



# How to support clients making a Humanitarian and Compassionate (H&C) application

## **SPEAKERS:**

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**12-1:30pm**



# What you can expect today

## **Lunch and Learn Series**

90 minutes in total (presentation and Q+A)

This is legal information, not legal advice.

The information is current as of today's date Sept 27, 2023

Recording and slides will be sent out afterward.

ASL Interpretation is available. Subtitles (closed captioning) have also been enabled.



# Land Acknowledgement

CLEO's work takes place across the home and traditional territory of the Mississaugas of the Credit, the Haudenosaunee, and the Wyandot peoples, on land that many of us know as Ontario.

As we provide legal information today, we acknowledge the ongoing impact of colonization and anti-Indigenous racism, built into our laws and legal systems, resulting in devastating pain and inequality for Indigenous Peoples of every generation.

We also recognize the incredible amount of work that Indigenous Peoples contributed to the Calls to Action in the Truth and Reconciliation Commission report calling for Equity for Indigenous Peoples in the Legal System.

# Today's workshop will help you:

- Learn what an H&C application is
- Learn about helping clients gather evidence
- Understand cautions around making an H&C application
- Resources and referral information

# Activity — Myth Busting



I will be eligible for Ontario Works (OW)  
after I make an H&C application.

# Activity — Myth Busting



I must get a medical and/or psychological report to support my H&C application.

# Activity — Myth Busting



Making an H&C application automatically stops my removal from Canada until a decision is made on it.

# Activity — Myth Busting



I can make an H&C application while I am waiting to have my refugee hearing.





# Myth Busting Answers

1. I am eligible for Ontario Works (OW) after I make an H&C application. **TRUE**
2. I must get a medical and/or psychological report to support my H&C application. **MAYBE**
3. Making an H&C application automatically stops my removal until a decision is made on it. **FALSE**
4. I can make an H&C application while I am waiting to have my refugee hearing. **FALSE**



# **What is a Humanitarian and Compassionate (H&C) application?**

## What is an H&C?

- Application for Permanent resident (PR) status
- Made from **inside** Canada
- Asks IRCC to overcome one or more “inadmissibilities”
- Requires ‘compelling’ evidence about person’s circumstances



# When would someone apply for H&C?

- Expired visitor/worker/student visa
- Denied refugee claimant
- Sponsorship breakdown
- Caregiver
- Family violence
- Temporary worker program
- Lack of medical care in country
- No removals to their [country](#)

# What clients need to show in their H&C

- That they are who they say they are
- They have made Canada their new home
- That it would be very difficult to return to their country

## Who can't make an H&C application?

- If client has a refugee claim or appeal pending
- Must wait 12 months after refusal or final appeal

Exceptions to 12-month rule:

**MEDICAL** – life at risk because their country can't provide adequate health or medical care

**BEST INTERESTS** – removal from Canada would have a negative effect on a child directly affected



# **Immigration, Refugees and Citizenship Canada's Guidelines for officers – what they should look for:**

- establishment/ties in Canada
- inability to leave
- health
- family violence
- consequences of separation from relative
- situation in your country (not about risk)
- any other relevant factors



# Guidelines on Best Interests of the Child:

- Age
- establishment in Canada,
- conditions in the country that could affect the child,
- medical needs,
- education,
- gender
- anything else that is relevant



# Cautions about H & C applications

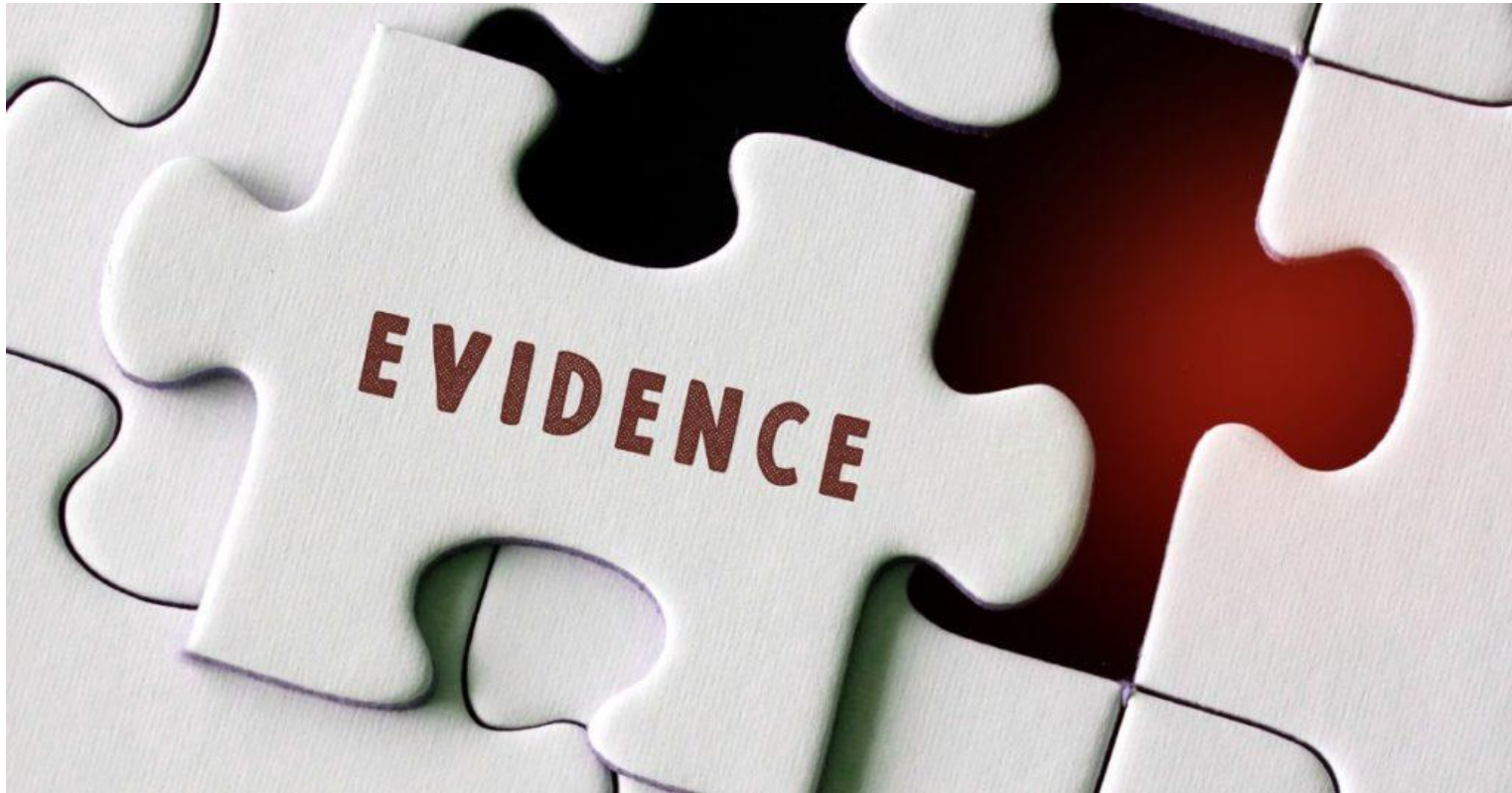
- Discretionary
- No stay of removal while waiting
- Up to 3 years ++ for a decision
- No work or study permits until 1<sup>st</sup> stage approval
- No healthcare
- \$570 for adult, \$155 per child



Increased visibility to Canada Border Services Agency (CBSA)

# Questions?

# What evidence is helpful?





# Identity

- passport, national ID card
- birth certificate, marriage certificate
- credit cards, driver's license, work ID
- school records, diplomas, transcripts, etc.
- bills with your name on them (phone, electricity, etc.)
- Information about personal identity
- Anything else that is relevant

## No ID?

- letter or affidavit from someone that knows client

## What to include in H&C supporting letters



- full name and signature
- date it was written
- how person knows the applicant
- how long you've known them
- impact on writer if person has to leave Canada
- why they think person should be allowed to stay in Canada
- offer to be contacted to give more info –email and tel #
- immigration status



# Establishment – why person needs to stay

- Family – letters, photos, pictures (kids)
- Friends and neighbours
- School
- Community activities
- Volunteer
- Medical care/therapy



## Establishment – work and finances

- Details about work – job description, number of years, etc.
- Pay stubs, letters from co-workers, (even if work is without a work permit)
- \$\$ savings/bank account
- Anything else that is relevant



# Establishment – best interests of child

- their own words/drawings
- capture teachers' voices
- Classmates
- Caregivers
- Report cards, awards etc
- anything else that is relevant





## Intimate partner violence – evidence

- police reports, proof of charges or convictions, if available
- letter from women's shelters, witness statements, medical reports, etc.
- the laws and customs in her country
- support of relatives and friends
- whether she has children in Canada or/and is pregnant
- Anything else that is relevant

# Hardship – why it would be hard to return

- Length of time away from country
- Fears – did someone threaten or hurt them or family member?
- Country conditions – war, drought, oppressive govt, discrimination – health or sexual identity/orientation
- Medical care not available
- Anything else that is relevant



## Updates to H&C application



- Change of contact information – email and tel #
- Change in status – marriage, birth of child
- New job or promotion
- Courses taken
- Anything else that will strengthen application
- **KEEP A COPY**

# If your H&C is refused

Get legal advice

Application to Federal Court for  
Judicial Review within **15 days**

## Scenario 1

Maria came to Canada from Peru in 2018. She came on a visitor's visa which expired and she has lived here without status since.

Despite terrible domestic abuse in her past in Peru, she has thrived in Canada and has started her own business.

**How would you support Maria in this situation? Any questions for Maria?**

# Scenario 1 – considerations + more questions

- Can't do both refugee claim and H & C - advice needed
- Has she ever received social assistance?
- Did she try to extend her visitor visa?
- What other involvement with her community?
- What type of business?
- Proof of savings, friends, and connection to Canada, does she employ anyone?
- Does she have evidence of intimate partner violence in Peru?

## Scenario 2

Jozef came to Canada in October 2021 with his four children. They are Roma from Hungary. His wife died of cancer when the youngest was 3. He works as a cashier at a grocery store ever since his refugee claim was denied. The children are in school, the youngest has special needs.

Jozef suffered racial discrimination in Hungary. He fears further incidents if they are sent back to Hungary. He also thinks the children will be discriminated against.

**How would you support Jozef and his family? Any questions for Jozef?**

## Scenario 2 – considerations + more questions

- When was refugee claim refused? (2<sup>nd</sup> exception – children’s best interests)
- What is youngest child’s condition? Medical report.
- What treatment would be available in Hungary?
- Country conditions evidence
- Are they involved in the community? Kids’ activities, report cards
- Impact of discrimination in Hungary
- Proof of job – references, savings, friends



# Questions?



# CLEO Resources

## Steps to Justice

[Humanitarian and compassionate \(H+C\) applications](#)

[How do I apply for Judicial Review?](#)

## CLEO Publications

This information is for front-line workers and advocates working with women who have experienced family violence and who have questions about their immigration status in Canada.

[Making an H+C application](#)

[Humanitarian and compassionate \(H&C\) applications and refugee claims: how are they different?](#)

[Do you know a woman who is being abused?](#)

# Community Legal Clinics

**Barbra Schlifer Clinic** [Gathering evidence for H&C applications: a toolkit for advocates supporting women survivors of gender-based violence](#) (2018)

**Student Legal Services Organizations** [Student Legal Services Organizations \(SLSO\)](#), funded by Legal Aid Ontario, operate out of Ontario's seven law schools. With the supervision of full-time lawyers, volunteer law students provide legal advice and represent clients in cases in immigration as well as other areas.

[Specialty Legal Clinics](#) Some clinics also specialize in areas of law for low-income clients who are marginalized for other reasons.

[Find your Community Legal Clinic](#)



# Community and Legal Resources

## Legal Aid Ontario

### [How do I apply for Legal Aid?](#)

[Legal Aid Eligibility for immigration and refugee law services](#) (H+C info on pages 2+3)

Call Monday to Friday, 8 a.m. to 5 p.m.

1.[416-979-1446](tel:14169791446) (Greater Toronto Area)

2.[1-800-668-8258](tel:18006688258) (toll-free)

**Justice Net** [JusticeNet](#) is a not-for-profit service helping people in need of legal expertise, whose income is too high to access legal aid and too low to afford standard legal fees.

**FCJ Refugee Centre (Toronto)** — [information sessions/webinars](#) for communities and front-line workers serving vulnerable newcomer, non-status and precarious migrant populations.



## Community and Legal Resources

### Protect yourself when looking for legal support

Check the [Lawyer and Paralegal Directory](#) or [contact the Law Society](#) to confirm that the person you are thinking of hiring is a licensed legal professional.

[Law Society of Ontario](#)

[College of Immigration and Citizenship Consultants – find an immigration consultant](#)

You can file a complaint if you have concerns about the service you get.



## Government Resources

**CBSA [website](#)** list of Temporary Suspension of Removal (TSR) and Administrative Deferral of Removal (ADR) countries

### **Immigration, Refugees and Citizenship Canada**

Humanitarian and Compassionate considerations [Humanitarian and Compassionate Considerations - Canada.ca](#)

Humanitarian & Compassionate application [Check list](#)



# Calls to action: Truth and Reconciliation

## [Truth and Reconciliation Commission of Canada: Calls to Action](#)

### [Settlers Take Action](#)

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## Education

### [Indigenous Canada - Free Course](#)

## Whose Land?

Learn about where you are situated, information for land acknowledgements and learn about the treaties and agreements signed across Canada (Turtle Island).

### [Whose Land?](#)

# Thank you for joining us!

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Steps to Justice – [Steps to Justice](#)

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