



Conditional Permanent Residence: Failure in Policy and Practice

In the three years since its introduction, Conditional Permanent Residence has increased the vulnerability of many sponsored newcomers, particularly victims of domestic and sexual violence and abuse, who are often women. Victims of abuse are doubly victimized and retraumatized by the condition: they suffer abuse from their partner and threat of deportation from the State. The measure has placed more power in the hands of abusive sponsors, and put sponsored partners at increased risk of abuse, increasing gender inequalities in cases where the sponsored person is a woman. Front-line workers and lawyers have reported that there are women in situations of abuse who – after consulting them about the condition and the exception – decide to stay in the abusive relationship for fear of having their application for the exception rejected. Others remain in violent relationships because they lack knowledge of their rights and are manipulated by sponsors. Even in cases where there is no abuse, the measure creates significant stress for those affected because of the threat of deportation in the case of a breakdown in the relationship.

Background

In October 2012, the federal government introduced a two-year period of conditional permanent residence for sponsored spouses who have been in a relationship with their sponsor for less than two years, and who have no children together at the time the sponsorship application is made.

Under this rule, the sponsored person's permanent residence is conditional on their remaining in a conjugal relationship and cohabitating with their sponsor for two years after they become a permanent resident. If they don't fulfill these conditions, their permanent residence could be revoked, and they could be deported. After outcry from advocates for women and newcomers, an exception to the measure was added for victims of abuse and neglect. Eligible applicants must prove abuse in order to access the exception.

The Canadian Council for Refugees, along with many other organizations, expressed grave concerns about the measure from the outset, on the grounds that it would increase the risk of spousal abuse and that it unfairly associates newcomers with fraudulent behaviour.

Experiences with Conditional Permanent Residence

In order to assess the impact of Conditional Permanent Residence, the Canadian Council for Refugees reached out in 2015 to over 140 settlement organizations, legal clinics, and women's shelters across the country. The following is a summary of feedback received.

Lack of information about the condition is a significant challenge, especially outside of major urban centres. Many front-line workers do not fully understand the implications of the condition for sponsored spouses, and many are unaware of or have wrong information about the exception for victims of abuse or neglect. In outreach calls done with 142 organizations across the country, only 62% were aware of the condition, and only 40% were aware of the exception for victims of abuse or neglect.

An important barrier flagged by front-line workers is **the need for an advocate**. A person who has experienced abuse has a much better chance of applying successfully for the exception and thus escaping an abusive relationship if they have an advocate to inform them about, and help them with the process. Many newcomer women are isolated and face language barriers, making it difficult for them to access help. In some cases well-intentioned advocates prove ineffective or misleading, due to lack of information on the measure, or faulty information on how to access the exception.

It is impossible to know how many women have been trapped in relationships because of lack of access to information about the exception, and lack of support.

Three years after the implementation of Conditional Permanent Residence for sponsored spouses, front-line workers at women- and newcomer-focused organizations report that the exception is not working as intended. The House of Commons Standing Committee on Citizenship and Immigration heard concerns that the exception is inadequate to protect women from abuse,¹ and our consultations with organizations show that this rule has indeed put victims at increased risk of abuse.

Organizations that attempted to access the exception for victims of abuse reported the following:

- CIC recommends its call centre as the first point of contact for those seeking an exception, but users report that this has not been effective. It is difficult and time-consuming to reach a representative; not all CIC representatives understand the rules of the condition, and misleading information is often provided.
- There is a lack of clarity and consistency from CIC on the investigation process for breach of condition.
- There appears to be insufficient training on gender violence for CIC Call Centre representatives as well as for officers conducting interviews to decide whether the exception will be granted: CCR has received reports that several have made comments showing a significant lack of understanding of gender violence.
- Compiling evidence and applying for the exception is onerous and time consuming, and proving emotional or psychological abuse is difficult.
- There are problems around disclosure: where an ex-partner has complained to CIC and instigated an investigation, the partner affected by the condition is not given access to information on the allegations against them.
- CIC does not always respond promptly to requests for an exception, causing significant stress and trauma. In some cases it appears that CBSA has launched an investigation against a sponsored spouse for not complying with the condition, after that spouse had already requested an exception from the condition due to abuse.

¹ “Strengthening The Protection Of Women In Our Immigration System” , Report of the Standing Committee on Citizenship and Immigration, February 2015, <http://www.parl.gc.ca/HousePublications/Publication.aspx?DocId=6837061&Language=E&Mode=1&Parl=41&Ses=2>

In addition to unacceptably trapping people in abusive relationships, Conditional Permanent Residence leads to a significant **waste of resources**. Organizations and lawyers supporting victims of violence or neglect spend significant time helping sponsored spouses to apply for the exception, including collecting evidence of abuse and preparing detailed submissions. Government officials also spend time informing sponsored spouses about the provision, monitoring compliance and evaluating complex requests for exceptions. Given that there is no evidence that Conditional Permanent Residence is addressing a real problem, this is a shameful waste of resources.

CCR's position

The CCR maintains that:

- Making permanent residence conditional on staying in a relationship for two years traps people into staying in abusive relationships for fear of losing their status.
- Punishing the sponsored partner for relationship breakdown is unfair, and puts all the power into the hands of sponsors, who may be abusive.
- The exception is not effective: abused partners are often unable to take advantage of it because of barriers to information on the exemption (e.g. language, isolation), and the burden of proving their own abuse.
- The measure is unnecessary, since there are already legal provisions to address misrepresentations in immigration proceedings (e.g. marriages of convenience).

The CCR is pleased to note that repealing Conditional Permanent Residence is part of the Liberal Plan for Immigration.

CCR calls on the government to follow through on its commitment and repeal Conditional Permanent Residence immediately, to remove this unnecessary measure that is harmful to the many who are affected by it, disproportionately women.

Jane's story:

Jane came to Canada sponsored by her spouse James, a Canadian citizen she had met and married in her native Norway. To her surprise, she found she was to live with her in-laws as well as James and was expected to work (unpaid) in the family's cleaning business. James became verbally and sexually abusive as well as controlling: she was not allowed to leave the house without him. James would tell her that if she left him she would be deported from Canada. After he started shoving her, she left the home and went to a shelter.

A shelter worker who had recently attended a presentation on Conditional Permanent Residence helped Jane call the CIC Call Centre to request an exception from the two-year condition. They asked for an interpreter but were told they had to call back with their own. When they did that, CIC took basic information and informed them they would hear from the CIC local office. Several months passed before CIC sent a letter explaining that she needed to submit proof of her relationship and the abuse within 60 days. Since James was so

controlling, she had little documented evidence of their relationship (such as a joint bank account, joint lease agreement, etc.) and was worried the lack of evidence would result in her losing her status. She submitted what she had and explained why she didn't have much evidence. After several months, Jane received a second letter asking for the same documents she had previously explained she could not provide. Some time after responding to that letter, she was asked to attend an interview with a CIC officer. Jane was sobbing through the interview trying to explain to the officer why her circumstances met the definition of abuse and neglect, and weren't simply "marital problems", as the officer suggested. While her exemption was eventually granted by way of a letter, the eight month long process was emotionally draining and humiliating for Jane.

Jemma's story

Jemma is a citizen of Burma who was sponsored from within Canada. She was seven months pregnant with her sponsor's child when she received her permanent residence. The landing interview was the first time Jemma or her husband Jared learned of the conditional permanent resident requirement. While the relationship had been a little bit rocky before, Jared's disposition at that point began to shift drastically. He would tell Jemma that he felt trapped by being a father and that he was now stuck with her for two years. He controlled all the finances in the household, constantly telling Jemma she was "useless" because she was unable to contribute financially. One day her husband beat her so badly with a kitchen utensil that she had to be taken to the emergency room. Jemma's neighbour called the police and her husband was later criminally charged. He then called Citizenship and Immigration Canada and informed them that it was actually Jemma who was abusive and she only married him to stay in Canada. CIC wrote Jemma a letter stating that she may be found inadmissible to Canada, and provided a summary of the allegation, without naming the person making the allegation. Jemma was assisted by a lawyer to respond to the letter and also request an exemption from the condition. She is still awaiting a decision several months later and feels in limbo – unable to move forward with her life in Canada and scared of losing her status.

