

FEDERAL BRIEFING DOCUMENT 6: EXECUTIVE SUMMARY

Training of Immigration Officials on Violence Against Women

Domestic violence represents a very real danger for immigrant, refugee, and non-status women as it does for Canadian-born women. Since 1996, a significant number of immigrant women and their families have been murdered or seriously injured by their husbands or ex-husbands or other family members in BC. It is essential that all Citizenship and Immigration Canada (CIC) officials working with women and their children who may be victims of domestic or sexual violence be adequately trained on the complexities and risks of these forms of violence, their impacts on women and children, and the particular needs of abused women and their children arising out of these circumstances, with a focus on their safety needs. Training should focus on effective implementation of existing operations manuals and guidelines and should include the development of supplemental materials for staff on violence against women where necessary. It is important that training on new legislation or policy includes a specific focus on its potential impact on immigrant or refugee claimants who may be victims of violence.

Recommendations

Immediate

1. Comprehensive, in-depth training on all forms of violence against women and its potential impact on immigrant, refugee, and non-status women should be provided on a regular basis to all those immigration officials who may be in a position to provide advice or support to abused women or those who assist them or who are in a position to make decisions that affect abused women and their children. (ongoing)
2. Training on new immigration or refugee legislation or policy should include a specific focus on its potential impact on claimants who may be victims of gender-based violence and the fact that safety of these claimants must be a priority. (ongoing)
3. Training curricula and other resources should address both domestic violence and sexual violence and their potential impact on women and their children who are seeking refugee or immigrant status in Canada. (ongoing)
4. Training curricula and other resources should be developed and delivered in collaboration with those who have front-line experience and expertise with abused immigrant, refugee, and non-status women, including lawyers and non-lawyer advocates and support workers. (ongoing)

Medium-term

5. In addition to training courses, resource material such as detailed manuals should be developed for the use of CIC personnel on an ongoing basis.

FEDERAL BRIEFING DOCUMENT 6

Training of Immigration Officials on Violence Against Women

ISSUE: It is essential that Canadian immigration officials be adequately trained on domestic and sexual violence and its potential impact on the safety of immigrant, refugee, and non-status women.¹

KEY POINTS

- Domestic violence represents a very real danger for immigrant, refugee, and non-status women as it does for Canadian-born women. Since 1996, a significant number of immigrant women and their families have been murdered or seriously injured by their husbands or ex-husbands or other family members in BC.
 - In April 1996 in Vernon, Mark Chahal shot and killed his estranged wife, Rajwar Gakhil and eight family members, as well as himself, in the worst mass murder in the province's history.
 - In July 2003, Rajinder Atwal stabbed his daughter Amandeep to death in a car near Cache Creek because he objected to her love affair with a schoolmate.
 - In December 2003, Denise Purdy was murdered by her husband, Kelvin Purdy, in Nanaimo.
 - On October 18, 2006, pregnant schoolteacher Manjit Panghali was killed in Surrey by her husband Mukhtiar Panghali. Her brother-in-law, Sukhvinder Panghali was also charged with offences related to the murder.
 - On October 19, 2006, Port Coquitlam nurse Gurjeet Kaur Ghuman was shot in the face and blinded by her estranged husband, Paramjit Singh Ghuman, who then killed himself.
 - On October 29, 2006, Navreet Kaur Waraich was stabbed to death by her husband, Jatinder Singh Waraich in Surrey.
 - On July 5, 2007, school principal Shemina Hirji was killed in Burnaby five days after marrying Narinder Cheema who had a criminal record for violent offences.
 - On September 4, 2007, Peter Hyun Joon Lee murdered his wife, Sunny Yong Sun Park, their six-year old son, Christian, and his wife's parents in Oak Bay on Vancouver Island.

¹For purposes of this document, immigrant women may include participants in temporary foreign worker programs such as the Seasonal Agricultural Workers Program or the Live-in Caregiver Program.

- On August 28, 2009, Yan Lin was stabbed to death along with her ex-husband in Richmond. Her second husband, Chang Xi Wang, who had a history of violence against Yan Lin, was charged with the killing.
- On September 21, 2009, Lesney Valencia, mother of five, was murdered in Burnaby. Her estranged partner, Oswill Vergara, was charged with the murder.
- On January 5, 2010, Kamaljit Singh Dhanoa was charged with the murder of his wife, Tejinder Kaur Dhanoa, mother of their two small children, in Surrey.
- There is a need for all Citizenship and Immigration Canada (CIC) personnel working with women and their children who may be victims of domestic or sexual violence to understand the complexities and risks of these forms of violence, their impacts on women and children, and the particular needs of abused women and their children arising out of these circumstances, with a focus on their safety needs.
- Regular provision of comprehensive training to CIC personnel on violence against women and its potential impact on immigrant, refugee, and non-status women and their children would help ensure maximum safety for women and children. Such training would enhance the ability of CIC personnel to support and advise women who are victims of violence who are seeking immigrant or refugee status and inform the decision-making of Immigration and Refugee Board (IRB) members.
- Training should focus on effective implementation of existing operations manuals and guidelines, including *IP5 Immigrant Applications in Canada made on Humanitarian or Compassionate Grounds* and *Guideline 4. Women Refugee Claimants Fearing Gender Related Persecution* and should include the development of supplemental materials for staff on violence against women wherever necessary.
- It is important that training on new legislation or policy includes a specific focus on its potential impact on immigrant or refugee claimants who may be victims of violence.
- The expertise of community-based workers and lawyers serving immigrant, refugee, and non-status women who are victims of domestic or sexual violence is key to developing and delivering effective training on the issue of violence against women and its particular relevance in the context of immigrant and refugee claims.

THE CONTEXT

- Mary Ellen Turpel-Lafond, BC's Representative for Children and Youth, in her report on the murder of Christian Lee, wrote: "Domestic violence occurs throughout the world and it cuts across social, cultural, economic and religious lines. Immigrant women who are abused by their partners have needs particular to their experiences as newcomers to the Canadian social service systems and justice systems." (Representative for Children and Youth, 2009, p. 61). She also stated: "If an immigrant woman has been sponsored by her partner...she may fear deportation if the sponsorship breaks down. An abusive partner may use the woman's immigration status against her; that is, threaten deportation if she reports the abuse to authorities. Often, the woman lacks information about her rights and options." (Representative for Children and Youth, 2009, p. 61).

- Some important steps have been taken in Canada to address the particular circumstances of immigrant, refugee, and non-status women and their children who are victims of domestic or sexual violence (for example, *Guideline 4: Women Refugee Claimants Fearing Gender-Related Persecution*; Section 12.7 *Family Violence* in the operations manual *IP 5 Immigrant Applications in Canada made on Humanitarian or Compassionate Grounds*; and reference in the Sponsorship Undertaking to possible deferral or cancellation of sponsorship debt collection in cases of abuse). However, much remains to be done to maximize the impact of existing resources and guidelines specifically targeting victims of domestic or sexual violence and to afford maximum protection to abused women and their children, including the provision of high quality training to CIC personnel.
- Cross-sector training should be undertaken wherever possible and appropriate. Cross-training of CIC personnel with staff in other relevant government ministries and agencies has many benefits, including utilization of available expertise and encouraging collaborative and coordinated approaches to practice.
- While domestic violence is not specifically included as a ground for establishing Convention Refugee status in Canada, *Guideline 4* provides a reasonably effective means to address the issue of domestic violence in the context of a refugee claim. However, experience of those supporting women refugee claimants who are victims of violence indicates that *Guideline 4* may not be used as often or as effectively as it might be to find that women fleeing such circumstances have a well-founded fear of gender persecution and should be granted refugee status in Canada.
- Training on *Guideline 4* should be informed by existing case law that supports the finding of domestic violence as gender persecution against members of a social group and the argument that a well-founded fear of gender persecution as a basis for claiming refugee status may include fear of domestic violence. This case law includes:
 - *Canada (Attorney General) v. Ward* [1993], a Supreme Court of Canada decision regarding the meaning of “social group” as per *Guideline 4*;
 - *Narvaez v. Canada (Minister of Citizenship and Immigration)*, [1995] and *Diluna v. Canada (Minister of Employment and Immigration)* (1995), decisions by the Federal Court of Canada; *RPD TA604007*, a 2007 decision of the IRB; and *RPD AA3-0181*, a 2004 decision of the IRB, regarding findings that women and children who were victims of domestic violence fell into the category of “particular social group” as per *Guideline 4*;
 - *C93-00433*, a 1993 decision of the then Convention Refugee and Determination Division (CRDD) regarding the finding of domestic violence as persecution;
 - *Garcia v. Canada (Minister of Citizenship and Immigration)*, 2007, a Federal Court decision which reviews case law pertaining to claims of gender persecution, focusing on the requirement of a woman who has been subject to domestic violence to establish an inability or unwillingness, because of fear of persecution, to obtain state protection in her own country. This is a particularly significant case because it makes some important statements regarding this criteria and domestic violence overall. It also highlights the need for the IRB to be sensitive to the “battered women syndrome”, referring to an earlier Supreme Court of Canada decision in *R. v. Lavallee*, [1990].

RECOMMENDATIONS

1. Comprehensive, in-depth training on all forms of violence against women and its potential impact on immigrant, refugee, and non-status women should be provided on a regular basis to all those immigration officials who may be in a position to provide advice or support to abused women or those who assist them or who are in a position to make decisions that affect abused women and their children.
2. CIC officials should be cross-trained with staff in other relevant government ministries and agencies wherever possible and appropriate.
3. In addition to training courses, resource material such as detailed manuals should be developed for the use of CIC personnel on an ongoing basis.
4. Training curricula and other resources should address both domestic violence and sexual violence and their potential impact on women and their children who are seeking refugee or immigrant status in Canada.
5. This training should include information that addresses the following factors integral to violence against women:
 - the nature and dynamics of all forms of violence against women and how these might affect immigration and refugee claims;
 - risk factors facing abused women and their children that should be considered in any decision-making regarding their immigration or refugee status;
 - the body of case law that supports the finding of domestic violence as gender persecution against members of a social group and the argument that fear of domestic violence may be considered a well-founded fear of gender persecution as a basis for a refugee claim;
 - the relationship between child protection and safety for women;
 - the need to coordinate among federal and provincial agencies responding to immigrant, refugee, and non-status women and their children who may have been abused;
 - the need for effective referral processes for victims of domestic or sexual violence to ensure that they are able to obtain appropriate support, advocacy, and other services;
 - the fact that women and their children who have been traumatized by domestic or sexual violence perpetrated by men or who may come from cultures that forbid or strongly discourage the discussion of intimate matters with members of the opposite sex may have a need for their cases to be heard by female immigration officers or female IRB members and to be assisted by female interpreters;
 - the need for psychological reports in some cases to help CIC officers assess the effects of trauma and fear experienced by women who have been victims of violence;
 - women's need for accurate information about their rights, options, and obligations as immigrants or refugees, and about their status at all stages of the process;
 - the need to identify safety as a priority in all actions and decisions respecting women and their children who may be victims of violence.

6. Training on new immigration or refugee legislation or policy should include a specific focus on its potential impact on claimants who may be victims of gender-based violence and the fact that safety of these claimants must be a priority.
7. Training curricula and other resources should be developed and delivered in collaboration with those who have front-line experience and expertise with abused immigrant, refugee, and non-status women, including lawyers and non-lawyer advocates and support workers.

CONTACT: Tracy Porteous, Executive Director
Ending Violence Association of BC
Telephone: 604-633-2506
E-mail: porteous@endingviolence.org

REFERENCES

Ad Hoc Federal-Provincial-Territorial Working Group Reviewing Spousal Abuse Policies and Legislation. (2003). *Final Report of the Federal-Provincial Territorial Working Group Reviewing Spousal Abuse Policies and Legislation*. Prepared for Federal-Provincial-Territorial Ministers Responsible for Justice

CBC News. (2010). *Proposed refugee law would speed process*. March 30, 2010. Retrieved April 11, 2010 from <http://www.cbc.ca/canada/story/2010/03/30/immigration-refugee-proposals.html>

Citizenship and Immigration Canada.

(2009). *IP5. Immigrant Applications in Canada made on Humanitarian or Compassionate Grounds*. Retrieved December 23, 2009 from www.cic.gc.ca/ENGLISH/RESOURCES/manuals/ip/ip05-eng.pdf

(2010). News Release. March 30, 2010. *Balanced reforms planned for Canada's asylum system*. Retrieved April 11, 2010 from <http://www.cic.gc.ca/english/index.asp>

Critical Components Project Team. (2008). *Keeping Women Safe: Eight Critical Components of an Effective Justice Response to Domestic Violence*. Prepared for Ministry of Public Safety and Solicitor General, BC Association of Specialized Victim Assistance and Counselling Programs (now EVA BC), and Victoria Women's Transition House Society.

Immigration and Refugee Board of Canada. (1996). *Guideline 4. Women Refugee Claimants Fearing Gender-related Persecution. Guidelines Issued by the Chairperson Pursuant to Section 65(3) of the Immigration Act. Update. Effective November 13, 1996*. Retrieved December 15, 2009 from <http://www.irb.gc.ca/Eng/brdcom/references/pol/guidir/Pages/women.aspx>

Light, Linda. (2007). *Empowerment of Immigrant and Refugee Women Who Are Victims of Violence in Their Intimate Relationships. Final Report*. New Westminster, BC: Justice Institute of British Columbia.

Representative for Children and Youth. (2009). *Honouring Christian Lee. No Private Matter: Protecting Children Living With Family violence*. Retrieved January 12, 2010 from <http://www.rcybc.ca/Images/PDFs/Reports/RCYChristianLeeReportFINAL.pdf>

LEGAL CASES CITED

Canada (Attorney General) v. Ward, [1993] 2 S.C.R. 689

Diluna v. Canada (Minister of Employment and Immigration) (1995), 29 Imm. L.R. (2d) 156 (F.C.T.D.)

Garcia v. Canada (Minister of Citizenship and Immigration), 2007 FC79 (T.D.)

Narvaez v. Canada (Minister of Citizenship and Immigration), [1995] 2 F.C. 55 (T.D.)

R. v. Lavallee, [1990] 1 S.C.R. 852

C93-00433 (1993) (CRDD)

RPD TA604007 (2007) (IRB)

RPD AA3-0181 (2004) (IRB)

This document is one of a series of six federal and eight provincial Briefing Documents produced by the Ending Violence Association's Community Coordination for Women's Safety Program as part of its Safety for Immigrant, Refugee, and Non-Status Women Project.