

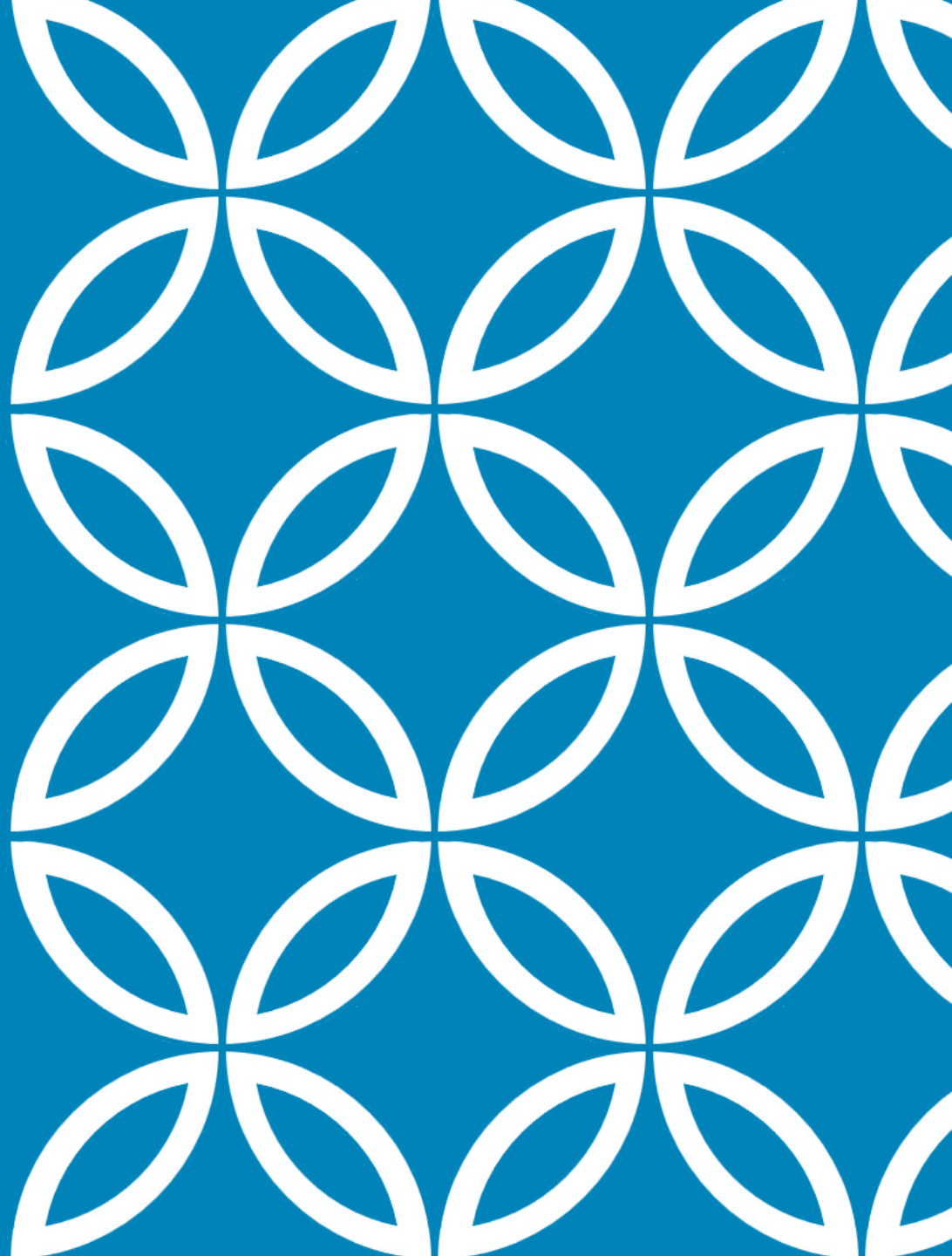
# PATHWAYS FOR WOMEN WITH PRECARIOUS IMMIGRATION STATUS FLEEING VIOLENCE

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# WOMEN FLEEING VIOLENCE

Women who want to leave an abusive relationship must be prepared to embark through a complicated set of systems and overcome many hurdles:

- Criminal justice system
- Family court system
- Ministry of Children and Families
- Victim Support Services
- Transition homes and support services

# IMMIGRANT WOMEN LEAVING AN ABUSIVE RELATIONSHIP

If the woman is an immigrant woman who is fleeing an abusive relationship, the immigration system she will encounter makes fleeing violence even more complex. The immigration system for the most part acts within its own silo.

If these women have no status or precarious status, then we need to be vigilant as to how we help them navigate the various systems while keeping them safe.

# OUT OF STATUS WOMEN OR WOMEN WITH PRECRIOUS STATUS

The typical scenario is a woman enters Canada with proper status and, subsequently, loses it due to false promises by their abusive spouse or a misunderstanding about the immigration process.

Women who have been able to maintain their status typically have done so at risk to their safety. They are in constant fear of the abusive spouse “taking away” their status should they report the abuse, making their status precarious.

# CONTROL OF STATUS BY ABUSIVE SPOUSE

A common control tactic used by the abusive spouse is to claim he has a spousal application underway but delay completion of the paperwork, or if the paperwork is submitted to threaten withdrawing it if the spouse decides to leave or report the abuse.

**Withdrawal of a spousal sponsorship can occur any time up until a decision is made by immigration.**

# LEGAL OPTIONS

How do we help out of status women or women with precarious status navigate through the various systems?

There are two options available:

1. Temporary Resident Permit (“TRP”) to secure temporary status.
2. Humanitarian and Compassionate Application (“H & C”) to secure permanent resident status.



# EXPEDITED TRP PROCESS

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# EXPEDITED TRP FOR FAMILY VIOLENCE

“FV”

- In June 2019 an expedited TRP process was announced for individuals fleeing family violence.
- There is no fee for the TRP.
- The woman can also apply for an open work permit simultaneously, and there is no fee for this either.
- The files are marked “FV” (Family Violence) as a visible identifier for expedited processing.

## To be eligible:

- The woman must physically be located in Canada and experiencing abuse.
- She is seeking permanent resident status that is contingent upon remaining in a genuine relationship in which there is abuse and the relationship is critical for the continuation of her status in Canada.

EXPEDITED TRP  
ELIGIBILITY

# EXAMPLES OF ELIGIBLE SCENARIOS

Examples of individuals who may be eligible include foreign nationals who:

1. are applicants of the family class or spouse or common-law partner in Canada class (SCLPC class) who have either already left their sponsor, due to abuse, or not yet left their sponsor, due to fear of losing their immigration status
2. cannot be assessed for permanent residence because their sponsor (abusive spouse or common law partner) has withdrawn their family class or SCLPC class sponsorship application
3. have been misled and made to believe by an abusive spouse or common-law partner that their family class or SCLPC class permanent residence application has been submitted and is in process when, in fact, no application has been submitted
4. are temporary residents intending to apply for permanent residence through a genuine relationship that has become abusive, but who may not yet have an application in process



# CHILDREN AND TRP

Dependent foreign national children of victims of violence (both must be in Canada) are also eligible for a family violence TRP.

# INITIATING THE EXPEDITED TRP PROCESS

Foreign nationals in Canada who are victims of family violence may request information about a TRP by:

- contacting the IRCC Client Support Centre (CSC) at 1-888-242-2100 - dedicated abuse line - (the teletypewriter [TTY] number is 1-888-576-8502).
- Filling out and submitting the [web form](#)
- Inquiring at a local IRCC office.

To start the process:

- Submit a TRP application, including through an authorized representative.

# REQUEST FOR TRP THROUGH CSC, WEB FORM OR LOCAL OFFICE

## Request

- Where request for TRP done through CSC and there is **an existing PR application in process**:
  - CSC agents must refer the case to Global Case Management System (GCMS) per established process for referring complex cases.
- Flag the case as urgent.

## Request

- Where request for TRP done through CSC and **no PR application in process**:
  - CSC agent should obtain all relevant info to refer to local office by email
  - Upload any information provided by client through web form.

## Request

- Where request for TRP done through local IRCC and an existing PR in process:
  - Initial contact with requestor should be made within 2 days of receipt of TRP request.

# CASES FLAGGED WITH “FV” CODING

Authorized representatives may assist the woman in requesting a TRP.

Applications by an authorized representative can be sent to the Case Processing Centre in Edmonton (CPC-E) without first contacting the CSC.

Representatives may use the code “FV” on the application envelope as a visual identifier to signal a case involving family violence.

CPC-E sends any TRP application marked with the code “FV” to the local IRCC office.



# SCENARIO #1

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Jennifer was visiting Canada from the UK, she met Ryan, a Permanent Resident at a local coffee shop. They started dating and things got serious and she moved in with him. He made promises of marrying her and sponsoring her.

2 years into the relationship, and with a 6 month old baby girl, he started becoming controlling. He took her passport and monitored her calls as well as controlled what money he gave her. He was jealous and suspicious of her all the time.

She didn't want to raise a child in such an environment and didn't know what to do as her visitor visa had lapsed.

Would Ryan's behavior be considered abuse?

# TYPES OF FAMILY VIOLENCE

The following forms of abuse can constitute family violence:

- Physical abuse, including forcible confinement.
- Sexual abuse, including sexual contact without consent.
- Psychological abuse, including threats and intimidation.
- Financial abuse, including fraud and extortion.
- Neglect, failure to provide the necessities of life such as food, clothing, medical care, shelter, any other omission that results in a risk of serious harm.
- Children may also be experiencing or witnessing abuse or neglect.



## SCENARIO # 1 CONT'D

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Jennifer decides to leave to a transition home. She had to leave while Ryan was at work as she was afraid of him, he had told her that if he can't have her no one ever will.

She wants to get a TRP and get's help of a support worker to complete the application.

She was never physically abused so has no police reports, so what kind of evidence can she include to support her application?

# EVIDENCE IN SUPPORT OF FAMILY VIOLENCE

- Evidence could include:
  - Police records
  - Criminal or family court documents
  - Letters, statements or reports from
    - Victim assistance program
    - Women's shelter or domestic abuse support organization
    - Hospital
    - Medical doctor or healthcare professional
    - Counsellor
    - Family, friends, neighbour, co-worker, witnesses
- Assessments by:
  - Psychologist
  - Psychiatrist
  - Other health care professional
- Photos of injuries
- Copies of emails or text messages

# KEEPING WOMEN SAFE PENDING TRP PROCESSING

- CSC agents should confirm a safe telephone number, email address or mailing address to contact the woman.
- Immigration officers should inform their manager if they are unable to contact the woman in a 2-day period.
- If a woman is subject to a removal order an IRCC manager or supervisor should contact the CBSA directly, in writing to advise of TRP application. “A note should also be sent on the applicant’s UCI, stating that TRP issuance is being considered and requesting that the CBSA consult IRCC before taking further action.”

# PAUSE ON REMOVALS

With a TRP application in process the CBSA, the removals branch for immigration, is alerted and removals is put on hold.

This is significant as prior to the expedited TRPs the woman was always at risk of being removed from Canada.

# INTERVIEW FOR TRP ASSESSMENT

- An officer can render a decision based on the documentation received.
- If the officer is not satisfied by the documentation provided an interview may be warranted.
- If there are no impediments for the client an in-person interview should be arranged.
- But there may be situations making it difficult for the woman to attend in person: distance, finances and safety issues. Officers should take that into consideration.
- Objectives of interview are to:
  - Establish the facts to verify the person is a victim of family violence.
  - Use the facts to determine the optimal length of the TRP.

# FOLLOW UP OF TRP APPLICATION

- **Those who have requested a TRP through the Client Support Centre (the call centre) or by web form will receive a response within 2 days.**
- **Those who submitted their application to the Centralized Processing Centre in Edmonton by mail without first going through the client Support Centre or by web form will not be contacted in 2 days. They would need to follow up with the Client Support Centre (1-888-242-2100) using the dedicated abuse line.**
- **Make sure to use the visual identifier “FV” on the outside envelope, to assist IRCC in quickly identifying the application for expedited processing.**

# TRP ISSUANCE

- If the woman already has existing immigration status then a TRP should not be issued until that current status has lapsed and restoration of status is not possible.
- If an officer determines that the woman is a victim of family violence the officer may issue a TRP for a minimum of 6 months based upon:
  - Ties to Canada.
  - Child custody or family law-related matters.
  - Time to consider immigration options.
  - Opportunity to escape influence of abuser.
  - Any other relevant purpose.
- Depending on the circumstances and officer's discretion a subsequent TRP may also be issued.

# ACCESS TO HEALTH CARE

If approval is given to issue a TRP the woman will have access to health care.



HUMANITARIAN AND  
COMPASSIONATE  
APPLICATIONS.

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# PURPOSE OF AN H & C APPLICATION

An H & C application if approved will give the woman permanent resident status in Canada.

The application can be made simultaneous with the application for an expedited TRP.

Note: without TRP status, making an H & C application alone will not prevent removals.

# FACTORS CONSIDERED IN H & C APPLICATION

In an H & C application the following factors are considered:

- Hardship in being asked to leave Canada;
- Family Relationships;
- Best Interests of the Child;
- Degree of establishment to Canada;
- Financial Resources

# HARDSHIP IN LEAVING CANADA

- **Examples:**

- Children in Canada and court orders preventing removal.
- Pending criminal charges and need to testify.
- Resources and counselling in Canada.
- Lack of similar resources in home country.
- Inability of family abroad to support the woman.
- Family abroad concerned with dishonor and shame if the woman returns.
- Risks to safety of single woman returning to home country.

# FAMILY RELATIONSHIPS

Points that could be made:

- There is lack of family support in home country.
- If there are children involved there may be an inability for any family abroad to provide the support they need.
- Feelings of dishonor and shame by family abroad.
- There are family or friends in Canada that can be a source of support.

# BEST INTERESTS OF THE CHILD

This is an important criteria, a lot of consideration is given to what is in the best interests of any child:

- If the child/ren has witnessed abuse and needs counselling.
- If there are custody issues and order preventing removal of the child/ren from the Canada.
- The best interests in the child/ren having some form of contact with the abusive spouse.
- If schooling and other supports are in place in Canada and would be difficult to obtain outside of Canada;



## CASE EXAMPLE

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An immigration officer refused an H & C application because while the officer found abuse he found it was best that the mother leave Canada with her children to be away from the abusive husband.



# THE LAW REGARDING BEST INTERESTS OF THE CHILD

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The Court of Appeal in *Hawthorne v. Canada (Minister of Citizenship and Immigration)*, 2002 FCA 475 (CanLII), set out what is required of an Officer when conducting a best interest of the child analysis in an H & C context is. The Court set out three scenarios that the Officer must consider when conducting the analysis:

An assessment of the benefit the children would receive if their parent was not removed from Canada;

An assessment of the hardship the children would face if their parent was removed from Canada but they remained in Canada;

An assessment of the hardship the children would face if they were to depart with the parent from Canada

# ESTABLISHED IN CANADA

- Need to show steps made to become established in Canada:
  - Working in Canada.
  - Volunteering.
  - Being involved in the community.
  - Efforts made to learn the language.
  - Essentially trying to place roots in Canada.

# FINANCIAL STATUS

Need to show that you are able to financially support yourself:

- Working in Canada.
- If not working due to lack of a work permit show that the woman has skills to work when an work permit is issued or is willing to acquire skills or has canvassed work opportunities.
- Relying on community resources and support.



## SCENARIO 1 CONT'D

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Jennifer has been in the transition home for 6 months.

The transition home usually is only able to keep women for a maximum of four months after which the woman is assisted to find second stage supported housing. This usually entails receiving some kind of social assistance.

Is there any detriment for Jennifer receiving social assistance?

# FINANCIAL STATUS: SOCIAL ASSISTANCE

Recent policy changes, February 2021, allowing an officer grant a waiver from the requirement that a person not receive social assistance.

For cases in which the applicant is a victim or survivor of family violence, officers should consider the following circumstances in their assessment of whether an exemption from [section 39 of the Immigration and Refugee Protection Act \(IRPA\)](#) could be applied:

It is not uncommon for individuals experiencing abuse to be unable to financially support themselves when escaping a situation of violence, resulting in a reliance on social assistance until they can re-establish themselves.

Survivors of family violence may have difficulties in regaining their financial footing even after escaping an abusive relationship, as they cope with many **barriers** such as

- instability of housing
- child-care needs
- social isolation
- a lack of language skills or work experience (in some cases)

# FINANCIAL STATUS: SOCIAL ASSISTANCE CONT'D

Survivors of family violence may experience low self-confidence and lack the personal empowerment required to become gainfully employed. Many **may not be ready to enter the workforce until they have obtained appropriate counselling** for mental or emotional trauma.

Survivors with dependent children may **not yet be receiving child support** from their former abusive partner and require social assistance to support their families. For some, even if they are able to work, the **cost of child care** may outweigh potential earnings, resulting in a reliance on social assistance as a more viable financial choice.

In some situations, applicants may **not be able to access key social supports** such as housing or community supports unless they are on social assistance.

<https://www.canada.ca/en/immigration-refugees-citizenship/corporate/publications-manuals/operational-bulletins-manuals/permanent-residence/humanitarian-compassionate-consideration/processing/assessment-dealing-family-relationships.html>

# EVIDENCE TO SUPPORT TRP AND H & C APPLCIATION

Similar evidence to that used to support the TRP application to show abuse.

But as there are other criteria to address in an H & C application, the following are additional documents enclosed:

- Statements from the victim.
- Letters from school regarding child/ren.
- Letters of employment or volunteering.
- Photographs showing engagement in the community.
- Letters from transition homes showing the support they are providing for food and shelter.

# PROCESSING OF THE H & C APPLICATION

- For women fleeing violence they can use the “FV” coding on their application and envelope as well to ensure priority processing.
- If an application is approved on H & C grounds, there will be a first stage approval. This allows the woman to apply for an open work permit if she has not already received one.
- The application will then be processed for medical clearance and security clearance, and if cleared then PR status is granted.

# FINAL APPROVAL OF H & C APPLICATION

- Once medical and security are cleared then PR status is conferred.
- Any removal order is superseded by the PR status.
- With the changes on the expedited TRPs for family violence, likewise H & C applications based on family violence are being expedited.
- If the application is not approved then leave to appeal to federal court must be sought.

# SUMMARY

Immigrant women without status fleeing an abusive relationship can apply for an expedited TRP. This will give them temporary status in Canada.

Immigrant women without status or with precarious status fleeing an abusive relationship can apply for permanent resident status through an H & C application.

# RESOURCES

1. Link to the expedited TRP for family violence:

<https://www.canada.ca/en/immigration-refugees-citizenship/corporate/publications-manuals/operational-bulletins-manuals/temporary-residents/permits/family-violence.html>

2. OB 480: an Operations Bulletin created for assessing abuse under the obsolete Conditional Permanent Resident category. Appendix C sets out types of abuse an officer could consider:

<https://www.canada.ca/en/immigration-refugees-citizenship/corporate/publications-manuals/operational-bulletins-manuals/bulletins-2012/480-modified-november-16-2015.html#appc>

THANK YOU!!

QUESTIONS????

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