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# The New Basis of Claim (BOC) Form for Refugee Claims

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# METRAC

## METRAC, the **Metropolitan Action Committee on Violence Against Women and Children**

- works to end violence against women, youth and children
- a not-for-profit, community-based organization

[www.metrac.org](http://www.metrac.org)

## METRAC's **Community Justice Program**

- provides accessible legal information and education for women and service providers
- focuses on law that affects women, from diverse backgrounds, especially those experiencing violence or abuse

## FLEW, **Family Law Education for Women** in Ontario

- provides information on women's rights and options under Ontario family law
- in 14 languages, accessible formats, online and in print

[www.onefamilylaw.ca](http://www.onefamilylaw.ca)

[www.undroitdefamille.ca](http://www.undroitdefamille.ca)

# Presenters

## **Tamar Witelson**

Legal Director, METRAC



## **Sudabeh Mashkuri**

Lawyer/Social Justice Advocate



# Topics to be Covered

1. Who is a Refugee?
2. Brief Overview of the Refugee Claim Process
3. The Basis of Claim Form (BOC)
4. Filling out the BOC – What an Adjudicator Looks For
5. The BOC as Evidence – Being Truthful
6. The Hearing – What to Expect
7. Additional Resources

*Information is accurate as of March 28, 2013*



# Who is a Refugee?

# Who is a Refugee?

- Two categories of Refugees in Canada:
  1. Convention Refugee
    - a person who cannot or does not want to go back to his/her country of origin because of a well-founded fear of persecution, based on:
      - Race
      - Religion
      - Nationality
      - Political opinion
      - Membership in a particular social group

# Who is a Refugee?

## 1. Convention Refugee

- Membership in a particular social group can include sex/gender issues, for example:
  - domestic violence
  - sexual assault
  - forced marriage
  - female genital cutting
  - sexual orientation

# Who is a Refugee?

## 1. Convention Refugee

- Cannot or is afraid to rely on state protection in country of origin because:
  - state protection does not exist
  - state protection is not provided
  - state protection is not effective



# Who is a Refugee?

## 2. Person in Need of Protection

- a person who, if forced to return to his/her country of origin, will personally be subjected to:
  - Danger of torture
  - Risk to life
  - Risk of cruel and unusual punishment or treatment



# Brief Overview of the Refugee Claim Process

# Brief Overview of the Refugee Process

## **Steps in the Refugee Claim process:**

- Making the claim
- Eligibility interview / submitting forms
- Referral to the Refugee Protection Division (RPD) of the Immigration and Refugee Board (IRB) for a hearing
- The hearing

# Brief Overview of the Refugee Claim Process

## To Make a Refugee Claim

- When entering Canada, at the port of entry
  - airport
  - seaport
  - Canada-US border crossing
- After entering Canada, at a Citizenship and Immigration Canada (CIC) office (an inland claim)

# Brief Overview of the Refugee Claim Process

## The Eligibility Interview

- at a port of entry
  - Person tells Canada Border Services Agency (CBSA) officer that she wants to make a Refugee Claim
  - Officer interviews the person to determine if she is eligible for a Refugee Hearing
  - If found eligible, person gets a **Basis of Claim Form (BOC)** to fill out

# Brief Overview of the Refugee Claim Process

## Submitting Forms

- If BOC received at a port of entry
  - BOC must be completed and submitted to the Refugee Protection Division (RPD):
    - no later than 15 days after your case is referred for a hearing
    - RPD must receive original completed BOC and one copy
    - Claimant should keep one copy
  - To locate an office of the RPD  
[www.irb-cisr.gc.ca/eng/contact/pages/offices.aspx#toronto](http://www.irb-cisr.gc.ca/eng/contact/pages/offices.aspx#toronto)

# Brief Overview of the Refugee Claim Process

## Submitting Forms

- an inland claim
  - Person tells CIC officer that she wants to make a Refugee Claim
  - Person must complete and submit to CIC the **Basis of Claim Form (BOC)** and a Schedule 12 Form (Additional Information for Refugee Claimants Inside Canada)
    - Provide original completed forms and one copy
    - Claimant should keep one copy of each form
  - CIC officer will conduct interview and decide if claim is eligible to proceed



## The Basis of Claim Form (BOC)



# The Basis of Claim Form (BOC)

- The BOC is how a Refugee Claimant first explains:
  - Who she is
  - Why she is afraid to return to her country or origin
  - Why she needs refugee protection in Canada
- The BOC replaces the Personal Information Form (PIF), as of December 15, 2012
- Available online:  
[www.irb-cisr.gc.ca/eng/tribunal/form/Documents/boc\\_fda\\_e.pdf](http://www.irb-cisr.gc.ca/eng/tribunal/form/Documents/boc_fda_e.pdf)
- Also read the Claimant's Guide:  
[www.irb-cisr.gc.ca/Eng/tribunal/rpdspr/ClaDem/Pages/ClaimGuideDem12.aspx](http://www.irb-cisr.gc.ca/Eng/tribunal/rpdspr/ClaDem/Pages/ClaimGuideDem12.aspx)

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## Filling Out the BOC – What an Adjudicator Looks For

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## General Information

- BOC must be completed in either English or French
- Use of a translator may be necessary
- Attach copies of original identity documents to the BOC
- Claimant should keep original documents
- Certified translations of documents into English or French are required
- Additional documents may be provided after submitting BOC
  - provide 2 copies to RPD no later than 10 days before hearing

# Filling out the BOC – What an Adjudicator Looks For

## Who You Are

- Information to establish claimant's identity
- Adjudicator must know who the claimant is
- Identity documents may establish:
  - name
  - birth date
  - nationality
  - marital status
  - political affiliation
  - Religion
- Sworn statements from friends and family may help confirm the claimant's identity

# Filling out the BOC – What an Adjudicator Looks For

## Who You Are

- Adjudicator will be looking for information related to being a Convention Refugee or Person in Need of Protection
  - Nationality, ethnic and racial group or tribe
  - Religion and denomination or sect
  - Languages and dialects the claimant speaks

# Filling out the BOC – What an Adjudicator Looks For

## **Why You are Claiming Refugee Protection**

- To help the adjudicator understand how and why you are a Refugee
  - Is there a reasonable chance claimant will be persecuted
  - Because of which ground (race, religion, nationality, political opinion, membership in a particular social group)
  - Dates of events are important (year, month)
  - Specific locations of events add to credibility
  - Examples of others in a similar situation, at similar risk can be helpful

# Filling out the BOC – What an Adjudicator Looks For

## **Why You are Claiming Refugee Protection**

- Have you or your family ever been harmed, mistreated or threatened by any person or group?
  - May be easier to describe traumatic events in writing
  - Personal support may be more available outside of hearing
  - Details may not need to be repeated at the hearing



# Filling out the BOC – What an Adjudicator Looks For

## **Why You are Claiming Refugee Protection**

- If you returned to your country, do you believe you would be harmed, mistreated or threatened by any person or group?
  - Refugees have reasonable fear of persecution
  - Fear must be about future harm
  - Persecution is based on specific grounds

# Filling out the BOC – What an Adjudicator Looks For

## Why You are Claiming Refugee Protection

- Did you ask any authorities such as the police or any other organization in your country to protect or assist you?
  - Adjudicator considers:
    - is State protection available in the claimant's country of origin
    - Is the State "willing and able" to provide protection
    - Did the claimant complain to the police
    - Was help provided
    - Was the matter taken to court
    - Documents, reports, articles on lack of State protection in the country of origin may be helpful

# Filling out the BOC – What an Adjudicator Looks For

## **Why You are Claiming Refugee Protection**

- Did you move to another part of your country to seek safety?
  - internal flight alternative
  - claimant will be asked if there is a place in her country of origin that:
    - she could get to safely
    - where she would be free from risk, and
    - where it would be reasonable to expect her to live

# Filling out the BOC – What an Adjudicator Looks For

## Why You are Claiming Refugee Protection

- Did you move to another part of your country to seek safety?
  - Adjudicator considers:
    - Was there an alternative safe location within the country of origin
    - Was the alternative
      - accessible
      - reasonable for all family members
      - actually safe

# Filling out the BOC – What an Adjudicator Looks For

## **Why You are Claiming Refugee Protection**

- Questions about your children
  - To determine who is the designated representative to explain the child's situation
  - To identify issues of child custody and abduction
  - May uncover issues of family violence
  - Violence against a woman or child claimant may be significant to a refugee claim

# Filling out the BOC – What an Adjudicator Looks For

## **Why You are Claiming Refugee Protection**

- Questions about your children
  - Every child seeking protection as a refugee must fill out a BOC
  - Children under age 7 with an adult only complete the first question “Who You Are”

# Filling out the BOC – What an Adjudicator Looks For

## **General Considerations**

- Important facts should not be omitted
- Information should be complete and consistent
- Telling a story from beginning to end can help the adjudicator follow details
- Can attach extra pages to the BOC

# Filling out the BOC – What an Adjudicator Looks For

## General Considerations

- Inconsistencies may be viewed as misrepresentation
- Details in the BOC are compared to oral evidence at the hearing
- Previous forms and forms from family members may be compared for accuracy and inconsistency



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# The BOC as Evidence Being Truthful

# The BOC as Evidence – Being Truthful

- The BOC is signed by the claimant
- The claimant declares she has read and understood the BOC or had the BOC interpreted to her
- The BOC is treated as evidence at the hearing
- Misrepresentation is viewed badly
- Adding new information at the hearing may not appear truthful
- Truthfulness adds to credibility of the claim

# The BOC as evidence – Being Truthful

## **Making changes to the BOC**

- If facts change the claimant should make changes to the BOC:
  - As soon as possible
  - 10 days in advance of the hearing
- Additional documents can be sent to the RPD
  - As soon as possible
  - 10 days in advance of the hearing

# The BOC as evidence – Being Truthful

## **Making changes to the BOC**

- Keep contact information current
  - To avoid missing hearing date
- Advise RPD if lawyer or representative changes
- Claimant should always keep her own copy of the BOC and every supporting document



# The Hearing – What to Expect

# The Hearing – What to Expect

- The claimant must attend the hearing
- A government representative may attend the hearing
- The adjudicator will ask the claimant questions

# The Hearing – What to Expect

- The claimant will be asked to promise to tell the truth
- The adjudicator will ask questions about:
  - the BOC
  - statements given at the port of entry or CIC office
- The adjudicator will compare answers given at the hearing to previous evidence



# The Hearing – What to Expect

- The adjudicator will examine supporting documents
- The adjudicator will listen and look for inconsistencies in the claimant's story and details
- The adjudicator may decide to accept or reject the claim
  - at the hearing
  - by letter, after the hearing

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## Additional Resources

# Resources (Immigration and Refugee)

## Find a community legal clinic near you

[www.legalaid.on.ca/en/contact/contact.asp?type=cl](http://www.legalaid.on.ca/en/contact/contact.asp?type=cl)

## Community & Specialty Legal Clinics

[www.legalaid.on.ca/en/contact/contact.asp?type=cl](http://www.legalaid.on.ca/en/contact/contact.asp?type=cl)

- Centre for Spanish Speaking Peoples
- Metro Toronto Chinese and Southeast Asian Legal Clinic
- Refugee and Immigrants Information Centre Toronto
- South Asian Legal Clinic of Ontario

## FCJ Refugee Centre

[www.fcjrefugeecentre.org/](http://www.fcjrefugeecentre.org/)

- 416-469-9754

## Canadian Association of Refugee Lawyers

[www.refugeelawyersgroup.ca/](http://www.refugeelawyersgroup.ca/)

# Resources (Immigration and Refugee)

## **Refugee Law Office**

[www.legalaid.on.ca/en/getting/type\\_immigration.asp](http://www.legalaid.on.ca/en/getting/type_immigration.asp)

➤ 416-977-8111

## **Refugee Lawyers Association of Ontario**

[www.rlaontario.com/](http://www.rlaontario.com/)

## **Canadian Council for Refugees**

[www.ccrweb.ca/en/home](http://www.ccrweb.ca/en/home)

➤ 514-277-7223

➤ Directory of immigrant and refugee serving organizations in your area

[www.ccrweb.ca/en/links](http://www.ccrweb.ca/en/links)

## **Settlement.org**

[www.settlement.org/index.asp](http://www.settlement.org/index.asp)

➤ Information and answers on settling in Ontario

# Resources (Immigration and Refugee)

## **Citizenship and Immigration Canada**

[www.cic.gc.ca/english/index.asp](http://www.cic.gc.ca/english/index.asp)

- Call Centre Toll-free: 1-888-242-2100
- TTY: 1-888-576-8502
- More Contacts: [www.cic.gc.ca/english/contacts/index.asp](http://www.cic.gc.ca/english/contacts/index.asp)

## **Ministry of Citizenship and Immigration (Ontario)**

[www.citizenship.gov.on.ca/](http://www.citizenship.gov.on.ca/)

- Find information about citizenship and immigration in Ontario
- General Inquiry: (416) 327-2422
- Toll-free: 1-800-267-7329
- TTY: 1-800-555-5559

## **211 Canada.ca**

[www.211canada.ca/](http://www.211canada.ca/)

- Find available immigrant and refugee serving organizations in your area

## Additional Resources (Refugee)

### **Preparing for your Refugee Hearing:**

Ontario Women's Justice Network (OWJN)

[owjn.org/owjn\\_2009/component/content/article/57-immigration-law/338-preparing-for-your-refugee-hearing](http://owjn.org/owjn_2009/component/content/article/57-immigration-law/338-preparing-for-your-refugee-hearing)

FCJ Refugee Centre

[www.fcjrefugeecentre.org/?p=394](http://www.fcjrefugeecentre.org/?p=394)

# Resources (Family)

## **Assaulted Women's Helpline** [www.awhl.org](http://www.awhl.org)

- Toll-free: 1-866-863-0511; TTY: 1.866.863.7868
- Toronto: 416-863-0511

## **Legal Aid Ontario** [www.legalaid.on.ca/en/getting/default.asp](http://www.legalaid.on.ca/en/getting/default.asp)

- Toll-free: 1-800-668-8258; TTY: 1-866-641-8867
- Toronto: 416-979-1446 (accepts collect calls)

## **Family Law Information Program (FLIP)**

[www.legalaid.on.ca/en/getting/flip.asp](http://www.legalaid.on.ca/en/getting/flip.asp)

## **Family Law Information Centres (FLICs)**

[www.legalaid.on.ca/en/getting/type\\_family.asp](http://www.legalaid.on.ca/en/getting/type_family.asp)

## **Family Law Services Centres (FLSCs)**

[www.legalaid.on.ca/en/contact/contact.asp?type=flsc](http://www.legalaid.on.ca/en/contact/contact.asp?type=flsc)

## **Ontario Women's Justice Network (OWJN)** [www.owjn.org](http://www.owjn.org)

## **FLEW (Family Law Education for Women)** [www.onefamilylaw.ca/en/resources/](http://www.onefamilylaw.ca/en/resources/)

## **FODF (Femmes Ontariennes et Droit de la Familles)** [www.undroitdefamille.ca/](http://www.undroitdefamille.ca/)



# Additional Resources

## **Victim Crisis Assistance and Referral Services (VCARS)**

- Immediate, on-site service to victims of crime 24 hours a day, 7 days a week
- Toll-free: 1-888-579-2888
- Toronto: 416-314-2447

## **Victim Support Line (VSL)**

- province-wide, multilingual, toll-free information line providing a range of services to victims of crime
- Services available from 8 a.m. to 10 p.m., 7 days a week in 13 languages
- Toll-free: 1-888-579-2888
- Toronto: 416-314-2447

## **Court Prep**

[www.courtprep.ca](http://www.courtprep.ca)

- provides information on the Canadian legal system and prepares victims and witnesses to give evidence

# Resources

## **Law Society of Upper Canada Lawyer Referral Service**

[www.lsuc.on.ca/with.aspx?id=697](http://www.lsuc.on.ca/with.aspx?id=697)

- Toll-free: 1-800-268-8326
- Toronto: 416-947-3330
- TTY: 416-644-4886

## **Justice Net**

[www.justicenet.ca/directory/search/](http://www.justicenet.ca/directory/search/)

- Reduced fee lawyers for low income people not eligible for Legal Aid

## **Toolkit for a good Client-Lawyer Relationship**

[schliferclinic.com/vars/legal/pblo/toolkit.htm](http://schliferclinic.com/vars/legal/pblo/toolkit.htm)

- Barbra Schlifer Commemorative Clinic

## **Ministry of the Attorney General**

[www.attorneygeneral.jus.gov.on.ca/english/](http://www.attorneygeneral.jus.gov.on.ca/english/)

- Toll free: 1-800-518-7901
- TTY: 1-877-425-0575