That the Standing Committee commissions an indepth study that would thoroughly investigate the causes and effects of delays in family reunification, identify bottlenecks, gather the shared knowledge around the issue of family re-unification of Protected Persons and examine various policy alternatives that**

⁵ See Appendix A – CPJ core values.

⁶ Supra note 1

would deal with the issue in a just and compassionate manner, keeping in central focus, the best interests of the protected person.

Action: Automatic landing

Granting permanent resident status upon conferral of, or simultaneously with protected person status (also referred to as automatic landing) will result in two outcomes.

- It will enable the individual to enjoy *all* the rights and privileges as any other Permanent Resident in Canada, immediately upon being declared as warranting Canada's protection
- It will qualify the individual (under the present regulations) to sponsor family members immediately.

Automatic landing will largely reduce the overall waiting time before families are reunited with principal applicants in Canada and place less stress on a system that is terribly overburdened. All the reasons and rationale for granting automatic landing is comprehensively covered and explained in the attached policy paper produced by the Public Justice Resource Centre⁷. Reproduced below are extracts from this paper highlighting some of the compelling reasons for granting permanent resident status automatically to Protected Persons upon determination:

There are sound reasons for granting this exemption. Foremost among these is the fact that, even without Permanent Resident status, these persons, once granted protection, have the right to remain in Canada. Having granted such persons protection, Canada recognizes their right to remain. There is nothing to be gained by delaying their permanent residence and much to lose for both the individuals themselves and for Canadian society at large. Canada is neither more secure nor economically better off by keeping such individuals in limbo.

⁷ Public Justice Resource Centre is the sister organization of CPJ, engaged in research and policy development.

Moreover, the *IRPA* provides broad authority to the Minister to revoke Permanent Resident status and remove Permanent Residents from Canada should information come to light indicating that they misrepresented themselves during refugee determination or on their application for permanent residence or if the minister is of the opinion that a report by an immigration officer setting out that the permanent resident is inadmissible, is well founded.

Action: Study

Concurrent to the implementation of this policy, CPJ proposes that the Standing Committee commissions a study examining the entire issue of family reunification of Protected Persons. There is an urgent need for a balanced and objective study to be done taking into consideration current realities and the opinions and interests of all stakeholders.. The need for the study is immediate given the nature and serious implications of these delays on the individual, society and the state and should take into account the multi-faceted nature of the issue and, specifically, the numerous recommendations that refugee advocates around Canada have put forward. Citizens for Public Justice, with its reputation for sound research and policy development would be pleased to assist in any way in the pursuance of this outcome

CONCLUSION

Delays in family re-unification imposes huge burdens on Protected Persons in Canada and their families overseas. It also generates unnecessary costs to society and the Canadian government. Canada, by virtue of its being a signatory to international conventions relating to various groups of vulnerable persons, and holding time honoured values of human compassion and justice, has an obligation to institute policy that address these issues and reflect these values.

Regarding solutions, CPJ has made two recommendations. We reiterate: it is possible to streamline the reunification process by implementing a one-step process of admissibility checks and granting permanent resident status once an inland refugee claimant is determined to be a protected person. We would also recommend a more indepth analysis of

the causes and effects of delays in family reunification to find other ways in which the process can be humanized and made more efficient. We request the Standing Committee to commission such a study.

Citizens for Public Justice

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Appendix I

Citizens for Public Justice CORE VALUES

1. HUMAN DIGNITY:

- the God-given right of all women, men, children, their families and communities to be treated with dignity, justice, love, compassion and respect;
- the responsibility of all to treat others with the same dignity, justice, love, compassion and respect.
- a genuine sharing of power and decision making among all communities

2. RESPECT FOR DIVERSITY:

- the right of all persons, communities, institutions and nations to cultural self-expression, including local beliefs and traditions, with due regard for the value of human dignity;
- the responsibility of all persons, communities, institutions and nations to seek and safeguard that, which is just in all cultures.

3. ENVIRONMENTAL INTEGRITY:

- the duty of all persons, communities, institutions and nations to engage in sustainable activities by living in harmony with, and practicing responsible stewardship of God's Creation.
- The duty to use all resources available to us, material, personal and spiritual, carefully and efficiently with respect for their inter-relatedness, without denying them to our future generations.

4. MUTUAL RESPONSIBILITY:

- the duty of all persons to contribute to the well-being of their families and communities as they are able, and to participate fully in community and national life;
- the responsibility of each community to contribute to the well-being both of its members, with full regard for their ability, and of those in the nations of the world;
- the duty of all persons, communities, institutions, and nations with abundant resources to share with those persons who do not have adequate resources.

5. SOCIAL JUSTICE AND PEACE:

- the right of all persons and communities to full participation in the life and decision-making of their societies, and of their peoples and nations in the international community;
- the responsibility of all persons and societies to seek and safeguard freedom, equal protection and relations and structures built on justice and peace.

6. ECONOMIC EQUITY:

- the right of all persons, communities, peoples and nations to have adequate access to resources necessary to meet basic human needs and experience a full life;
- our personal and communal responsibility to use such resources in a sustainable way, to contribute to society and to enable full participation by all members of society.