



CANADIAN COUNCIL FOR REFUGEES  
CONSEIL CANADIEN POUR LES RÉFUGIÉS

table de concertation  
des organismes au service  
des personnes réfugiées et immigrantes



In collaboration with the refugee communities from the following countries, on which Canada has imposed a moratorium on removals: Afghanistan, Democratic Republic of Congo, Haiti, Iraq, and Zimbabwe.

## Fact sheet for nationals of moratoria countries without permanent status in Canada

*Moratoria countries: Afghanistan, Democratic Republic of Congo, Haiti, Iraq and Zimbabwe.*

### Who is affected?

Those affected are people from Afghanistan, the Democratic Republic of Congo, Haiti, Iraq and Zimbabwe, who have been refused refugee status. However, the Canadian government recognizes that they cannot return to their country of origin because of insecurity there, and therefore has imposed a moratorium on removals.

These people are protected from imminent removal (with some exceptions, such as cases involving criminality, accusations of crimes against humanity), but there is no guarantee that they will obtain permanent residence. Some do obtain permanent residence through various avenues (e.g. applications on humanitarian and compassionate grounds (H&C), spousal sponsorship by a Canadian), but many are not able to. This means that they live in Canada in a legal limbo, which can continue indefinitely. Some people have lived in Canada for more than 14 years without permanent status.

### What are their rights? What are the limits on their rights?

- They have the right to work, but they must pay to renew their work permit, either annually or every six months. They also have a 900-series Social Insurance Number (SIN). This means that employers know that they only have temporary status. Their job prospects are thus limited and they must renew their SIN on a regular basis.
- People in this situation are entitled only to emergency medical services, paid by the federal government (through the Interim Federal Health Program (IFH)). It can be difficult to find health services if you are covered only by IFH.
- Despite working and paying taxes, they are not eligible for federal and provincial child tax benefits.
- They cannot be reunited with their families, even with their spouses and children who are still overseas.
- They cannot leave Canada (if they do, they will most likely not be able to return to Canada).

### Pending a resolution of this legal limbo, what steps should be taken?

The Canadian government encourages people from moratoria countries to make an *application for permanent residence on humanitarian and compassionate grounds (H&C)*. Although many people who make H&C applications are accepted, a large proportion are refused, the application process may take several years and every decision is made by an individual officer on a discretionary basis.

## **What is an application for permanent residence on humanitarian or compassionate (H&C) grounds? Who can make an H&C application?**

People from moratoria countries, like any other person, can at any time apply for permanent residence on humanitarian or compassionate (H&C) grounds. The application fees are \$550 per adult (\$150 for each dependent child under the age of 22). The decision is then made by an immigration officer, which can take several years. H&C applications are a discretionary measure and there are no clear and transparent rules that state plainly who is eligible.

Citizenship and Immigration Canada provides information about H&C applications, including the application forms, on their website:

<http://www.cic.gc.ca/english/information/applications/handc.asp>

### **Who can fill in the forms?**

Anyone can prepare their own H&C application. However, in addition to filling in the forms, the person needs to back up their application with submissions (written arguments) and supporting documents (letters, attestations, medical reports where applicable, etc.) to show the aspects of their situation that deserve humanitarian considerations. For this reason, people often turn for help to immigration lawyers or community groups.

### **Which factors should be emphasized?**

Immigration officers must take into account all information submitted in order to determine if there are enough humanitarian factors to grant permanent residence. A positive decision can be based on several factors, such as how established the person is in Canada, how long they have been in Canada, the best interests of any children affected, and any specific issues (e.g. medical factors). The risk they face if they had to return to their country is one humanitarian consideration, but it is not a requirement.

The immigration manual IP5 “Immigrant Applications in Canada made on Humanitarian or Compassionate Grounds” sets out the criteria that officers must follow when making a decision. Paragraph 13.9 is especially relevant for nationals of moratoria countries. The guide is available at <http://www.cic.gc.ca/english/resources/manuals/ip/ip05-eng.pdf>

### **What can be done if an H&C application is refused?**

When an application is refused, the applicant receives a letter that simply says the answer is negative. However, everyone has the right to request the reasons for the decision. To obtain the reasons, a written request should be sent to Citizenship and Immigration Canada.

A person may apply for H&C as often as he or she likes. There have been situations where people who were refused on their first H&C application received a positive decision after applying again.

### **Are other ways to obtain permanent residence apart from H&C?**

Anyone who has a spouse or common-law partner with Canadian citizenship or permanent residence may apply for permanent residence under the Spouse or Common-law Partner in Canada class.

For more details, please see <http://www.cic.gc.ca/english/information/applications/spouse.asp>.

### **What is the “Lives on Hold” coalition?**

The coalition was formed in 2005 by the communities of the moratoria countries along with the Canadian Council for Refugees, the Table de concertation au services des personnes réfugiées et immigrantes and the Ligue des droits et libertés. Since its creation, the coalition has been bringing the difficulties faced by the moratoria communities to the attention of the government, civil servants, the media and the general public. The coalition is pressing the government to create a regulatory class which would grant permanent residence to people who come from countries with a moratorium on removals and who have been in Canada for more than three years.

### **Where can I go for more information?**

*For legal questions*

- Comité d'aide aux réfugiés – (514) 272-6060, ext. 5

*For questions about the “Lives on Hold” campaign*

- Canadian Council for Refugees – (514) 277-7223

*For questions concerning services available to nationals from moratoria countries (in the Montreal area)*

- CLSC Côte-des-Neiges – PRAIDA – (514) 731-8531 (direct line for clients); (514) 731-1386, ext. 2469 (direct line for community workers)

### **Practical resources**

- Immigration Guide IP5 “Immigration Applications in Canada made on Humanitarian or Compassionate Grounds” sets out the criteria that officers must follow when making a decision. Paragraph 13.9 is especially pertinent for nationals of moratoria countries. The guide is available at <http://www.cic.gc.ca/english/resources/manuals/ip/ip05-eng.pdf>.
- Application forms for permanent residence on humanitarian and compassionate grounds, on the Citizenship and Immigration Canada website at: <http://www.cic.gc.ca/english/information/applications/handc.asp>
- For more information about applying for permanent residence in Canada as a spouse or common-law partner of a Canadian citizen or permanent resident, consult: <http://www.cic.gc.ca/english/information/applications/spouse.asp>.
- Fact sheet for nationals of Burundi, Liberia and Rwanda without permanent status in Canada, <http://www.ccrweb.ca/documents/infosheetmoratoria2009.pdf>
- Web page for the campaign *Lives on Hold*: <http://www.ccrweb.ca/livesonhold.htm>.