



We would like to begin by stating that we consider this document to be organic, and as such we welcome your input, comments and feedback. It is our intention to present this first to our various networks of community members, allies and advocates to improve on this proposal; and then present it to other relevant actors and change-makers, including the Ministry of Immigration, Refugees and Citizenship Canada, the media, and the wider civil society.

The Inland Regularization Class

As part of our 25th Anniversary Celebration, the FCJ Refugee Centre is proposing a program aimed at providing a new avenue for regularization for many migrant populations that find themselves in various states of immigration status limbo, including legacy claimants. We anticipate that this proposed program could impact more than 360,000 residents of Canada – a group that represents 1% of the “censused” population. This program involves the development of a new immigration class through which individuals will be assessed on various criteria surrounding their time in Canada, including their involvement in different institutions and community groups, economic integration, as well as social and familial ties. This new class will fill the gaps in existing legislation whereby refugee claimants are unable to submit an application for permanent residency on humanitarian and compassionate grounds, despite having set roots, and becoming well-established in Canada.

We propose that this new class be open to the following groups:

- **De-facto Resident Cases** – People, who over several years, have been establishing themselves in Canada, regardless of their status, or having submitted an application for status, including temporary foreign workers and seasonal workers, temporary resident permit holders, refused claimants, among others.
- **Legacy Refugee Claimant Cases** – Claims made before December 15th, 2012 which are still pending.
- **Backlog Refugee Claimant Cases** – Cases sent back to the IRB by the Federal Court and the Refugee Appeal Division; refugee claims that have been made since December 15th, 2012, but are still waiting for a hearing, well beyond the processing time established in the law.
- **Legacy Humanitarian and Compassionate Cases** – Cases that have submitted an application for permanent residency on Humanitarian and Compassionate grounds, but have been waiting 12 months or more for a decision.
- **Family cases** – This new class will be extended to the common-law partners, spouses, and dependents of the above groups, both in-land and oversees.

Similar to the Express Entry class, this new class will have a two-stage application process:

Stage 1: The first stage will include an online submission to be reviewed by an officer. Successful applicants at this stage will need to have met any two of the following criteria:

- They are residing in Canada for several years.
- They had made a refugee claim, and/or at least one humanitarian application.
- They have worked or have been in some form of education for at least 6 months in Canada.
- They have been engaging in various ways in Canadian society – such as volunteer work, participation in community programs, religious groups, etc.

Our hope is to have very little discretionary power by simplifying and clearly defining the criteria. Applicants will be required to provide evidence through brief written submissions and supporting documents to prove the above criteria. No fees will be required at this stage of the application.

Stage 2: Applicants who meet first stage criteria will be notified by email that they are invited to submit a full application for permanent residency under this class. At this stage, applicants will be required to pay the standard fees set out by the Federal government.



Justification

Considering the multiple groups mentioned above, we put forth that the number of individuals impacted by this proposed project will surpass 360,000, totalling more than 1% of the population. To support this claim, we offer the following equation, but would note that there are several factors that make it difficult to reasonably determine the number of people that belong to each group. However, we will present the numbers that are known, and attempt to fill the remainder with conservative efforts.

Group	Description/Source	Number
Legacy Refugee Cases	These numbers were put together by the Canadian Council for Refugees based on statistics from the Immigration and Refugee Board's Refugee Protection Division – 6,322 refers to the number of legacy cases pending at the end of December, 2015; and 9,918 refers to the number of pending claims under the new system at the end of December, 2015, and thus includes both the backlog (described above) as well as cases in process.	6,322
Backlog Refugee Claimant Cases		9,918
Refused Refugee Claimant Cases	It has been well-documented how difficult it is to track and measure the number of non-status people living in Canada. Considering a variety of sources, including the number of people under removal orders who did not leave (44,000 – a number which overlaps with refused claimants) ¹ , and the number of H&C's that were pending in 2012 (20,000) ² , we can begin to understand the high volume of people within these groups. Academics, community and advocacy groups put the number of non-status people living in Canada between 20,000 and 50,000 ³ . However, these numbers have been criticized by many for being too conservative and dated – failing to reflect the increase over the years. The 2009 Committee Report put together by Canadian parliament "Non-Status Workers" has supported this range by estimating between 80,000 and 500,000 – which again is somewhat dated ⁴ . Thus, based on these numbers, and our own experience working with these groups, we are gauging that in 2016 we can safely put the number of people that fall into these groups at 270,000 – the average of the most conservative estimates. Additionally, if we included statistics for other groups that would benefit from this new program, such as temporary foreign workers and seasonal workers, this number would be much higher.	270,000
De-Facto Residents		
Legacy Humanitarian and Compassionate Cases		
Family reunification cases	We have come to this number by considering that one-third of the above numbers have one spouse or dependent child living outside of Canada – another cautious estimate informed by our own community work (286,240 divided by 3)	95,413
Total		381,653

As evidence by the above table, even though a cautious and conservative analysis, the number of people in limbo surpasses 1% of the population of Canada.

¹ Electronic bracelets for refugees urged By DOUGLAS QUAN, Postmedia News September 27, 2012

² CIC presentation at the Canadian Council for Refugee Conference in Toronto, November 2012

³ No One Is Illegal—Toronto, (2011). *Regularization—Status for all*. Retrieved from: <http://toronto.nooneisillegal.org/node/377>

⁴ <http://www.parl.gc.ca/HousePublications/Publication.aspx?DocId=3866154&Language=&Mode=1&Parl=40&Ses=2&File=138>



FCJ Refugee Centre

Welcoming the uprooted for 25 years!

Beyond supporting such a large number of people currently residing in Canada (and their family members) and contributing to our social and economic wealth, the benefits of this proposed program are manifold. We would like to begin by highlighting that the distressing and long-term state of limbo, occupied by so many, has considerable social and emotional impacts. The above-mentioned groups reflect thousands of people who have been living in Canada for many years, having already made significant contributions without being able access a wide range of services and supports available to their more stable counterparts (permanent residents, citizens, etc.). Thus, this program is not meant as an amnesty, but rather a rights-based approach to better the lives of individuals who have been living here for a long period of time, and strengthen the fabric of Canada as a whole.

Moreover, the proposed program will serve to ease the burden on the Canadian Immigration system, rather than add to it. Regardless of any mechanisms put forth by the Canadian government, such as the increase in the number of IRB Board Members, we expect that there will remain a significant backlog at the end of 2016. This will be exacerbated by the fact that the number of claims has been increasing steadily since the reform took place in 2012. Therefore, not only will this program provide relief to an overburdened system, but will also avoid prolonging the instability and limbo for the thousands of Canadian residents waiting to have their status regularized.

Finally, we would like to draw attention to the fact that this proposal is not unprecedented. In 1988 there was a backlog clearance program, developed to regularize the 100,000 refugee claimants in the backlog; and in 1994 there was the Deferred Removal Order Class, allowing applications for landing for refused claimants that had not been removed for more than three years⁵.

Thus, community members, service providers, advocates and allies, and even the federal government have stressed the importance of not leaving people in limbo for extended periods of time. The justification that we have provided here is by no means exhaustive, but we believe it is enough to move this issue forward and develop a transparent, comprehensive and community-informed regularization program to respond appropriately to this significant issue.

⁵ <http://ccrweb.ca/en/hundred-years-immigration-canada-part-2>