

# **FCJ Refugee Centre**

## **HUMANITARIAN AND COMPASSIONATE APPLICATION**

Presented by :

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# DISCLAIMER



The presentation does not contain legal advice and should not be construed as such. It contains publically available information and it meant for informational purposes only.

# What is It?

People who would not normally be eligible to become permanent residents of Canada may be able to apply on humanitarian and compassionate grounds.

# What is It?

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- Application for Permanent Residence
- When it is justified by humanitarian and compassionate considerations relating to the foreign national, taking into account the best interests of a child directly effected
- H&C does not stop removal procedures

# What is It?

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- H&C does not guarantee a work permit or the renewal of a work permit
- H&C does not provide the applicant with any status in Canada
- H&C does not stop removal procedures

# Ineligible

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- A refugee claim that is pending before the RPD

# 12 Months bar

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1. if a person has filed a refugee claim with the RPD that was : **Rejected - Abandoned - Withdrawn**
2. **The latest decision** in any process in cases where there **has been:**

A Rejected Decision on your Refugee Claim (RPD)

An appeal to the Refugee Appeal Division (RAD)

An application for leave and judicial review submitted to the Federal Court

# Requesting and exception of the 12 months bar

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Best Interest of the child

Medical condition that would result in a risk to life if you are returned to your home country



# Who is included

Principal Applicant + Spouse + Dependent Children in Canada

If there are adult children or other adults in the family (e.g. a grandparent) they need to complete a separate application that can reference the other application and utilize the same information.

If a unaccompanied/separated minor apply is considered Principal Applicant... in this case we always apply for Legal Aid.

# BUT REALLY...

- It's all about HARDSHIP
- It would cause the applicant(s) hardship to leave Canada after they established themselves here.
- It would cause the applicant(s) hardship to return to a country where they are no longer established.
- It would cause Canadians hardship if the applicant(s) were to leave Canada.
- Hardships the child(ren) would face if the applicant(s) have to leave Canada

# Background Facts

- Who is included in the application?
- How old are they?
- Where are they from?
- Why did they come to Canada?
- Why did they stay in Canada?
- What is their status in Canada?
- Sources: Statement from applicant(s), RPD decision (careful)

# Establishment

## Property and Assets in Canada

- Bank accounts in Canada, Property ownership (car, home, investments etc), life insurance.
- Supporting documents: bank statements, ownership papers, policy papers

## Residence

- Explain why they are in Canada esp. if favourable (i.e. beyond applicants' control)
- Where are they living? are they good tenants?
- Supporting documents: rent receipts, letter of support from landlord

# Establishment

## Work

- It is very important not be receiving OW
- Include information about employment
- Be careful about working without a permit... but sometimes there is not another choice.
- If not authorized to work in Canada, would someone be willing to hire them if they had authorization?

# Establishment

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- Do they pay taxes?
- Supporting Documents:
  - pay stubs;
  - tax return
  - Articles of incorporation
  - Financial papers
  - letters of support from: bosses, supervisors, and co-workers, potential employers, clients, etc.

# Establishment

## Family Connection

- Include information about family of applicants who have permanent status in Canada
- Supporting Documents: letters of support from family, proof of status, proof of relationship.

## Education

- Include information of education/improvement in Canada – ESL, Training, School etc.
- Supporting Documents: certificates, attendance sheets, letters of support from teachers/classmates.

# Establishment

## Community

- Religious community, Volunteering, Friendships, Helping, Community Events
- Supporting Documents: letters of support from religious community leaders, parishioners, volunteer organizers, other volunteers, friends, people you've helped, certificates, photographs



# Letters of Support

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Should contain specific information, how do they know each other? What do they do together? How would life be worse without the applicants?

General information is not helpful– not up for the letter writer to decide that “they would make a great Canadian.”

# Letters of Support

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1 letter saying that the applicant is 'kind and generous' is as good as 10 letters.

Information about country conditions is not helpful, but specific information is helpful. (e.g. "The political situation in Xanadu is really bad right now" vs. "They have no family in Xanadu")

# Letters of Support

Official letters should look official – e.g. letterhead

Letter in other languages are fine if translated.

When letters look the same, could have an adverse consequence.

When a letter looks copy-pasted, could have an adverse consequence.

Quote the letters in the submission.

# HARDSHIP

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- Discrimination (not persecution, risks to life, or torture).
- Health
- Education
- Work
- Poverty

# Hardship

## Discrimination

- Are the applicants members of a group that are discriminated against in the country of return? If so, include information
- Supporting Documents: country condition documents, evidence of past discrimination

# Hardship

## Health

- Include evidence that there is inadequate healthcare in the country of return and information about any health conditions that will not be adequately treated in the country of return
- Supporting Documents: Medical documents, documents showing receiving treatment in Canada, Letters from health care professionals, documents showing that condition is not treated in country of return, country condition documents

# Hardship

## Poverty

- Include information that applicant(s) will be in poverty if they leave Canada
- Receiving ODSP vs. Returning to a country that does not support the disabled
- Supporting documents: country condition documents, statement from applicant(s)

# Hardship

## Lack of Establishment in Country of Return

- Include if they do not understand official language of the country
- Include if they lack establishment
- Be wary of including evidence of establishment in country of return



# Best Interest of the Child(ren)

- Children applicants;
- Canadian children of the applicants;
- Canadian children related to the applicants;
- Children outside of Canada supported by the applicants
- Canadian children who depend on the applicant
- ANY CHILDREN THAT WILL BE IMPACTED

# Best Interest of the Child(ren)

## Supporting documents

- Show relationship: birth certificate
- Letters from children, including friends – in the child's words
- Drawing and photographs
- Letters from adults about the children
- Medical records
- Letters from health care professionals
- Money transfers
- Letters from teachers, report cards

# Country Condition Documents

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- National Documentation Packages – Publications from NGOs
- Journal Articles (peer reviewed)
- Newspaper articles

# RESOURCES

## HUMANITARIAN AND COMPASSIONATE APPLICATION DOCUMENT GATHERING GUIDE

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### Supporting documents

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- [ENGLISH VERSION](#)
- [SPANISH VERSION](#)
- [PORTUGUESE VERSION](#)

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# THANK YOU

