



UNDERSERVED COMMUNITIES RESEARCH

WOMEN AND PEOPLE FLEEING GENDER RELATED PERSECUTION

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Introduction

The purpose of this tool-kit is to identify the impacts and relevance of the recent refugee system changes to women and people fleeing gender related persecution. This tool-kit addresses problems that are expected to result from the changes and problems that have already been identified with the recent changes. The research below is based on community research initiatives and tangible data collected at FCJ Refugee Centre.

Please note that this tool-kit **does not** aim to explain all the recent changes to the refugee system.

Changes that impact Most Women and People Fleeing Gender Related Persecution

- **New Timelines:**

The new expedited timelines affect women and people fleeing gender related persecution because it gives claimants less time to prepare for their hearing. Those fleeing gender related persecution often survive traumatic experiences; however, they may still not be psychologically ready to share and speak about their experiences.¹ This difficulty is often found among those who have experienced sexual violence.² Now that claimants fleeing gender related persecution have a shorter amount of time to recollect and share specific details of their traumatic experiences in their refugee claim documents (e.g. Basis of Claim form) there may be more inconsistencies and omissions of relevant information revealed at the hearing as the claimant may not have had the time to psychosocially prepare to testify to discuss her traumatic past. These inconsistencies and/or omissions make claimants vulnerable to receive a negative decision on the basis of lack of credibility.

Further, the expedited timelines pose barriers to attaining legal representation as the shorter timelines give claimants less time to seek legal aid and find a competent lawyer. This complicates refugee claims because without the aid of a lawyer the claimant is left to negotiate the new system (deadlines, evidence collection) and any of her own personal responsibilities, like childcare. This is problematic as it may take work and time to acquire relevant supporting evidence because evidence of torture or “documentation of human rights abuses against women is not always readily available.”³ For instance, a woman who is fleeing gender related persecution must gather police records, medical records, and documents to prove a relationship with the abuser. These documents may be difficult to attain in the short timelines and they also need to be translated and certified.

¹ <http://ccrweb.ca/en/key-issues-women-and-girls-2013>

² *ibid*

³ *ibid*, <http://ccrweb.ca/files/c31formps.pdf>

Without the aid of a lawyer, most women and individuals fleeing gender related violence will have to collect information and navigate the system on their own. Additionally, those who get a lawyer may have extremely limited access to counsel resulting in similar difficulties.

- **Inability to reopen cases**

The new changes are problematic for women fleeing gender persecution as the new changes mandate that claimants cannot reopen their claims. This is a problem for women whose “refugee claim is tied to her abusive partner.”⁴ If a woman decides to leave her partner to escape gender related persecution in her own home she will not have the opportunity to have her story and personal case considered. The inability to reopen cases limits the options a woman who makes a claim with an abusive partner has, which perpetuates gender related violence as a woman may not feel that she can leave an abusive partner.

- **Change from Personal Information Form (PIF) to Basis of Claim Form (BOC)**

The BOC question format does not allow a person to narrate the gender related persecution he/she has experienced. For most persons who have experienced gender related violence the abuse may have been prolonged and remembering certain details in order to answer the questions on the BOC may be a difficult task. The PIF narrative format allowed claimants to share their experience without constraining their answers, whereas the BOC provides limited space for their stories (although if more space is needed they are allowed to use additional paper). One of the main drawbacks is that the form must be completed in either French or English. Likewise, those who make a refugee claim at the port of entry must submit the BOC no later than 15 days following their referral to the IRB⁵. However, a claimant will not be rejected based on their BOC, as the main purpose of the form is the gathering of information.⁶

- **Hearing format**

Following the completion of the BOC, a claimant must attend the hearing where he/she will be asked questions by the adjudicator (these will be about the BOC and any statements made at the port of entry of CIC office). The role of the adjudicator is to compare evidence and find inconsistencies in the claimant’s story; therefore it is important that the claimant complete BOC in as truthful a manner as possible as it is evidence during the hearing. The adjudicator may either accept or reject the claim, at the hearing itself, or after the hearing by letter.

⁴ <http://www.metrac.org/about/press.room/downloads/press.release.bill.c31.10may12.pdf>

⁵ <http://www.cic.gc.ca/english/refugees/reform-irb.asp>

⁶ <http://www.cic.gc.ca/english/department/media/notices/ref-reform-faq.asp#rejected>

- **Refugee Appeal Division Format (RAD)**

The RAD is a new division within the Immigration and Refugee Board. Governor in council appointees decide appeals at RAD, primarily a paper-based process⁷. While it can provide an opportunity for most failed claimants to appeal a negative Refugee Protection Division (RPD) decision, the RAD will mainly be a venue for the Minister to appeal successful RPD decisions⁸. No appeals to RAD may be made by Designated Country of Origin (DCO), Designated Foreign Nationals (DFN), Pre-Removal Risk Assessment (PRRA) applicants or Safe Third Country exceptions (coming from the United States). Those who do not fall under these categories can further appeal a decision of RAD to the Federal Court. The IRB has put together an instruction kit on how to approach the appeal process.⁹

- **Conditional Permanent Residence**

A claimant granted conditional permanent residence must live with his/her sponsor for 2 years from the date of receiving permanent residence, in a legitimate relation.¹⁰ A claimant having been granted conditional permanent residence enjoys all the rights and privileges of a permanent resident. However, victims of abuse or neglect (whether physical, sexual, psychological or financial) do not have to remain in the abusive relationship; they are entitled to request an exception by calling CIC, and help is available by phone, in person, or online. While this exception is made for victims of abuse, many may still be fearful of leaving their relationship. Abuse must be proven or confirmed by a third party to be exempted.

⁷ <http://www.irb-cisr.gc.ca/Eng/RefApp/Pages/RadSarC31Impact.aspx>

⁸ Ibid

⁹ <http://www.irb-cisr.gc.ca/Eng/RefApp/Pages/RefAppKitTro.aspx>

¹⁰ <http://www.cic.gc.ca/english/resources/publications/family-sponsorship.asp>



Sources:

[http://www.onefamilylaw.ca/doc/The-New-Basis-of-Claim-Form-\(BOC\)-for%20Refugee-Claims.pdf](http://www.onefamilylaw.ca/doc/The-New-Basis-of-Claim-Form-(BOC)-for%20Refugee-Claims.pdf)

<http://www.irb-cisr.gc.ca/Eng/RefApp/Pages/RadSarC31Impact.aspx>

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