

*Citizens for Public Justice proposes a change in government policy:*

# Ending limbo for refugees

*Citizens for Public Justice has come to believe that keeping Protected Persons in limbo is both unnecessary and unfair. We are convinced that the long, second-stage wait for permanent residency can safely and responsibly be eliminated.*

CPJ AND OTHERS have been reviewing policy options that would bring about a practical solution to the limbo problem. CPJ presents three specific policy options that offer a just alternative, sensitive to the obligations Canada has assumed by signing on to the relevant international Conventions.

In this case, by eliminating the second

screening process, claimants would be accorded permanent resident status upon being recognised as Protected Persons. Thus Canada's obligations under international treaties would be met. At the same time, the integrity of Canada's refugee determination program would be maintained.

*Here are three ways in which "refugee limbo" could be eliminated:*

**1** Amend the Immigration and Refugee Protection Act (IRPA) to make permanent residence automatic upon recognition of a claimant as a Protected Person. This is the most direct and unambiguous solution.

**2** Amend the Regulations to harmonize inadmissibility criteria (for permanent residency) with ineligibility criteria (for refugee status), and grant permanent residence automatically to Protected Persons. This regulatory change would not require Parliamentary approval, and could be done much more quickly under the authority of the Minister. Protected Persons would simply be exempted from those inadmissibility provisions that differ from ineligibility ones. This would give refugees permanent residence upon their recognition as Protected Persons.

**3** Amend the Regulations to establish a rebuttable presumption of admissibility. This option would make permanent residence automatic upon recognition of a claimant as a Protected person, unless an officer found that there was a specific reason for further review. This review would be based on the inadmissibility criteria for permanent residency, and the officer should be required to make a final determination regarding inadmissibility *within twelve months* of the date of the grant of protection. Where no decision is made within that time limit, the Protected Person should be deemed to be admissible and be granted Permanent Resident status.

## **LIMBO: a 2nd-stage wait**

As law and official practice stand in Canada today, asylum seekers who arrive here on their own initiative have the right to make a claim to be recognized as refugees – and therefore as persons in need of protection under national and international law.

Examination of the new arrival's claim begins immediately. Photographs and fingerprints are taken, documents are analysed, medical certificates are required, and the person is interrogated for information that might unveil fraud, or a criminal record, or details that might give rise to concern about terrorist connections. Several agencies of the Canadian state have the right to study the gathered information, and the mandate to prevent the claimant's admission to Canada if he or she presents any danger to society.

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*CPJ submits that the above changes to the current Immigration and Refugee Protection Act (July 2002) and regulations would reflect the policy alternative intended to remove refugee limbo.*

# THE COSTS OF LIMBO

- As soon as claimants have been recognized as bona fide Protected Persons by the Immigration and Refugee Board, they have the right to remain in Canada. However, their other rights and their access to benefits are severely curtailed until they are granted Permanent Resident status. This unnecessary delay in access to basic rights violates provisions of several international treaties to which Canada is a party.
- Keeping people in limbo is costly. Difficulties during this stage in obtaining otherwise achievable employment goals are well documented. An initial study, based on estimated opportunity costs from unearned taxes added to direct public costs (such as welfare payments), suggests that the draw on public resources is in excess of \$330 million annually. This figure does not include the very considerable administrative cost incurred when screenings, medical tests and other investigative procedures are duplicated after a successful IRB hearing.
- The human costs to persons trapped in uncertainty and delay far outweigh the economic considerations. Limbo is a health risk. It is a drag on the process of settlement. It is a disincentive to integration. It is an invitation to alienation. It is a waste of precious time.
- Some limitations that were previously part of the burden of limbo have already been removed, as a result of consistent advocacy by citizens. For example, the odious “Head Tax” (Right of Landing fee, first imposed in 1995) was removed in 2000 after an effective campaign by a broad coalition of outraged Canadians. The “Getting Landed” project, which CPJ manages, began in those years and contributed to the outcome. More recently, the federal government and several provincial governments have agreed to grant to refugee claimants the right to apply for student loans. These changes suggest that when held up to public light, all the aspects of limbo demand reconsideration.

## LIMBO: a 2nd-stage wait (continued)

If no problematic evidence is found, the claimant is assigned a date for a hearing before a member of the Immigration and Refugee Board (IRB). The purpose of the IRB hearing is to judge the validity of the person’s claim for asylum. If the adjudicator finds the claim lacking in credibility, the claimant can be deported immediately. If the claim is found credible, the person is recognized as a Protected Person under Canadian and/or international law.

It is at this point that the refugee is *permitted to apply* for permanent resident status in Canada. This application costs \$550 per adult and for each dependent over the age of 22, and \$150 for each dependent under 22 years of age.

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.”

*We now believe that it is time to completely end the practice of putting refugee claimants in limbo.*



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**Citizens for Public Justice** (CPJ) is a national, non-partisan organization that promotes justice in Canadian public affairs. We respond to God’s call for love, justice and stewardship through research, education and advocacy. CPJ works closely with its sister organization, the Public Justice Resource Centre.