



FCJ Refugee Centre  
*Walking with Uprooted People*

# UNDERSERVED COMMUNITIES LGBTQ+ MIGRATION POPULATION

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# LGBTQ+ MIGRANT POPULATION

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CHANGES IN LEGISLATION

# Changes that impact Most LGBTQ Claimants

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- ❑ Expedited Timelines.
- ❑ Cessation Clause.
- ❑ New Limits on Humanitarian and Compassionate (H&C) applications.
- ❑ New limits on Pre-Removal Risk Assessment (PRAA).

# Expedited Timelines

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- ❑ Bill C-31 “Protecting Canada's Immigration System Act” makes provision for standard case hearings to occur within 60 days.
- ❑ The timeline applied to a claim depends on the manner of entry (**port or inland**).
- ❑ The timeline changes are relevant to LGBTQ+ claimants because the expedited timelines may undermine the ability of LGBTQ+ claimants to present their case.
- ❑ Timelines to process the refugee claim, with steps requiring individuals to identify as LGBTQ+, may not give the claimant enough time to comfortably express their status.

# Expedited Timelines (Continued)

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- The new timeline places psychological pressure on LGBTQ+ claimants by challenging them as they:
  - will find themselves with limited time to obtain competent counsel.
  - to gather the required evidence for their claim.
  - to prepare themselves for the hearing.

# Cessation Clause

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- ❑ The government can now take away the status of permanent residents if the government deems that they are no longer in need of protection.
- ❑ Individual's LGBTQ+ persecution is complex and unique.
- ❑ LGBTQ+ permanent residents conditional acceptance are based on the acceptance of LGBTQ+ individuals in their country of origin.
- ❑ This generalized problems rather than analyzing the actual conditions of every individual claim.
- ❑ Every LGBTQ+ accepted refugee claimant, who is a permanent resident, is left vulnerable to the cessation clause

# New Limits on Humanitarian and Compassionate (H&C) applications

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- ❑ Changes eliminate the safety net of applying for permanent residency based on H&C grounds for 12 months after an Immigration and Refugee Board decision.
- ❑ Applications can no longer be made concurrently to a refugee claim.
- ❑ It leaves LGBTQ+ claimants with less options of acquiring permanent residence status regardless of their integration to Canadian society.

# New limits on Pre-Removal Risk Assessment (PRAA)

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- ❑ Changes eliminate the availability of applying to PRAA for 12 months to claimants who receive a negative decision.
- ❑ It leaves LGBTQ+ claimants with less options of acquiring permanent residence status apart from the refugee stream even though they may still face harm in their country of origin.
- ❑ The 12 month barrier implies that a claimant will be deported before they have time to apply for the PRAA.



# Changes that impact DCO (Designated Countries of Origin) LGBTQ Claimants

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- ❑ Designating countries as “safe” does not address the complexity of oppression faced by LGBTQ+ members.
- ❑ Expedited Timelines for DCO LGBTQ+.
- ❑ More limits on H&C and PRAA.

# Designating countries as “safe” does not address the complexity of oppression faced by LGBTQ+ members

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- ❑ Discretion to designate countries as safe does not account for the various types of persecution faced by many LGBTQ+ individuals.
- ❑ The criteria for designating countries do not include an analysis on LGBTQ+ issues **BUT** focus on examining the political condition of the state.
- ❑ Extreme forms of persecution on LGBTQ+ persons can still exist even if state protection is offered.

# Expedited Timelines for DCO LGBTQ

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- ❑ The Minister of Immigration has the discretion to designate “safe countries”.
- ❑ DCO LGBTQ+ will have their claim fast tracked and no access to appeal.
- ❑ **CCR argues that...** *“refugee protection in Canada are dangerously vulnerable to political whims, rather than ensuring a fair and independent decision about who is a refugee”.*

# More limits on H&C and PRAA

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- ❑ LGBTQ+ claimants from DCOs have more limits placed on them when applying for H&C applications and PRAA (***5years – H&C and 36months - PRAA***).
- ❑ Limits unreasonably prevent designated LGTBQ+ people from gaining Canadian protection.

# Changes that impact Designated Foreign National LGBTQ Claimants

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## ❑ Increased use of mandatory detention:

- Every individual that is designated an “irregular arrival” will be detained.
- Adds arbitrary trauma.
- LGBTQ+ asylum seekers must explain why they are seeking refugee status to a number of immigration officers.
- One’s sexual or gender identity may increase their exposure to homophobia and transphobia while detained.