

Policy Brief: Processing Fees for Refugees

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This brief looks at the impact of processing fees on persons whose claims for refugee status are successful in Canada. It presents economic, moral, and legal arguments for the elimination of these fees.

Canada's Newcomers

Canada expects to receive between 225,000 and 250,000 newcomers in 2006. These newcomers will be a diverse lot, coming from all regions of the world and possessing a variety of skills and experiences. What unites these immigrants is the desire to make a new life in Canada.

Each year, over half of Canada's newcomers arrive as economic migrants, including skilled workers, entrepreneurs, investors, and live-in caregivers. Other immigrants are sponsored to come to Canada by a family member already living in this country. All of these immigrants make an intentional decision to migrate, and to select Canada as their destination.

Refugees and protected persons make up Canada's third and smallest group of newcomers. Fleeing violence and persecution in their homelands, these individuals seek safe haven wherever they can find it. Often, they have few tangible resources, having been forced to leave their possessions behind.

Refugees and Permanent Residency

There are two routes by which refugees and protected persons become permanent residents of Canada, and ultimately citizens. In the first instance, they are processed overseas by a Canadian visa officer, often in a refugee camp. If their overseas claim is successful, they may be sponsored by the Canadian government ("government-assisted refugees"), by a private group of Canadians ("privately-sponsored refugees"), or jointly by both. When refugees are resettled from overseas, they arrive in Canada as permanent residents.

The second -- and more common -- route is for persons to make their way to Canada and make a claim here. On average, they spend 12 to 18 months awaiting the outcome of their claim, and approximately half of them will be successful. Successful claimants receive "protected person" status, and they may apply to become permanent residents of Canada. Indeed, the federal government regards applying for permanent residency as part of the refugee determination process. From the date on which their claim

was granted, protected persons have 180 days to submit the application for permanent residency, along with the non-refundable processing fee.

The Processing Fee

In 1994, the federal government introduced a processing fee to be paid by all categories of immigrants as well as by inland refugees seeking permanent residence. The following year, a new \$975 Right of Landing Fee (now called the Right of Permanent Residence Fee) was added to the existing fees.

In 2000, recognizing the particular hardships faced by refugees, the Liberal government rescinded the Right of Landing Fee for refugees. Then Immigration Minister Elinor Caplan stated: “Refugees have already faced enormous difficulties and stresses. By eliminating this fee we help them to get on with their lives and to integrate successfully into Canadian society” (Citizenship and Immigration Canada 2000).

On May 3, 2006, the Conservative government announced that the Right of Permanent Residence Fee would be reduced from \$975 per adult immigrant to \$490. On May 12, Prime Minister Stephen Harper said of the Right of Permanent Residence Fee: “This so-called ‘user fee’ is really just a tax by another name. My friends, conservative governments believe in lower and fairer taxes” (Harper 2006). Immigration Minister Monte Solberg agreed, adding: “Our efforts should be focused on welcoming newcomers and helping them fit in, not taxing them to death” (Solberg 2006b). Commenting more specifically on the hardships imposed on newcomers by the various fees, Solberg stated: “I understand the concern for people who aren't necessarily in a position to afford to pay those kinds of fees. I can assure you that one of the things I would love to do is be able to start to lower fees for people who have the least means to pay them” (Solberg 2006a).

At present, the processing fees that must accompany applications for permanent resident status are \$550 for the principal applicant, \$550 for family members 22 years of age or older, \$550 for family members under the age of 22 who are spouses or partners, and \$150 for family members under the age of 22 who are not spouses or partners (CIC 2003: 12)

The stated rationale for introducing the processing and Right of Landing fees were to help the government recoup some of its costs pertaining to immigration and settlement.¹ The fiscal climate at the time was constrained, and the government was looking for ways to combat the significant federal budget deficit. Today, Canada's economic climate is much improved. According to Finance Minister Jim Flaherty, as noted in his May 2006 budget speech, “the federal surplus in 2005–06 is projected to be \$8 billion ... significantly higher than what was presented in the 2005 Economic and Fiscal Update.”

1 The CIC manual on cost recovery lists one program objective: “to sustain a revenue generating cost recovery system by applying a charge to most aspects of immigration services in Canada and abroad” (CIC 2004: 3). Although the connotations of “processing fee” and “cost recovery fee” seem to imply a connection between the fees and the services offered by the government, this is not the case. Indeed, fee revenues are deposited into the Consolidated Revenue Fund, not into the coffers of the CIC (CIC 2004: 3).

It is within this context that the present Conservative government is providing tax relief while maintaining fiscal discipline (Flaherty 2006).

Why the Processing Fees for Refugees should be Eliminated

1. The revenue generated by the processing fees is negligible.

Of the \$437.7 million in revenue collected by CIC for the 2002-2003 fiscal year (the most recent year for which figures are available), \$5.7 million was collected from “immigration cost recovery fees” in the humanitarian stream (Treasury Board of Canada Secretariat 2003: Table 4). In other words, the revenue from the processing and other fees paid by refugees made up only 1.3% of total revenues collected from fees. (In contrast, revenue from the Right of Permanent Residence Fee was \$143 million, or 33% of total revenues.)

Moreover, in comparison to the entire budget of Citizenship and Immigration Canada, which fluctuates around the \$1 billion mark, the revenue generated by the fees imposed on refugees is only 0.57% of the budget.

This already negligible sum has likely dropped since the most recent data was published, and may continue to do so. Claims have been on the decline since 2001, when refugee numbers worldwide peaked, also in part due to successful interdiction efforts by the Canadian government that prevent refugee claimants from reaching Canada in the first place. Since the introduction of the Safe Third Country Agreement at the end of 2004, the number of refugee claimants coming to Canada has dropped severely. In 2005, Canada received the fewest number of refugees since the mid-1980s, just over 20,000 compared to 29,680 annual average claims made since the refugee determination system was put in place in 1989 (Canadian Council for Refugees 2005: 3). Claims at the land border dropped by half from 2004 to 2005 (Canadian Council for Refugees 2005: 3). Figures for the first quarter of 2006 show that 5,341 claims were referred to the Immigration and Refugee Board, just slightly above the comparable figures for 2005 (Immigration and Refugee Board 2006). At this rate, the revenue generated by the processing fees collected from refugees determined inland will become even less significant than it is.

2. The processing fee imposes significant hardships on refugees.

This flat rate fee imposes the biggest burden on the most vulnerable. Often, refugees are simply unable to afford the fee. A family of four must find the resources to pay \$1400 – more than a month’s salary at minimum wage. Many refugees are not even lucky enough to find full time work at minimum wage. While awaiting the decision of the IRB, claimants can apply for temporary, renewable permits to work and study. However, it is often to find employment due to their insecure status in Canada, and claimants are generally ineligible for loans and credit cards.

Moreover, refugees come to Canada from the poorest parts of the world. Any savings they are able to bring with them are simply not comparable to the resources imported by immigrants from

postindustrial capitalist economies. To illustrate, the top 10 source countries of refugee claims that were successful in the first quarter of 2006 were (in descending order): Colombia, Mexico, China, Sri Lanka, Pakistan, Zimbabwe, India, Iran, Haiti and Afghanistan. Of these, the country with the highest per capita income is Mexico, with a GDP per capita of \$7,298. Four of these countries have a GDP per capita of less than \$1,000. Canada's, on the other hand, is \$35,064. Seen from this perspective, the processing fees are a significant barrier to acquiring permanent residency in Canada.

3. The processing fee works against Canada's international obligation to help refugees settle and integrate easily.

In 1969, Canada signed the *United Nations Convention relating to the Status of Refugees* (1951) and the related *Protocol* (1967). These documents are the principal international instruments established for the protection of refugees, and they have been widely recognized internationally. According to Article 34 of the *Convention*:

The Contracting States shall as far as possible facilitate the assimilation and naturalization of refugees. They shall in particular make every effort to expedite naturalization proceedings and *to reduce as far as possible the charges and costs* of such proceedings (emphasis added).

Canada's own legislation governing immigration and refugee affairs is the *Immigration and Refugee Protection Act* (IRPA). Section 3(3) of IRPA specifies: "This Act is to be construed and applied in a manner that ... (f) complies with international human rights instruments to which Canada is signatory." Moreover, one of the objectives of IRPA with respect to refugees is "to support the self-sufficiency and the social and economic well-being of refugees by facilitating reunification with their family members in Canada" (Section 3(2)(f)). Maintaining the processing fee for refugees works against both of these objectives.

4. The existence of the processing fee prevents some protected persons from acquiring permanent residency.

As noted above, persons whose refugee claims are accepted are deemed "protected persons" and have 180 days to submit their application for permanent residency. Some protected persons simply cannot raise the funds before the deadline. In such cases, they are still protected persons and cannot be removed from Canada, but they continue to be treated as a person temporarily in Canada. Protected persons can renew their work permits and their SIN cards, but most employers who see that a person has a SIN card valid for one year (beginning with the number 9) and a temporary work permit are dissuaded from investing in such an employee.

If protected persons are eventually able to acquire the funds for the processing fee, they may apply for landing on "humanitarian and compassionate" (H&C) grounds under section 25 of the *Immigration and Refugee Protection Act*. In fact, the Departmental guidelines for H&C applications specifically mention refugees who apply after 180 days, perhaps due to "inability to pay the cost recovery processing fees," as a group that may be seeking landing on H&C grounds (Citizenship and Immigration Canada 2005: 35). These refugees will most likely be landed but must await landing

before they can be reunited with family from abroad. The special provisions in Regulation 176 for simultaneous processing of “family members” of protected persons do not apply to refugees who apply late. More importantly, their applications for landing go into the H&C stream for processing, which is much slower. On average, H&C applications take 2 to 3 years to process, compared to 1 to 2 years for the processing of permanent residence applications for protected persons.

Even more serious is the increased delay in family reunification for such refugees whose family members are outside of Canada. To take advantage of the simultaneous processing provided for in Regulation 176, the protected person must be able to pay the fees for the entire family at once. When it is not possible to pay these fees, many persons opt to pay the \$550 for the principal applicant only. They then hope to take advantage of the “one year window,” which allows protected persons who receive permanent residence one year to apply to bring their family members to Canada. This added delay in family reunification makes it more difficult for the family to reunite with each other as well as to integrate successfully. It causes anguish to the refugee who is forced by economic circumstances to delay the reunification with their loved ones.

Advocates who work with refugees in Canada are often dismayed to meet up with refugees who have been granted Convention refugee status several years before, yet they are only beginning the process of obtaining permanent resident status. The impossibly high fees are often the only reason for this long delay in obtaining permanent resident status.

The costs engendered by the processing fees are not only monetary. The extended family separation that may result from inability to pay the fees may translate into stress-induced health problems, the inability of families to pool their resources to tackle problems, delayed settlement, and increased chances of estrangement once families are reunited. Thus, Canadian social services, legal aid, and educational institutions bear some of these costs.

5. Refugees determined inland should be treated similarly to those selected overseas.

Refugees whose status is determined overseas are not required to pay the processing fee for permanent residency.² Their applications are processed abroad and they arrive in Canada as permanent residents.

Ironically, the only reason given by the government for the fact that refugees selected abroad do not have to pay the cost recovery fees, while those who apply in Canada do have to pay the fees, is that refugees selected abroad have other costs, such as the cost of medical tests and transportation. In fact, refugees who make their application in Canada often have these additional costs as well if they want to reunify with family members who are outside of Canada. The cost of airfare for family members to travel from Africa, Asia, or Latin America is usually in the thousands of dollars.

Refugees who come to Canada as claimants are very resourceful individuals who can make their way here, yet they are also lacking in financial resources, most of them having expended any savings they

² “Persons who make an application as a member of the Convention refugee abroad class and the family members included” and “a person who makes an application as a member of one of the human-protected persons abroad classes and the family members” are not required to pay the application for permanent residency fee (CIC 2004: Section 7.2).

may have had on journeying to Canada. They are by and large not any wealthier than refugees whose status is determined overseas.

How to Eliminate the Fee

Eliminating the processing fee would entail a straightforward procedure of regulatory amendment. The fee setting authority is the *Financial Administration Act* (FAA); IRPA and IRP Regulations as of June 28, 2002. Section 89 of IRPA grants regulatory authority: "The regulations may govern fees for services provided in the administration of this Act, and cases in which fees may be waived by the Minister or otherwise, individually or by class." Eliminating the processing fee can be achieved by amending Regulation 301(1)(a).

Stories relayed by Settlement Workers

Paul came to Canada from Congo in 1997. He left behind his wife and four children, then aged 11, 13, 15, and 20. He received protected person status in 1999. He was unable to work for health reasons related to the trauma he had suffered in Congo and could not afford to pay the processing fees to become a permanent resident. After obtaining a low-interest loan from a faith-based refugee organization, he finally received permanent resident status in 2003, fully four years after he was deemed a refugee. Although he applied for his entire family to become landed in Canada at that time, there were some difficulties with the paperwork at the Canadian Embassy in Abidjan (Ivory Coast). In the meantime, the family's medical clearances expired and had to be redone, each time involving another fee. In 2005, Paul lost two of his family members in Congo: his wife had a heart attack and died, and one of his sons died of malaria. As of 2006, nine years after arriving in Canada, Paul is still alone in Canada. During this time, his own health has declined, and he has battled depression. His three surviving children are essentially adults and may never make it to Canada.

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