

Proposal for modernizing access to PR for Protected Persons

Summary of proposal

Access to permanent residence for Protected Persons should be reconceived and redesigned so that Protected Persons become permanent residents immediately on refugee determination.

Current process

Once a person in Canada has been accepted as a refugee, either by the Immigration and Refugee Board, or through the Pre-Removal Risk Assessment, they have the status of “Protected Person” and can apply for permanent residence for themselves and their immediate family members (spouse and children). They must pay processing fees, complete online forms and provide required documents. IRCC must assess the application for eligibility (confirm that they are Protected Persons) and admissibility (medical, criminality and security) and, following successful completion of the process, approve the person’s permanent residence. The number of Protected Persons whose permanent residence can be confirmed each year is restricted by the immigration levels.

Challenges with current process

- The vast majority of applicants qualify for permanent residence. The current process thus involves a lot of bureaucratic activity for little purpose.
- It is a resource-intensive process that is largely duplicative of processes that were satisfactorily completed during the refugee claim process (eligibility as a refugee, and medical, criminality and security screenings).
- The immigration levels impose a severe constraint. Protected Person targets are not responsive to changes in numbers of refugee claims accepted, which regularly leads to backlogs and long delays.
- Protected Persons wait years without even a document attesting to their status. They lack access to many rights in Canada and are unable to reunite with family members overseas.
- Delays in access to permanent residence compromises Canada’s compliance with our international legal obligations toward refugees.
- The longer Protected Persons are denied permanent residence, the longer they must wait before they can become a Canadian citizen. Citizenship is particularly important for refugees because they have no other government on which they can rely.
- The application process creates particular barriers for some of most vulnerable refugees, who can’t afford the fees or navigate the process, leading to delays and further marginalization.

Proposal for simplification of access to permanent residence for Protected Persons

1. A person who makes a refugee claim is deemed to be making an application for permanent residence.

2. As the person goes through the refugee claim process and undergoes medical, criminality and security screenings, any issues that might be a barrier to permanent residence are flagged.
3. If and when the person is found to be a refugee, the person is simultaneously deemed to become a permanent resident, unless an issue of potential inadmissibility has been flagged. A permanent resident card is mailed to the person.
4. If an inadmissibility issue has been flagged, processing would continue until the issue is resolved.
5. Immediate family members who are not also Protected Persons, whether in Canada or overseas, would be eligible for processing in a manner similar to the current One Year Window (OYW) process, which allows refugees to apply for immediate family members within one year of becoming a permanent resident.

Advantages of proposed process

- The proposal better reflects the fact that “Protected Person” is not by itself a sufficient status in Canada: permanent residence is necessary and expected in order for Protected Persons to enjoy full rights and be able to participate to their potential in Canadian society.
- Creating a single streamlined process (i.e. no longer requiring accepted refugees to undergo a second process to be approved as permanent residents) would eliminate duplication and bureaucracy, without increasing risks or problems. Red flags could and would still be identified during the refugee claim process, creating greater efficiency.
- A person who makes a refugee claim is deemed to have expressed an intention to remain long-term in Canada: this is why, currently, a conditional removal order is issued against them. The logical corollary to issuing a removal order (in case the refugee claim is refused) is to consider the refugee claim an application for permanent residence (in case the refugee claim is accepted). Similarly, the fact that the date of the refugee claim is the lock-in date for the age of dependent children points to the claim as the logical beginning of the permanent residence application.
- Removing Protected Persons from the immigration levels solves a dilemma. It is impossible for the government to predict the number of refugee claims that will be made or accepted, whereas levels are all about planning. Forcing accepted refugees, who are here and are going to remain here, to wait for permanent residence because of government plans with respect to overall immigration is not good policy. In addition, immigration levels plans require balancing of different immigration categories, which is not appropriate with regard to refugees. We should not be resettling fewer refugees simply because more refugee claims were made.
- Under the Immigration and Refugee Protection Act, the government has the power to remove permanent residence from a person on grounds of inadmissibility. This should allay any concerns about issues being missed during the screening process. Only a tiny percentage of Protected Persons are found inadmissible, and in most cases the admissibility issues are identified during the screenings under the refugee claim process. Under the proposed process, even if it led to a few extra cases where the government needed to take action to remove a person’s permanent residence, this would surely be less resource-intensive than the current process!
- Mexico offers a useful precedent: following a positive decision, refugees submit the recognition document to the migration authority (Instituto Nacional de Migración), which immediately issues their permanent residence permit. The legal basis for this is Article 44, paragraph VII of the [Law on Refugees, Complementary Protection and Political Asylum](#).