



FCJ Refugee Centre

Walking With Uprooted People



Capacity Development Training

Pre-Removal Risk Assessment

Presented By: Josh Eisen

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This Presentation is thanks to



LAND ACKNOWLEDGEMENT

- The land we are standing today is the traditional territory of many nations including the Mississaugas of the Credit, the Anishnabeg, the Chippewa, the Haudenosaunee and the Wendat peoples and is now home to many diverse First Nations, Inuit and Métis peoples. We also acknowledge that Toronto is covered by Treaty 13 signed with the Mississaugas of the Credit, and the Williams Treaties signed with multiple Mississaugas and Chippewa bands

Service and Resources



SETTLEMENT & INTEGRATION

- Shelter for women & children
- Refugee Housing Hub
- Women's services
- Food distribution
- English Classes
- Clinic
- Youth
- Access to Education

IMMIGRATION SUPPORT

- Refugee process
- Immigration orientation
- PRRA (risk assessment)
- Refugee appeal
- H&C (Humanitarian & Compassionate App.)
- Sponsorship
- Work permit
- Etc.

ANTI-HUMAN TRAFFICKING

- Migrants Workers Mobile Clinic
- Direct services to trafficked persons
- Migrant Women's Counter Trafficking Alliance
- Youth Alliance Against HT

PUBLIC EDUCATION & NETWORKING

- Webinars & training sessions
- Borderless Voices podcast
- YouTube channel
- Resources
- Country research
- Newsletter & annual reports

FCJ REFUGEE CENTRE

- ☎ 416-469-9754
- 📞 437-217-3786
- ✉ info@fcjrefugeecentre.org
- 🌐 fcjrefugeecentre.org
- 📘 @FCJRefugeeCentre
- 📷 @fcjrefugeecentre
- 🐦 @RefugeeCentre
- 📺 FCJ Refugee Centre

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Agenda

PRRA: Overview and Eligibility

PRRA: The Application Forms

PRRA submissions

Enhanced PRRA



Disclaimer

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

Pre-Removal Risk Assessment (PRRA): An Overview

Often a client's last chance to avoid removal

PRRA decisions are made by IRCC, but the process also involves CBSA.

The PRRA is designed to assess allegations of risk prior to removal.

If successful, applicants are granted Protected Person status and may apply for PR (usually).

A PRRA is not an appeal. Applicants cannot rely on the same evidence they submitted to the RPD.

The PRRA decision is usually based on paper submissions, although a hearing may be held.

PRRA Overview (Cont'd)

- The PRRA program is relatively small. In Financial Year 2019/2020, there were a total of about 2,000 PRRA applications.
- PRRAs really are the “last chance saloon” of immigration remedies. The success rate for PRRAs seems to be below 4% (compared to ~40% for H&Cs and ~70% for refugee claims). Success rates for enhanced/front-end PRRAs are a bit higher.
- The processing time for PRRAs is around 8-10 month, although this is highly variable.
 - **IMPORTANT:** Applicant’s are entitled to apply for a work permit while awaiting their PRRA decisions, and also can access medical care via the IFHP.



PRRA Overview (Cont'd)

- Once a client is invited to apply for a PRRA, their removal is staid pending the outcome of the process. This only applies for the first PRRA application.
- Claimants are entitled to make multiple PRRA applications, but the 12-month bar applies (see below).

Eligibility: Generally Speaking, You Cannot Apply for a Regular PRRA If:

- The Applicant is already recognized as protected persons or convention refugees by another country.
- The Applicant came to Canada from a country designated under the Safe Third Country Agreement (i.e. the United States).
- The 12-month bar applies: Less than 12 months have passed since the claimants last negative RPD/RAD/Federal Court decision, or the last negative PRRA decisions from IRCC. However, the bar does not apply to Applicants facing removal to certain countries.



Exemptions to the 12-Month Bar

- For an up-to-date list of exemptions to the 12-month bar, go to:
<https://www.canada.ca/en/immigration-refugees-citizenship/services/refugees/claim-protection-inside-canada/after-apply-next-steps/refusal-options/pre-removal-risk-assessment/exceptions.html>

Restricted PRRAs

- Where claimants are found inadmissible to Canada based on serious criminality, human rights violations, links to organized crime, or other security concerns, they may still be entitled to a **Restricted PRRAs**.
- In a restricted PRRAs application, a positive decision is weighed against the potential danger to Canadians of allowing the Applicant to remain in Canada.
- Even if successful, protection from removal is only temporary. There is no protected person status, and no path to PR.



PRRA Procedure

The client will receive a letter from CBSA inviting them for an appointment, while also requesting the Claimant to bring their ID.



At the appointment, the client will be notified that they are “removal ready” and provide them with the PRRA Application



The Application will include deadlines: The applicant will have 15 days to submit the PRRA application forms...



... and an additional 15 days to prepare submissions and supporting evidence.

Procedure Cont'd



The last page of the PRRA application is the "Statement of no intention."



If the client does not wish to apply for a PRRA, this is where they sign.



Bear in mind that signing the statement of no intention opens one up to the possibility of immediate removal.

Who Fills the PRRA Application?

Persons 18 years of age and
older

Separated
Children/Unaccompanied
Minors

Application Cont'd

SECTION A - Personal and Family Information

- The Principal Applicant could be:
 - The Principal Applicant in the Rejected Refugee Application or...
 - Any other family member in situations where...
 - ❖ The Applicants have separated and wish to apply separately.
 - ❖ Minor children have become adults and wish to apply separately.
- For Question 15, Applicant should do their best to provide all the info requested:
 - That said, missing info won't be fatal to the application.

Application Cont'd

Section B - D: Personal History

"War Crimes" (#18): The answer to this question is generally no. However, if the claimant answers "yes," they will need to seek legal advice.

"Military or belong to a paramilitary org" (#19), involved in armed conflict (#20) Involved in a crime or government offence (#22): If the answer is "yes", ask claimant to seek legal advice. The same may be true for #21, depending on the facts.



Section C. Arrival Details

"Canadian Immigrant Visa" (#25): If answer is "yes", they will check with the Consulate or Embassy to compare files and dates.

"How long do you intend to remain in Canada?" (#26). The answer must be **for an indefinite Period**. (if applicant answers **temporary period**, the Claimant will likely be rejected).

"Exit Visa" (#32 - 34): Most countries do not require exit visas for their citizen, so answer is generally "no"

Question #37 and 39: Any answer is valid except for "I did not want to." For #37, "it was not required" will usually suffice.



Section C Cont'd.

- "Renew any document" (#46): It is not advisable to apply for a passport from a state from which you are fleeing.
- A new passport will facilitate removal and will be seized.
- If the Applicant lies, that will be grounds for potential detention.



Section D: Required Information for PRRA

- "Are you wanted by authorities?" (#45): The answer depends on the facts. If the Application is based on political persecution, the answer will often be yes. Speaking with a lawyer is advisable.
- Convention refugee questions (47 & 48). If the answer is "yes". PRRA might be affected. Request the Claimant seek legal advice.
- "Family member who have applied" (#49): Positive effect if other family members have already been accepted and you can make some connection with the Applicant's case.



Section E: Reasons for Applying for PRRA

- This is the most important part of the PRRA form if the claimant does not intend on doing separate submissions.
- "significant incidents", "What protection" (#50 & #51) and "supporting evidence" (#52)
- If applicant plans on providing separate submissions, they can just write:
 - “please see forthcoming submissions”



Components of *ideal* PRRA submissions:

- Legal submissions: document explaining the Applicant's situation and outlining applicable caselaw and legal principles.
- Affidavit/Statement: A First-person statement from the Applicant explaining their situation and the risk they face.
- Country Condition Evidence
- Supporting Personal Evidence

Submissions

- The Golden Rules:
 - 1) A “regular” PRRA is not an opportunity to re-litigate a failed refugee claim. Only risks that have come to light since the refugee claim can be relied on.
 - 2) All allegations made in the submissions should be supported by evidence!
 - A) Direct Personal Evidence
 - B) Country Condition Evidence
 - C) Statements or Affidavits

Legal Submissions

- A summary of the Applicant's life and immigration history.
- An explanation of new or persistent forward-facing risks faced by the applicant.
- An explanation of why the Applicant cannot rely on state protection in the country of removal.
- If possible, it is good to try and link the Applicant's case to relevant precedents.
- Submissions can also discuss general hardship (poverty, employment, housing, etc) and best interests of the Child, if applicable.

Affidavit/Statement



Statement written from the perspective of the Applicant



Should provide a summary of the Applicant's situation, with a focus on new or persistent forward facing risk.



Can be either an Affidavit (if you are or have access to a lawyer) or a signed statement.

Submissions: Personal Supporting Evidence

- Evidence provided by the claimant that supports the specific facts alleged in the legal submissions and affidavit The Federal Court of Canada has stated that for PRRAs, evidence must be:
 - Credible: Is the evidence credible, considering both its source and the circumstances in which it came into existence. Use of letter from Witnesses
 - Relevant: Is the evidence capable of proving or disproving a fact that goes to establishing risk?
 - New: Is it relevant to the current state of affairs in the country or to an event that occurred after the RPD hearing, or does it prove a fact that was not accessible or not reasonably available to the Applicant at the time of the hearing?
 - Material: Is the evidence material, in the sense that the refugee claim would have likely succeeded were the evidence available.
- Evidence can include: Photos, text messages/emails, legal documents, medical reports, affidavits or signed statements from witnesses (include scan/photo of ID), news reports.

PRRA Submissions: Evidence (Cont.)

- In addition to personal supporting evidence, Applicants should include country condition evidence that supports the assertions made in their submissions. This includes:
 - Articles from media sources (should be up-to-date and credible)
 - Documents from IRB's National Documentation Packages (make sure to use most up-to-date)
 - Reports from NGOs, governments, or international organizations (Amnesty, HRW, UN, Canadian Government travel advisories, US state department Freedom House, etc.)
 - Academic articles

Introduction to Enhanced PRRA Applications

- The 2019 Budget Implementation Act, which proposed amendments to the Immigration and Refugee Protection Act (IRPA), was tabled on April 8, 2019, and received Royal Assent on June 21.

Enhance PRRA Cont'd

- The Act introduced a new ground of ineligibility:
 - A person is ineligible to make a refugee claim in Canada if they have initiated a refugee claim (asylum proceedings) in a Five Eyes country (USA, UK, Australia, or New Zealand). However, they may still be eligible to do an enhanced PRRA once they arrive in Canada.

Enhanced PRRA Cont'd

- Ineligibility based on a prior claim in another Five Eyes country technically only applies where the existence of the prior claim has been confirmed via information sharing (generally via a biometric match), not whether you actually made a claim.
- This means that a person who made a prior Five Eyes refugee claim may technically turn out to be eligible to make a claim in Canada, because no biometric match is declared by the government. However, in practice this would be extremely unlikely.

Enhance PRRA Cont'd

- CBSA determines this through biometric information shared between Five Eyes countries.
- Note: biometrics are not taken from children under 14. Therefore, even if children under 14 have started an asylum claim in the US, they will be eligible to make a refugee claim in Canada

Enhance PRRA Cont'd

- A person who is ineligible for a refugee claim because of a previous five-eyes match can still enter Canada and file a PRRA if they meet an exception to the Safe Third Country Agreement (STCA). 4 exceptions are provided for:
 - Those with Eligible family members in Canada.
 - Unaccompanied minors under the age of 18.
 - Those in possession of a valid Canadian visa, work/study permit, etc.
 - Those charged with a crime punishable by the death penalty in the USA.



Enhance PRRA Cont'd

- However, people in this situation have a special PRRA process which includes a hearing w/ an IRCC decision-maker (While IRCC calls it a hearing, you have fewer rights than at an IRB hearing. However, it is still an opportunity to make oral submissions).
- Accompanying family members who do not meet exceptions (ex. a spouse who themselves does not have an anchor relative in Canada) may not be granted the PRRA at the POE but may be turned back.

Enhance PRRA Cont'd

- If you might normally be eligible for an enhanced PRRA come from a country to which Canada is not currently removing people due to a Temporary Suspension of Removals or an Administrative Deferral of Removals, you will not be invited to a PRRA until the suspension is lifted and you are facing removal. This means that you will be in limbo in Canada - not removed, but also not given an opportunity to show that you are a person in need of protection.
- In these circumstances, you can try applying for PR based on humanitarian and compassionate considerations.




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Thank you

Contact Us

 416-469-9754

 info@fcjrefugeecentre.org

 www.fcjrefugeecentre.org

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