

**RACE, GENDERED VIOLENCE,  
and the  
RIGHTS of WOMEN WITH  
PRECARIOUS IMMIGRATION  
STATUS**

**November 2017**

**This resource was created by Deepa Mattoo as is part of the Community Leadership in Justice Fellowship of Law Foundation of Ontario at the Factor-Inwentash Faculty of Social Work at the University of Toronto. This residential fellowship is in community partnership with the Barbra Schlifer Commemorative Clinic and the Rights of Non-Status Women's Network.**

# RACE, GENDERED VIOLENCE, and the RIGHTS of WOMEN with PRECARIOUS IMMIGRATION STATUS

**Practical Information for service providers working with racialized women living with precarious immigration status who have experienced gender-based violence.**

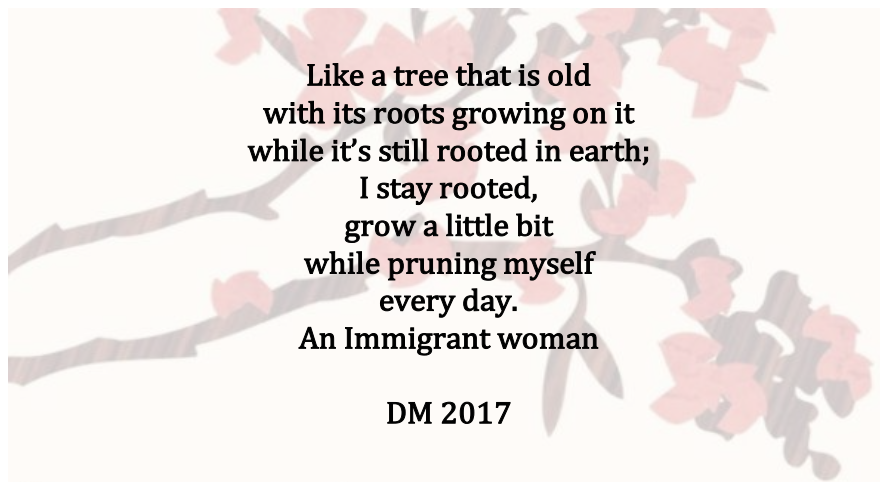
This toolkit was authored by Deepa Mattoo, as a Community Leadership in Justice Fellow, with the assistance of Roopa Mann at Queen's University Faculty of Law and Julia Romano at the University of Toronto Faculty of Law. This toolkit was made possible through the partnership with the Factor-Inwentash Faculty of Social Work at the University of Toronto, the Barbra Schlifer Commemorative Clinic, and the Rights of Non-Status Women's Network. The authors of this toolkit would like to thank the advisory committee for guidance and feedback throughout the creation of the toolkit. The authors would also like to thank the law student 2016-2017 volunteers at the Barbra Schlifer Commemorative Clinic for their assistance with the toolkit's preliminary research.

The cover art for this toolkit was designed and created by Hanna Valente, who also kindly donated the piece for display at the Barbra Schlifer Commemorative Clinic.

This booklet offers general information on women without status and involves federal and Ontario law. Information in this guide is accurate as of November 2017.

**Disclaimer:** Due to the constantly changing law, the authors cannot guarantee the legal accuracy or completeness of this document after November 2017. Furthermore, this toolkit provides general information only. The information in this guide is not meant to be used as legal advice for specific legal problems. If legal help is required, please contact a lawyer or advocate.

All information graphics created by the authors should not be used for any purpose other than this toolkit.



This resource is part of the Community Leadership in Justice Fellowship of Law Foundation of Ontario at the Factor-Inwentash Faculty of Social Work at the University of Toronto. This residential fellowship is in community partnership with the Barbra Schlifer Commemorative Clinic and the Rights of Non-Status Women's Network.

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# Executive Summary

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This toolkit has been written for service providers who assist racialized women living with precarious immigration status in Ontario, Canada. The aim of this project is to build the capacity of settlement workers, lawyers, and students to work with non-status, racialized women who have experienced gender-based violence. This training toolkit will provide information on issues affecting racialized women with precarious immigration status in Canada by exploring the relationship between race, gender, and immigration status

This toolkit is one of the outcomes of the Community Leadership in Justice Fellowship of Law Foundation of Ontario at the Factor-Inwentash Faculty of Social Work at the University of Toronto. This fellowship is in community partnership with the Barbra Schlifer Commemorative Clinic and the Rights of Non-Status Women's Network (RNSWN).

Deepa Mattoo is currently the Director of Legal Services at the Barbra Schlifer Commemorative Clinic and has been an organizing member of the RNSWN for the past eleven years.

This toolkit is a way to address precarious immigration status, racialized women and their experience with gender-based violence. If you would like to give us some feedback about this resource, please contact the Barbra Schlifer Commemorative Clinic at [feedback@schliferclinic.com](mailto:feedback@schliferclinic.com) or (416)-323-9149. The Barbra Schlifer Commemorative Clinic would love to hear what worked well for you, and what you suggest could improve this resource.

## | PURPOSE OF TOOLKIT SECTIONS |

### **Background information**

This section of the toolkit is included to contextualize the issue of gender based violence and racialized women living in precarity. It explores what it means to have precarious immigration status, what GBV is, and gives the theoretical framework through which race is analyzed.

### **I. Immigration Applications and Eligibility for Services and Benefits**

Provides information on the point at which an applicant for immigration or refugee status can apply for various services and benefits in Ontario.

### **II. Canadian Privacy Legislation and Disclosure to the CBSA**

Provides an analysis of Canadian privacy legislation in the context of disclosure to the CBSA.

### **III. Gender Based Framework in the IRPA**

Offers a review of the gender-based analysis found in the IRPA framework, as well a list of the shortcomings of IRPA that are relevant to women with precarious immigration status.

### **Appendix**

Provides further information on topics discussed in the toolkit.

### **Resources for Women**

Offers a list of resources for women for more specific needs.

### **Glossary**

Provides the reader with definitions of words and phrases used throughout the document.

*The pain in your voice is your strength;  
That rage in your heart is your guide;  
That helplessness you feel is a witness of your  
care;  
That hug you extend shows you feel;  
That smile in your disappointment tells me,  
you have not given up*

*I am your witness.*

**DM 2017**

## How to Use This Toolkit

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This tool kit is designed for use by individuals for personal and professional development and by groups, for training sessions and educational workshops. It is intended for people working in or accessing services in the immigrant and refugee serving sector in Ontario, including front-line workers, law and counselling students, volunteers, organizations and municipal and provincial government employees. Feel free to make copies of this toolkit, or parts of this toolkit, for use by your group, staff, community or organization.



# Toolkit Framework

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## Trauma Informed Approach

This toolkit has been developed using a trauma informed approach to the provision of social services and programs.<sup>1</sup> A trauma informed approach begins from, “an acknowledgement of the extent of traumatic experiences in the human population and an understanding of the ways in which trauma responses affect people’s lives, capacities, and abilities to cope with life’s challenges”.<sup>2</sup> A trauma informed approach is based on principles of respect, dignity, inclusiveness, empowerment, and hope.<sup>3</sup> An understanding of trauma should be reflected in the knowledge and skills of service providers, as well as the organization’s policies and procedures.<sup>4</sup>

## What is Trauma?

A traumatic event is an event that, “is so overwhelming that it diminishes a person’s capacities to cope, and it elicits intense feelings of fear, terror, helplessness, and despair.”<sup>5</sup> The experience of a traumatic event often takes a profound emotional toll on a person which can impact that person’s identity.

## Potential Prior Sources of Trauma<sup>6</sup>

- Oppression and discrimination like racism
- Cultural Dislocation
- Childhood emotional, physical or sexual abuse
- Sexual Assault
- Experiencing or witnessing violent crime or community violence
- Historical violence
- Intimate partner violence
- Poverty<sup>7</sup>

## Different Kinds of Trauma

### **(1) INDIVIDUAL TRAUMA:**

- Refers to the individual experience of an event whereby the individual experiences a threat to her psychic or bodily integrity.
- Trauma often impacts a person in more than one way – including physically, socially, and emotionally.

### **(2) COLLECTIVE, ORGANIZATIONAL, AND COMMUNITY TRAUMA:**

- Refers to the effects and impact a traumatic event can have on a culture of a group, organization or entire community.

### **(3) HISTORICAL TRAUMA:**

- Refers to the cumulative emotional and psychological wounding over the lifespan and across generations, resulting from the trauma of group experiences.
- Implicit in understanding historical trauma, is understanding that individuals may carry deep wounds from events that affected a group with which they identify—even if they did not experience the event themselves.
- For example, historical trauma follows from colonization of generations of Indigenous Peoples, as well as the enslavement of Africans and their descendants.
- Historical trauma refers to traumatic events that have already occurred, however communities are still experiencing the traumatic and oppressive effects of the historical trauma that have been institutionalized, and are ongoing in society.

### **(4) INTERGENERATIONAL TRAUMA:**

- Refers to the effects of traumatic events that have been passed down from the previous generation. This kind of trauma is in specific reference to trauma that occurs within families.

### **(5) INSIDIOUS TRAUMA:**

- Refers to the daily occurrences of marginalization that are experienced by members of groups targeted by racism, heterosexism, ableism, sexism, and other forms of oppression

Definitions taken from the National Resource Center on Domestic Violence

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## The Provision of Legal Services in a Time of Constant Change

The construction of this toolkit has been informed by the fact that legal services in Canada are being provided in a time of constant change to the landscape of immigration law. Due to the constantly changing law, education and training in this field becomes challenging. Clients seeking services are often given inaccurate or out-of-date information regarding their rights and entitlements from their peers, the media, and sometimes frontline workers. Service providers must be equipped with a clear understanding of the law in order to be able to dispel common myths and provide accurate information.

# Background Information

On Gender-Based Violence and Racialized Women living in Precarity

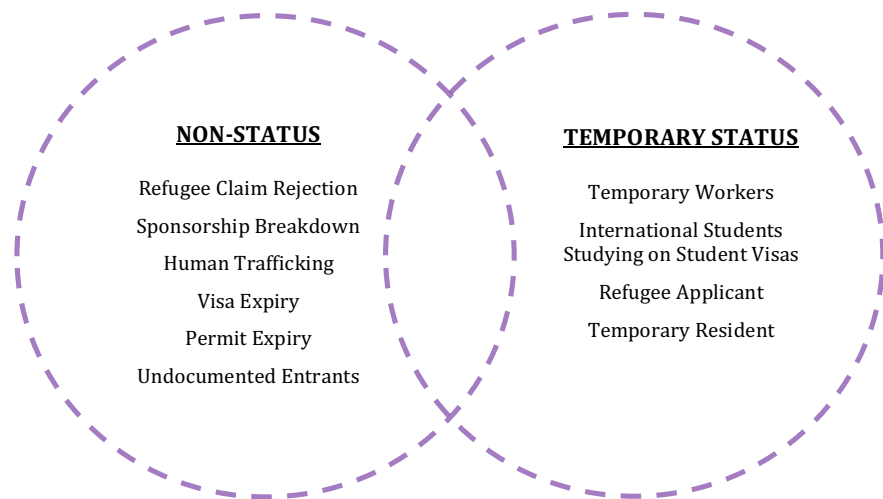
## What does it mean to have Precarious Immigration Status?

Precarious Immigration status refers to any kind of less than full immigration status. In Canada, precarious status includes documented but temporary workers, students, and refugee applicants, as well as authorized forms of status such as visa and permanent residents. Precarious status can also refer to different forms of non-status, including undocumented entrants, persons who have been human trafficked, and individuals who have had their refugee claim rejected.<sup>8</sup>

### PRECARIOUS IMMIGRATION STATUS

#### Characteristics of Precarious Immigration Status

- Absence of permanent residence
- Lack of work authorization
- Dependence on a third party for residence
- Dependence on a third party for employment
- Limited or no access to public services like healthcare, education, and workplace rights
- Possibility of deportability



The focus of this toolkit is on women who find themselves living with precarious immigration status after fleeing GBV. For example, a woman may have been dependent on her partner for sponsorship. In certain circumstances, if she flees an abusive relationship with that partner, she may be unable to obtain status or may lose her status, despite the elimination of conditional permanent residence. In other cases, a woman may end up with precarious immigration status in Canada after fleeing gendered violence in another state. Women with precarious immigration status are often more susceptible to abuse than women who are Canadian citizens. Women with precarious immigration status are often dependent on a third party for residence and employment, and they are less likely to call the police or seek health services in response to GBV, out of fear of deportation.

## Racialized Women living with Precarious Immigration Status

There are additional factors that may further exacerbate the vulnerability of racialized women with precarious immigration status. These factors include racial profiling, cultural stereotyping, and racism and xenophobia.

#### **Racial Profiling**

Racialized women are often asked for proof of their status by law enforcement during routine encounters and transit fare checks which can lead to CBSA involvement and a subsequent risk of deportation. These experiences often result from racial profiling, as it is a woman's membership in a visible minority group that raises questions about her status. This sort of profiling arises out of widely held and uninformed notions of who constitutes an immigrant.

#### **Cultural Stereotyping**

Patriarchal structures are often mistaken for being part of racialized women's cultures, and GBV has wrongly come to be associated with the cultures of various immigrant groups. Cultural stereotyping results in the erroneous belief that if racialized individuals assimilated, the violence they are experiencing would end. It also further perpetuates racist notions of the inferiority of non-white cultures.

#### **Racism and Xenophobia**

Racism and xenophobia underlie or may operate in conjunction with racial profiling and cultural stereotyping.

# What is Gender-Based Violence?

**GENDER-BASED VIOLENCE (“GBV”)** is the general term used to capture violence that occurs as a result of the normative role expectations associated with each gender, along with the unequal power relationships between the two genders, within the context of a specific society.<sup>9</sup> GBV may include domestic and sexual violence, as well as human trafficking. In Canada, GBV continues to be a serious problem. Approximately half of Canadian women have experienced at least one incident of physical or sexual violence since the age of sixteen.<sup>10</sup> Furthermore, 1 in 4 Canadian women have experienced physical or sexual violence at the hands of a marital partner.<sup>11</sup> GBV acts as a barrier to gender equality and stands in the way of human rights and fundamental freedoms in Canadian society.

**The focus of this toolkit is on women and girls with precarious immigration status, and who have experienced GBV at any point in their migration path.**

## Forms of Gender-Based Violence

### Domestic Violence

Domestic Violence is violent or aggressive behaviour within the home, typically involving the violent abuse of a spouse or partner. Domestic Violence and emotional abuse are behaviors used by one person in a relationship to control the other. Domestic Violence can include name-calling, stalking and intimidation, psychological abuse, and threatened or actual physical harm.

### Sexual Violence

Sexual violence is a physical or psychological sexual act, or act targeting sexuality, gender identity, or expression. Sexual Violence can include rape and sexual abuse, as well as forced pregnancy, sterilization or abortion.

### Human Trafficking

Human trafficking involves the recruitment, transportation, harboring and/or exercising control direction or influence over the movements of a person in order to exploit that person – typically through sexual exploitation. It is often described as a modern form of slavery. Victims of human trafficking often suffer physical and emotional abuse, and may also face fatal consequences if they attempt to escape.

## GBV and Indigenous Women

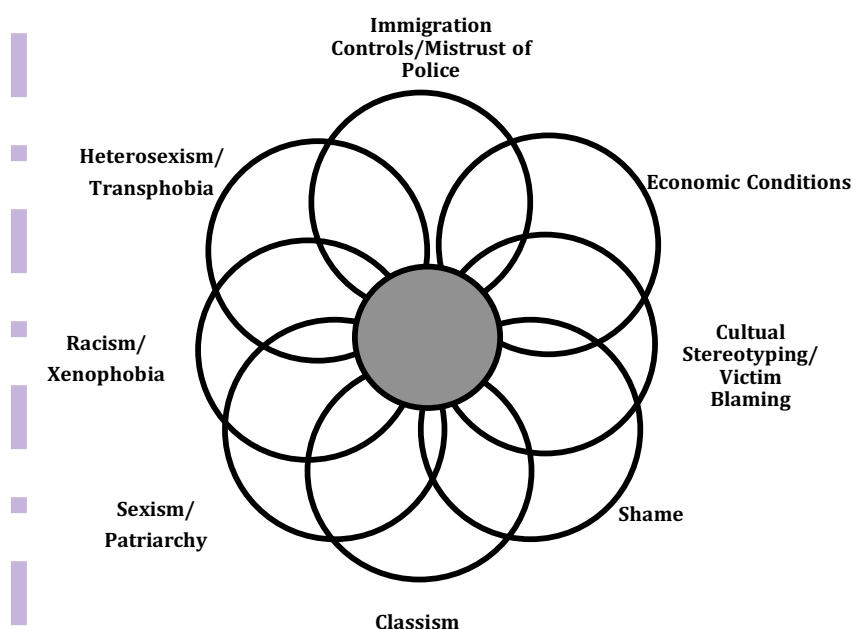
Indigenous women experience violence at a rate 2.7 times higher than that reported by non-indigenous women. Indigenous women are more than three times as likely as non-Indigenous women to report spousal violence.

## GBV in the LGBTQ Community

Gay, lesbian, or bisexual individuals are three times more likely than heterosexual individuals to report experiencing violence. Transgendered people are nearly twice as likely as cisgendered women to experience intimate partner violence in their lifetime. For members of the LGBTQ Community who have experienced violence, there are fewer assistance services. Sometimes these services operate in a homophobic or heterosexist way, working to further isolate the victim.

Statistics taken from Canadian Women’s Foundation Fact Sheet

## The Context of Various Forms of Gender-Based Violence



# Recognizing Race

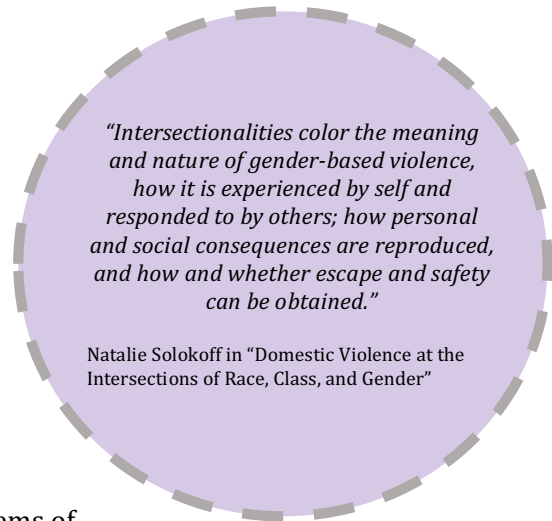
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This toolkit has been constructed with the acknowledgement of Canada's history of imperialism, colonialism, and racism. The starting point for working across cultures must include an acknowledgment of these contemporary relations of domination. The recognition of these systems of domination are particularly important in this context as they are active agents in producing and maintaining violence against racialized women with precarious immigration status.

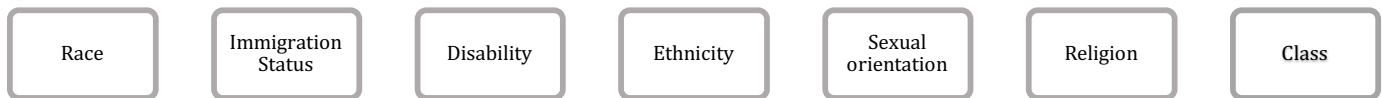
This toolkit utilizes the intersectional approach to GBV.

Intersectionality is the analysis of the ways in which the location of women of color at the intersection of race and gender makes the actual experience of gendered violence for women of color qualitatively different than that of white women. The experiences of women of color are frequently the product of intersecting patterns of racism and sexism. An intersectional approach challenges the traditional model which maintains that gender inequality is the primary factor explaining the occurrence of GBV.

Gender inequality is modified by its intersections with other systems of power and inequality that affect the lives of a survivor of GBV. In other words, a woman's experience as a survivor of GBV is realized only in relation to other intersectionalities in society.<sup>12</sup>



## Examples of Intersectionalities



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## The Gap in Existing Scholarly Literature on Race, Gendered Violence, and the Rights of Women with Precarious Immigration Status

In our research, we found that there was a gap in the existing literature regarding the connection between race, gendered violence, and women with precarious immigration status. We found that race is not explicitly considered in the analysis of gendered violence, and women living with precarious immigration status both domestically and internationally around the globe. Instead women living with precarious immigration status who have experienced gendered violence are analyzed as a unitary and homogenous group.

Through exploring this complex relationship between race, gendered violence, and immigration status, the goal of this toolkit is twofold: First, to bridge this existing scholarly gap in the literature. Second, to build the capacity of settlement workers and lawyers to better provide services to racialized women with precarious immigration status who have experienced gendered violence.



# I. Immigration Applications and Eligibility for Services and Benefits

Research Focus Area #1

This section of the toolkit focuses on the access to various social services and benefits in Ontario. It details when and if these services and benefits become available in the context of various immigration applications.

The table in this section provides information on the point at which an applicant for immigration or refugee status can apply for various services and benefits in Ontario. These services and benefits are made available under the *Immigration and Refugee Protection Act*, the *Immigration and Refugee Protection Regulations*, and various federal and Ontario provincial statutes governing access to social services.

The information in these tables focuses on the eligibility related to immigration status only, by identifying the point in her immigration application at which a woman will become eligible to apply for a particular benefit or service. Other eligibility requirements specific to each benefit may also apply, but a discussion of other requirements is beyond the scope of this document. The information provided also does not cover all of avenues to obtaining status in Canada. The immigration application types included here are those that the Barbra Schlifer Commemorative Clinic has seen most often in a gender-based violence context.

The following notes apply to each of the immigration application types discussed below:

- **Ontario Disability Support Program (ODSP):** A person against whom a deportation or exclusion order has become effective or who is subject to an enforceable removal order is not eligible. This does not apply if the ODSP Director is satisfied that the person has applied for PR on H&C grounds.
- **Ontario Works (OW):** A person against whom deportation or exclusion order has become effective or who is subject to an enforceable removal order is not eligible for OW. This does not apply if the OW administrator is satisfied that the person has applied for PR on H&C grounds.

## The Starting Point

To start thinking about the practical implications of these applications, consider “Zoya’s Story”. Zoya is a fictional character, however her story resembles the story of many women living with precarious immigration status in Canada.

### Zoya’s Story

“My name is Zoya, and I am a 23-year-old woman living in Canada. Five years ago, I came to Canada on a student permit to attend university. While attending school, I met the man of my dreams, Mike. We began to date, and eventually, we fell in love. Mike encouraged me to drop-out of school and move in with him. He told me to not worry about my student permit expiring because he would sponsor me. I eventually moved in with Mike, and for a couple of years, things were great. During this time, we had three children together. After my third child was born, I started noticing Mike change. He was angry all the time with me, and had a very short temper. He started drinking all the time, which he never used to do. As time went by, he became worse and worse, increasingly jealous, always yelling at me, and using vulgar expressions. One night, Mike got physical with me. He beat me up and slapped me. I called the police, and Mike was taken away. Mike has since been released by the police. He keeps contacting me, and telling me that he has changed and wants to work things out. He seems like he has changed, he is nice to me again, and treats me like he did when we first met.

Without Mike, I am all alone in this country. My family is not here, and I have very little support. I have three kids to provide for, and feel all alone. My children miss their father, and always ask when he is coming home. I do not know what to do next.”

## Humanitarian and Compassionate Applications

Open Work Permit	Study Permit	ODSP	OW	Canada Child Benefit	OHIP	Subsidized Housing	Emergency Housing
Can apply once approval in principle is received. <sup>13</sup>	Can apply once approval in principle is received. <sup>14</sup>	Can apply once application is submitted even if subject to a deportation or enforceable removal order. <sup>15</sup>	Can apply once application is submitted even if subject to a deportation or enforceable removal order. <sup>16</sup>	Can apply after obtaining PR status, or after living in Canada for 18 months if they have a valid permit in the 19 <sup>th</sup> month. <sup>17</sup>	Can apply once approval in principle is received. <sup>18</sup>	Varies depending on municipality. In Toronto, Housing Connections may require proof of application for PR. <sup>19</sup>	Varies depending on municipality and housing facility.

Last Updated: November 2017

## Spousal Sponsorship

Open Work Permit	Study Permit	ODSP	OW	Canada Child Benefit	OHIP	Subsidized Housing	Emergency Housing
Can apply once application is submitted if they have valid status <b>OR</b> must wait until approval in principle received. <sup>20</sup>	Can apply once application is submitted if they have temporary resident status. <sup>21</sup>	Can apply once application is submitted. <sup>22</sup>	Can apply once application is submitted. <sup>23</sup>	A sponsored spouse can apply once PR status has been obtained, or after living in Canada for 18 months if they have a valid permit in the 19 <sup>th</sup> month. <sup>24</sup>	Can apply once approval in principle is received. <sup>25</sup>	Varies depending on municipality. In Toronto, Housing Connections may require proof of application for PR. <sup>26</sup>	Varies depending on municipality and housing facility.

Last Updated: November 2017

## Refugee Claim

Open Work Permit	Study Permit	ODSP	OW	Canada Child Benefit	OHIP	Subsidized Housing	Emergency Housing
May be issued to claimants whose claims have been referred to the IRB. <sup>27</sup>	Can apply once claim is submitted. <sup>28</sup>	Can apply once claim is submitted. <sup>29</sup>	Can apply once application is submitted. <sup>30</sup>	Can apply after living in Canada for 18 months if they have a valid permit in the 19 <sup>th</sup> month. <sup>31</sup>	Can apply once refugee claim is approved. While claim is pending, can apply for Interim Federal Health Program. <sup>32</sup>	Varies depending on municipality. In Toronto, Housing Connections may require proof claim has been filed for refugee status. <sup>33</sup>	Varies depending on municipality and housing facility.

Last Updated: November 2017

# II. Canadian Privacy Legislation and Disclosure to the Canadian Border Services Agency (CBSA)

*Research Focus Area #2*

Focus area three of this toolkit provides an analysis of Canadian privacy legislation in the context of disclosure to the CBSA. This analysis was conducted as it pertains to police services, education, shelter services, health services, Ontario works, and the Children’s Aid Society in the province of Ontario.

This focus area analyzes the legal requirements for service providers to disclose a person’s immigration status to the CBSA, alongside what is actually happening in practice. This focus area looks at this issue in the context of Toronto as a “sanctuary city”, and how this affects the legal requirement to disclose.

## The City of Toronto as a “Sanctuary City”

A “sanctuary city” is a city that limits its cooperation with the national government’s effort to enforce immigration law. The City of Toronto was formally declared a sanctuary city in 2013. The City of Toronto is Canada’s largest city, and the 4<sup>th</sup> largest urban area in North America. Toronto has a population of approximately 6.5 million people. The city is home to 20% of all immigrations in Canada.

The City of Toronto was Canada’s first sanctuary city. Toronto has been deemed “Access T.O.” by City Council which was aimed to reaffirm its commitment to undocumented residents of Toronto. The primary objective of Access T.O. is to ensure that all residents are able to access municipal and police services regardless of immigration status.

### The Access T.O. policy directs city officials and service providers not to:

1. Inquire into immigration status when providing select services
2. Deny non-status residents access to services to which they are entitled
3. Share personal or identifying information with federal authorities unless required to do so by federal or provincial law

“The ‘sanctuary city’ movement is a grassroots, human rights-based response to increased number of non-status migrants living and working in global cities.”

- Graham Hudson et al, (No) Access T.O.: A Pilot Study on Sanctuary City Policy in Toronto, Canada (2017)

### Sanctuary Cities in Canada

TORONTO, ON  
LONDON, ON  
HAMILTON, ON  
MONTREAL, QC

Since Toronto was declared a “sanctuary city” all service providers are to adopt a “don’t ask, don’t tell” policy with respect to immigration status. This means that service providers should neither inquire into their client’s immigration status, nor should they notify the CBSA of their client’s immigration status. In practice, this has not been the case. The City of Toronto has been criticized as being a sanctuary city in name only, and has fallen short on delivering on its commitment to the city’s undocumented residents.

# The Ontario Education System

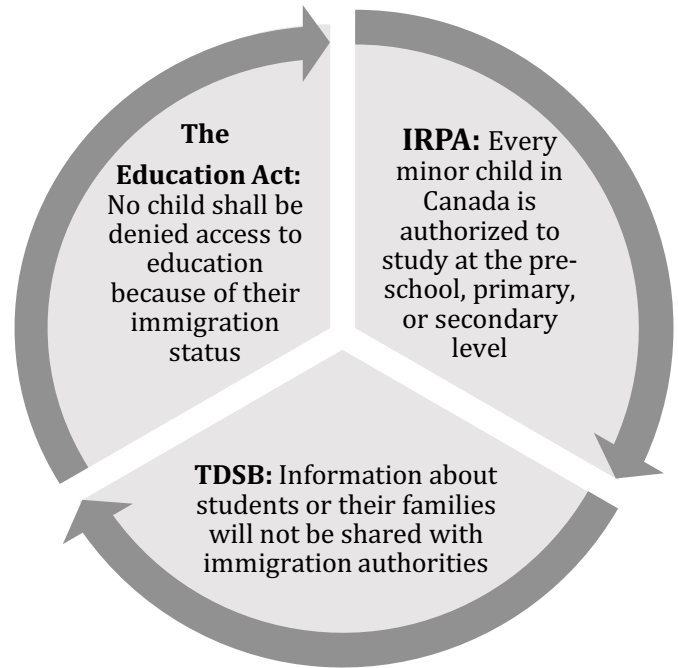
Access to publicly funded education for all children is a right and requirement under provincial law. This is true for all children, regardless of immigration status. As per the *Education Act*, persons with precarious immigration status between the ages of 6 and 18 cannot be denied school enrollment because of their immigration status. Furthermore, there is no legal requirement for education providers in Ontario to disclose the immigration status of their students, or their student's family, to the CBSA.

## **The Education Act**

In Ontario, the children of non-status persons are entitled to educational services provided by the public education system in the province. As per provision 21(1)(a) of the *Education Act*, it is required by law that children who are over the age of 6, but under the age of 18, attend school. Furthermore, as per Section 49.1 of the *Education Act*, it is required by law that children who are over the age of 6, but under the age of 18, attend school.

## **IRPA and the Education Act**

In Canada, the provinces have jurisdiction over the creation of laws relation to education. However, Section 30.2 of *IRPA* also confirms a child's right to attend school regardless of immigration status. Section 30.2 states that, "Every minor child in Canada, other than a child of a temporary resident, not authorized to work or study, is authorized to study at the pre-school, primary or secondary level.



## **The Toronto District School Board**

The TDSB is the largest school board in Canada, with close to 600 schools in its jurisdiction. In 2007, the TDSB adopted a "Don't Ask Don't Tell" policy. The TDSB released a policy initiative P061 entitled "Students without Legal Immigration Status". As per directive 1.0, the objective of this policy is to, "establish the Board's commitment to providing a safe and welcoming environment for its students regardless of immigration status." Directive 3.2 of the policy states that all children are welcomed, regardless of immigration status. Furthermore, this directive states that information about the students, or their families, shall not be shared with Immigration authorities.

## **The Toronto District Catholic School Board**

The TCDSB educates over 85,000 students in Toronto. In the TCDSB's policy on Admissions and Placement, directive 11 states that students without valid immigration status will not be denied admission to a TSDSB school. However, for admission in a TCDSB elementary school, proof of child or parent Catholic baptismal certificate is required.

## **Problems in Practice**

Even though non-status students are entitled to admission TDSB and TCDSB schools in practice, these schools are wrongfully turning away many students because of their precarious immigration status. There have been many reports of students being denied enrollment into TDSB schools because they did not have proof of immigration status. Furthermore, there have been reports of denied enrollment into a TCDSB school due to religious affiliation.

## Toronto Police Services (TPS)

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In Toronto, partial Don't Ask, Don't Tell ("DADT") policies have been implemented to allow persons living with precarious immigration status to access police services without the fear of arrest, detention or deportation. As per this DADT policy, the police in the City of Toronto only have a duty to report a person's immigration status to the CBSA in very limited circumstances. The IRPA does not place a duty on police officers to enforce provisions or report violations of the IRPA.

Under the partial DADT policy, Toronto police should not ask victims or witnesses of crime about their immigration status except for listed "**bona fide**" reasons.

A "bona fide" reason can include the following:

1. A victim or witness who may possibly require or may seek admission into the Provincial Witness Protection Program
2. A Crown Attorney is requesting information for disclosure purposes
3. Investigations where the circumstances make it clear that it is essential to public or officer safety and security to ascertain the immigration status of a victim or witness



## Police and Violence against Women

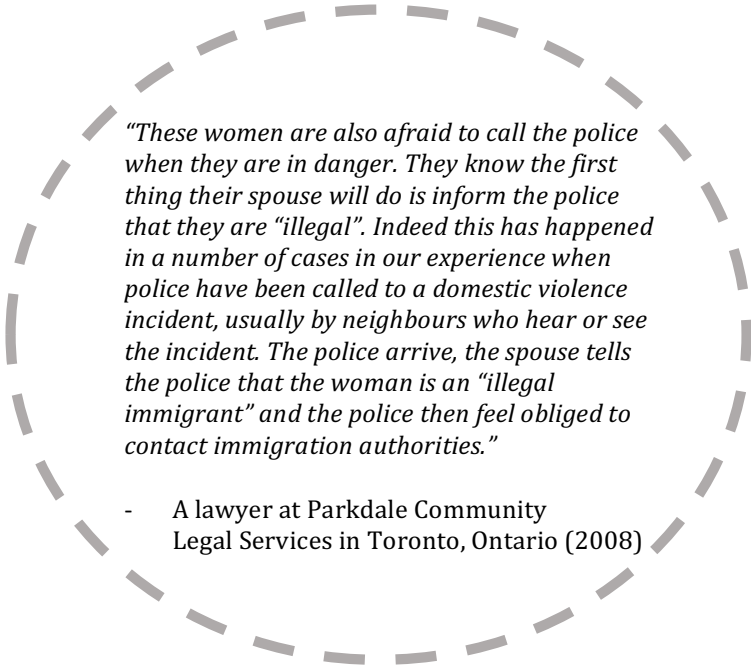
Police services should be accessible to everyone without fear of arrest, detention or deportation. This is especially true for women who are experiencing GBV. However, women with precarious immigration status who are experiencing domestic violence in their home will often stay in these situations, rather than call the police. This is namely due to fear of deportation.

### TPS in Practice

A study called "Often Asking, Always Telling," by the advocacy group No One is Illegal (NOII), made freedom of information requests to the Toronto Police Services regarding an eight-month period between November 2014 and June 2015. Toronto Police were found to be conducting frequent and numerous status checks on immigration status, in violation of the city's and the Toronto Police Service's own policy. Of the 3,278 calls made to CBSA, 72 per cent were listed for "status checks," with the rest under warrant inquiry and previously-deported-person inquiry, as well as photo and fingerprints requests. The report argues that "this shows the consistent practice of 'asking,' that is, inquiring about the immigration status on an individual even when no immigration warrant appears on the CPIC.

NOII found that police have been making thousands of calls to CBSA to check on the status of individuals they stop, even when a resident is not wanted under an immigration or criminal warrant. NOII interviewed residents who claim they were victims of crimes, or witnesses to criminal activity, but were still reported by police to CBSA. A man in the report claims he was detained for 3 months after helping the police with an investigation.

No One is Illegal, "Often Asking, Always Telling" (2015).



*"These women are also afraid to call the police when they are in danger. They know the first thing their spouse will do is inform the police that they are "illegal". Indeed this has happened in a number of cases in our experience when police have been called to a domestic violence incident, usually by neighbours who hear or see the incident. The police arrive, the spouse tells the police that the woman is an "illegal immigrant" and the police then feel obliged to contact immigration authorities."*

- A lawyer at Parkdale Community Legal Services in Toronto, Ontario (2008)



# Housing and Shelter Services

In Ontario, the disclosure of immigration status is not a pre-requisite for accessing many housing related services in Toronto. There is also no requirement at law for housing and shelter service providers to report a person's immigration status to the CBSA. The disclosure of immigration status is not a pre-requisite for accessing many housing related services in Toronto, however many clients may still be asked for this information in certain circumstances.

## Access T.O. and Toronto Shelter Standards

As per the Toronto Shelter Standards, service providers at shelters that are funded or operated by the city of Toronto may request information about a client's immigration status in order to:

- Assist them with obtaining or replacing identification
- Determine their eligibility for social assistance programs and related services
- Determine their eligibility for shelter services *only if* they have received approval from the Shelter Support and Housing Administration for this practice

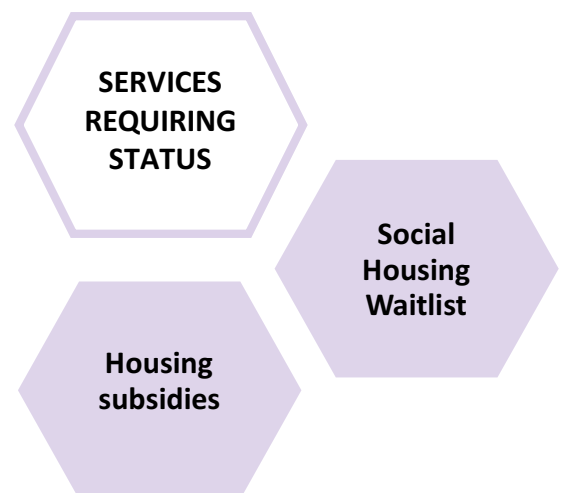
Any information gathered by a shelter service provider is to be treated as **confidential**, and should be protected to the extent that legislation allows.



**There is no legislation in place that requires a shelter provider, or any other service provider in the housing sector, to report a client's immigration status to the CBSA**

## Access T.O. and the Toronto Shelter Standards in Practice

Immigration status is generally not to be used as an eligibility requirement for accessing shelter services. However, there have been reports of clients being turned away from shelters due to their immigration status. There have also been reports of clients leaving shelters because they feared that the shelter service provider would report them to the CBSA.



# Ontario Works

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Ontario Works (OW) helps individuals who are experiencing temporary financial need. OW is used by individuals to cover expenses associated with basic needs such as food, clothing and shelter. It is oftentimes a person's only source of income, and is necessary to survive. OW is especially vital to the survival of a person living in precarity. There is no legislative requirement for an OW worker to report a claimant with precarious immigration status to the CBSA. However, a person's precarity is often used as a ground to deny their OW claim.

## OW offers two types of assistance:

- FINANCIAL ASSISTANCE: OW provides financial assistance to cover basic needs like food, clothing and shelter. OW also provides health benefits
- EMPLOYMENT ASSISTANCE: OW provides resume writing and interviewing help; job counselling and training; and access to basic education

In exceptional cases, OW offers emergency assistance to those in an emergency situation. This can include individuals who have lost their home, or are leaving an abusive relationship.

## The Ontario Works Act

OW is governed by the *Ontario Works Act*. OW is only available to a "Resident of Ontario". Section 6 of the Ontario Works Regulations disqualifies people from the program if they fall into any of the following immigration categories:

1. Those who are subject to an enforceable removal order
2. Visitors
3. Tourists

Section 6 also sets out certain exceptions to disqualification. For example, visitors are eligible for assistance if they have made a refugee claim or an application for permanent resident status. Furthermore, persons subject to an enforceable removal order are eligible for Ontario Works if they are unable to leave the country for reasons wholly beyond their control, or if they have made an H&C application. Ultimately, this means that eligibility for OW is not tied to a legal entitlement to reside in Canada permanently.

## OW and Toronto as a Sanctuary City

The purpose of the Ontario Works act is seemingly consistent with the mandate of a Sanctuary City, however inconsistency arises in the Ontario Works Directives. As per directive 3.1, in addition to being a resident of Ontario, an applicant must be a Canadian citizen or must be legally entitled to reside in Canada. Furthermore, as per the same directive, all applicants who are not Canadian born citizens must provide documentation to verify their status, rendering the mandate of a Sanctuary City irrelevant.

## Ontario Works in Practice

There have been many reported problems with accessing OW. For example, there have been reports of unreasonable request for information from claimants. This has included either documents that do not exist, or documents that claimants do not have. In light of the fact that the claimant is not able to provide this documentation, the OW application is denied.

Many individuals in different immigration circumstances have been denied OW including the following:

- Refugee claimants who have had their hearing and are awaiting a decision
- Individuals in the middle of the "pre-removal risk assessment"
- Individual awaiting an "admissibility hearing at the Immigration and Refugee Board"
- People who do not have immigration status

## Health Services

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There is no legislative requirement for a health care profession in Ontario to report a patient's immigration status to the CBSA. However, individuals with precarious immigration status are often find it difficult to access health care services due to ineligibility.

### Health Care for Individuals with no Legal Status

In Ontario, a person with no legal immigration status is ineligible for provincial health insurance. This means that they are ineligible for both the Ontario Health Insurance Plan and the Interim Federal Health Program. While there are limited community services to provide free health care, persons without status often bear the cost of their medical procedures.



## Ontario Association of Children's Aid Societies (OACAS)

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The Ontario Association of Children's Aid Societies (OACAS) promotes and enhances the welfare and well-being of children, youth and families in Ontario.<sup>34</sup> OACAS supports women with precarious immigration status by providing letters in support of Humanitarian and Compassionate applications. Letters from OACAS can serve as evidence of the contents of a woman's Humanitarian and Compassionate Application.

### How may involvement with the CAS lead to involvement with the CBSA?

The CAS may inform the police when they are dealing with a situation of abuse of a child, which can result in charges against parents.

Even where charges do not lead to a conviction, parents without immigration status may face deportation if the CBSA becomes involved.

#### What may happen to Canadian children when their mother is removed from Canada?

This section is relevant where a woman with precarious immigration status has children who are Canadian citizens. Although the best interests of children are acknowledged throughout the IRPA, this has not safeguarded mothers against deportation.

A mother in these circumstances may be faced with the following options:

1. Leave their children in the care of the Canadian state (or in the care of a trusted family member if this is an option)
2. Take their children with them to their home country, where they may face violence, poverty, or other hardships that motivated the emigration.

A mother may be precluded from taking her children with her if there is a court order that has granted sole or joint custody to another parent or individual.



## Key Recommendations

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1. The City of Toronto Ombudsman should undertake a formal investigation of the City of Toronto's application of its own Sanctuary City Policy.
2. The City of Toronto should review its governing policies to determine whether they all accord with the Sanctuary City Policy.
3. The City of Toronto should ensure thorough training of its staff, so that staff can correctly apply city policies and they are attentive to the rights and needs of non-status persons trying to access services.

# III. Gender Based Framework in the Immigration and Refugee Protection Act

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*Research Focus Area #3*

The *Immigration and Refugee Protection Act* (IRPA) is the federal statute that regulates immigration to Canada. The IRPA came into effect in 2002, replacing the *Immigration Act* that had been in force since 1978.

The only mention of gender within the IRPA itself is in s. 94, which lays out the requirements of the reports to Parliament that must be made about the operation of the IRPA. As a result of this provision, the Minister of Immigration, Refugees and Citizenship is required to provide an annual description of the “gender-based analysis of the impact” of the IRPA. While there have been attempts to incorporate a gender-based analysis into the IRPA framework, these initiatives have been limited. Below is a brief review of the gender-based analysis that can be found in the IRPA’s accompanying instruments, as well as a number of examples of the shortcomings that are relevant to women with precarious immigration status. This information is helpful to illustrate the context in which women with precarious immigration status.

## Refugee Claims

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The 1951 Convention Relating to the Status and its 1967 Protocols, both United Nations instruments, clarify the rights of refugees and the obligations of the states that are a party to these agreements.<sup>35</sup> On June 4, 1969, Canada acceded to the 1951 Convention Relating to the Status of Refugees and the 1967 Protocol.<sup>36</sup>

### Who is a “Convention Refugee”?

The definition of a Convention refugee can be found in s. 96 of the IRPA. This includes persons who are outside of their home country or the country they normally live in and who are not able to return to that country because of a well-founded fear of persecution based on at least one of the following grounds:

- Race
- Religion
- Political opinion
- Nationality
- Membership in a particular social group (e.g. women, LGBT community)

### Who is a “person in need of protection”?

The definition of a person in need of protection can be found in s. 97 of the IRPA. This includes persons who are in Canada and who cannot return to their home country because they would be subject to one of the following:

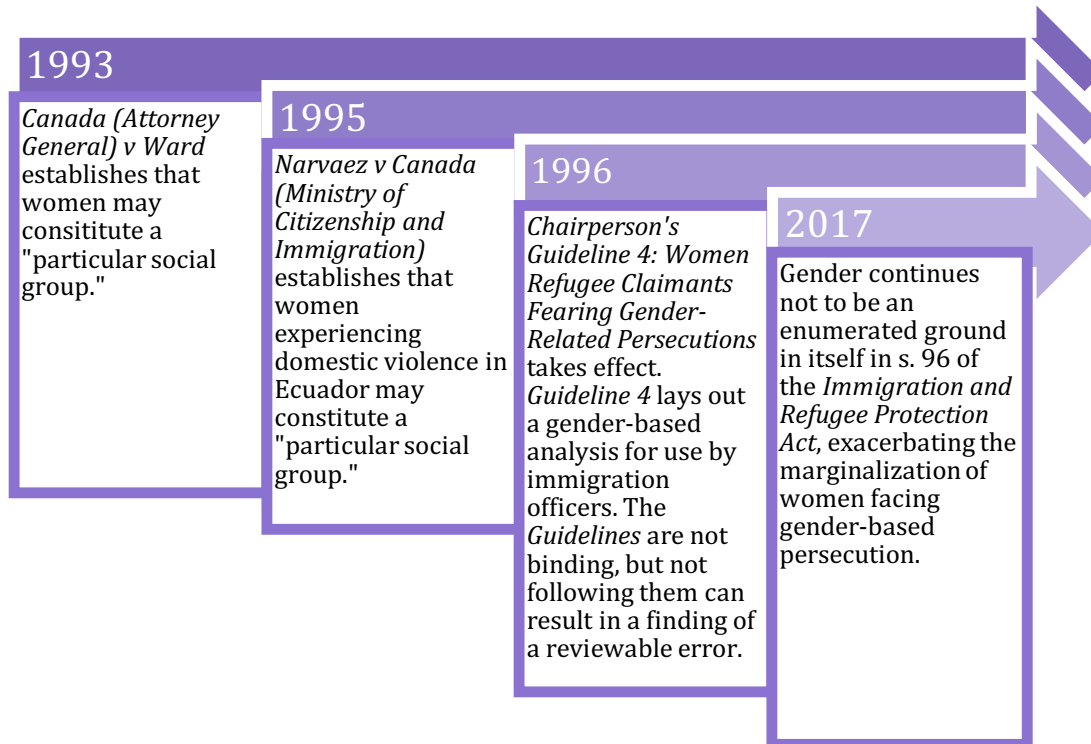
- Danger of torture
- Risk to their life
- Risk of cruel and unusual treatment or punishment

It is important to note that only a person under a removal order is not able to make a refugee claim; however, there are additional reasons why a claim may not proceed for consideration to the IRB, including if an applicant:

- Has been recognized as a Convention refugee by another country that the applicant can return to;
- Has been granted protected person status in Canada;
- Arrived in Canada via border with the United States;
- Is not admissible to Canada on security grounds, because of criminal activity or human rights violations;
- Made a previous refugee claim that was not eligible; or,
- Made a previous refugee claim that was rejected by the IRB.

# Timeline of Discussion on Gender and Refugee Claims

Gender is not an enumerated ground in S. 96 of the IRPA. As long as gender is not listed in s.96 of the IRPA, applicants facing gender-related persecution will continue to be expected to tie their claim to one of the enumerated grounds. This is problematic because the unique experience of women facing persecution are marginalized. For example, women may face persecution for their political activities, but their participation in political resistance may be in forms that are not recognized by the refugee framework in the same way as being involved in a political party. Participation in political resistance may come in the form of refusing to follow certain laws or rules of conduct.

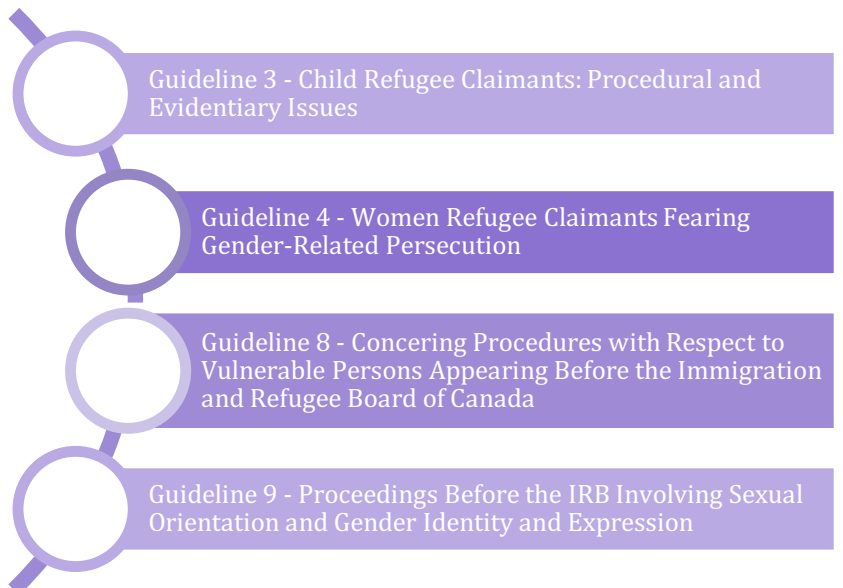


## Immigration and Refugee Board of Canada Guidelines

Although gender is not an enumerated ground within s. 96 of the IRPA, gender is not entirely absent from the IRPA framework. The Chairperson's Guidelines are intended to provide guidance for decision-makers, and decision-makers are expected to apply them, despite their non-legally binding status.

The following are the Guidelines that may be relevant to a racialized woman making a refugee claim.

Guideline 4, which directly addresses women fearing gender-related persecution, is outlined in the diagram below. While Guideline 8 also addresses women who have experienced gender-related persecution, it is not entirely clear how Guidelines 4 and 8 work together.





# A Summary of Guideline 4 – Women Refugee Claimants Fearing Gender-Related Persecution

## A. Determining the Nature and Grounds of the Persecution

- Explains how gender-based persecution can form the basis of a claim under s.96

## B. Assessing the Feared Harm

- Requires two elements:
  - (1) "a serious violation of a fundamental human right for a *Convention* ground", and
  - (2) "the risk of that violence be said to result from a failure of state protection"
- Commonality of violence against women should be "irrelevant" to the determination

## C. Evidentiary Matters

- An applicant has the opportunity to demonstrate that it was "objectively unreasonable" for her to seek state protection, taking into consideration social, cultural, religious, economic, and other relevant factors
- It is noted that there may not be evidence to speak to claims involving sexual violence committed by government authorities
- An improvement in country circumstances does not equate to a lessening of a woman's fear of gender-related persecution
- Decision-makers should consider gender-based factors hindering the ability of women to travel to and stay at an internal flight alternative

## D. Special Problems at Determination Hearings Framework of Analysis

- Women may be reluctant to testify about their experiences

## When State Assistance and Internal Flight Alternatives Do not Provide Safety for Women

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While there may be laws against the abuse a woman experienced in her home state, she may have been aware that she would not have received assistance from the police if she sought help. In smaller states and states where individuals are interconnected, a woman may be unable to find a location in which she is not vulnerable to discovery by her abuser.

**The examples described above are just a few of the situations in which women may be unable to access state assistance or internal flight alternatives in their home country before seeking protection in another state. Part C of Guideline 4 acknowledges that decision-makers should consider gender-based factors affecting women's abilities to safely access these types of options.**

# Humanitarian and Compassionate Applications

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## Who is *eligible* to apply for a Humanitarian and Compassionate Application?

An individual who is unable to meet the requirements for obtaining permanent resident status through other avenues may be able to apply for consideration on humanitarian and compassionate grounds. These applications are assessed on a case-by-case basis, and the mechanism is intended to provide protection in exceptional cases.

Applying for consideration on humanitarian and compassionate grounds does not prevent or delay removal from Canada in cases where an individual is subject to a removal order.

## Who is *ineligible* to apply for a Humanitarian and Compassionate Application?

Those ineligible to apply for a Humanitarian and Compassionate application include the following:

- An individual with a pending refugee claim
- An individual who has received a negative decision from the IRB within the last 12 months, unless they have:
  - Children under 18 who would be adversely affected if they were removed from Canada, or
  - Proof they or their dependent suffers from a life-threatening medical condition that cannot be treated in their home country
- A designated foreign national until 5 years have passed since the day:
  - They became a designated foreign national and/or
  - The IRB made a final negative decision on their refugee claim
  - They got a negative decision on a Pre-Removal Risk Assessment

## What makes for a successful H&C application under the current law?



## What may make for a more trauma informed approach to evaluating H&C?

[NOTE: THE EQUATION BELOW IS NOT REFLECTIVE OF THE LAW]



The discussion of gender in the CIC's materials on humanitarian and compassionate considerations is limited, but it includes the mention of the relevance of a child's gender in assessing the best interests of a child within the CIC's instruction guide for H&C applications.

# H&C Applications – Analyzing the Current State of the Law

## (i) Hardship

There is no definition of or test for hardship in the CIC’s policies or procedural manuals. There are, however, listed factors that may be considered. This list includes family violence. The scope of family violence considerations expressly discussed is limited to family violence that has occurred within Canada, but a woman may also be fleeing domestic violence in her country of origin.

Case law has been relied upon to determine what a woman must demonstrate to satisfy the hardship element. Given that decisions of immigration officials are not published, decisions of the Federal Court are the sole source of information on this point, and inconsistent case law has resulted in some women failing to establish hardship despite being in similar circumstances to others who have been successful.

### Recommendation:

- There have been calls for a definition of what constitutes hardship that includes experiences of domestic violence, which would provide direction to immigration officials who currently have wide discretion to make a “reasonable” decision.



## (ii) Establishment

The factors that contribute to a finding of establishment may be difficult for many women who have experienced violence to demonstrate. For example, a woman who has been isolated by her abuser may not be able to demonstrate consistent employment. She may then face the following dilemma:

- Apply for social assistance, which may signal to immigration officers that she has not been able to gain financial independence; or,
- Apply for employment, which, without a permit or visa that authorizes, may signal non-compliance with the law.

It has been found that women who have experienced violence are more likely to be financially inadmissible under s. 39 of the IRPA and, although the H&C scheme allows for an exception to financial inadmissibility, this remains a factor in some unsuccessful claims.

### Recommendation:

- Women who have been abused should be given the space to focus on their own wellbeing, rather than being expected to “establish” themselves within a community, and there should be an exemption from this requirement.



## (iii) Risk

The CIC explicitly states that they “will not assess risk factors such as persecution, risk to life, cruel and unusual treatment or punishment” when considering an application on humanitarian and compassionate grounds. Given this, women who face risk are forced to frame those experiences as hardship. For example, if a woman has come to Canada to escape domestic violence, she must focus on the hardship that she would experience due to a lack of supports in that country, rather than the risk posed by her abuser.

### Recommendation:

- Include the assessment of risk as a factor in H&C applications to enable women fleeing violence to fully explain their circumstances.

## Family Sponsorship

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Canadian citizens, permanent residents of Canada, and persons registered in Canada as an Indian under the Canadian Indian Act who are 18 years of age or older can sponsor certain relatives to come to Canada and become permanent residents. Although the government has identified a trend towards gender parity, there are more women sponsored through this avenue than men.

Up to the point at which a sponsored person has received permanent resident status, the sponsor is capable of withdrawing sponsorship. After the sponsored person has received their PR status, their sponsor is obligated to honor their commitment.

Conditional PR, which had applied to certain sponsored spouses and partners, has been abolished, and those who have been sponsored by Canadian citizens or permanent residents are no longer required to live with their sponsor for two years to avoid losing their immigration status.

Despite this improvement, sponsored women who have not yet received their Confirmation of Permanent Residence remain vulnerable to the possibility of an abusive partner withdrawing their application for sponsorship and leaving them without status. Additionally, if an abusive partner makes a complaint against a woman fleeing the relationship, it may trigger an investigation into whether there was a misrepresentation made about the relationship, which could result in a loss of PR status for the sponsored individual.

While Conditional PR was problematic, it was accompanied by an exemption mechanism that should be added to the misrepresentation scheme. Such a mechanism would provide a woman fleeing an abusive sponsor with the opportunity to voluntarily disclose her reasons for leaving and create evidence that could later protect her from any complaints made by her sponsor.

## Immigration and Economic Exploitation

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### (1) Live-In Caregiver Program

While there are a number of avenues to immigrating to Canada that fall within the economic class, this toolkit focuses on the Live-In Caregiver Program.

95% of the immigrants who obtain permanent residence through the Live-In-Caregiver program (LCP) are women.

**The “live-in” requirement:** The requirement of the Live-In-Caregiver program that caregivers actually live with their employer remains in effect, but it has been recommended that this requirement be abolished. Currently, for a caregiver to be able to live outside of the employer’s home, she would need to apply for a new Labour Market Impact Assessment and a new work permit.

**Discontinuation of the LCP:** It is no longer possible to be allowed entrance to Canada through the LCP, as the program was replaced by the “caring for children class” and “caring for people with high medical needs class” in 2014. These programs do not have a live-in requirement. Individuals who entered Canada through the LCP are still eligible to apply for PR through this avenue once they have met the work requirement.

## (2) Human Trafficking

### What does it mean to have been trafficked into Canada?

MIGRANT SMUGGLING	HUMAN TRAFFICKING
<ul style="list-style-type: none"><li>- Individual has consented to migration</li><li>- Individual's contact with smuggler ends once in Canada</li></ul>	<ul style="list-style-type: none"><li>- Threats, force, fraud, or another form of coercion have been used against the individual</li><li>- Individual is exploited for labour in Canada</li></ul>
<b>Individuals being smuggled <u>may become victims of human trafficking</u>. For example, an individual may consent to migration but become subject to some form of coercion upon arrival in Canada.</b>	

#### What can be done to assist a victim of human trafficking with their immigration status?

Victims of human trafficking may be able to obtain either:

- A short-term Temporary Resident Permit (TRP), which is valid for up to 180 days; or,
- A longer-term TRP, which requires more in-depth involvement with law enforcement officers.

A TRP is intended to allow a victim the time to testify against those involved in their trafficking and abuse. However, reports have shown that individuals who survive having been trafficked continue to face a number of obstacles pertaining to immigration status, including:

- A loss of immigration status upon loss of job if the victim has not obtained a TRP;
- A lack of support for victims of trafficking who report their experiences;
- A short-term TRP does not account for the time it takes to complete criminal proceedings; and,
- Individuals with TRP may face barriers to obtaining permanent resident status in Canada through refugee claims or an H&C application.

## Key Recommendations

1. A race and gender based analysis should be included in the interpretation of the IRPA.
2. An accelerated Humanitarian and Compassionate application should be included for women who are fleeing gender-based violence.
3. The current definition of "Hardship" should be reformulated to include an applicant's experience of gender-based violence.
4. There should be an exemption option for proving establishment for women who have experienced gender-based violence.
5. Humanitarian and Compassionate applications should include the assessment of risk to enable women fleeing violence to fully explain their circumstances



# Appendix

## (1) Summary of Immigration Applications and Social Services

Type of Immigration Application						
Type of Service/ Benefit		H&C	Spousal Sponsorship	Refugee Claim	PR Application as Protected Person	
	<b>Open Work Permit</b>	Can apply once approval in principle is received.	Can apply once application is submitted if they have valid status (as a worker, student or visitor). If they do not have status, can apply once approval in principle is received.	Can apply once claim is submitted.	Can apply once application is submitted.	
	<b>Study Permit</b>	Can apply once approval in principle is received.	Can apply once approval in principle is received.	Can apply once claim is submitted even if subject to an unenforceable removal order.	Can apply once have been recognized as a protected person. A protected person does not need to have submitted an application for PR before she can apply for a study permit.	
	<b>Ontario Disability Support Program</b>	Can apply once application is submitted. Note: A person against whom a deportation or exclusion order has become effective or who is subject to an enforceable removal order is not eligible. This does not apply if the ODSP Director is satisfied that the person has applied for PR on H&C grounds.				
	<b>Ontario Works</b>	Can apply once application is submitted. Note: A person against whom deportation or exclusion order has become effective or who is subject to an enforceable removal order is not eligible for OW. This does not apply if the OW administrator is satisfied that the person has applied for PR on H&C grounds.				
	<b>Canada Child Benefit</b>	Either the individual <b>or</b> their spouse or common-law partner must be: <ul style="list-style-type: none"> <li>- A Canadian citizen</li> <li>- A permanent resident</li> <li>- A protected person</li> <li>- A temporary resident who has lived in Canada for the previous 18 months, and who has a valid permit in the 19<sup>th</sup> month</li> <li>- An Indian within the meaning of the <i>Indian Act</i></li> </ul>				
	<b>Ontario Health Insurance Program</b>	Can apply once approval in principle is received.	Can apply once approval in principle is received.	Can apply once refugee claim is approved. While claim is pending, can apply for Interim Federal Health Program.	Can apply once refugee claim is approved.	
	<b>Subsidized Housing</b>	Varies depending on municipality. In Toronto, individuals can apply once the immigration applications addressed in this table has been submitted. Proof that an application has been submitted may be required.				
	<b>Emergency Housing</b>	Varies depending on municipality. It may be necessary to contact individual housing providers directly for accurate information.				

**(2) Know Your Rights: If your child is being denied enrolment at a TDSB/TDSCB school, these are your rights under the law...**

**Immigration and Refugees Protection Act**

The *Immigration and Refugees Protection Act* confirms every child's right to attend school regardless of their immigration status. Section 30.2 stipulates that "Every minor child in Canada, other than a child of a temporary resident not authorized to work or study, is authorized to study at the pre-school, primary or secondary level".

**Education Act**

The *Education Act* also protects your child's right to education, regardless of their immigration status. Section 21(1)(a) of the *Education Act* states that "every person who attains the age of six years on or before the first school day in September in any year shall attend an elementary or secondary school on every school day from the first school day in September in that year until the person attains the age of 18 years".

Read conjunctively with 21(1)(a), section 49.1 stipulates that "A person who is otherwise entitled to be admitted to a school and who is less than eighteen years of age shall not be refused admission because the person or the person's parent or guardian is unlawfully in Canada".

**Memorandum No.136**

To affirm the abovementioned sections of the *Education Act*, in 2004, the City of Toronto further passed Policy/Program Memorandum No.136 which exists solely to ensure correct application of the provisions of the *Education Act*.

Memorandum No.136 clarifies that section 49.1 was added to the *Education Act* in 1993 in order to ensure that minor children are not denied an education because of their, or their parents', immigration status. This Memorandum makes it clear that where the child would otherwise be admitted to a school, the fact that the child or the child's parents are unlawfully in Canada should not be a barrier to the child's admission.

This means that the TDSB cannot refuse admission to your child because of an inability to produce any of the following:

- Proof of immigration status or application for legal immigration status;
- A work permit or social insurance number;
- Health documentation that is different from that required of all other children;
- Other documentation not required of other children seeking admission to school.

**Policy P.061 SCH Students Without Legal Immigration Status**

In May 2007, the Toronto District School Board adopted Policy P.061 SCH Students Without Legal Immigration Status with the objective of establishing the Board's commitment to providing a "safe and welcoming environment for its students regardless of immigration status".

Provision 4.6 of this Policy explicitly states that "Schools will be instructed not to provide information about a student or his/her family to Immigration authorities, but rather to refer such requests to the Director of Education. Furthermore, the Director shall inform Immigration enforcement agents of the TDSB policy that opposes access to students while in school."

**Citizenship and Immigration Canada**

It is also important to note that Citizenship and Immigration Canada (CIC) has confirmed that there is no federal legal requirement to refer families without immigration status or documentation to a local CIC office to obtain any document before a child can be admitted to a school.

## Glossary of Terms

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**ACCESS T.O.:** The policy through which the City of Toronto has committed to the provision of certain services, regardless of the immigration status of the individual seeking assistance.

**APPROVAL IN PRINCIPLE:** This first-stage approval is granted when an individual submits an application for permanent residency and is deemed to be eligible. Permanent resident status is not yet granted at this stage.

**CONVENTION REFUGEE:** An individual who has received refugee status under s. 96 of the IRPA.

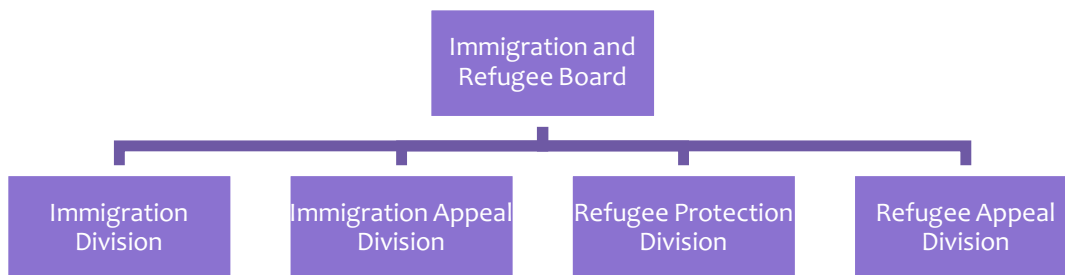
**ENFORCEABLE REMOVAL ORDER:** See “removal order”

**GENDER-BASED VIOLENCE:** Includes domestic violence, sexual violence, and human trafficking. For more information, and for definitions of these terms, please see page 7.

**HUMANITARIAN & COMPASSIONATE APPLICATION:** People who would not normally be eligible to become permanent residents of Canada may be able to apply on humanitarian and compassionate grounds. Humanitarian and compassionate grounds apply to people with exceptional cases.

**IMMIGRATION AND REFUGEE PROTECTION ACT:** The federal legislation dealing with immigration and refugee matters.

**IMMIGRATION AND REFUGEE BOARD:** This tribunal is responsible for making decisions on immigration and refugee matters. The diagram below depicts the various branches of the IRB.



**IMMIGRATION STATUS:** An individual with legal status is authorized to enter and remain in Canada. Immigration status includes temporary resident status, permanent resident status, citizenship, and status as a Registered Indian under the Indian Act.

**INTERSECTIONALITY:** An intersectional approach recognizes that a woman’s experience is informed by components of her social identify beyond her gender, which may include her immigration status and her race.

**LANDING:** The landing date of a person is the date on which they received permanent resident status, not the date on which they physically arrived in Canada.

**LEGAL SERVICES:** In the context of this toolkit, legal services include law enforcement, the administration of social services and benefit programs, and others.

**OPEN WORK PERMIT:** An open work permit is not job-specific and does not limit its holder to work within a particular field.

**PERMANENT RESIDENT:** A person who has been issued a permanent resident card but is not yet eligible to become or has not yet become a citizen.

**PRECARIOUS IMMIGRATION STATUS:** Individuals with precarious immigration status include those who do not have legal immigration status in Canada, as well as those with some form of temporary status. For more information, see page...

**PROTECTED PERSON:** A person who has been granted refugee status, including both Convention Refugees, under s. 96 of the IRPA, and persons in need of protection, under s. 97 of the IRPA.

**REFUGEE CLAIMANT:** A person who has applied to remain in Canada as a Convention Refugee under s. 96 of the IRPA or as a protected person under s. 97 of the IRPA, but who has not yet received a decision from the Immigration and Refugee Board.

**REMOVAL ORDER:** There are three types of removal orders: departure orders (form number IMM 5238), exclusion orders (form number IMM 1214B), and deportation orders (IMM 5238B). A Direction to Leave Canada (form number IMM 1217B) is not a removal order. A removal order may become enforceable immediately or upon a negative decision if an appeal has been made.

**SPONSOR:** A person who promises to sponsor a relative or family member who wants to become a permanent resident in Canada.

**SPONSORSHIP AGREEMENT:** The agreement between a sponsor and the sponsored person, which includes the obligations and commitments of both.

**SPONSORSHIP BREAKDOWN:** When a sponsor is no longer willing or able to provide for the needs of the sponsored person.

**STUDY PERMIT:** A study permit enables individuals to study in Canada whose immigration status would not otherwise permit this.

**TEMPORARY RESIDENT:** A person who is not a citizen and is in Canada with some form of temporary status, including tourists, students, and temporary foreign workers.

# Legal Resources for Women

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## Community Resources

**The 519:** A community Centre with a great deal of experience in the LGBTQIIA space, which hosts a legal clinic every Thursday, as well as a group called Among Friends

Contact: 416-392-6874  
Address: 519 Church St, Toronto, ON

**FCJ Refugee Centre:** The FCJ Refugee Centre serves refugees and others at risk due to their immigration status, and welcomes anyone asking for advice, counsel and support regarding these issues.

Contact: 416-469-9754  
Address: 208 Oakwood Ave, Toronto, ON

**Nisa Homes:** A shelter and new start service for any woman, but with a focus on Muslim-identified women leaving violent relationships.

Contact: 1 888 456 8043, ext. 810 for the home  
Address: Locations in Mississauga and Windsor

**Riverdale Immigrant Women's Centre:** RIWC is a multilingual agency with experience in delivering settlement, language training, anti-violence and employment services for marginalised women and their families in the Toronto area.

Contact: 416 465-6021  
Address: 1326 Gerrard St. East, Toronto, ON

**Sherbourne Health Centre:** Community health centre with many good resources for trans people. Save our Youth Program – excellent program for non-status youth.

Contact: 416 465-6021  
Address: 333 Sherbourne Street, Toronto, ON

**Sistering:** Sistering provides support for “women in extraordinary circumstances” and has a “Migrant Mothers” program

Contact: 416 926-9762  
Address: 962 Bloor St W, Toronto, ON

**West Neighbourhood House:** Community support network with many programs of varying kinds, including a monthly immigration law clinic.

Contact: 416-532-4828  
Address: Visit <http://www.westnh.org/> to view Toronto locations



## Community Legal Resources

<b>Barbra Schlifer Commemorative Clinic</b>	489 College Street, Suite 503  416-323-9149	A community legal clinic with explicit focus on legal, housing and counselling support for women experiencing sexual violence or leaving violent relationships.	Monday to Friday: 9am - 5pm
<b>Community Legal &amp; Legal Aid Support Program</b>	4700 Keele Street,  416 - 736-5029	A community legal clinic with experience in a range of areas.	Monday: 9:30am – 5:30pm Tuesday: 9:30am – 5:30pm Wednesday: 9:30am – 12:30pm Thursday: 9:30am – 5:30pm Friday: 9:30am – 12:30pm
<b>East Toronto Community Legal Services</b>	1320 Gerrard Street East  416-461-8102	A community legal clinic with experience in a range of areas.	Monday: 9:30am to 12:30pm and 1:30pm to 4:00pm. Tuesday: 9:30am to 12:30pm and 1:00pm to 5:00pm Chinese Clinic /Advice (translation provided) Wednesday: 9:30am to 12:30pm, R 9:30 am to 12:30 pm, 1:30 pm to 4:00 pm F 9:30 am to 12:30 pm, 1:30 pm to 4:00 pm
<b>HIV/AIDS Legal Clinic Ontario</b>	<b>Phone: 416-340-7790 or toll-free in Ontario 1-888-705-8889</b> <b>55 University Avenue, Suite 1400 Toronto, Ontario, Canada M5J 2H7</b>	Specializes in providing legal support for people living with HIV/AIDS in Ontario	Monday: 9 a.m. to 5 p.m Tuesday: 9 a.m. to 5 p.m Thursday: 9 a.m. to 5 p.m Friday: 9 a.m. to 5 p.m
<b>Legal Clinics in Peel</b>	<b>Mississauga Community Legal Services</b> Suite 504 - 130 Dundas Street East Mississauga, Ontario L5A 3V8 Telephone: (905) 896-2050 TTY Equipped	A community legal clinic with experience in a range of areas – serves Mississauga.	Monday: 9:30am. to 5 pm Tuesday: 9:30am to 5 pm Wednesday: 9:30am. to 5 pm Thursday: 1pm to 5pm Friday: 9:30am to 5pm  Closed daily from 12:30 pm to 1 pm
<b>Legal Clinics in Peel</b>	<b>North Peel &amp; Dufferin Community Legal Services</b> Suite 601 - 24 Queen Street East Brampton, Ontario L6V 1A3 Telephone: (905) 455-0160 Toll Free: 1(866)455-0160	A community legal clinic with experience in a range of areas – serves Brampton.	Mon to Friday: 9:00 am to 4:30 pm
<b>Law Society of Upper Canada Referral Service</b>	905-455-0160	Free Referral to a lawyer in your area	
<b>Legal Aid Ontario</b>		Official legal support from the Ministry of the Attorney General. Women leaving violent relationships qualify for a	

	416-979-1446	two-hour legal consultation, but services beyond that vary	
<b>Parkdale Community Legal Services</b>	1266 Queen Street West 416-531-2411	A Community Legal clinic with many years' experience in immigration, labour and related areas.	Monday 2-6 PM Tuesday 2-6 PM Thursday 2-6 PM Friday 10-1 and 2-5 PM
<b>South Asian Legal Clinic of Ontario (SALCO)</b>	45 Sheppard Ave E Suite #106a North York, ON  416-487-6371	A not-for-profit legal aid clinic that provides access to justice for low-income South Asians in the Greater Toronto area	Monday to Friday: 9 am-5pm
<b>Chinese &amp; Southeast Asian Legal Clinic (CSALC)</b>	180 Dundas St W, Suite 1701 Toronto, ON  416-971-9674	A community based legal clinic providing free legal services to low income, non-English speaking residents from Chinese, Vietnamese, Laotian and Cambodian communities	Wednesday: 1pm – 4pm (Walk-in)
<b>CSSP Community Legal Clinic</b>	2141 Jane St, 2 <sup>nd</sup> Floor Toronto, ON  416-533-9792	A community based legal clinic providing legal services for Spanish-speaking persons	Monday: 1pm – 4pm (intake) Tuesday: 1pm – 4pm (intake) Wednesday: 9:30am – 12:30 pm (by appointment only)

## Scholarly Resources

- Efrat Arbel, "The Culture of Rights Protection in Canadian Refugee Law: Examining the Domestic Violence Cases" (2013) 58:3 McGill LJ 729  
[http://lawjournal.mcgill.ca/userfiles/other/42122-Article\\_5\\_Arbel.pdf](http://lawjournal.mcgill.ca/userfiles/other/42122-Article_5_Arbel.pdf)
- Rupaleem Bhuyan et al, *Unprotected, Unrecognized: Canadian Immigration Policy and Violence Against Women, 2008-2013* (University of Toronto, 14 November 2014), online:  
<http://www.migrantmothersproject.com/report/>
- Canadian Council for Refugees, "Conditional Permanent Residence: Failure in Policy and Practice" (2015), online: <http://ccrweb.ca/sites/ccrweb.ca/files/cpr-report-2015.pdf>
- Clare Cannon, Katie Lauve-Moon and Fred Buttell, "Re-Theorizing Intimate Partner Violence through Post-Structural Feminism, Queer Theory, and the Sociology of Gender" (2015) 4 Soc Sci 668, online:  
[www.mdpi.com/2076-0760/4/3/668/pdf](http://www.mdpi.com/2076-0760/4/3/668/pdf)
- Kimberle Williams Crenshaw, "Mapping the Margins: Intersectionality, Identity Politics, and Violence Against Women of Colour" (1991) 43 Stanford Law Review 1241, online:  
[http://socialdifference.columbia.edu/files/socialdiff/projects/Article\\_Mapping\\_the\\_Margins\\_by\\_Kimblere\\_Crenshaw.pdf](http://socialdifference.columbia.edu/files/socialdiff/projects/Article_Mapping_the_Margins_by_Kimblere_Crenshaw.pdf)
- Angela Davis, "The Color of Violence Against Women" (2000), online:  
[http://colorlines.com/archives/2000/10/the\\_color\\_of\\_violence\\_against\\_women.html](http://colorlines.com/archives/2000/10/the_color_of_violence_against_women.html)
- Migrant Mothers Project, Spousal Sponsorship and Conditional Permanent Residence Policy Brief, January 14, 2016, online: <http://www.migrantmothersproject.com/wp-content/uploads/2015/12/MMP-Conditional-PR-Policy-Brief-Jan-14-2016.pdf>
- Heather Neufeld, "Inadequacies of the Humanitarian and Compassionate Procedure for Abused Immigrant Spouses" (2009) 22 Journal of Law and Social Policy 177, online:  
<http://digitalcommons.osgoode.yorku.ca/cgi/viewcontent.cgi?article=1006&context=jlsp>
- Deborah M Weissman, "Law, Social Movements, and the Political Economy of Domestic Violence" (2013) 20 Duke J Gender L & Pol'y 221, read pages 233 (section A) to 242, online:  
<http://scholarship.law.duke.edu/djglp/vol20/iss2/1/>

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- <sup>1</sup> This toolkit was completed on November 10, 2017.
- <sup>2</sup> Melanie Randall and Lori Haskell, Trauma-Informed Approaches to Law: Why Restorative Justice Must understand Trauma and Psychological Coping, *Dalhousie Law Journal*, page 505.
- <sup>3</sup> National Online Resource Center on Violence Against Women, “Trauma-Informed Domestic Violence Services: Understanding the Framework and Approach,” online: <https://vawnet.org/sc/definitions>
- <sup>4</sup> National Online Resource Center on Violence Against Women, “Trauma-Informed Domestic Violence Services: Understanding the Framework and Approach,” online: <https://vawnet.org/sc/definitions>
- <sup>5</sup> Melanie Randall and Lori Haskell, Trauma-Informed Approaches to Law: Why Restorative Justice Must understand Trauma and Psychological Coping, *Dalhousie Law Journal*, page 507.
- <sup>6</sup> National Online Resource Center on Violence Against Women, “Trauma-Informed Domestic Violence Services: Understanding the Framework and Approach,” online: <https://vawnet.org/sc/definitions>.
- <sup>7</sup> National Online Resource Center on Violence Against Women, “Trauma-Informed Domestic Violence Services: Understanding the Framework and Approach,” online: <https://vawnet.org/sc/definitions>.
- <sup>8</sup> L. Goldring, C. Berinstein and J. Bernhard (2009) “Institutionalizing Precarious Immigration Status in Canada.” *Citizenship Studies* 13(3): 239-265.
- <sup>9</sup> Status of Women Canada, “What is Gender-based Violence”, online: <http://www.swc-cfc.gc.ca/violence/strategy-strategie/fs-fi-1-en.html>
- <sup>10</sup> Canadian Women’s Foundation, “Fact Sheet” online: <http://www.canadianwomen.org/sites/canadianwomen.org/files//FactSheet-VAWandDV%20August%202017%20edit.pdf>
- <sup>11</sup> <http://www.canadianwomen.org/sites/canadianwomen.org/files//FactSheet-VAWandDV%20August%202017%20edit.pdf>
- <sup>12</sup> Kimberle Williams Crenshaw, “Mapping the Margins: Intersectionality, Identity Politics, and Violence Against Women of Colour” (1991) 43 *Stanford Law Review* 1241, online: [http://socialdifference.columbia.edu/files/socialdiff/projects/Article\\_\\_Mapping\\_the\\_Margins\\_by\\_Kimberle\\_Crenshaw.pdf](http://socialdifference.columbia.edu/files/socialdiff/projects/Article__Mapping_the_Margins_by_Kimberle_Crenshaw.pdf)
- <sup>13</sup> Immigration, Refugees and Citizenship Canada, “Temporary Foreign Worker Program: Applicants in Canada” (modified September 16, 2014) online: <<http://www.cic.gc.ca/english/resources/tools/temp/work/pr.asp>.
- <sup>14</sup> Immigration, Refugees and Citizenship Canada, “Study permits: Making an application” (modified: July 13, 2016) online: <http://www.cic.gc.ca/english/resources/tools/temp/students/application.asp>.
- <sup>15</sup> O Reg 222/98, s 8.
- <sup>16</sup> O Reg 134/98, s 6.
- <sup>17</sup> Government of Canada, “Canada child benefit – Before you apply” (modified June 28, 2016) online: <<https://www.canada.ca/en/revenue-agency/services/child-family-benefits/canada-child-benefit-overview/canada-child-benefit-before-you-apply.html>>.
- <sup>18</sup> Government of Ontario, “Apply for OHIP and get a health card” (updated: July 7, 2017) online: <<https://www.ontario.ca/page/apply-ohip-and-get-health-card#section-2>>; Immigration and Citizenship, “Interim Federal Health Program: Summary of Coverage” (modified July 7, 2017) online: <http://www.cic.gc.ca/english/refugees/outside/summary-ifhp.asp>.
- <sup>19</sup> Housing Connections, “Acceptable I.D.” (updated: May 2015) online: <<https://www.housingconnections.ca/PDF/ListofAcceptableID.pdf>>.
- <sup>20</sup> Immigration, Refugees and Citizenship Canada, “International Mobility Program: Open work permit” (modified: December 17, 2015) online: <http://www.cic.gc.ca/english/resources/tools/temp/work/admissibility/open.asp>; Immigration, Refugees and Citizenship Canada, “Notice - Work permit pilot extended for spouses and common-law partners applying for permanent residence from within Canada” (modified: December 7, 2016) online: <http://www.cic.gc.ca/english/department/media/notices/2016-12-07.asp>.
- <sup>21</sup> *Immigration and Refugee Protection Regulations*, SOR/2002-227, s 215(1)(g); *Immigration and Refugee Protection Regulations*, SOR/2002-227, s 124.

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<sup>22</sup> O Reg 222/98, s 8.

<sup>23</sup> O Reg 134/98, s 6.

<sup>24</sup> Government of Canada, “Canada child benefit – Before you apply” (modified June 28, 2016) online: <<https://www.canada.ca/en/revenue-agency/services/child-family-benefits/canada-child-benefit-overview/canada-child-benefit-before-you-apply.html>>.

<sup>25</sup> Government of Ontario, “Apply for OHIP and get a health card” (updated: July 7, 2017) online: <<https://www.ontario.ca/page/apply-ohip-and-get-health-card#section-2>>; Immigration and Citizenship, “Interim Federal Health Program: Summary of Coverage” (modified July 7, 2017) online: <http://www.cic.gc.ca/english/refugees/outside/summary-ifhp.asp>.

<sup>26</sup> Housing Connections, “Acceptable I.D.” (updated: May 2015) online: <<https://www.housingconnections.ca/PDF/ListofAcceptableID.pdf>>.

<sup>27</sup> Immigration, Refugees and Citizenship Canada, “International Mobility Program: Applicants with no other means of support [R206]” (modified: January 6, 2015) online: <http://www.cic.gc.ca/english/resources/tools/temp/work/support.asp>.

<sup>28</sup> Immigration, Refugees and Citizenship Canada, “Study permits: Making an application” (modified: July 13, 2016) online: <http://www.cic.gc.ca/english/resources/tools/temp/students/application.asp>.

<sup>29</sup> O Reg 222/98, s 8.

<sup>30</sup> O Reg 134/98, s 6.

<sup>31</sup> Government of Canada, “Canada child benefit – Before you apply” (modified June 28, 2016) online: <<https://www.canada.ca/en/revenue-agency/services/child-family-benefits/canada-child-benefit-overview/canada-child-benefit-before-you-apply.html>>.

<sup>32</sup> Government of Ontario, “Apply for OHIP and get a health card” (updated: July 7, 2017) Online: <<https://www.ontario.ca/page/apply-ohip-and-get-health-card#section-2>>; Immigration and Citizenship, “Interim Federal Health Program: Summary of Coverage” (modified July 7, 2017) online: <http://www.cic.gc.ca/english/refugees/outside/summary-ifhp.asp>.

<sup>33</sup> Housing Connections, “Acceptable I.D.” (updated: May 2015) online: <<https://www.housingconnections.ca/PDF/ListofAcceptableID.pdf>>.

<sup>35</sup> UNHCR, “The 1951 Convention Relating to the Status of Refugees and its 1967 Protocol, online: <http://www.unhcr.org/about-us/background/4ec262df9/1951-convention-relating-status-refugees-its-1967-protocol.html>

<sup>36</sup> Canadian Council for Refugees, “40<sup>th</sup> anniversary of Canada’s signing of the Refugee Convention”, online: <http://ccrweb.ca/sites/ccrweb.ca/files/static-files/canadarefugeeshistory4.htm>