

## Ombudsperson Feasibility Study - Issues and IRCC Actions

### Overview

In the last two years, the Standing Committee on Citizenship and Immigration (CIMM) published three reports on IRCC operations related decision-making and client outcomes. These included the *Immigration in the Times of COVID-19: Issues and Challenges* (May 2021 and re-tabled in February 2022) report, the *Differential Treatment in Recruitment and Acceptance Rates of Foreign Students in Quebec and in the Rest Of Canada* report (May 2022) and the *Promoting Fairness in Canadian Immigration Decisions* report (November 2022).

All three reports contained recommendations for IRCC to implement an Ombudsperson Office in order to provide greater oversight of operations and policies, as well as review complaints related to racism and discrimination related to clients as well as IRCC employees. To help determine whether an Ombudsperson Office would be appropriate for IRCC, to bridge the gaps relating to the issues raised by the CIMM, CEB conducted an in-depth feasibility study. The study includes an examination of the issues raised by the CIMM, the measures currently in place to address them, an accompanying gap analysis, and best practices in other jurisdictions. This will be considered in relation with the potential mandate, scope and creation of an Ombudsperson Office.

### External – Discrimination and other issues

Topic	Identified gaps by testimonies	Actions to date	
Discrimination	<ul style="list-style-type: none"> <li>• Around 70% of students applying from African countries were rejected (compared to 35% of applicants from outside of Africa)</li> <li>• Visa office in Nairobi, Kenya “is particularly infamous” for denying study permit applications</li> </ul>	<ul style="list-style-type: none"> <li>• Expanded its Quality Assurance program to include annual refusal reviews in 2021</li> <li>• Targeted assessment of Nigerian refusal rates using IBRIM tool</li> <li>• Plans to conduct additional analyses of other Black majority countries</li> <li>• Employees, middle managers and executives take mandatory unconscious bias training</li> <li>• Decision makers receive country-specific training</li> </ul>	<ul style="list-style-type: none"> <li>• Anti-Racism Strategy 2.0</li> <li>• Anti-racism survey</li> <li>• IRCC mapping client race-related data in June 2021</li> <li>• Creation of the Racial Impact Assessment Tool</li> <li>• Equity Policy and GBA+ Secretariat</li> </ul>
	<ul style="list-style-type: none"> <li>• Uneven resource allocation to the African region               <ul style="list-style-type: none"> <li>- Lack of resources for visa offices in Africa conversely to visa offices from major source countries</li> <li>- Limited number of VACs available in Africa</li> </ul> </li> <li>• Refusal rates may be higher in overwhelmed and underfunded visa offices</li> </ul>	<ul style="list-style-type: none"> <li>• The Department increased its presence overseas in the last five years (225 new positions, 75% in Africa and Asia)</li> <li>• IRCC opened two new offices in Africa, one in Addis Ababa, Ethiopia and one in Yaoundé, Cameroon</li> <li>• Created 16 new foreign service officers and 7 local decision-maker positions in Africa</li> <li>• Department is set to create 21 new overseas positions in Africa and Asia</li> <li>• IRCC currently has a global presence with visa processing offices in almost 40 countries and counts with 167 VACs in 112 countries, 25 of which are located in Africa</li> </ul>	
	<ul style="list-style-type: none"> <li>• <i>Differences in the percentage of applications approved by one visa office in comparison to another</i></li> </ul>	<ul style="list-style-type: none"> <li>• <i>Mandatory training to support decision makers’ understanding of procedural fairness and impartiality</i></li> <li>• <i>All foreign service officers receive cross-cultural training</i></li> <li>• <i>Anti-racism program pilot for middle managers</i></li> <li>• <i>IRCC began to provide more information, tools and guidance to visa offices abroad in 2021</i></li> </ul>	

Topic	Identified gaps by testimonies	Actions to date
	<ul style="list-style-type: none"> <li>- <i>The refusal rate of work permits is 83% in New Delhi, while it is 34% in Australia</i></li> <li>- <i>Need further research to examine the relationships between visa offices and refusal rates and possibly audit offices</i></li> <li>• <i>Centralization of applications and the disconnect between IRCC visa offices and applicants themselves</i></li> <li>• <i>Questioned existing measures to prevent bias at Dakar office</i></li> </ul>	<ul style="list-style-type: none"> <li>• <i>Operations Sector Integrity Management Authority workshops exploring bias and GBA+ in immigration processing</i></li> </ul>
Unequal requirements and policy implementation	<ul style="list-style-type: none"> <li>• <i>Disparity between the Student Direct Stream (SDS) and Nigeria Student Express (NSE) – NSE applicants are required to show proof of funds that are 3x more than those of the applicants from SDS countries</i></li> </ul>	<ul style="list-style-type: none"> <li>• <i>IRCC conducted in 2023 a comparative analysis using the IBRIM methodology to identify ways forward in reorienting Nigerian applicant policies and its offices operations</i></li> </ul>
	<ul style="list-style-type: none"> <li>• <i>Racialized applicants asked to provide expensive/hard-to-obtain DNA tests for children</i></li> <li>• <i>Dual intent directive application</i></li> </ul>	<ul style="list-style-type: none"> <li>• <i>IRCC commits to update Program Delivery Instructions for the dual intent directive</i></li> </ul>
Arbitrary delays	<ul style="list-style-type: none"> <li>• <i>Role of discrimination on related backlogs in visa processing</i></li> <li>• <i>Different groups of refugees being subject to shorter or longer wait times due to government priorities and quotas</i></li> </ul>	<ul style="list-style-type: none"> <li>• <i>Middle East and Sub-Saharan African offices working together by assigning Migration Officers with refugee processing experience to assist with interviews and processing refugee files in Africa</i></li> <li>• <i>IRCC is increasing the number of temporary duty officers available with training and refugee processing experience via a support team in IRCC headquarters</i></li> <li>• <i>IRCC developing a new Crisis Management Framework</i></li> </ul>
Modernization efforts	<ul style="list-style-type: none"> <li>• <i>Digitization of applications</i></li> <li>• <i>Inconsistent application of technology to all application streams</i></li> </ul>	<ul style="list-style-type: none"> <li>• <i>IRCC is digitizing all of its application streams to the extent possible (spousal sponsorships in September 2022) and will continue to assess technology in application processing</i></li> </ul>
	<ul style="list-style-type: none"> <li>• <i>Chinook program is perceived as inherently biased</i></li> </ul>	<ul style="list-style-type: none"> <li>• <i>IRCC complies with the TBS Directive on Automated Decision-making (DADM) requirements</i></li> <li>• <i>The Department will publish the results of these assessments with the AIA</i></li> <li>• <i>IRCC is tailoring its GBA+ and Privacy methodologies to better inform the implementation and assessment of automated decision support tools</i></li> <li>• <i>In the Government Response to the third report, IRCC proposed a technical briefing and demonstration to the CIMM to clarify the suitability of Chinook</i></li> </ul>

## External – Communication and refusal reviews

Topic	Identified gaps by testimonies	Actions to date
Unclear information on the Website	<ul style="list-style-type: none"> <li>IRCC website often contains conflicting information and unclear policies</li> <li>Lack of clarity on certain policies/terms meaning</li> <li>Improve the application forms and update their website</li> </ul>	<ul style="list-style-type: none"> <li>Website is regularly reviewed and updated</li> <li>IRCC currently makes criteria that is used during application processing available to clients</li> <li>External Web team is currently doing a scan for usability issues associated with eligibility for all immigration programs in preparation of their new Program Finder tool launch</li> <li>Templates &amp; components used are regularly usability tested by the Digital Transformation Office at TBS</li> <li>Regularly conduct usability testing on the website</li> <li>The Web coding team validates that all links are functional and that clients can download forms whenever a page is updated</li> <li>The Web Directorate is creating a new team dedicated to identifying and resolving client pain points on the website</li> <li>A pilot project is also currently underway to eliminate the need for separate application guides and optimize application guidance across the website</li> </ul>
Contradictory reasons for refusals or not receiving answers from IRCC	<ul style="list-style-type: none"> <li>Receiving unclear, unfounded reasons or contradictory reasons, and/or different reasons when they re-applied and were refused a second time</li> <li>30% of international applicants to this institution [in the testimony] never got a response from IRCC in order for them to enroll into the university</li> </ul>	<ul style="list-style-type: none"> <li>Officer Decision Note (ODN) pilot was launched in February 2022, aiming to proactively release officer decision notes to some temporary resident visa (TRV) applicants at the time of an application decision</li> <li>The Client Experience Branch is creating a client correspondence unit to better improve the clarity of client letters</li> </ul>
Reconsideration and challenging of refusals	<ul style="list-style-type: none"> <li>The system to request for reconsideration system is broken</li> <li>The high success rate of students who challenge their refusals in Federal Court</li> <li>Costly litigation is a waste of taxpayer dollars and judicial resources</li> </ul>	<ul style="list-style-type: none"> <li>Can submit a request for reconsideration, file an application for judicial review to the Federal Court of Canada, and/or submit a complaint to the Canadian Human Rights Commission</li> <li>Between 2018-2022, only 8% of SP and SP extensions applications were successful at the leave stage to continue to the final stage, and from this, only 20% of these applications were successful at the Federal Court, resulting in being sent back to IRCC for reconsideration</li> <li>Continuing to explore ways to ensure that procedural fairness and cultural sensitivity are built into the interview process through updates to the Standard Operating Procedures used across Canada and abroad</li> </ul>
Difficulty communicating with IRCC	<ul style="list-style-type: none"> <li>Members of Parliament are far too often put in the difficult position to act as intermediaries</li> <li>Difficulty to fix mistakes</li> </ul>	<ul style="list-style-type: none"> <li>IRCC launched the Citizenship Application Status Tracker and the Permanent Residence Application Status Tracker for family class spousal, common law and dependent clients</li> </ul>

	<ul style="list-style-type: none"> <li>• Clients often cannot contact anyone at IRCC with questions</li> </ul>	
	<ul style="list-style-type: none"> <li>• IRCC does not offer applicants explicit documentation of their implied [maintained] status regarding work permit renewal processing</li> </ul>	
	<ul style="list-style-type: none"> <li>• Communication and consistency breaking down between IRCC and other government and partner institutions and services</li> <li>• Need for greater cooperation with the institutions and better information sharing</li> </ul>	<ul style="list-style-type: none"> <li>• IRCC proactively presented to key stakeholders in the Private Sponsorship of Refugees Program on the Department's planned use of automation to accelerate the processing of refugees</li> <li>• The Department is developing human-centered design of application forms, aligning IRCC web content with application kits, and advancing the Digital Platform Modernization (DPM) programme</li> <li>• IRCC keeps in regular contact with DLIs through the national associations responsible for education</li> </ul>

Internal

	Identified gaps	Actions to Date
	A lack of culture of, and processes for, addressing racism within the organization	<ul style="list-style-type: none"> <li>• Creation of IRCC's Anti-Racism Task Force (ARTF) in July 2020</li> <li>• Anti-Racism Strategy 2.0 (2021-2024)</li> <li>• AR Survey 2.0: the level of commitment towards anti-racism, in which respondents perceived the organization as a whole to have a 64% commitment on average, this average dropping to 63% for senior leadership, 56% for managers and 49% for IRCC colleagues</li> <li>• Anti-Racism Sector Commitments and Action Plans (2021-2024) included, for instance, setting anti-racism objectives in performance management agreements to increase accountability</li> </ul>
	<ul style="list-style-type: none"> <li>• Racial biases in hiring</li> <li>• Gaps in the representation of racialized employees at all levels in foreign service employment</li> <li>• Lack of progress towards meeting IRCC people management representation targets</li> <li>• Overconcentration of diversity in entry-level, rather than intermediate and senior, positions</li> <li>• Lack of mentors who share the same personal characteristics or origin as mentees</li> </ul>	<p>From 2021 to 2024, IRCC has initiated a hiring and retention strategy to address gaps in workforce diversity to better reflect Canadian demographics. IRCC's Anti-Racism Strategy 2.0 (2021-2024) established concrete commitments, governance sub-committees, mandatory bias training, mentoring and sponsorship programs, leadership development programs for underrepresented groups, employee trust circles, and additional supports for IRCC's diversity, equity and inclusion employee networks to collaboratively empower cultural change in the workplace.</p> <ul style="list-style-type: none"> <li>• Anti-Racism Strategy 2.0 (2021-2024), pillar 2</li> <li>• IRCC's six (6) DEI Networks</li> <li>• Created a new Foreign Service Development Program and Appointment Process, and is working on appoint a human resources DEI consulting firm to review it</li> </ul>

		<ul style="list-style-type: none"> <li>• In September 2021, a new guideline was announced that in keeping with IRCC’s commitment to building a diverse workforce future job advertisements should note that “Preference may be given to under-represented EE Groups</li> <li>• As of April 1, 2022 all assessment board members must have taken the CSPS H205 course entitled ‘Inclusive Hiring Practices for a Diverse Workforce’.</li> </ul>
	<p>Employees are apprehensive or uncomfortable addressing inappropriate or racist behaviour of other employees</p>	<ul style="list-style-type: none"> <li>• 2020 Public Service Employee Survey (PSES) found that 79% of IRCC department employees would feel comfortable sharing concerns about issues related to racism in the workplace with a person of authority</li> <li>• New tool <a href="#">Avenues for Resolution: Discrimination roadmap</a></li> </ul>