



FCJ Refugee Centre
Walking with Uprooted People

UNDERSERVED COMMUNITIES LGBTQ+ MIGRATION POPULATION

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FCJ REFUGEE CENTRE
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LGBTQ+ MIGRANT POPULATION

CHANGES IN LEGISLATION

Changes that impact Most LGBTQ Claimants

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

Expedited Timelines

- ❑ 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)

- 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

- ❑ 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

- ❑ 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)

- ❑ 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

- ❑ 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

- ❑ 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

- ❑ 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

- ❑ 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

❑ 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.