

STEPS TO JUSTICE

Refugee Law Workshop

An OJEN facilitator's guide demonstrating a CLEO public legal information resource.



ONTARIO JUSTICE EDUCATION NETWORK
RÉSEAU ONTARIEN D'ÉDUCATION JURIDIQUE



CLEO

Community Legal Education Ontario
Éducation juridique communautaire Ontario



About this workshop guide

This workshop guide is a collaboration between the **Ontario Justice Education Network (OJEN)** and **Community Legal Education Ontario (CLEO)**. OJEN's Steps to Justice workshops introduce audiences to common legal problems and familiarize them with a specific area of law. Using hypothetical scenarios, workshop participants explore a legal topic by navigating the practical step-by-step information on CLEO's Steps to Justice website. They learn how to use the website to find legal information, including the forms, self-help guides and referral information for legal and social services which may be helpful in working through a future legal problem.

This workshop guide was written for use in Ontario high school classrooms, but can be used (or modified) for other audiences. For more information on how to use this workshop guide, please check out our short training video available on the OJEN website ojen.ca/steps-to-justice-workshops-training-video.

OJEN is a charitable, non-profit, public legal education organization. We develop innovative educational tools that introduce young people to the justice system, help them understand the law, and build their legal capability. We partner with schools and community organizations across Ontario to prepare young people to manage the legal problems that will arise in their lives. For more information on OJEN, please visit ojen.ca.

We gratefully acknowledge the support of law students who have contributed to this workshop guide through the Osgoode Public Interest Requirement (OPIR) at Osgoode Hall Law School and through placements with Pro Bono Students Canada (PBSC). We would also like to thank the high school students who provide us with their perspectives and feedback on this resource as OJEN summer interns through the Law in Action Within Schools (LAWS) Summer Job Program.

Any legal information in this resource is intended for general educational purposes and should not form the basis of legal advice of any kind. Individuals seeking specific information about their legal problem should always consult a lawyer.

For over 45 years, **CLEO** has developed clear, accurate, and practical legal rights education and information to help people understand and exercise their legal rights. We produce print and online resources, including the Steps to Justice website, the Family Law Guided Pathways, and CLEO Connect which has information and supports for community organizations. For more information on CLEO, please visit cleo.on.ca.

STEPS TO JUSTICE REFUGEE LAW OVERVIEW

Activity (minutes)	Content
Warm-up (5)	- Clarify differences between criminal and civil law. - Group quiz on refugee law (Slides 2-6). - What are the major areas covered by refugee law? (Slide 7).
Hook (5)	- Advance to Slide 8 and read the demonstration scenario out loud. - Encourage participants to identify potential legal issues in the scenario. - Switch to Slide 9. Explain that the Steps to Justice website is a tool that can help people understand what they need to do when they have legal problems like this one. The group will next use it to answer questions related to the scenario.
Introduce Steps to Justice (10)	- Distribute the participant handout, "Scenario 1: Demonstration." - Advance to Slide 10. Read the questions about the scenario out loud. - Pull up the Steps to Justice website on the display screen. - As a group, use the Steps to Justice to find answers to the questions about the demonstration scenario on the slide. - Use different searching options (sub-topics, front page keyword search, and header menu) and introduce the actual "steps" to follow. Use the presenter's notes on where to find the information included in this guide for support. - Ask if anyone has questions.
Group work (25)	- Advance to Slide 11. - Divide participants into groups and cue them to pull up Steps to Justice on phones/computer and to start on the refugee law legal topic. - Give each group a scenario worksheet (scenarios 2-5). - Each group needs at least one device with internet to complete their worksheet. - Circulate and support the groups as needed.
Discussion (15)	- Each group has 3-5 minutes to explain their scenario and what they have learned through their investigation. Participants should refer to the completed worksheet for support. - Address questions and issues arising from their reporting.
Application (Optional)	- Advance to slide 12. - Since the group has practiced using the Steps to Justice website, the presenter may introduce a more complex scenario. - Participants should comment on it reflecting what they have just learned. - As a group, use the website to answer the scenario questions. - Facilitator's notes are included in this guide to support discussion.



Facilitator's Package: Refugee Law

TRUE OR FALSE¹

1. A "refugee claim" and a "humanitarian and compassionate application" (H&C) are the same thing.

F – there are many differences, such as the basis of each application. An H&C application only requires you to show anything that makes others feel compassion and want to help. However, a refugee claim requires that you be a convention refugee or a person in need of protection.

2. Anyone can make a refugee claim.

F – you have to be eligible to make such a claim. There are certain exceptions. For example, you are not eligible to make refugee claim if you committed a crime that violated human rights laws, if you have made a refugee claim before in Canada or any other commonwealth country (regardless of whether it was accepted).

3. I made a refugee claim to Australia 2 years ago, but they never got back to me, so I'm going to try and make one in Canada. They're nicer!

F – you cannot make a refugee claim in Canada if you've already made one in the United States, the United Kingdom, Australia or New Zealand, even if they did not accept it or make a decision about your claim.

4. My husband is physically abusive to me and I live in a country where women don't have many rights. I think I can make an H&C application to Canada. I don't want my daughter to have the same life.

F – you can make an H&C application for anything that makes others feel compassion. If a child is involved, Immigration, Refugees and Citizenship Canada (IRCC) must consider what is in the child's best interest when they decide about the parent's claim.

5. I came to Canada to escape violence, but when I got here I was told I am not eligible to even make a refugee claim. I am terrified of being sent back to my home country, but I am out of options in Canada.

F – If you are not eligible to make a refugee claim in Canada, you can request a Pre-Removal Risk Assessment (PRRA). This involves providing documentation to support your fears of being returned to your home country. If you are successful in this process you can remain in Canada and usually you can also apply to become a permanent resident.

¹Adapted from <https://stepstojustice.ca/steps/immigration/4-learn-more-about-differences-between-refugee-claims-and-hc-claims> and <https://stepstojustice.ca/steps/refugee-law/2-learn-who-can%E2%80%99t-make-refugee-claim>



Facilitator's Package Scenarios



Start on the Steps to Justice question, “Can I make a refugee claim in Canada?” under **Making a refugee claim**. Follow the steps from the landing page to answer the questions. The relevant steps are listed in brackets following the question.



Scenario 1: Demonstration

I have been living in Detroit for the past 4 years but I have been living in terrible conditions. I came for the American dream, but things didn't turn out as I had hoped. Can I make a refugee claim to Canada even though I live in the U.S.?

Start on the Steps to Justice topic, “Making a refugee claim” with the question, “Can I make a refugee claim in Canada?”

- What are the basic things you need to prove? (Step 1)
- What is the Safe Third Country Agreement and what happens if it applies to me? (Link from the landing page, Step 2)
- What are the exceptions to the STCA? (Link from Step 2)
- What happens if the STCA does not apply? (Link from Step 2)

Discussion

To make a refugee claim, you must be either a Convention refugee or a person in need of protection. The STCA says that you might not be able to make a refugee claim in Canada, if you're coming from the U.S. It says that a person coming from the U.S should usually make their refugee claim in the U.S. The STCA applies if you arrive to Canada from the U.S :

- By car, train, bus, or foot or any other means at a land border Port of Entry (POE)
- By train in a location listed as a POE
- By plane (only if your refugee claim in the US was rejected)

If the STCA applies, you will be sent back to the U.S.

However, the STCA does not apply if you arrive to Canada from the U.S:

- At marine ports
- At airports (unless you're transit while being removed from the U.S)
- At inland offices of the IRCC or Canadian Border Services Agency (CBSA)
- Along the US-Canada land border between POEs

If the STCA doesn't apply, you can still be eligible for a refugee claim but you'll have to meet the other requirements.

There are exceptions to the STCA rule. People in exceptional cases might still be able to make a refugee claim. Some of these exceptions are:

- Having an eligible family member in Canada
- Being an unaccompanied minor
- Having been charged with a crime for which you can get the death penalty.

Even if you meet any of these, you'll still have to show that you meet the other requirements.

Even if the STCA doesn't apply, or if you meet an exception, you're still not eligible IF:

- You have a removal order
- Have convention refugee status somewhere else
- Made a refugee claim before and was rejected
- Have broken human rights laws
- Have already made a refugee claim in another Commonwealth country.



Scenario 2

I came to Canada 5 years ago with a refugee claim. I was granted a “protected person” status, but now I’m afraid of losing my status. I got into some trouble at my work and I was fired for insubordination and now I’m scared it might affect my status. If I get an order to leave the country, is there anything I can do to stop that?

Start on the Steps to Justice topic, “Making a refugee claim” with the question, “Can I lose my refugee status?”

- In what circumstances can someone lose their protected person status? (**Landing page**)
- If I received my permanent resident status after a refugee claim, can I still lose it? (**Landing page**)
- When would the minister appeal my status? (**Step 1**)
- What do vacation orders and cessation orders mean? (**Step 2**)
- Do you believe that a refugee should always keep their protected person status? (**Subjective; responses will vary**)

Discussion

There are three ways you can lose your protected person status:

1. The IRCC can appeal the refugee board decision that gave you protected person status.
2. Your protected person status can be stopped if the Government believes you did something that shows you don’t need protection from Canada anymore (for ex. You returned to your home country).
3. Your protected person status can be cancelled if the Government believes that you received it by giving untrue or incorrect information or by leaving out information that was relevant.

Even if you are a permanent resident, your protected person status can also be “cessated” or cancelled. And if you lose the protected person status, you lose the permanent residency as well.

The first option doesn’t happen very often. The Minister would have to send you a notice so you can get a chance to respond. They must file a notice of appeal within 15 days of receiving the Decision from the Refugee board, and a lawyer can help you write your response.

The second option is a “cessation order”: if you travel to your home country (even for a short time), apply to get a passport from your home country, return to live in your home country, or become a citizen for a country other than Canada.

The third option is a “vacation order”. This can occur if a claim is found to have succeeded because the claimant gave untrue or incorrect information. This is called “misrepresentation”. It can be direct (like giving false documents) or indirect (like not providing all the information necessary).

It’s very important to apply for citizenship as soon as you’re eligible. Once you are a citizen, you can’t lose the protected person status, unless you said something in your application that was not true.



Scenario 3

My name is Alya, and I am a refugee who came to Canada with my family. We left Syria because of the war and came here seeking a better life. At the airport, the Canadian officers detained me and did not let me go inside the country. They are violating my rights and they can't do this to me. I came here as a refugee! Why would they detain me like I was a criminal?

Start on the Steps to Justice topic, “Being detained” with the question, “I am not a Canadian citizen. Can immigration authorities detain me?”

- In what circumstances can immigration authorities detain a non-citizen? (**Landing page**)
- What are the rights of a person detained? (**Landing page, Step 2**)
- How can they be released? (**Step 3**)
- What happens at a detention review hearing? (**Step 4**)
- What will they decide in the review hearing? (**Step 5**)

Discussion

If you're not a Canadian citizen, you could be detained at a point-of-entry, a Canada-U.S. border, or any CBSA or IRCC office. Some reasons you might be detained are:

- If officials need time to get travel documents to remove you from Canada
- If they think you won't show up for an interview, hearing, or for your removal from Canada
- If they need to confirm your identity
- If they think you're a danger to the public
- If they think you are a security threat in Canada

If you are detained, you have the right to know the reason you are detained. If you're not released, you will be taken to an immigration detention centre. You have a right to an interpreter at your detention review hearing if you do not understand English or French. You also have the right to talk to a lawyer, receive medical attention, as well as practise your religion. You can also contact a representative of your country's embassy. Try to get legal help as soon as possible.

You can prepare for your detention review by making a plan for your release. In most cases, you will need a bondsperson: someone who will supervise you and is willing to pay a sum of money if you break a condition of your release. That person needs to be an adult Canadian resident or citizen who knows you and your immigration history.

They will also likely need give information during the review hearing. A detention review hearing is where a member of the Immigration division looks at why you're being detained, and see if you can be released. If you get a release order, it will have conditions that you must follow (like having a bondsperson) until you are either removed from Canada or given the protected person status or permanent residency. If you're not released, you'll have another hearing in 7 days, and if you're still not released, you will have a hearing every 30 days until you are released or removed from Canada.



Scenario 4

My name is Sherif and I am a permanent resident in Canada. I came here from Egypt about 6 years ago with my family. Recently, my friend Ali got into some trouble when he tried to make a refugee claim and now he is detained by the authorities. He asked me to be his bondsperson but I am not sure what that means exactly and what my responsibility would be. I don't want any trouble with the immigration officials and I want to know what I signed up for.

Start on the Steps to Justice topic, "Being detained" with the question, "What is a bondsperson for someone in immigration detention?"

- What is a bondsperson? (Landing Page)
- What are the bondsperson's responsibilities? (Landing Page, Step 1)
- What if they don't follow all the rules or responsibilities? (Step 2)
- When do the responsibilities end? (Step 2)
- What will they need from them at the detention review hearing? (Step 5)

Discussion

A bondsperson is someone who agrees to pay money to show that they believe the detained person will follow conditions if released. This can also be called a surety.

Being a bondsperson is an important responsibility. A bondsperson is usually a friend or relative of the detained person. To be a bondsperson, you must be 18 or older, a Canadian permanent resident or citizen, and physically in Canada. As a bondsperson, you will probably also have to go to the detention review hearing and answer a few questions.

If you agree to be a bondsperson, you are responsible for the person until they get permanent status in Canada. You need to understand the conditions they must follow (such as keeping a curfew, support for health, addictions or employment). If you are accepted as a bondsperson, you are responsible for that person 24 hours a day, even when you're not together. If they break (or "breach") a condition, you must report them to authorities, even if it means they will be detained again. If you don't fulfill your role, you could lose the money you pay or promised to pay. If you report the breach, there's a chance that CBSA might not keep the cash bond or make you pay. But it depends on the circumstances. If you do not report the breach, they will keep the cash bond and ask you to pay your performance bond.

These responsibilities end if:

- The person receives a permanent status in Canada,
- Is removed from Canada, or
- Agrees to leave Canada.

If you want to stop being a bondsperson, you can ask CBSA to release you from this obligation, and you must have a good reason for it. There also must be another suitable bondsperson willing to take your place. If CBSA doesn't approve, you must remain responsible but you can write to the Immigration division and ask for a hearing.

At the detention review hearing for the detained person, the Immigration division will review the information presented in the release plan and decide whether you're a suitable bondsperson. You will also likely have to answer questions there regarding your relationship to the detained person, your knowledge of their immigration history, your ability to supervise the person, your understanding of what it means to be a bondsperson, and your willingness to report if they don't follow the conditions. Finally the CBSA will decide whether you are suitable to be the bondsperson or not based on the evidence presented during the hearing.



Scenario 5

I made a refugee claim in Canada and I came here with my 8-year old son. I tried to enroll him in a school but they told me he couldn't be a student at their school because we don't have a permanent status in Canada. I am still in the process but I am here legally and my son should be allowed to go to school! Are they allowed to do this?

Start on the Steps to Justice topic, "Getting benefits and services" with the question, "Can my children go to school after I make a refugee claim?"

- Can the school refuse a student because of their immigration status? (Landing page)
- Are these laws only applicable on minors or 18+ students too? (Landing Page)
- How do education laws work in Ontario? (Step 1)
- What documents do you need to register your child in school? (Step 3)

Discussion

All children under the age of 18 living in Ontario have the right to attend school. It's against the law for a school to refuse to admit a child only because of their parents' immigration or refugee status. In fact, your local school has a duty to tell a child protection agency, if:

- You don't send your child to school
- Your child misses a lot of school, or
- If there are concerns about your homeschooling.

For children over 18 years old, the child will need a study permit to attend college or university while your refugee claims are being decided, and will probably have to pay international student fees. This can be a lot more expensive.

According to the Ontario education laws, a child who is at least 6 years old before the first day of school in September must go to school. Most children can attend a kindergarten program when they are 4 or 5 years old. If your refugee claim is accepted, you will be given an identity document called a Refugee Protection Claimant Document. You can use this document to register your child in school.

To register your child in school, you usually need:

- Proof of your child's age
- Proof of address

- Proof of guardianship
- Proof that your child has been immunized.

But your child can still attend school even if these documents are not available. If the children have a valid visitor status, they need to show proof that they've made a refugee claim or application for permanent residency. When you need advice or help, you can always go to the nearest community legal clinic.



Scenario 6

I arrived to Canada a few months ago and I am waiting for a decision about my refugee claim. Recently I have been in a lot of pain. I think I may have chronic back pain and could need surgery. I want to go get it checked but when I went to the nearest hospital, they denied me health services because of my immigration status.

Start on the Steps to Justice topic, “Getting benefits and services” with the question, “Can I get healthcare services after I make a refugee claim in Canada?”

- Can someone be denied healthcare services due to immigration status? (**Landing page**)
- What if their refugee claim is rejected? (**Landing Page**)
- What does the Federal healthcare program cover? (**Step 1**)
- How do I get the medical exam I need? (**Step 2**)
- Should I apply to the Ontario health insurance program or stay on the federal one? (**Step 3**)

Discussion

If you receive refugee status and get the Refugee Protection Claimant Document, it will allow you to get basic healthcare services free of charge through the federal health program. If your refugee claim is withdrawn or abandoned your healthcare coverage will be cancelled. This is different from undocumented people who arrive in Canada, who cannot access free healthcare.

If the refugee claim is rejected, you will continue to have federal healthcare coverage until there is an enforceable removal order and they are ordered to leave Canada.

The federal healthcare program provides free basic healthcare coverage to refugee claimants. Once you qualify for it, you get unlimited basic medical services. These services include:

- hospital care (emergency services and treatment)
- help from medical professionals if you're pregnant or just had a baby
- ambulance services
- blood tests and other tests

There are some other services that are covered but have a limit as to the amount that you can receive, such as vision care, dental care, hearing aids, diabetic supplies...

Once you qualify as a refugee, you receive a Medical Report form and instructions to get an Immigration Medical Exam (IME). Your exam will have to be performed by a “panel physician” (aka a doctor approved by the IRCC).

It is a good idea to apply to the Ontario health insurance program (OHIP) because the federal one expires 90 days after your refugee claim is accepted. OHIP covers many healthcare services including visits to walk-in clinics, emergency rooms, medical tests and surgeries. Once you qualify, you'll get a health card to prove it.



Display: *Large Group Practice Scenario 7*

I am a mother of two kids and I came to Canada to visit the country but I want to stay here because it's unsafe for me to go back. There is a war in my country. Famine is spreading and I want to give my children the best chance at a normal life. I want to find out if I can qualify as a refugee. I have heard that this involves a legal hearing of some sort but I don't know what to expect or where to look for help. What should I do? Do I need a lawyer?

Discussion

Students can draw from their learning to identify potential legal issues and questions to investigate. There are many issues at play here, such as the best interests of the children, what kinds of support a claimant can get from different professionals, and learning what to anticipate and how to prepare for a refugee status hearing. The facilitator should encourage students to consider how these issues might be interrelated or affect each other.

Start from the topic, "Getting legal help in Refugee law". Consider questions like:

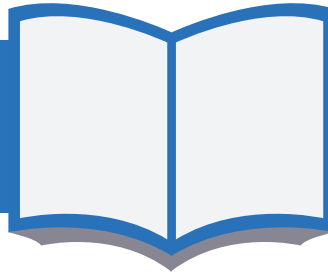
- Where do I start looking for advice about my refugee claim?
- Who can help me with my refugee claim?
- What is the difference between a lawyer, paralegal and immigration consultant?
- What if I can't afford to hire a representative?
- Do I need to speak English or French?

Start from the topic, "Refugee Hearings". Consider questions like:

- How does the hearing process start?
- What happens if the person does not show up for the hearing?
- What evidence does she need to bring?
- What if she can't go to the hearing because of a disability or other issues?
- What is a vulnerable person?
- What will she have to testify about?
- What should she know about testifying?
- Do you think the process is too complicated or demanding on someone who is a refugee?



Participant Handouts Scenarios



Scenario 1 Worksheet: Demonstration

I have been living in Detroit for the past 4 years but I have been living in terrible conditions. I came for the American dream, but things didn't turn out as I had hoped. Can I make a refugee claim to Canada even though I live in the U.S.?

Start on the Steps to Justice topic, "Making a refugee claim" with the question, "Can I make a refugee claim in Canada?"

- What are the basic things you need to prove?
- What is the Safe Third Country Agreement and what happens if it applies to me?
- What are the exceptions to the STCA?
- What happens if the STCA does not apply?



Scenario 2 Worksheet

I came to Canada 5 years ago with a refugee claim. I was granted a “protected person” status, but now I’m afraid of losing my status. I got into some trouble at my work and I was fired for insubordination and now I’m scared it might affect my status. If I get an order to leave the country, is there anything I can do to stop that?

Start on the Steps to Justice topic, “Making a refugee claim” with the question, “Can I lose my refugee status?”

- In what circumstances can someone lose their protected person status?
- If I received my permanent resident status after a refugee claim, can I still lose it?
- When would the minister appeal my status?
- What do vacation orders and cessation orders mean?
- Do you believe that a refugee should always keep their protected person status?



Scenario 3 Worksheet

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Start on the Steps to Justice topic, "Being detained" with the question, "I am not a Canadian citizen. Can immigration authorities detain me?"

- In what circumstances can immigration authorities detain a non-citizen?
- What are the rights of a person detained?
- How can they be released?
- What happens at a detention review hearing?
- What will they decide in the review hearing?



Scenario 4 Worksheet

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Start on the Steps to Justice topic, "Being detained" with the question, "What is a bondsperson for someone in immigration detention?"

- What is a bondsperson?
- What are the bondsperson's responsibilities?
- What if they don't follow all the rules or responsibilities?
- When do the responsibilities end?
- What will they need from them at the detention review hearing?



Scenario 5 Worksheet

I made a refugee claim in Canada and I came here with my 8-year old son. I tried to enroll him in a school but they told me he couldn't be a student at their school because we don't have a permanent status in Canada. I am still in the process but I am here legally and my son should be allowed to go to school! Are they allowed to do this?

Start on the Steps to Justice topic, "Getting benefits and services" with the question, "Can my children go to school after I make a refugee claim?"

- Can the school refuse a student because of their immigration status?
- Are these laws only applicable on minors or 18+ students too?
- How do education laws work in Ontario?
- What documents do you need to register your child in school?



Scenario 6 Worksheet

I arrived to Canada a few months ago and I am waiting for a decision about my refugee claim. Recently I have been in a lot of pain. I think I may have chronic back pain and could need surgery. I want to go get it checked but when I went to the nearest hospital, they denied me health services because of my immigration status.

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- Can someone be denied healthcare services due to immigration status?
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- What does the Federal healthcare program cover?
- How do I get the medical exam I need?
- Should I apply to the Ontario health insurance program or stay on the federal one?