

## Evidence in Refugee claims

**Course Summary:** This course will explore the rules of evidence that apply to refugee hearings before the Refugee Protection Division (“RPD”) and the Refugee Appeal Division (“RAD”) of the Immigration and Refugee Board of Canada. We will explore the best practices for building a claim, from establishing the burden of proof and identifying the issues, to preparing disclosure before the RPD and the Appellant’s Record before the RAD. During this course we will discuss the importance of credibility and its maintenance through evidence and claimant testimony.

### **Course Outline:**

1. The Burden of Proof
  - a. The Shared Burden of proof
    - i. National Documentation Packages
    - ii. The Powers of Board Members
2. The Standard of Proof
  - i. ss. 96 & 97 IRPA
  - ii. *Adjei v. Canada (Minister of Employment and Immigration)*, 1989 CanLII 5184 (FCA) – *more than a mere possibility*
  - iii. *Li v. Canada (Minister of Citizenship and Immigration)* – persuasive evidence of a substantial danger of being tortured
3. The Maldonado principle
  - a. Resolving doubt in favour of claimants
  - b. The Benefit of the Doubt
    - i. Paragraph 196 of the Handbook
    - ii. *Chan v. Canada (Minister of Employment and Immigration)*, 1995 CanLII 71 (SCC)
4. Expert Evidence
  - a. *Moffat v. Canada (Citizenship and Immigration)*, 2019 FC 896
  - b. The line between expertise and advocacy – what to avoid

5. RAD

- a. 110(4) *IRPA* – New Evidence
  - i. *Canada (Citizenship and Immigration) v. Singh*, 2016 FCA 96
  - ii. The Raza Factors - *Raza v. Canada (Citizenship and Immigration)*, 2007 FCA 385
- b. 110(6) *IRPA* – Requesting a hearing

6. Federal Court – when can new evidence be submitted with an Application for Leave and for Judicial Review?

7. Preparing a client to give testimony at their hearing

8. Questions and Answers