

# Immigrant women and domestic violence

*This fact sheet is for people who work with immigrant women. It has important information about domestic violence and a woman's immigration status.*

*It also deals with some of the concerns that women may have. For example, a woman may be afraid that she and her children will be deported if she reports abuse by her spouse or sponsor. She may also be afraid of what could happen to the person who is abusing her.*

## Women with permanent resident status

A woman who has permanent resident status cannot lose that status or be removed from Canada only because she leaves an abusive relationship. This is true even if her abusive partner is her sponsor.

A permanent resident is an immigrant or a protected person (refugee) who has successfully applied to live in Canada permanently.

Every permanent resident receives a document from Citizenship and Immigration Canada (CIC) as proof of status. The documents that prove someone's permanent resident status are the Permanent Resident Card, the Record

of Landing, and the Confirmation of Permanent Residence.

Permanent residents are sometimes referred to as "landed immigrants". They can apply to become Canadian citizens.

### Family class sponsorship

Many immigrant women arrive in Canada as family class relatives who have been sponsored by a spouse or partner. To sponsor a family class relative, the sponsor must be a Canadian citizen or permanent resident, and be 18 years of age or older.

A woman who is sponsored from outside Canada arrives with a permanent resident visa and becomes a permanent resident when she enters Canada.

A woman may have received permanent resident status after coming to Canada because her spouse or partner applied to sponsor her from within Canada.

Below is an explanation of who can be sponsored as a spouse or partner in the family class.

**A spouse:** This is a person the sponsor is legally married to.

**A common-law partner:** This is a person of the same or opposite sex who the sponsor is in a conjugal (or marriage-like)

relationship with and has lived with for at least one year. Or, this is a person who the sponsor has been in a conjugal relationship with for at least one year but could not live with because of persecution. For example, they might not have been able to live together in a country where common-law or same-sex relationships are against the law or where people are persecuted for being in these types of relationships.

**A conjugal partner:** This is a person of the same or opposite sex who lives outside Canada, and who the sponsor has been in a conjugal (or marriage-like) relationship with for at least one year. A conjugal relationship does not have to include living together.

**Note:** A spouse, or a common-law or conjugal partner must be at least 16 years old.

## Sponsorship breakdown

Sponsors agree to make sure that the people they sponsor have things such as housing, clothes, and food, or the money to pay for these things. “Sponsorship breakdown” happens if sponsors refuse or are unable to financially support a sponsored person in need during the sponsorship period.

When a woman is abused by her sponsor, their relationship may reach the point where she cannot look to her sponsor for any kind of help. CIC does not expect an abused woman to remain silent about her partner’s violent behaviour or to live in danger.

Unfortunately, many women who are permanent residents or Canadian citizens believe that they have no rights during their sponsorship period. They believe that they

must live with their sponsor throughout the sponsorship period. This is not true. They may also believe their sponsor’s threats to have them deported, even if they are permanent residents.

A permanent resident or a Canadian citizen can leave an abusive partner and her status in Canada will not be affected by that decision alone.

## Women without permanent resident status

Many women are in Canada without permanent resident status. They may have temporary status. For example, they may have work or study permits, or they may have been allowed to enter Canada as visitors and their status has not expired. They may have no immigration status at all. They may be:

- women with “inland spousal sponsorship” applications in progress,
- refugee claimants, or
- live-in caregivers.

Women who do not have permanent resident status and who leave an abusive situation can be at risk of being removed from Canada.

### Women with inland spousal sponsorship applications in progress:

A woman who is already in Canada, with or without temporary status, can apply under a special category known as the “Spouse or Common-law Partner in Canada class”. The application is processed in Canada and is sometimes called an “inland spousal sponsorship”. If the marriage or relationship is considered genuine and all

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other requirements are met, the woman will be given permanent resident status. A “conjugal partner” cannot be sponsored in this category.

Some people who do not have temporary status in Canada may be removed while their application is being processed. There may be legal steps they can take to stop their removal.

It is a good idea for women who do not have temporary status in Canada to get legal advice before starting an application under the Spouse or Common-law Partner in Canada class.

Since these applications take time to process, some women may stay in abusive relationships for a long time. They may stay in dangerous situations because they think that they have no choice and can take no action.

A woman whose application is dependent on her spouse or partner risks being removed from Canada if she separates. If she leaves the relationship, or is thinking about leaving, **she must get legal advice right away.**

If a woman has not yet received permanent resident status, and she separates from her spouse or partner, she can still pursue her application to remain in Canada.

If the application was made under the Spouse or Common-law Partner in Canada class, she can request that her application be changed to an application on humanitarian and compassionate (H&C) grounds. But these requests are often refused, so she may have to make a new application on H&C grounds.

If she has already made an H&C application, she can continue that application even though the basis of her application has changed. There is [more information](#) about this on pages 4 to 6.

Once a woman’s application has been approved at the first stage of the process, she can apply for a work permit.

Applications to CIC can be made in English or in French.

**Refugee claimants:** Some women who make claims for refugee protection base their claims on their spouse or partner’s fear of persecution. In these cases, a woman may have difficulty succeeding with her claim if she separates from her abusive spouse or partner.

A woman in this situation should get legal advice from her **own** lawyer.

Sometimes, it is possible for a woman to base a refugee claim on her fear of being abused in her own country. She must also show that she cannot get protection from the government there. For example, she might be from a country where the police do not lay charges against men who physically abuse their wives. If a woman is thinking about making a refugee claim based on fear of domestic violence, she should get legal advice.

A woman can choose to have CIC consider her claim in English or in French. If she does not speak either official language, CIC will provide an interpreter. CIC does not charge a fee for making a refugee claim.

A woman facing an admissibility hearing should not wait until the hearing to make a refugee claim because once a removal order

is made against her, it is too late for her to claim refugee protection. An admissibility hearing is held before a member of the Immigration Division of the Immigration and Refugee Board (IRB). The hearing takes place after a report that states that the woman is not admissible to Canada because she did not follow immigration rules. For example, if she came to Canada as a visitor and did not renew her status after it expired, she will have broken an immigration rule. In most cases, she will be able to apply for a pre-removal risk assessment (PRRA). There is [more information about PRRA](#) on page 6. She can also make an H&C application. There is information about H&C applications later on this page.

**Live-in caregivers:** A foreign domestic worker who has come to Canada under the Live-In Caregiver Program (LCP) is dependent on her employer and has to wait for at least two years to apply for permanent resident status. If she is in an abusive situation, she may be afraid to leave.

Live-in caregivers should know that if they leave their current employer and find other full-time, live-in domestic employment, they can ask CIC to issue them a new work permit.

If a live-in caregiver loses her job and cannot find another one, she can be sent home. But there may be steps she can take to stay in Canada. A woman in this situation should get legal advice.

There is a non-profit organization in Toronto, called *INTERCEDE for the Rights of Domestic Workers, Caregivers and Newcomers*, that gives information and assistance to live-in caregivers.

**INTERCEDE for the Rights of Domestic Workers, Caregivers and Newcomers**

Toll-free: **1-877-483-4554**

Greater Toronto Area: **416-483-4554**

Web site: [www.intercedetoronto.org](http://www.intercedetoronto.org)

## Staying in Canada after leaving an abusive situation: the H&C application

In general, immigration law requires people to apply for permanent residence from outside Canada. An exception to this rule allows applications from **within** Canada to succeed if CIC is satisfied that there are sufficient humanitarian and compassionate reasons.

It is always best to get advice from a lawyer or a community legal clinic about preparing an H&C application.

CIC policies on H&C applications specifically address domestic violence and sponsorship withdrawal. CIC officers must take into account situations where a woman has left an abusive spouse or partner.

An application for permanent resident status on H&C grounds can be made in English or in French and should be as detailed as possible. If a woman has left an abusive situation, her application should set out the history of abuse and include copies of reports from shelters, medical professionals, and the police, if possible. If the abused woman is required as a witness in a criminal trial, it is important to mention this. This can be a reason for allowing her to stay in Canada at least until she has testified at the trial.

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If there is a child who could be directly affected by the decision, CIC must consider the best interests of the child.

The application must show how established the woman is in Canada. This is important to the success of the application. It can take time to get the application ready and for CIC to make a decision. So, it is important that the woman try to create a stable situation for herself. She may need help improving her skills or finding work, housing, or child care.

To prove that she is established, her application could refer to such things as:

- her employment history in Canada,
- job references,
- her level of education,
- any skills updating or training she has received,
- any volunteer work she has done in Canada,
- whether she can speak French or English,
- how long she has lived in Canada,
- letters of support from friends and religious, community, or other groups,
- whether she has children here and whether they were born in Canada,
- whether she has any relatives here who are willing and able to help her,
- what type of assets or savings she has here, and
- whether she has had to rely on social assistance.

If she has relied on social assistance, she should explain why this was necessary. It is best that she not be on social assistance when she makes her application. If this is not possible, it may help if she has a plan for getting off assistance in the future.

An H&C application should also include information about the hardship a woman would face if she had to return to her country. She should give as much detail as possible about what would happen to her there. Including information about the customs and culture in her country can be helpful.

If her removal would have an impact on others living in Canada, such as family members or an employer, she should explain this.

If a sponsorship application was made in Canada and it had already been approved in principle before the sponsorship broke down, it should not be necessary to prove that the marriage or relationship was genuine. But, if the separation occurs before CIC gives approval in principle, it can be helpful to include evidence such as wedding photos or letters from friends or relatives to show that this was a genuine marriage or relationship.

The application must include a thorough and detailed summary of the woman's experience and situation in Canada. CIC may interview the woman about her application but often this does not happen. So, the application may be her only opportunity to tell CIC about her case.

It is also important that she let CIC know about any changes in her situation. Because it can take a while to get a decision, a woman's circumstances may change significantly.

If a woman is facing an admissibility hearing, she should not wait until the hearing to make an H&C application. An IRB member conducting an admissibility

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hearing does not have to delay the hearing to allow time for CIC to consider and decide an H&C application. And the member does not have the power to let a woman stay for H&C reasons.

**Making an H&C application does not automatically stop removal.**

## Pre-Removal Risk Assessment

If a woman has been ordered removed from Canada, she may be able to apply for a pre-removal risk assessment (PRRA). This is an assessment of the risk she would face if sent back to her country. To be accepted, she must meet the definition of Convention refugee or person in need of protection. The application can be made in English or in French. CIC does not charge for a PRRA application.

CLEO's publication called *Pre-Removal Risk Assessment (PRRA)* gives more information. To order a copy or to look at it online, please see the [contact information](#) at the bottom of page 8. Some community legal clinics help people with PRRA applications.

## What can happen to an abuser

If a woman contacts the police, the police could charge the abuser with a criminal offence. If the abuser is not a Canadian citizen, a criminal conviction can lead to the abuser being removed from Canada. In most cases, a permanent resident who is ordered deported has a right to appeal that decision to the Immigration Appeal Division of the IRB.

A person who is convicted of an offence that results in "bodily harm" against a member of their family, or their spouse or partner's family, cannot sponsor anyone. This is also true if they are convicted of attempting or threatening to commit this kind of offence.

Often, when a marriage breaks down, a sponsor will refuse to continue supporting the spouse. Sponsors who are unable or unwilling to meet their sponsorship obligations are usually not allowed to sponsor anyone else in the future. And, if someone they sponsored received social assistance, the government will take steps to get the money back from the sponsor.

## Getting legal help

If an abused woman's stay in Canada is at risk, she should get legal advice before she goes to CIC. There may be legal issues affecting her situation that she is not aware of. For example, she may be from a country that Canada is not sending people back to because of the human rights situation there.

She should speak to a family lawyer, especially if she has children. In some circumstances, if there is a court order under family law that deals with the children, her removal from Canada might violate the order.

If she wants to make an H&C application, she should get legal advice about the application. She should also know that if she does not have status in Canada and she contacts the police, they may decide to contact immigration authorities. The police computer will show if there is an immigration warrant in her name.

For legal advice, a woman can contact a community legal clinic or a lawyer. Community legal clinics give free legal advice to people with low incomes, but not all clinics deal with immigration issues.

Community legal clinics are usually listed under “Legal Aid” or “Lawyers” in the phone book. People can also check Legal Aid Ontario’s web site at <[www.legalaid.on.ca](http://www.legalaid.on.ca)> or phone them:

- Toll-free outside Toronto ...**1-800-668-8258**
- In Toronto .....**416-979-1446**
- Toll-free TTY.....**1-866-641-8867**
- TTY in Toronto .....**416-598-8867**

## Resources for abused women

For information about shelters, the police, and medical, legal, or counselling services, women can contact the *Assaulted Women’s Helpline*.

The Helpline gives free, confidential crisis counselling by telephone and is available 24 hours a day, seven days a week. Friends and family members of abused women and service providers who work with abused women can also call the Helpline.

The Helpline can help women find groups or services in the language they prefer, including sign language.

### Assaulted Women’s Helpline

Greater Toronto Area: **416-863-0511**

Toll-free (Ontario): **1-866-863-0511**

Toronto TTY: **416-364-8762**

Toll-free TTY (Ontario): **1-866-863-7868**

Web site: [www.awhl.org](http://www.awhl.org)

French-speaking women can also call *femaide*, which is a province-wide crisis line for women 16 years of age and over. It is available 24 hours a day, seven days a week.

### femaide

Toll-free: **1-877-336-2433**

Toll-free TTY: **1-866-860-7082**

Web site: [www.oasisfemmes.org](http://www.oasisfemmes.org)

CLEO produces *Do you know a woman who is being abused? A Legal Rights Handbook*. To order a copy or look at it online, please see the [contact information](#) on page 8.

CLEO also has an online project called CLEONet, which is for community workers and advocates who work with low-income and disadvantaged communities. CLEONet has hundreds of resources on legal issues, including materials dealing with violence against women. To view resources on CLEONet, go to <[www.cleonet.ca](http://www.cleonet.ca)>.

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**This publication contains general information for people in Ontario. It is not a substitute for getting legal advice about your particular situation.**

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