IMMIGRANT WOMEN’S PROJECT:
Safety of Immigrant, Refugee, and Non-Status Women
Acknowledgements

This Resource Guide is a part of The Safety of Immigrant, Refugee, and Non-Status Women Project (IWP). Funding for the project was provided by the Law Foundation of BC. The project aims to improve policy and law reform to increase the safety of immigrant, refugee, and non-status women. It is a partnership between EVA BC, Vancouver & Lower Mainland Multicultural Family Support Services Society (VLMFSS) and MOSAIC.

We appreciate and acknowledge all those who are working across sectors in their communities to assist immigrant, refugee, and non-status women and their children to increase safety and live violence free lives. EVA BC has had the privilege of working in collaboration with government, legal and policy analysts in British Columbia and across Canada. These collective efforts aim to make substantive improvements to women's safety, with the ultimate goal of saving lives.

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EVA BC would like to thank Gabriola Island artist Sheila Norgate for her generous gifts of artwork to EVA BC. Sheila’s piece “Going Home” is on the cover page of this Resource Guide.
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Definitions

Definition of Terms
(from Nowhere to Turn? Responding to Partner Violence Against Immigrant and Visible Minority Women, by Dr. Ekuwa Smith, 2004)

1. Immigrant

An immigrant is an individual who has acquired legal status to reside in Canada, including permanent residents, visitors and students. Some are recent immigrants (that is, in Canada for ten years or less), while others have resided in Canada for a long period of time (more than 10 years). The term “immigrant” also has a socially constructed meaning, “common-sense” usage referring to people of colour, people from developing countries, and individuals without official language proficiency. Since some immigrants are Caucasian and are proficient in one of Canada’s official languages, this definition obviously falls short in identifying all immigrants.

For purposes of this project, the term “immigrant” refers to individuals who have immigrated to Canada; they have legal resident status and may be permanent residents, visitors, students or refugees.

2. Refugee

Persons who have fled their country of origin due to a well-founded fear of being persecuted for reasons of race, religion, nationality, political opinion, or membership in a particular social group.

3. Visible minority

The term, as used in this project, is based on the definition used by Statistics Canada, as defined by the Employment Equity Act. It refers to “persons, other than Aboriginal peoples, who are non-Caucasian in race or non-white in colour.” Under this definition, regulations specify the following groups as visible minorities: Chinese, South Asians, Blacks, Arabs, West Asians, Filipinos, Southeast Asians, Latin Americans, Japanese, Koreans and other groups such as Pacific Islanders (Statistics Canada, 2003). People are usually asked in surveys to self-identify.
4. Non-Status
From Non-status Women in Canada: Fact Sheet (Metropolitan Action Committee on Violence Against Women and Children [METRAC], 2004):

Reasons Why People Don’t Have Status in Canada

Women who come to Canada and marry Canadian citizens or permanent residents but are never sponsored by the spouse, remain in visitor status. When an unsponsored women’s visitor status expires she becomes illegal and has to leave the country.

Many people come into Canada with a temporary resident permit. If they overstay their permit they become non-status. Some people have been in Canada without status for 10, 20 or more years. Some have been here since they were small children and are completely unfamiliar with the country of origin to which they are at risk of being deported.

Many people make a refugee claim which is rejected, but prefer to stay illegally rather than to return to an uncertain future, or even death.

Many women come to Canada legally (sponsored by an employer, spouse or family member), but then find themselves in an abusive relationship with their sponsor. If they leave the relationship before receiving permanent resident status they might become non-status.
Section 1: Introduction
About IWP: Background and History

Introduction

The Safety of Immigrant, Refugee, and Non-Status Women Project (IWP) was a 3-year initiative completed in March 2011. It was a project of the Ending Violence Association of BC (EVA BC), in partnership with Vancouver & Lower Mainland Multicultural Family Support Services Society (VLMFSS) and MOSAIC. The purpose of the project was to address the serious policy gaps and problems that compromise the safety of refugee, immigrant, and non-status women who experience violence. It aimed to improve policy and law reform to increase the safety of immigrant, refugee, and non-status women, and to offer those women an opportunity to provide input to policymakers on the issues that affect them. The IWP was funded by the Law Foundation of BC.

Importance of the Project

As an organization with considerable expertise and nearly twenty years’ experience providing services to anti-violence programs across British Columbia, EVA BC is uniquely positioned to identify and address issues relating to violence affecting women and children.

Statistics show that immigrant, refugee, and non-status women are disproportionately affected by violence. Tracy Porteous, Executive Director of EVA BC, points to the BC Coroner statistics that reveal there have been 153 deaths as a result of domestic violence in the 15 years leading up to 2009. Immigrants and refugees make up 25% of the overall population of the province of British Columbia and yet, in that time frame, they made up 40% of the deaths.

The IWP is an important project for several reasons. It built on and extended EVA BC’s earlier identification of serious problems and gaps in policy and practice affecting marginalized women who experience violence in BC. The ultimate goal of the IWP is to save lives and stop the multi-generational aspects of abuse.

The IWP examined laws, policies and practices in the areas of immigration and settlement, family law, and legal aid from the perspective of women’s safety, a perspective not usually brought to bear on these sectors.

EVA BC sought to approach this issue from a non-partisan perspective, emphasizing that concern about women’s safety should be a focus of all political parties and government ministries. EVA BC’s research identified that women fall through cracks between systems, compromising their safety, as a result of problems in cross-sector...
communication and collaboration. There was consensus among the government representatives interviewed during the project’s evaluation that the IWP was valuable for identifying gaps in law and policy and that the safety of immigrant, refugee and non-status women was an important issue.

The IWP played another important role, empowering immigrant, refugee, and non-status women by providing them with an opportunity to effect change. Tracy Porteous stated that “the project’s involvement of immigrant and refugee women across the province has empowered women from the affected communities and also provides a different level of authenticity of the materials, the solutions and perspectives that we’ve come up with because they’re all based on what people from these communities have said.”

Harjit Kaur, the IWP Program Manager, sees the project as “bringing the voice of women who are truly marginalized to the table, to the bigger whole, to the country, to the provincial level and to the federal level.”

**Managing Partner: The Ending Violence Association of British Columbia**

The Ending Violence Association of British Columbia (EVA BC) provides support and training to approximately 240 anti-violence programs across BC: Community-Based Victim Services, Stopping the Violence Counselling Programs, Sexual Assault Centres, STV Outreach Programs and Multicultural Outreach Programs. The mandate of EVA BC is to provide support and training to the anti-violence programs under our umbrella. We also undertake research, conduct analysis of policy and legislation, develop and distribute resources and tools, educate the public (including government bodies) on the needs of victims of violence, develop and maintain standards for the provision of service and work to foster the development of relevant cross-sector initiatives across BC.

**Prior research**

In 2003, EVA BC held a consultation process with organizations providing services to immigrant groups in BC. A roundtable discussion was held with immigrant women of colour working as frontline advocates for immigrant, refugee and visitor women. EVA BC also invited the Philippine Women’s Centre, Vancouver and Lower Mainland Multicultural Family Support Services, MOSAIC, the Prince George Elizabeth Fry Society, Battered Women’s Support Services and a prominent immigration lawyer to provide written submissions on policy issues impeding the safety of immigrant, refugee and visitor women experiencing violence. Written submissions were received from the Vancouver and Lower Mainland Multicultural Family Support Services, the Prince George Elizabeth Fry Society and Battered Women’s Support Services. These findings were incorporated into the source materials for the IWP and were supplemented by further documentary and consultative research.
Section 2: Research
Safety of Immigrant, Refugee, and Non-Status Women
Annotated Bibliography

By Ju Hui Judy Han
June 9, 2009

1. Research Reports (in chronological order)

Sponsorship... For Better or for Worse: The Impact of Sponsorship on the Equality Rights of Immigrant Women (2001)

(246 pages) Funded by the Status of Women Canada’s Policy Research Fund and the Joint Centre of Excellence for Research on Immigration and Settlement (CERIS) in Toronto. The report criticizes the detrimental effects of the “sponsorship regime,” defined as the constellation of various laws, regulations and guidelines from the federal and provincial governments defining sponsorship, the obligations of sponsored persons and their sponsors.” It discusses misunderstandings of sponsorship, integration barriers, and spousal maltreatment, and concludes that sponsorship “poses the question of the responsibility of the family to ensure the well-being and the socio-economic security of its members in relation to the state.”

The report finds that given “the fact that sponsorship involves the undertaking of responsibility for women by the spouse, the fact that the application for permanent residence may be refused if the spouse withdraws his sponsorship and the fact that the access of sponsored women to social assistance is limited by provincial regulations (and remains so for the entire duration of the sponsorship, even after citizenship has been obtained), mean that the equality rights of women immigrants are being violated. Indeed, our research revealed that the sponsorship regime has a discriminatory effect on immigrant women who are sponsored by their husbands in that it exacerbates their unequal status within the marriage, diminishes their dignity and degree of independence, aggravates existing socio-economic disadvantages and violates their most basic human rights.”
Based on the legal analysis of the impact of sponsorship as well as comments and suggestions from sponsored women themselves, the report criticizes both the Quebec and American models. The Quebec model reduced the sponsorship period from 10 years to 3 years, but did not address issues concerning the withdrawal of sponsorship; the exclusion of sponsored women from undertaking sponsorship agreements and from the sponsorship application process; and the sponsored women’s restricted access to welfare. The American model under which the Violence Against Women Act (VAWA) allows self-petitioning for immigrants who are victims of conjugal violence and in the US out of status but does not apply, however, to all sponsored immigrant women, resulting in not only a problematic hierarchy of “deserving” vs. “undeserving” immigrants but also promoting a policy that remedies the effects of violence only after it has taken place, without calling into question the basic structure of the sponsorship undertaking.

Instead, the report recommends: reducing the duration of the sponsorship undertaking (this change was implemented in 2001 as part of the Immigration and Refugee Protection Act); ensuring that sponsored women have access to social assistance in case of sponsorship breakdown; ensuring protection against withdrawal of sponsorship (or threats to do so) by considering humanitarian grounds over the criteria of financial autonomy; allowing the rescinding of the sponsorship undertaking in cases of conjugal violence so that a sponsored woman does not have to maintain contact with the abusive sponsor; and more broadly, respecting the rights of low-income people to family reunification.

Available from http://publications.gc.ca/pub?id=293775&sl=0


Status of Women Canada, the BC Centre of Excellence for Women’s Health, and the Vancouver Foundation, funded this report by Yasmin Jiwani. It provides an excellent framework for understanding the experience of racialized immigrant women facing intimate violence and their access to the health care system, outlining the impact of structural forces and the barriers that impede women’s access to formal health care. It shows that physicians are often inadequately prepared to respond to patients who have experienced domestic violence, and that physicians’ response to immigrant women who have been abused tend to be influenced by stereotypes about violence within cultural groups. The report avoids “ethno-specific research,” seeing that it can reify cultures as static entities and be used to reinforce entrenched stereotypes of particular ethnic groups. Recommendations of the report emphasize the need for health care providers to be more educated and aware of the health care impacts of violence.

Available from http://www.vancouver.sfu.ca/freda/articles/hlth.htm

Canada’s Failure to Act: Women’s Inequality Deepens (2003)

(82 pages) The Canadian Feminist Alliance for International Action (FAFIA) submitted this report to the United Nations Committee on the Elimination of
Discrimination Against Women (CEDAW), with financial assistance provided by the Status of Women Canada. The report clearly outlines the many ways in which Canada is violating the rights of women set out by the CEDAW.

In addition to Canada’s failure to effectively address the multiple impacts of racism on Canadian women, the report discusses the entrenched sexist and racist attitudes and treatment of particularly vulnerable groups of women who seek to enter Canada to live and work, many of whom are women of color from developing countries. The impact of immigration and refugee law and policy on these women is outlined in this Report.

Available from:
http://www.fafia-afai.org/en/canadas_failure_to_act_womens_inequality_deepens


(12 pages) This Fact Sheet was created by the Canadian Research Institute for the Advancement of Women (CRIAW), which is based in Ottawa Ontario. The fact sheet clearly states that immigration policy affect women differently, explaining how sponsored immigrant and refugee women, mail-order brides, and domestic live-in caregivers are especially vulnerable to abusive relationships. For example:

Regulations placed on family class (sponsored) immigrants can make it difficult for them to receive social assistance and old age security, as well as limit their access to social housing and job training programs. Not only does this deny immigrant women the services they need, it also means they are forced to rely on men whether they want to or not. This can result in women and children living in abusive situations.

The fact sheet also includes a section on myths & facts (myths including “immigrant and refugee women are in Canada to do the ‘dirty work’ Canadian-born citizens will not do” and “immigrant women are not feminist”) and a suggested list of actions and resources.

Available from http://www.criaw-icref.ca


(55 pages) Guide produced by the BC Institute against Family Violence (BCIFV) with funding from the Anti-Racism and Multiculturalism Program of the BC Ministry of Multiculturalism and Immigration. The guide features more than 10 scenarios of women experiencing violence, such as sponsored fiancée, women with an in-Canada sponsorship application in progress, women applying for convention refugee status, women with children and no permanent resident status, etc. Due to the technical and changing nature of legal information, it is unlikely that this guide from 2003 contains reliable information. To be useful, a guide like this would have to be updated constantly. The scenarios are nonetheless helpful in demonstrating how people interact with policies, illustrating how actual policies affect real life situations.
Available from http://www.bcifv.org (website no longer available)

**Nowhere to Turn? Responding to Partner Violence against Immigrant and Visible Minority Women (2004)**

(68 pages) Report produced by the Canadian Council on Social Development (CCSD) and submitted to the Department of Justice, Sectoral Involvement in Departmental Policy Development. It is based on focus groups with frontline workers from community organizations in seven cities (Vancouver, Calgary, Winnipeg, Toronto, Ottawa, Montreal and Halifax). This report highlights the social, cultural and systemic barriers that hinder immigrant and visible minority women from seeking and obtaining the supports they need. Key findings include the need for comprehensive, coordinated and culturally appropriate strategies to reach out to immigrant and visible minority women in Canada who are abused by their husbands or partners. It emphasizes the importance of providing information on Canadian laws, rights and services to immigrants in their own language, providing culturally sensitive services, improving and coordinating access to crisis programs and longer-term interventions, stabilizing funding for immigrant settlement and ethno-cultural service agencies, and engaging in education and equity strategies to reduce discrimination, stereotyping and marginalization of immigrant and visible minority communities to prevent partner abuse.

Available from http://www.ccsd.ca/pubs/pubcat/nw.htm

**The Profile of Absolute and Relative Homelessness (2005)**

(160 pages) Prepared by MOSAIC for the National Secretariat on Homelessness. While this report primarily addresses homelessness among immigrants and refugees in Greater Vancouver, it also provides important information in understanding how immigrant and refugee women’s safety is affected by housing concerns. Immigrant and refugee women may have distinctive reasons for needing sheltering housing, such as language barriers, and a lack of social networks and other resources which prevent them from finding housing. In particular, the report states that non-status women “do not qualify for shelters and as such may move from transition house to transition house until they eventually have nowhere to stay, and end up on the streets or in exploitative relationships. Some refugee claimants have been sent into the shelter system by a faith-based service representative at the Vancouver airport.”

The report draws four major conclusions. First, “the extent of relative and absolute homelessness among immigrants, refugees, and refugee claimants is less than would be expected given the income levels of these groups.” Secondly, “the social networks operating among immigrant, refugee, and refugee claimant communities appear to mitigate against the worst forms of homelessness”—so much so that they are actually “underrepresented in the population using homeless shelters.” Thirdly, the report found that “refugee claimants, given the combination of their uncertain legal status, lack of language facility, and lack of familiarity with Canadian society, are the most likely of all newcomers to ‘fall between the cracks’ of both ethno-cultural communities and the welfare and housing provisions of the state.” Fourthly,
the report emphasizes the phrase “hidden homelessness,” pointing out that “immigrants, refugees, and refugee claimants appear to be particularly susceptible to relative homelessness, so their difficulties in the housing market are essentially invisible.” Lastly, the report argues that homelessness is a “spectrum of conditions, rather than a single absolute state,” and that there also needs to be a spectrum of policy responses to address homelessness.


Women's Civil and Political Rights in Canada (2005)

(55 pages) Report by the Canadian Feminist Alliance for International Action (FAFIA), funded and supported by a grant from the Social Sciences and Humanities Research Council and the Centre for Feminist Legal Studies at the University of British Columbia. It was submitted to the United Nations Human Rights Committee on the occasion of its review of Canada’s 5th report on compliance with the International Covenant on Civil and Political Rights. The report calls on Canada to account for its breaches of international human rights obligations and its failure to credit and respect international human rights bodies by responding constructively and actively to their recommendations. In particular, the report focuses on women’s poverty and the persistent systematic discrimination faced by aboriginal women.

In the Violence Against Women section (page 36), the report cites the Canadian Research Institute for the Advancement of Women (CRIAW) Fact Sheet on Violence Against Women and Girls (2002), Nowhere to Turn? (2004), publications by the Chinese Family Services of Ontario, Status of Women Canada, and other researchers in stating the following:

Women who face multiple forms of discrimination, such as Aboriginal women, women of colour, immigrant women, lesbians, disabled women, young girls and older women, are at a higher risk of violence. Further, these women have a more difficult time accessing services. For example, “less than two-thirds of shelters for abused women report being accessible to women with disabilities.” Also, there is a complex set of issues, attitudes, barriers and gaps in service that make immigrant and racialized women uniquely vulnerable when faced by domestic violence. Only 57 percent of Canadian shelters offered services that are sensitive to cultural differences. Further, women who have difficulty speaking the official language where they live face enormous barriers in accessing services and dealing with the justice system.

It also cites the report Sponsorship—for Better or for Worse: the Impact of Sponsorship on the Equality Rights of Immigrant Women in pointing out that the immigration policy enforces and worsens the already vulnerable position of these sponsored women by increasing their dependence on their spouse.
When services and the justice system fail, women find it even more difficult to escape abuse.\(^1\)

Available from


This analysis is an extension of the ongoing work on immigrant issues. The Community Coordination for Women’s Safety, a project of Ending Violence Association of BC in consultation with agencies and individuals regarding policies affecting immigrant, refugee and visitor women who experience violence produced in a list of recommendations and principles of effective response including:

Responders should take a holistic approach to understanding the complexities of women’s lives, taking as many factors as possible into account. They should recognize the impacts of, and links between, immigration, violence, poverty, racism and custody issues.

Available from http://www.endingviolence.org


(97 pages) Produced by Statistics Canada. Federal/Provincial/Territorial (F/P/T) Status of Women Ministers joined Statistics Canada to compile this collection of statistical indicators on five major aspects of women’s experiences of violence: prevalence and severity, impact, risk factors, institutional and community-based responses, and victims’ use of services. This report updates the information contained in the 2002 publication *Assessing Violence Against Women: A Statistical Profile* and includes new information in a number of areas including new data examining the situation for Aboriginal women and residents of the territories, making a contribution toward the goal of providing improved data for policy making.

This report adds important new information that was not available in the 2002 report, including data on criminal harassment, sentencing of spousal violence perpetrators, availability and use of victim services, and detailed information for Aboriginal women.

and women in the territories. However, sections on visible minority and immigrant women still rely on data from Statistics Canada, General Social Survey (GSS), 1999 and 2004. Since the GSS is conducted only in English and French, their figures may grossly under-represent the actual rates of spousal violence against non-English or French-speaking visible minority and immigrant women who may not have been able to participate in the survey. Therefore, the GSS findings that visible minority and immigrant women report lower levels of spousal violence than non-immigrant women should be considered unreliable. The report concludes by highlighting gaps that remain in the data required to paint a more complete picture of the nature, extent and impacts of violence against women. For example, it calls for more detailed data for visible minority, immigrant, Aboriginal and Northern women; sexual assault victimization; perpetrators of violence; attitudes and perceptions of violence among Canadians; the economic costs of violence; and other forms of violence, such as trafficking in persons.

Available from

Non-Status Women in Canada: Fact Sheet and Brochure (2006)

(2 pages each) Fact sheet and brochure created in 2006 by the Rights of Non-Status Women Network (RNSWN), an organized network of agencies and community members in Toronto. They use statistics for women with legal status in Canada since there are no specific statistics on violence against non-status women, even though they face particular vulnerabilities.

People who live without legal status are forced to live underground and work under the table in order to avoid being noticed by the authorities and consequently deported. For this reason, it is impossible to provide an accurate statistic. Estimates range anywhere from 20,000 to 200,000 individuals, but many believe that the numbers are a lot higher.

Specific reasons are listed as to why non-status women are at a high risk of experiencing violence, including the very limited access to information, counselling, and other social services. Listed are three policy recommendations: 1) Regularization of all non-status people in Canada; 2) No asking about immigration status or reporting to Immigration Canada by Police and other service providers. A “Don’t Ask, Don’t Tell” policy pertaining to immigration status, making city services available to all city residents without discrimination on the basis of immigration status; and 3) Changes to immigration law to protect immigrant women from abusive sponsors and employers.

Available from http://www.cleonet.ca/resources/891

Family Violence in Canada: A Statistical Profile (2006)

(78 pages) This is the ninth annual Family Violence in Canada: A Statistical Profile report produced by the Canadian Centre for Justice Statistics under the Federal Family Violence Initiative. This annual report provides “the most current data on the
nature and extent of family violence in Canada, as well as trends over time, as part of the ongoing initiative to inform policy makers and the public about family violence issues.” Similar reports include the 2004 Immigrants and Victimizations report which argued that immigrants actually had a lower rate of violent crime victimization in 2004.

The report utilized data from the incident-based Uniform Crime Reporting (UCR2) survey which collected detailed information on individual criminal incidents reported to police, the 2004 General Social Survey on Victimization (GSS) which was based on telephone interviews with an admittedly limited sample of the Canadian population, the Homicide survey which collected police-reported data on homicide incidents since 1961, and the Canadian Incidence Study of Reported Child Abuse and Neglect (CIS) which tracked child maltreatment investigations conducted in a representative sample of 63 Child Welfare Service areas across Canada in 2003.

The report contains some notable statistical analysis such as provincial variations in spousal homicide (page 53) showing, for instance, that spousal homicide rates in the three Territories were considerably higher than the provinces between 1995 and 2004. It also found that common-law and separated spouses were at greatest risk of spousal homicide, and that young persons were at highest risk of spousal homicide. The report, however, relies heavily on GSS data and thus contains no mention of immigration status, race, or non-English language speaking populations in understanding dynamics of family violence.

Available from


(14 pages) Prepared by the Community Coordination for Women’s Safety (CCWS), a program of the BC Association of Specialized Victim Assistance and Counselling Programs (now known as Ending Violence Association of BC), this document reports on in-depth consultation with six agencies regarding policies affecting immigrant, refugee and visitor women who experience violence. It provides a detailed list of recommendations, categorized by the governmental bodies that would be responsible for making the proposed changes, followed by a series of principles for effective response, also gathered from the consultation.

Included under recommendations for Immigration Canada, for instance, are items pertaining to gender inequity in immigration requirements, dependency on an abusive sponsor for immigration status, lack of connection between immigration and family law, refugee protection system gaps, families coming to Canada in the entrepreneurial category, sponsorship debt, visa waiver and relationship abuse. Other examples include recommendations for the BC Ministry of Attorney General to take measures to protect victim/witnesses, and recommendations for the Ministry of Employment and Income Assistance to ensure that women with permanent resident status know that they have the right to access social assistance.
Specialized Support for Women Who Are Victims of Violence (2007)

(3 pages, briefing document) Prepared by the BC Association of Specialized Victim Assistance and Counselling Programs (now known as Ending Violence Association of BC), the document is part of a series of 16 briefing notes titled “Critical Elements of an Effective Response to Violence Against Women”. It summarizes key points and identifies significant gaps concerning current specialized support services for women who are victims of domestic or sexual violence. Among others, the document identifies three pressing gaps in services for women who are victims of violence:

Specialized counselling services for women who are under 18 and are victims of sexual assault or dating violence;

Services, including outreach, for marginalized, and therefore, particularly vulnerable, women such as aboriginal women, immigrant women and women with disabilities, including interpreter services to help women access appropriate victim support services;

Specialized hospital-based responses to domestic violence and sexual assault in partnership with community-based programs.

Other briefing notes in the series include: high-risk information-sharing protocol; barriers to women’s participation in the criminal justice process; addressing gaps in services for marginalized women; effective enforcement of protection orders; specialized justice processes for domestic and sexual violence; coordination of responses to violence against women; provincial justice policies on violence against women and children; treatment for assaultive men; addressing sexual assault; third party reporting in cases of sexual assault; legal aid and related family law services for abused women; training on violence against women; and prevention of violence against women.

Available from http://endingviolence.org/node/275

Understandings of Spousal Sponsorship in South Asian International Arranged Marriages (2007)

(7 pages, policy brief) Research study conducted by Professor Noorfarah Merali at the University of Alberta with funding support from the Prairie Metropolis Centre of Excellence for Research on Immigration, Integration & Diversity and others. This policy brief points out that South Asians from India, Pakistan, and the surrounding areas of Bangladesh, Nepal and Sri Lanka represent the second largest and fastest growing visible minority group in Canada, and focuses on misunderstandings and vulnerabilities resulting from the cultural practice of arranged marriage involving male Canadian citizens or permanent residents who sponsor family-chosen brides from their home countries. Research found that while English proficient South Asian women were generally aware of resources available to them, non-English proficient women facing abuse and manipulation were completely reliant on third-party interpretations of the nature of sponsorship, often resulting in miscommunication and
misinformation about the sponsored person’s rights, limitations, and residency status. The women’s lack of awareness of their rights and status reveal a particular vulnerability to various types of human rights violations.

In its policy recommendations, the report highlights the need for first language translation of the sponsorship application form and sponsorship guide for non-English proficient women so they can fully understand the content before signing it. Citing the World Health Organization (2003) document on “rights-based education” as a critical vehicle for reducing the vulnerability of disadvantaged groups to exploitation or abuse, the report also highlights the need for a “rights-based orientation” for sponsored women to explain the conditions of sponsorship and the women’s rights in relation to their residency status and existing protections against violence. It also advocates for the establishment of a spousal allowance so that sponsored persons can independently access and draw on a specific proportion of the sponsor’s monthly or annual income to guarantee adequate material subsistence. In the least, the report suggests introducing a government initiated monitoring process to ensure provision for a sponsored woman’s basic needs and sustenance. It recommends as a safety net that all sponsored women be connected to an immigration or settlement agency for at least a single visit upon their arrival in Canada.

Available from http://pcerii.metropolis.net/frameset_e.html

**Empowerment of Immigrant and Refugee Women Who Are Victims of Violence in Their Intimate Relationships (2007)**

(106 pages) Prepared for the Justice Institute of British Columbia, this report is based on in-depth interviews with 75 immigrant and refugee women who were victims of violence in their intimate relationships. The goal was to: (1) determine what service delivery factors they found to be empowering and disempowering; and (2) develop recommendations based on the findings to more effectively facilitate their empowerment. Research was carried out in collaboration with 3 community partners: Vancouver and Lower Mainland Multicultural Family Support Services Society, the Prince George Elizabeth Fry Society, and MOSAIC.

The report concludes that two primary themes emerged from the interviews. The first theme is the importance of addressing the multiplicity of needs including language barriers, lack of information and access, sponsorship and immigration barriers, material needs, and social isolation. The second theme is the importance of a “comprehensive, caring service” including “proactive intervention; advocacy and accompaniment; broadening of traditional professional roles and mandates; and sensitivity to women’s cultural and immigration realities.” Recommendations reflect these two themes. One such recommendation calls for “further research to determine the actual impact that current legislation, policy, procedures, practices, and programs relating to immigration and sponsorship have on the material needs and well-being of abused immigrant women.”

Available from http://www.jibc.ca

(97 pages) The Critical Components Project Team prepared this report, with funding from the Ministry of Public Safety and Solicitor General, BC Association of Specialized Victim Assistance and Counseling Programs (now known as Ending Violence Association of BC), and Victoria Women's Transition House Society. It outlines a “framework for a comprehensive approach to domestic violence that best meets the diverse needs of communities in British Columbia,” and identified 8 critical components based on research and evaluation of coordinated approaches to service delivery for victims and offenders.

These 8 critical components of a “framework for an effective, specialized response to domestic violence” include effective, inclusive approaches to:

1. Managing risk and victim safety – including a comprehensive, coordinated approach to risk and safety assessment and victim safety planning
2. Offender accountability – including appropriate and consistent sentencing, consistent enforcement of protection orders, and accessible treatment for abusers
3. Specialized victim support – including comprehensive, proactive, and timely support with outreach and access for marginalized groups
4. Information-sharing – including consistent, timely information-sharing between agencies and with the victim, with particular emphasis on high-risk cases
5. Coordination – including coordination and collaboration at all levels among all relevant sectors, senior level leadership, and resources to adequately support a coordinated approach
6. Domestic violence policy – including adherence to a comprehensive justice system policy that applies to all justice system components and requires a consistent and informed approach to charging, prosecution, and offender accountability
7. Use of specialized expertise – including specialized approaches such as dedicated justice system personnel and dedicated court time, adequately funded specialized training, and if they are considered an option, a carefully considered and principled approach to domestic violence courts
8. Monitoring and evaluation – including monitoring and evaluation as an integral part of all the foregoing critical components and a systematic, comprehensive approach to collection, analysis, and publication of statistics across all justice system components.

The report also discusses the fact that a woman’s reluctance or fear of proceeding through the criminal justice system is often referred to as the most persistent challenge in cases of domestic violence. Pointing out that women who are fearful of proceeding are described as “reluctant”, “uncooperative” or “hostile” witnesses, the report explains how women’s fears may be rational reactions based on the realities of their lives and what they know about the justice system. It states that the inability or unwillingness of a victim to cooperate with a criminal prosecution should be
recognized as a potential safety concern and a preoccupation with victim “cooperation” detracts from the basic need to ensure the victim is safe.

Available from [http://www.endingviolence.org/node/659](http://www.endingviolence.org/node/659) PDF


(110 pages) Prepared by Linda Light. This report presents the results of a cross-sector forum and consultation to improve responsiveness of services for immigrant and refugee women experiencing violence. Held in June 2008 in the BC Lower Mainland, 192 participants, primarily from victim services/anti-violence and Settlement/ELSA (English Language Services for Adults) agencies attended the 2-day session, organized, in part, in response to the Justice Institute report, *Empowerment of Immigrant and Refugee Women Who Are Victims of Violence in Their Intimate Relationships* (2007).

There were seven primary needs that emerged from this consultation:

- **Better collaboration, networking, and information-sharing** within and between sectors, with a particular emphasis on bringing the Settlement/ELSA sector into a coordinated, collaborative response to violence against women.

- **Better training** on a range of topics, with a particular focus on issues related to violence against women for the Settlement/ELSA sector and immigrant and refugee issues for the anti-violence/Victim Services sector, and on cultural sensitivity training for all those working with immigrant and refugee women who are victims of violence.

- **More services and written resources for women in a range of languages**, including counselling services and education/prevention initiatives. More and better interpretation services for immigrant and refugee women, including interpreters who are trained and qualified, especially on violence against women issues, available on a 24/7 basis.

- **Expanded services for women, children, and men**, especially outreach services. An expanded mandate for Settlement/ELSA workers to enable them to deal with disclosures of violence as “first responders”, services that are over-loaded and long wait-lists.

- **Paid violence against women coordinators** in local communities to provide leadership and facilitate a coordinated, cross-sector response to violence against women, including immigrant and refugee women.

- **Better working conditions for service providers**, including better and more equitable wages in order to keep people in their jobs and address inequities between agencies.

- **Policy and legislative changes** to better serve immigrants, refugees, and non-status women.

In particular, the consultation identified language barriers as a priority issue, and recommended that a province-wide cross-ministry initiative be developed to address the need for more services, service providers, written materials, and other resources in abused immigrant and refugee women’s first language, and for a comprehensive, effective interpreter system when services cannot be offered in a woman’s first language. A strategy to address language issues for immigrant and refugee women who are victims of violence should be considered a priority health and safety issue.

The report also recommends establishing a cross-ministry initiative to review policy and legislation that directly impacts immigrant, refugee, and non-status women who are victims of violence and to develop concrete strategies to address identified problem areas on a priority basis.


(384 pages) This is a comprehensive document on international and regional law and policy relating to human trafficking. The Protection Policy and Legal Advice Section (PPLAS), in the Division of International Protection Services (DIPS) of the United Nations High Commissioner for Refugees (UNHCR), produced the document.

According to this report, the American Convention on Human Rights (1969) ["Pact of San Jose"] is the foundational human rights document for the Organization of American States (OAS). Article 6 of the Convention specifically mentions “slave trade and traffic in women” in its categorical prohibition on slavery. Article 22(7) provides for the right to asylum and Article 22(8) codifies the principle of non-refoulement. The Convention has been ratified by all OAS states except the US, Canada and the Anglo-Caribbean states.

Similarly, the Inter-American Convention on the Prevention, Punishment and Eradication of Violence Against Women (1994) ["Convention of Belém do Pará"] provides a robust regime for protecting the right of women to be free from violence within both the public and private spheres. Article 2(b) specifically lists “trafficking in persons” as a form of violence against women regardless of whether it involves the knowledge or acquiescence of state agents. Every member of the Organization of American States except the United States and Canada has ratified the Convention.

Source: [http://www.unhcr.org/publ/PUBL/4986fd6b2.pdf](http://www.unhcr.org/publ/PUBL/4986fd6b2.pdf)

**Sexual Assault in Canada 2004 and 2007 (released in December 2008)**

(20 pages) As part of the Canadian Centre for Justice Statistics Profile Series, this report primarily draw on results from the 1999 and 2004 General Social Survey (GSS) on victimization and police-reported data derived from the aggregate Uniform Crime Reporting Survey, and the incident-based Uniform Crime Reporting Survey (UCR2). Like other GSS-derived profiles, this report contains little to no data analysis pertaining to immigrant and refugee women with limited proficiency in English or French. It concludes from victimization data that most incidents of sexual assault are not formally reported, with less than 1 in 10 coming to the attention of
police, and instead turning to informal sources (typically friends) for support. The rate of sexual victimization for females was about 5 times the rate for males, those accused of sexual assaults were most often male, and the victim and accused were known to each other in the majority of cases.

Also available are Household Income and Victimization in Canada, 2004 (released 2009), Sexual Assault in Canada 2004 and 2007 (released 2008), Immigrants and Victimization 2004 (released 2008), Hate Crime in Canada 2006 (released 2008), Sexual Orientation and Victimization 2004 (released 2008), Visible Minorities and Victimization 2004 (released 2008), etc.


2. CIC and Other Guides (in chronological order)


(101 pages) This is a guide produced by the Ontario Region Settlement Directorate of Citizenship and Immigration Canada, designed to provide basic orientation information for government-assisted refugees arriving in Canada under the Resettlement Assistance Program. Sections include explanations of available programs, housing, health, education, employment, community services, and other aspects of living in Canada. It contains only a brief mention of violence under “family problems” (page 58): “You can find emergency numbers for help with family violence or sexual assault on the first and second pages in the white pages of your telephone book.”

Also see the other CIC guides, Newcomer’s Introduction to Canada (2006) and Welcome to Canada: What You Should know (2007), and compare to Community Airport Newcomers Network’s (CANN) Information for Newcomers (2008) and British Columbia Newcomers’ Guide to Resources and Services (2009).


CIC: Newcomer’s Introduction to Canada (2006)

(46 pages) This is a booklet provided by the Ministry of Public Works and Government Services Canada. It explains what to expect in the first few days and weeks, how to find a place to live, how to get a Social Insurance Number and a healthcare card, find a job, and what services are available from the immigrant-serving organizations across Canada. Offered are some “useful” information about Canada’s geography and history, government and Canadian “way of life,” and instructions on how to become a Canadian citizen.

A section titled “Women’s rights” states: “In Canada, women have the same legal status, rights and opportunities as men. Most Canadian men respect women as equals—socially, in the workplace and in the home. Violence against women is
against the law. Women who are abused can seek help for themselves and their children in local shelters. They are also entitled to legal protection to keep them safe” (38). This is the only section addressing violence against women.


(54 pages) Provided by the CIC, the booklet contains useful settlement information for newcomers as well odd bits and pieces of information such as “Canada is a very large country, and it can be expensive to make calls from one city to another” (5). It has a page with information about children’s rights, women’s rights, and domestic violence. The guide is written in clear and simple language, but it has no illustrations or graphics, making it text-heavy and hard to follow.


CANN Information for Newcomers (2008)

(44 pages) Funded by CIC and services provided by S.U.C.C.E.S.S. (multi-service non-profit organization in BC). Upon arrival at the airport all newcomers destined to the Lower Mainland are supposed to receive this publication provided by CANN (Community Airport Newcomers Network), a federally funded new immigrant reception program. This booklet contains information on landing procedures at the airport, what to expect upon arrival, initial settlement procedures, etc. It contains fairly detailed information on abuse and violence in 4 different sections. Under “Other Specialized Counseling Services,” it states:

**What is Abuse?**
You have been abused when another person hurts you or treats you badly. The abuse can be physical, sexual, emotional, psychological or financial. You are a victim of domestic violence if your partner or someone close to you:
* physically abuses you
* threatens or hurts you
* constantly criticizes you
* forces unwanted sex
* controls who you see, where you go, what you do, how you spend your money.”

In the following pages, the booklet lists Counseling Services for Newcomers and Special Services for Women (39-40), Crisis Help Lines (41), and Transition Houses/Emergency Shelters (41-42), stating:

If you and/or your children are in a violent or abusive situation, you can stay in a transition house. A transition house is a safe place where you can stay while you decide what to do next. A transition house has professional staff who can provide counselling, emotional support and information. Aside from being a shelter, a transition house can also provide you with food, clothing and free medical care. If you are in need of an emergency shelter or a transition house, contact an immigrant settlement organization or a crisis line.
The section “Counseling Services for Newcomers and Special Services for Women,” informs newcomers that if they’re “having problems adjusting to life in Canada or experiencing violence or distress,” they should call someone from the long list including the Battered Women’s Support Services, MOSAIC, SUCCESS Services in Chinese, Vancouver Rape Relief & Women’s Shelter, etc. The agencies list covers Abbotsford, Burnaby, Maple Ridge, Mission, North Vancouver, New Westminster, Richmond, Surrey/Delta, and Vancouver. Only the English and French versions are available online, but other languages may be available at the airport.

Available from http://www.successbc.ca/eng/component/option,com_mtree/task,listcats/cat_id,112/


(10 pages) This brief guide by MOSAIC (multi-service non-profit organization in BC) explains what an H&C application is, what risks are involved in an H&C application, and how to go about applying for H&C. Not much gender-specific information on violence is provided, except on one page that is included under the list of hardships that must be proven: “If you are a woman, the difficulties you face in your home country.” Produced by the MOSAIC Public Legal Education Project for Newcomers, with financial support of Legal Services Society of British Columbia and The Law Foundation of British Columbia.

Available from http://www.mosaicbc.com

British Columbia Newcomers’ Guide to Resources and Services (2009)

(119 pages) Book produced by the Immigrant Integration Branch of the Ministry of Advanced Education and Labour Market Development and written using the Canadian Language Benchmark 4 (CLB 4) level to meet the needs of non-English speaking newcomers. Advisory committee members included representatives from MOSAIC, Inter-Cultural Association of Greater Victoria, Abbotsford & Chilliwack Community Services, SUCCESS, and Immigrant & Multicultural Services Society of Prince George.

It will be made available in ten other languages in the fall/winter of 2009—Arabic, Chinese Simplified, Chinese Traditional, Farsi (Persian), French, Korean, Punjabi, Russian, Spanish and Vietnamese.

Available from http://www.welcomebc.ca/en/service_providers/resources.html

3. Academic Journal Articles (alphabetical by author’s name)


This study examines the relationship between cultural belief and the utilization of services among Arab immigrant women. All participants in the study reported at least one act of partner abuse resulting in a consultation with various formal
services. Significant correlations were found between the holding of traditional attitudes toward gender in general, and wife battering in particular, by the women and the utilization of formal mental, social, and legal services. The article also discusses policy implications and the impacts of the anti-Arab political climate after the 9/11 attacks. The article points out that the Arab American community is among those most misunderstood, misrepresented, and negatively perceived by mainstream American society. This not only affects the ability of Arab immigrants to cope with their marital, sociocultural and political challenges, but can also lead to prejudices, biases, and faulty assumptions on the part of service providers. It calls for immediate reforms in intervention policy and practice.

Adames, Sandra Bibiana, and Rebecca Campbell. "Immigrant Latinas' Conceptualizations of Intimate Partner Violence." Violence Against Women 11, no. 10 (2005): 1341-64. PDF

Findings revealed that the immigrant Latinas were aware of the poor quality of intimate relationships in their community, were knowledgeable about intimate partner violence, and understood that intimate partner violence is an extensive problem in the immigrant Latino community. The authors advise that in our attempts to address intimate partner violence, “we must be particularly mindful of immigrant experiences such as linguistic competency, documentation, shifts in power, acculturation and biculturalism, and accessibility to resources,” and that intervention efforts focus broadly on the environmental elements that engender violence, such as community-level strategies.


This study investigates the relationship between South Asian immigrant women’s patriarchal beliefs and their perceptions of spousal abuse, based on 20-minute telephone surveys administered in English, Urdu, or Hindi with 47 women in the Greater Toronto area in Canada. Overall, 24% of interviewees experienced physical abuse perpetrated by their partners during the past 5 years, which is 3 times higher than the prevalence rate reported by the Statistics Canada General Social Survey 1999. Rather than attribute the source of violence to patriarchy, the researchers carefully argue that women’s patriarchal beliefs influence their own perceptions of women’s victimization at the hands of intimate partners. In short, the study findings emphasize the pivotal role of awareness and education about patriarchy in the empowerment of women.

American Civil Liberties Union. Domestic Violence: Protective Orders and the Role of Police Enforcement 2007


A brief questions and answers format document outlining key issues in the US around what protection is available, what happens if a protective order is violated,
why police enforcement of protective orders is important, and what victims of violence can do to keep themselves safe.


This article by a criminologist at the University of Ontario Institute of Technology presents a comprehensive discussion of Islamic interpretations of wife beating, exploring 4 schools with varying Islamic perspectives on the issue. Using a feminist Islam framework, it questions how “Islam” or “religion” is used to justify wife beating to the police, in courts, and in other arenas. The review of the range of Islamic interpretations provides an invaluable educational tool for advocates, attorneys, and service providers working with immigrant Muslim women in the United States.

Boyd, Monica. "Gender Aspects of International Migration to Canada and the United States." In International Symposium on International Migration and Development. Turin, Italy: Department of Economic and Social Affairs, United Nations Secretariat, 2006. PDF

The paper demonstrates the gendered nature of permanent, temporary and illegal migration to Canada and the United States, highlights a few consequences for immigrant women, and indicates tools of intervention that include gender based analysis, special programs, NGO activities, along with government agreements and policies. It asks how the norms, social relationships and hierarchies associated with being female or male affects the potential for migration and the experiences of migration for women and men. It also explores how gender inequalities in destination countries affect the immigrant experiences, and how migration benefits or disadvantages women and men in different ways. Addressing these questions, the author provides insight into the gendered nature of migration, the experiences of migrant women in all aspects of migration including return, the inequalities and opportunities that await them in their destination countries, and the nodes of policy interventions at domestic, bilateral and/or multinational levels.


Based on a representative sample of 7,115 women, the article suggests that immigrant women from developing countries have the highest prevalence of violence. The analyses demonstrate that several variables operate differently in the production of violence against immigrant women from developed and developing nations. However, the key difference in explaining the higher prevalence of violence among those from developing countries is the sexually proprietary behavior exhibited by their partners. The results show that sexual jealousy interacts with high female education and low male education levels in the prediction of violence among immigrant women from developing countries.

Beginning with the assertion that Canada has a history of regional polarity on indicators of social disorder, this study investigates the question of whether Quebec possesses a different culture of male partner violence against women, in comparison to the rest of Canada. Using a large-scale representative sample of Canadian women, researchers conclude that Quebec has a lower prevalence of violence than the rest of Canada and that men in Quebec who hold patriarchal attitudes will be more likely to be violent than those who do not. Discussion of immigrant women takes place in the context of how immigrants to Quebec are more likely to speak French than immigrants to the rest of Canada are to speak English. The authors imply that the higher prevalence of violence among immigrant women in other parts of Canada have something to do with the higher likelihood that the men from Hong Kong, China and India hold more extreme patriarchal attitudes.


The report presents findings that offer a preliminary analysis of the intersection and interaction between official legislatively enshrined discourses, judicial rulings, and the understanding and knowledge of criminal justice professionals and sex trade worker advocates. It sketches the official discourses surrounding organized crime and human trafficking, as reflected in United Nations and Canadian state documents, situating them within the context of social and economic inequity, and framing them in terms of a criminal justice tactic—greater criminalization and cross-national collaboration by police and other authorities. It also analyzes the Canadian judicial discourse to ascertain how the courts respond to cases involving irregular migrant women in the sex trade.


This book focuses on the experiences of Vietnamese immigrant women who are battered and interfacing with the US criminal justice system, and assesses how useful and problematic this system is for increasing the safety of women. The intersection of race, class, gender, and immigrant status are seen as influencing the experiences of violence against immigrant women. In particular, Bui describes how policies of mandatory arrest and prosecution result in the imprisonment of battered women who defend themselves against their batterer, as well as women who do not. The book discusses how immigrant women are often forced to contend with abusive partners who are more familiar with the US justice system than the women themselves. Biases within the courts and inadequate court services for abused women can result in women pleading guilty even when they are not. A major concern for non-citizen immigrant women is the possibility of a criminal conviction and its effect on their immigrant case. Bui concludes the book with a call for changes
in criminal justice policies and practices, though she provides no specific policy recommendations.


Examining domestic violence in Vietnamese American families, the authors suggest that Vietnamese American women’s experiences of family violence could be affected by the interaction between economic situations, Vietnamese traditional culture, and immigration status. The husband’s patriarchal beliefs and dominant positions in the family and conflicts about changing norms and values between husbands and wives were found to relate to spousal abuse. Importantly, the study goes beyond a culturalist justification of violence in suggesting that class, culture, gender and immigration status simultaneously affect women's experience of violence by their husbands. Although immigrant Vietnamese women's economic contributions could not reduce their husbands’ dominant positions and violence, it found that economic hardship could in fact prevent women from leaving an abusive relationship.


Funded by the National Secretariat on Homelessness, this research was conducted by members of MOSAIC (Sherman Chan as the Principal Investigator) and the Geography Department at the University of British Columbia. The various parts of this project converged on the point that the housing situation of newcomers to Greater Vancouver is heavily influenced by the social capital of existing ethnocultural communities. As a result, the extent of relative and absolute homelessness among immigrants, refugees, and refugee claimants is less than would be expected given the income levels of these groups. While many individuals and families are living in crowded, substandard conditions, the research finds that the social networks appear to mitigate against the worst forms of homelessness, and that immigrant, refugee, and refugee claimant communities are actually underrepresented in the population using homeless shelters. In particular, they report that overcrowding living situations often lead to tensions among family members and can increase the likelihood of domestic violence.

Available from [http://mbc.metropolis.net/Virtual%20Library/2008/WP08-10.pdf](http://mbc.metropolis.net/Virtual%20Library/2008/WP08-10.pdf) PDF

Immigrant women’s fears about crime involves understanding what their issues are, how and why they differ from other women, and what they see as potential solutions. Beginning with a discussion of a number of attacks by strangers against women in Vancouver, this paper studies racialized immigrant women (16 Chinese and 17 South Asian) in the Greater Vancouver Regional District and how they express their concerns about crime in the context of their specific gender, race and class location. Providing insight into the different understandings and strategies around what it means to be safe and practice safety in public, the author (professor in anthropology and sociology at Simon Fraser University) discusses women’s fears, anxieties and vulnerabilities and the strategies they employ to avoid criminal victimization. Though the article does not focus on intimate partner violence, it is useful in considering immigrant women’s relationship with the criminal justice system, especially the police, and the women’s reluctance to report crimes to the police because of fear of retaliation or deportation.


This article responds to a criticism of a crime-centered approach to domestic violence, namely that we are seeing a “massive over-reliance on criminal strategies by advocates for battered women.” The critics have been particularly critical of the most prominent policy feature of this focus, mandatory arrest and no-drop prosecution, pointing out for example that immigrant women and particularly undocumented women face the possibility of deportation with the attendant risks of economic deprivation, separation from children, etc. especially since conviction for domestic violence is a deportable offense in the US. While accepting the merits of many of these arguments, the author argues that alternative interventions to the current crime focus “must not lose sight of one significant benefit of that focus: the potential for emphasizing that domestic violence is morally wrong.”


The author, a US House Representative, provides an overview of the history of congressional involvement with the Violence Against Women Act (VAWA) provisions to protect immigrant victims of domestic violence and other forms of violence against women. He outlines the reasoning behind, and purpose of, the most recent enhancements in legal protections for immigrant victims of domestic violence, sexual assault, trafficking, and foreign fiancés and spouses that were included in the reauthorized VAWA 2005, also describing the bipartisan work that resulted in the newest piece of legislation.

This article describes the findings of research into judicial decision-making in Ontario courts in cases of intimate violence against women. Judges are condemning the violence, issuing relatively harsh sentences, and arguing that the intimate context of the violence is an aggravating factor. The analysis also reveals that judges often rely on stereotypes and traditional notions of marriage, family, and femininity. As records of decisions, the documents suggest a high level of understanding that wife abuse is a crime, but as judicial discourse, they reveal how the justice system regulates intimate relationships and how traditional ideologies persist despite the harsh sentences.


The authors discuss the subgroup variations in the documents of trends in spousal homicide, and identify factors that may be associated with the reported declines. Using Statistics Canada data, the authors suggest that shifts in relative employment and divorce rates appear to be associated with declining rates for women, whereas shifts in men's education and divorce rates appear to be associated with declining rates of spousal homicide for men. Their findings complicate the “exposure reduction” framework, which is premised on the well-documented finding that chronic and persistent violence in intimate relationships often precedes intimate partner homicide, and that mechanisms that help abused partners exit from violent relationships or inhibit the development of such relationships in the first place may reduce the rate of lethal victimization. With respect to legislative and policy changes, the authors write that many Canadian jurisdictions have adopted zero-tolerance and/or no-drop policies during the past 20 years, and that these policies require the police to charge in cases of spousal violence where there are reasonable and probable grounds, also requiring that cases be prosecuted when there is a reasonable likelihood of conviction.

They also write: “[S]ome jurisdictions now have specialized domestic violence courts. A specialized criminal justice system response was first developed in Winnipeg, Manitoba, in 1990. Similar programs in Ontario, Alberta, and the Yukon have been implemented more recently. The principle aim of these courts is to expedite the processing of domestic violence cases to ensure the safety of the victim, introduce early intervention for first-time offenders, allow for effective investigation and prosecution of these cases, and ensure accountability of the offender. Most of these courts have specialized prosecutorial units; specially designated courtrooms and dockets for intake, screening, and trials; and special units in the probation office to deliver court-mandated treatment programs. Legislative changes, specialized courts, training of criminal justice personnel, and increasing resource availability may have contributed to declining spousal homicide
rates of both women and men, although at this point direct causal relationships are difficult to establish” (302).


This working paper provides an analysis of how trafficked women, under certain circumstances may be eligible for refugee status and discusses how national anti-trafficking legislation may not be sufficient to address their protection needs.


The author suggests that the backlash against gender-sensitive responses to women’s victimization, offending, and imprisonment is inseparable from contemporary reaction against feminism and other progressive movements. Discussing the backlash against the American Violence Against Women Act (VAWA), the article points out that the “fathers’ rights” movement discourses call for the reassertion of patriarchy and objects to women’s authority, and tend to be particularly preoccupied with issues related to battering and violence policy. Rather than seeing the backlash as a fringe movement, the article points to the implications for the relationship between masculinity and violence, which are increasingly important in an era of federally funded fatherhood and marriage promotion initiatives.


This study examined recent US state statutes and found that more recent laws provided greater access to victims and expanded their eligible populations to include categories that were excluded in earlier legislation (i.e. dating partners, sexual partners, and same-sex partners). Protective orders increased slightly in duration and there was more access to them outside of normal working hours. Compared with earlier legislation, they found newer laws also more likely to authorize judges to design remedies that address financial matters. Penalties for violations remained relatively stable, although states were increasingly willing to use enhanced sanctions for repeat offenders. States continued to use mandatory arrest to enforce orders, and legislators incorporated many aspects of new federal legislation into state statutes. They conclude that the past decade witnessed quite a few important changes in protective order legislation, but that there is insufficient research and evidence on how these laws have been implemented. While legislators in most states are convinced that protective orders are an important enforcement tool, there continues to be a need for policy analysis that would allow lawmakers to determine what types of reforms are most effective.

This report examines how women from immigrant, refugee, and indigenous populations are involved with and treated by Child Protective Services (CPS) in the US. The goal is to share the voices of immigrant, refugee and indigenous women who are survivors of intimate partner abuse and have been involved with CPS. It discusses the policies, practices and interventions that will more effectively address the physical, emotional and spiritual health of individuals, families, and communities. From the outset, the report states that Latino, African American, Asian, Pacific Islander and other non-Caucasian women experience partner abuse at higher rates, and are negatively impacted by their inability to escape abuse or seek appropriate rehabilitative and support services. They encounter negative consequences including homelessness, joblessness, incarceration, drug and alcohol abuse, and physical and emotional injuries. Immigrant and refugee women are thought to be particularly vulnerable populations due to their lack of access to services, poverty, and fears related to maintaining or attaining citizenship status (especially critical in the US).


This study addresses the abuse experiences of immigrant women married or engaged to US servicemen and the response of military social service and legal systems. It explores the intersectionality of immigration status and military spouse or intimate partner status. The findings indicate that the immigration circumstances and status interact with the military context to compound the abuse, further marginalize victims/survivors, and weaken the military social service and legal system's response. The study concludes that in light of the larger number of intimate partnerships formed between American military personnel stationed abroad and foreign-born women, the abuse potential inherent in such relationships warrants special attention by the military.


This report by the Canadian Feminist Alliance for International Action (FAFIA) was funded and supported by a grant from the Social Sciences and Humanities Research Council and the Centre for Feminist Legal Studies at the University of British Columbia. It was submitted to the United Nations Human Rights Committee.
on the occasion of its review of Canada’s 5th report on compliance with the *International Covenant on Civil and Political Rights*. The report calls on Canada to account for its breaches of international human rights obligations and its failure to credit and respect international human rights bodies by responding constructively and actively to their recommendations. In particular, the report focuses on women’s poverty and the persistent systematic discrimination faced by aboriginal women.

In the Violence Against Women section (page 36), the report cites the CRIAW *Fact Sheet on Violence Against Women and Girls* (2002), *Nowhere to Turn?* (2004), as well as publications by the Chinese Family Services of Ontario, Status of Women Canada, and other researchers in stating as follows:

Women who face multiple forms of discrimination, such as Aboriginal women, women of colour, immigrant women, lesbians, disabled women, young girls and older women, face a higher risk of violence. These women have a more difficult time accessing services. For example, "less than two-thirds of shelters for abused women report being accessible to women with disabilities." Also, there is a complex set of issues, attitudes, barriers and gaps in service that make immigrant and racialized women uniquely vulnerable when faced by domestic violence. Only 57 percent of Canadian shelters offered services that are sensitive to cultural differences. Women who have difficulty speaking the official language where they live face enormous barriers in accessing services and dealing with the justice system. When services and the justice system fail, women find it even more difficult to escape abuse.

It also cites the report *Sponsorship—for Better or for Worse: the Impact of Sponsorship on the Equality Rights of Immigrant Women*, pointing out that the immigration policy enforces and worsens the already vulnerable position of sponsored women by increasing their dependence on their spouse.

Fiedler, Rob, Nadine Schuurman, and Jennifer Hyndman. "*Hidden Homelessness: An Indicator-Based Approach for Examining the Geographies of Recent Immigrants at-Risk of Homelessness in Greater Vancouver.*" *Cities* 23, no. 3 (2006): 205-16. PDF

The authors discuss the over-representation of immigrants among the population considered at-risk, and the issue of hidden homelessness. Their findings indicate that spatial concentrations of recent immigrants at-risk of homelessness are found in inner suburban locations, that the vast majority of immigrants in these at-risk areas are recent arrivals, and that recent immigrants are disproportionately excluded from at-risk estimates because they are significantly over-represented among households that have shelter costs that exceed their incomes. Although not directly related to the issue of safety of immigrant and refugee women, the issues of violence, continuum of homelessness (Chan 2005) and hidden homelessness are deeply inter-related.

In the US, the passage of the Personal Responsibility and Work Opportunity and Reconciliation Act of 1996—known as the 1996 welfare law—resulted in a significant decline in the number of legal immigrants receiving Medicaid coverage and greatly widened the gap in overall health insurance coverage between low-income US citizens and immigrants. This report provides an overview of health coverage challenges facing immigrants, the federal rules regarding immigrants’ eligibility for healthcare, and state efforts to provide replacement coverage for immigrants who are ineligible. It also reviews actions states can take to encourage enrollment of eligible immigrants in public health coverage and to improve immigrants’ access to care. The discussion is obviously specific to the US context, and quite different in the Canadian context of health care, but it is still an important study demonstrating the critical need for access. It also discusses the eligibility of victims of domestic violence in the process of seeking permanent legal residency status.


This is one of the first studies to report on Latina women’s experiences with sexual and psychological, as well as physical, intimate partner violence, and one of the few studies to include women who are migrant-seasonal workers. Studying the experiences of intimate partner violence in 292 Latina women classified as US born, immigrant, or migrant-seasonal workers, it found high lifetime rates of violence and high rates of violence in the preceding years. The authors also found that particularly among the immigrant women, concerns about legal status and the repercussions of reporting violence may contribute to underreporting of the rates of intimate partner violence.


This article explores a hidden yet pervasive form of violence that marks the lives of young women from racialized immigrant communities in western Canada. It argues for an intersectional analysis that takes into consideration their heightened vulnerability to systemic and institutional forms of violence, and describes intersectionality as a kind of walking a tightrope between the violence of racism and the pressures to conform from within their communities. Challenging previous culturalist explanations, the article suggests that racism constitutes a significant form of structural violence. It suggests that racism constitutes a significant form of structural violence experienced by racialized immigrant girls and young women, and challenges previous culturalist explanations that perceive violence to be an "inherent feature of
the racialized culture and a sign of its failure to adapt and/or assimilate to the dominant, Western context” (850). Jiwani argues that the culturalist argument “tends to locate the cause and type of violence, along with the response to the violence, within a primordial interpretation of culture and cultural identity,” and that within this framework, immigrant women are “considered to be high risk because of their location at the intersection of two cultures” (851). She quotes Sherene Razack’s suggestion that “culture talk is a double-edged sword” (1994), cautioning against “singling out particular cultural communities and suggesting that they have a proclivity to violence.” (852).

 Statistics Canada (Catalog number 85-750-KIE), 2006.

Available from


Statistics Canada. Federal/Provincial/Territorial (F/P/T) Status of Women Ministers joined Statistics Canada to compile this collection of statistical indicators on five major aspects of women’s experiences of violence: prevalence and severity, impact, risk factors, institutional and community-based responses, and victims’ use of services. This report updates the information contained in the 2002 publication Assessing Violence Against Women: A Statistical Profile and includes new information in a number of areas. It contains new data examining the situation for Aboriginal women and residents of the territories, making a contribution toward the goal of providing improved data for policy making.

This report adds important new information that was not available for the 2002 report, including data on criminal harassment, sentencing of spousal violence perpetrators, availability and use of victim services, and detailed information for Aboriginal women and women in the territories. However, sections on visible minority and immigrant women still rely on data from Statistics Canada, General Social Survey (GSS), 1999 and 2004. Since the GSS is conducted only in English and French, their figures may grossly under-represent the actual rates of spousal violence against non-English or French-speaking, visible minority and immigrant women who may not have been able to participate in the survey. Therefore, the GSS findings indicating that visible minority and immigrant women report lower levels of spousal violence than non-immigrant women should be considered unreliable. The report concludes by highlighting gaps that remain in the data but are required to paint a more complete picture of the nature, extent and impacts of violence against women. For example, it calls for more detailed data for visible minority, immigrant, Aboriginal and Northern women; sexual assault victimization; perpetrators of violence; attitudes and perceptions of violence among Canadians; the economic costs of violence; and other forms of violence, such as trafficking in persons.

This review of the family literature on domestic violence highlights two broad themes. The first is the importance of distinctions among types or contexts of violence, such as theoretical and practical understanding of the nature of partner violence and the contexts for developing more sensitive and comprehensive theories. The second concerns the interplay of violence, power and control in relationships. It is not a very comprehensive literature review and it does not centrally discuss race, ethnicity, and immigration, but it does mention that immigrant and refugee status creates special difficulties for women trying to escape abusive relationships, and that immigrant women experiencing violence in their homes are often restricted by language barriers, fears of deportation, lack of transportation, fear of loss of child custody, and cultural taboos.


The Community Engagement Continuum is conceptualized as a way to categorize a range of community based approaches in the anti-violence movement and to clarify the goals of engagement. The level to which the strategies used lead to increases in the community’s capacity to transform relations of power defines the four points of the continuum - community outreach and education, community mobilization, community organizing, and community accountability. It documents in detail seven Asian and Pacific Islander anti-violence programs in the US: the Door Knocking Campaign of Stand Against Violence Effectively (SAVE) program of the Cambodian Association of America in Long Beach, California; the Community Needs Assessment of Shimtuh, a program of the Korean Community Center of the East Bay in Oakland, California; the Natural Helper Program of Asian & Pacific Islander Women & Family Safety Center in Seattle, Washington; the Youth Empowerment as Domestic Violence Reduction program of Freedom, Inc. in Madison, Wisconsin; Public Shaming/Naming of Sakhi for South Asian Women (New York); Breaking the Silence Project of Raksha in Atlanta, Georgia; and Pacific Islander Men’s Program in Oahu, Hawai`i. It is notable that none of these cases work on policy change although the report was designed to influence public policy.


This study explores how the cultural context of intimate partner violence affects accessibility to mainstream services for Haitian immigrant women in the US. Findings indicated that the nature and context of violence in the Haitian immigrant community contribute to Haitian women’s reluctance to seek services as well as their overall vulnerability to intimate partner violence, and that mainstream services are largely inaccessible to Haitian women. The article is especially important for
assessing the safety of undocumented immigrant women -according to the National Immigration, Refugee, and Citizenship Forum in 1999, at least 50% of Haitians living in the US were undocumented, and undocumented women must contend with disintegration of extended family networks, lack of English-speaking ability, illiteracy, isolation, economic insecurity, legal vulnerability, and lack of knowledge about services.


Available from http://www.jibc.ca PDF

Prepared for the Justice Institute of British Columbia, this report is based on in-depth interviews with 75 immigrant and refugee women who were victims of violence in their intimate relationships. The goal was to: (1) determine what service delivery factors they found to be empowering and disempowering; and (2) develop recommendations based on the findings to more effectively facilitate their empowerment. The report concludes that two primary themes emerged from the interviews. The first theme is the importance of addressing the multiplicity of needs including language barriers, lack of information and access, sponsorship and immigration barriers, material needs, and social isolation. The second theme is the importance of a “comprehensive, caring service” including “proactive intervention; advocacy and accompaniment; broadening of traditional professional roles and mandates; and sensitivity to women’s cultural and immigration realities.” Recommendations reflect these two themes. One such recommendation calls for “further research to determine the actual impact that current legislation, policy, procedures, practices, and programs relating to immigration and sponsorship have on the material needs and well-being of abused immigrant women.”


Building on research in three rural counties and one urban county in the US, this article discusses the problems with the implementation of protective orders. It finds that very important differences exists across jurisdictions: that there are more and specific barriers to obtaining and enforcing protective orders for women from rural areas, that victimization experiences of women seeking protective orders differ for rural and urban women, and that there are differences in protective order stipulations, violations, and perceived effectiveness of protective orders among rural and urban women. Although the article does not concern Canada, and does not consider immigrant and refugee women or race or ethnicity as also affecting the urban-rural disparity, the article nonetheless underscores the need for a more coordinated training for criminal justice and law enforcement personnel to improve the consistency and responsiveness of protective order processes for rural women. I have not found a similar article that addresses urban-rural disparity in protective order processes in Canada.


This article suggests that the multiple oppressions faced by women of color, women with disabilities, older women, lesbians, and immigrant women must and can be incorporated into traditional feminist theory on domestic violence and a more comprehensive and complex conceptualization of power and control in intimate relationships.


This study identifies risk factors for Vietnamese American women’s abuse. Intensive interviews with 129 Vietnamese women immigrants in a northeastern metropolitan area provided data to examine risk factors for sexual, physical, and verbal abuse. Patriarchal gender arrangements in the family, arguments about fulfilling gender and family roles, and partner’s threat that divorce would compromise the participant’s immigration status put women at risk for each type of abuse. Importantly, the study discusses implications for practice and policy, stating that the current law providing abused immigrants with an opportunity to remain in the US (i.e. VAWA) is laudable, but that the threat of divorce and the related jeopardy to immigration status is still relevant to keeping women in abusive relationships. It concludes that there is a great need for legal education and access.


The authors find that the unregulated nature of the international marriage broker industry endangers women by denying them information necessary to make informed choices with respect to their intended US-based citizen spouses. This article provides an overview of the international marriage broker industry and how the industry’s marketing of marriage potentially endangers many women recruits, and offers an update and analysis of new provisions under US immigration law that strengthen protection available for women who immigrate as fiancées and spouses of US citizens. It discusses the VAWA 2005 provisions that arm foreign national women with a path to legal status without the abusive spouse.


The Canadian federal policy provides a framework for the immigration and health experiences of immigrant women. The official immigration category under which a
migrant is admitted determines to what degree her right to remain in the country (immigration status) is precarious. Women immigrants fall primarily into the more dependent categories and they experience barriers to access to health services arising from this precarious status. Federal immigration and health policies create direct barriers to health through regulation of immigrants’ access to services as well as unintended secondary barriers. These direct and secondary policy barriers intersect with each other and with socio-cultural barriers arising from the migrant’s socio-economic and ethno-cultural background to undermine equitable access to health for immigrant women living in Canada.


Advocates face huge challenges in addressing the issue of intimate partner abuse in a socioculturally sensitive manner.


Providing a review of legal, medical, and social science research literature, the article finds that the existing research demonstrates that immigrant women’s cultures, contexts, and legal status (a) increase vulnerability for abuse, (b) are used by abusers to control and abuse immigrant women, and (c) create barriers to women seeking and receiving help. The article cites a community-based survey with South Asian immigrant women in Boston which reported that 40.8% of the women experienced physical abuse at the hands of their current partners, a rate that was much higher than in the general population.


While a number of excellent UNHCR handbooks, manuals and guidelines address the issue of trafficking; the author argues that the majority of them contains little reference to trafficking as it relates to persons of concern. It states that there is a need to update the publications to reflect trafficking as a protection concern within the organization and to provide guidance to staff and others on how to address the issue. The report concludes that prevention and protection work, as related to trafficking and persons of concern should be given the necessary priority by UNHCR field offices. Particularly helpful are sections discussing the Canadian context.


This article critically analyzes how the criminal justice system centrally situates itself in an intervention program intended to protect victims of domestic abuse and stalking. The author argues that current tendencies toward criminalization in
domestic violence interventions can have an unintended violent impact for victims who are either excluded from the program or are forced into a criminal justice regime that might not be in their primary interest. Women who can actively navigate the use of the criminal justice system, however, do seem to receive the protection they need.


This report was updated in 2006 and is no longer available. See instead Holly Johnson, "Measuring Violence against Women: Statistical Trends 2006."


Based on interviews of a total of 63 victims and 28 police officers, the authors identify "three dimensions of empowerment along which police responses varied: integrated team versus isolated united functioning, deserving versus undeserving victim perspective, and proactive versus pro-forma responses. Police attitudes, situational factors, and victim characteristics influenced the extent to which responses were experienced as empowering or disempowering by victims." The article complements the 2007 report, *Empowerment of Immigrant and Refugee Women Who Are Victims of Violence in Their Intimate Relationships*, and adds the perspective that the police acts not only as "gate keepers" to the criminal justice system but also as a potential social support for domestic violence victims, significantly impacting victim safety and service utilization.


Written by a researcher from the University of Ottawa, the article criticizes feminist therapy for failing to acknowledge the diversity between immigrant and racially visible women who have been abused. The authors examine both the effectiveness of feminist therapy and its limitations, describing the reality of domestic violence among these women and how their needs differ from women in the dominant culture. Strategies for a more inclusive form of feminist therapy are offered as alternatives.


This article is based on exploratory research on the cultural constraints that Indian immigrant women face in accessing the benefits of Canadian policies for women experiencing domestic abuse. Findings from Ontario expose the pressures of
cultural, social, and family ties that prevent these women from getting necessary help for domestic violence, and are compared to the context of domestic violence and the women’s movement in India. The article points out that women bear the “double pressure of abuse and threat of deportation when the police are involved,” and “fear racism and racial discrimination from the police and others” (869). The article also points out that the majority (80%) of the beneficiaries of subsidized housing by the Canada Mortgage and Housing Corporation (CMHC) are Canadian born, and that many Indian women interviewed do not think positively about shelters and subsidized housing.


Available from [http://www.ccsd.ca/pubs/pubcat/nw.htm](http://www.ccsd.ca/pubs/pubcat/nw.htm) PDF

This report was produced by the Canadian Council on Social Development (CCSD), submitted to the Department of Justice, Sectoral Involvement in Departmental Policy Development, and was based on focus groups with frontline workers from community organizations in seven cities (Vancouver, Calgary, Winnipeg, Toronto, Ottawa, Montreal and Halifax). This report highlights the importance of social, cultural and systemic barriers that hinder immigrant and visible minority women from seeking and obtaining the supports they need. Key findings include the need for comprehensive, coordinated and culturally appropriate strategies to reach out to immigrant and visible minority women in Canada who are abused by their husbands or partners. It emphasizes the importance of providing information on Canadian laws, rights and services to immigrants in their own language, providing culturally sensitive services, improving and coordinating access to crisis programs and longer-term interventions, stabilizing funding for immigrant settlement and ethno-cultural service agencies, and engaging in education and equity strategies to reduce discrimination, stereotyping and marginalization of immigrant and visible minority communities to prevent partner abuse.


This article provides a comprehensive review of the emerging domestic violence literature using a race, class, gender, sexual orientation intersectional analysis and structural framework fostered by women of color and their allies to understand the experiences and contexts of domestic violence for marginalized women in US society. It lays out a series of challenges that an intersectional analysis grounded in a structural framework provides for understanding the role of culture in domestic violence and points to major contributions of such an approach to feminist methods and practices in working with women experiencing violence on the margins of society.

Available from http://publications.gc.ca/pub?id=293775&sl=0 PDF

Funded by the Status of Women Canada’s Policy Research Fund and the Joint Centre of Excellence for Research on Immigration and Settlement (CERIS) in Toronto. The report criticizes the detrimental effects of the “sponsorship regime,” a constellation of various laws, regulations and guidelines from the federal and provincial governments defining sponsorship, the obligations of sponsored persons and their sponsors.” It discusses misunderstandings of sponsorship, integration barriers, and spousal maltreatment, and concludes that sponsorship “poses the question of the responsibility of the family to ensure the well-being and the socio-economic security of its members in relation to the state.”

The report finds that given “the fact that sponsorship involves the undertaking of responsibility for women by the spouse, the fact that the application for permanent residence may be refused if the spouse withdraws his sponsorship and the fact that the access of sponsored women to social assistance is limited by provincial regulations (and remains so for the entire duration of the sponsorship, even after citizenship has been obtained), mean that the equality rights of women immigrants are being violated. Indeed, our research revealed that the sponsorship regime has a discriminatory effect on immigrant women who are sponsored by their husbands in that it exacerbates their unequal status within the marriage, diminishes their dignity and degree of independence, aggravates existing socio-economic disadvantages and violates their most basic human rights.”

Based on the legal analysis of the impact of sponsorship, as well as comments and suggestions from sponsored women themselves, the report discusses the Quebec and American models. The Quebec model reduced the sponsorship period from 10 years to 3 years, but did not address issues concerning the withdrawal of sponsorship, the exclusion of sponsored women from undertaking sponsorship agreements and from the sponsorship application process, and the sponsored women’s restricted access to welfare. The American model under VAWA, allows self-petitioning for immigrants who are victims of conjugal violence and are in the US without status. It does not apply to all sponsored immigrant women, resulting in not only a problematic hierarchy of “deserving” vs. “undeserving” immigrants but also promotes a policy that remedies the effects of violence after it has taken place, without calling into question the basic structure of the sponsorship undertaking.

Instead, the report recommends, among others: 1) reducing the duration of the sponsorship undertaking (as in the Quebec model), 2) ensuring that sponsored women have access to social assistance in case of sponsorship breakdown, 3) ensuring protection against withdrawal of sponsorship (or threats) by considering humanitarian grounds over criteria of financial autonomy, 4) allowing the rescinding of the sponsorship undertaking in cases of conjugal violence so that a sponsored
women does not have to maintain contact with the abusive sponsor, and 5) respecting the rights of low-income people to family reunification.


Available from [http://www.bcifv.org](http://www.bcifv.org) (website no longer available)

The Guide was produced by the BC Institute against Family Violence (BCIFV) with funding by the BC Ministry of Multiculturalism and Immigration through its Anti-Racism and Multiculturalism Program. The guide features more than 10 scenarios of women experiencing violence, such as sponsored fiancée, women with an in-Canada sponsorship application in progress, women applying for convention refugee status, women with children and with no permanent resident status, etc. Due to the technical and changing nature of legal information, it is unlikely that this guide from 2003 contains reliable information. To be useful, a guide like this would have to be updated constantly. The scenarios are nonetheless helpful in demonstrating how people interact with policies, illustrating how actual policies affect real life situations.


Intimate partner violence is prevalent and is associated with significant impairment, yet it remains unclear as to which interventions, if any, reduce rates of abuse. There is no mention of immigrant or refugee women.


This large-scale Seattle-based study by a group of epidemiologists found that financial independence and abuse of family or friends are important factors associated with the decision to seek a protection order in intimate partner violence. Victims who obtained protection orders were more likely than victims without protection orders to be employed full-time, be pregnant, be married, aged over 24, and less likely to be involved with the perpetrator at the incident of violence. Interestingly, it also found that women who sought protection orders were less likely to be physically assaulted or injured, but more likely to have family members or friends physically assaulted.


Based on a study utilizing focus groups in the Seattle area, the researchers categorized the many barriers for victims into three themes: 1) predisposing
characteristics—situational and personal factors; 2) fears and negative experiences with police abuse; and 3) fears of possible repercussions. The study also lists what the victims described as “positive experiences with police,” and suggests policy changes for the police and social service agencies in addressing the barriers in seeking police help. For example, it recommends modifying police policies, conducting police training in addressing violence against women, and the creation of an easy to use on-call system with professional interpreters to address the language barrier for non-English-speaking victims. Ongoing training of police officers is also advised to address cultural sensitivity for immigrant populations, racial/ethnic minorities, and lesbian populations. More specifically, the article suggests that there be a shift in thinking concerning the police’s use of the “cozying up” technique with the perpetrators as this often gives the appearance of “male bonding” between the perpetrator and the police, and decreases the victim’s trust in the police officer.


The article examines feminist and “status inconsistency” theories and their application to domestic violence in Chinese immigrant families. The feminist approach is defined as a perspective, which maintains that gender inequality in society is the root of all forms of violence against women. Status inconsistency theory as an approach, suggests that violence is more likely to occur when an individual’s status is inconsistent with new norms or when standard norms governing the family become ambiguous. For Chinese immigrant families, status inconsistency theory addresses the impact on the marriage or family resulting from the cultural transition of immigration, downward economic mobility, racial discrimination, and the lack of proficiency in the English language.
A Literature Review

Ju Hui Judy Han
October, 2009

A. Introduction

The objective of the Safety of Immigrant, Refugee and Non-Status Women Project is to address serious policy gaps or problems that compromise the safety of refugee, immigrant and non-status women who experience violence. This literature review is one of a series of documents and reports produced by the project.

Preliminary research
In 2003, EVA conducted a consultation with immigrant serving organizations. We had a roundtable discussion with immigrant women of colour working as frontline advocates for immigrant, refugee and visitor women. We also invited the Phillippine Women’s Centre, Vancouver and Lower Mainland Multicultural family Support services, MOSAIC, the Prince George Elizabeth Fry Society and Battered Women’s Support Services as well as a prominent immigration lawyer to provide us with written submissions on policy issues impeding the safety of immigrant, refugee and visitor women experiencing violence. We received written submissions from three of the six invitees: the Vancouver and Lower Mainland Multicultural Family Support Services, the Prince George Elizabeth Fry Society and Battered Women’s Support Services. We incorporated findings from the 2003 consultation into our source materials for the Safety of Immigrant, Refugee and Non-Status Women Project. Complete copies of the 2003 submissions can be

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1 For simplicity, the term “immigrant” is used here to include everyone who has immigrated and chosen to live in Canada whether they have landed-immigrant status or Canadian citizenship. The term “refugee” includes a person who has had to flee his or her country because of a well-founded fear of persecution, regardless of whether they are refugee claimants or have been granted asylum.
requested from the EVA office. Summaries of the issues raised can be found on our website.

Current consultations
To build on the foundations laid in 2003, we organized four focus groups with service providers in key communities with significant populations of immigrant, refugee and non-status women in BC: in Vancouver, Victoria, Kelowna, and Prince George. In addition, a sixth focus group was organized for Law Foundation projects currently working on issues related to immigrant and refugee women.

At the focus groups, frontline workers from the anti-violence and settlement sectors were invited to discuss issues of common concern among their clientele of immigrant, refugee and non-status women who have experienced violence. We discussed the nature of the problems and risk factors particular to these groups, as well as suggestions for actions to improve existing services and ways to promote the development of other relevant and appropriate services and policies. The main purpose of the focus groups was to verify the findings of our 2003 consultation and the 2008-09 research and literature review. An overview of the 2009 consultation is included as an appendix to this literature review. A complete summary of focus group findings is also available on request from EVA.

B. Background

A number of recent, high-profile incidents in British Columbia have raised concern for the safety of immigrant, refugee and non-status women. These incidents include the murders of Denise Purdy in Nanaimo, in 2003; Amandeep Atwal, killed by her father near Cache Creek in 2003; Navreet Kaur Waraich in Surrey and Manjit Panghali in the Delta area, both in 2006; Sunny Park, her six year old child and parents, murdered by her husband in Victoria, in 2008; and Gurjeet Kaur Ghuman in Port Coquitlam, who survived after being shot twice in the face in 2006. All were immigrant women.

Research evidence and the experience of frontline service providers indicate that violence against women and children increases during times of economic distress. (EVA, 2009) Women may be less likely to report abuse during such times, fearing that it could result in them losing their job and/or becoming homeless. Cuts to services that may accompany an economic downturn pose further risks to women and children because they make it more difficult for women to leave the abusive relationship and more difficult to access assistance and achieve financial independence when they do leave. These factors are all likely to increase the prevalence and severity of domestic violence.

Immigrant and refugee women experiencing violence—including domestic violence, spousal and intimate partner violence, family violence, and sexual assault—have been the subject of much recent scholarly and policy research. While there is no statistical evidence to indicate that violence against women is more prevalent among immigrant and refugee women than it is among the general population in Canada, current and
ongoing research, coupled with the experience of frontline service providers, indicate that immigrant and refugee women who are victims of violence are faced with additional barriers to reporting the violence and accessing support and assistance. These barriers include: social isolation, language issues, immigration and sponsorship barriers, and economic vulnerability (Light 2007, Smith 2004, Shirwadkar 2004, Russell 2002, Status of Women Canada 2001, McDonald 1999). Many American and Canadian researchers concur in suggesting that immigrant and refugee women also experience systemic racism and significant legal barriers which negatively impact the women’s access to resources and quality of care (Brownridge and Halli 2002, Ku and Waidmann 2003, Jiwani 2005, Decker et al. 2007, Light 2008). These researchers underscore the fact that even though intimate partner homicide rates are in decline in Canada (Dawson et al. 2009), and reported rates of violence against immigrant women may, in some cases, be lower than for non-immigrant women, it is still possible that immigrant and refugee women experience higher severity and prevalence of violence given the barriers making it more difficult for them to report the abuse and get the help they need. Our ability to determine the incidence of domestic violence with any accuracy is hampered by the underreporting of this crime in general. Statistics related to incidence with respect to immigrant women are particularly problematic in this regard.

Immigrant and refugee women also face economic vulnerability as immigrants. The material need for affordable housing, employment, transportation, and childcare are all crucial factors in women’s struggle for safety and independence. Poverty levels tend to be higher among less-educated immigrants, immigrant women, those who do not speak English at home, and those who are of non-European ethnicity. In 2006, the unemployment rate of recent immigrants was almost double that of the non-immigrant population and their average income was considerably lower than that of the Canadian-born population—$20,999 compared to $36,243, respectively (Perreault 2008). Due to issues related to legal status, immigrant and refugee women may also face difficulties obtaining work permits, further compounding their economic vulnerability. Lack of legal status can also negatively impact the women’s access to social assistance programs (Raj et al. 2002).

Immigrant and refugee women experience violence in unique ways, and have specific needs stemming directly from their experiences and status as immigrants and refugees (Abu-Ras 2007, Ayyub 2004, Bui 2003, Kim 2005, Chan 2008). A combination of: social isolation, lack of information about rights and available services, lack of English language skills, lack of services in their own language, immigration and sponsorship issues, racism and other systemic discrimination, and lack of support from their own cultural community, increase the vulnerability of immigrant and refugee women (Critical Components Project Team 2008). A recent report commissioned by the BC Ministries of Attorney General, Community Services and Public Safety and Solicitor General, based on consultation with immigrant-serving organizations and immigrant women who had suffered abuse, identifies a strong need to take these critical factors into account to address existing policy gaps which currently compromise the safety of immigrant and refugee women. (Light 2008).
It is important to note that national statistics on violence against immigrants and refugee women are unreliable for a number of reasons. In a 2006 report entitled “Measuring Violence Against Women: Statistical Trends,” Statistics Canada concluded that “visible minority status does not raise the risk for spousal violence,” and that immigrant women report spousal violence to the police in no higher rates than non-immigrant women (Johnson 2006). However, the report itself acknowledged the severe limitation of the General Social Survey (GSS) on which such a conclusion is based—it is conducted only in English and French, and therefore their data likely under-represents the actual rates of violence against visible minority and immigrant women. Given the fact that: 1) nearly 200,000 immigrants and 10,000 refugees have settled in British Columbia between 2003 and 2007; 2) that nearly 27.2% of the entire population in BC are classified as immigrants, a figure which includes only those with permanent resident status and does not account for temporary, visitor, or non-status immigrants; and 3) that nearly half of BC’s foreign-born population stated neither English nor French as the language they spoke most often at home (BC Stats 2006), it is clear that GSS data is incomplete and potentially misleading. The GSS should not be used as the primary source on which to base conclusions about immigrant and refugee women’s safety.

C. The Importance of Definitions and Legal Status

“Immigrant and refugee women” are not a monolithic group, as there are other intersecting factors which differentiate them: such as class, education, English proficiency, and the various historical experiences of racialization in Canada. Defining an “immigrant” can be complicated and contentious. Some define immigrants as simply those who have not yet received citizenship: (Ng 1993) including visitors, students, or refugees. Others use a more limited definition of immigrants, referring only to individuals who have immigrated to Canada with legal resident status as permanent residents (Smith 2004 and Johnson 2006). Some call for a broader and more inclusive definition to apply to all individuals who have immigrated to Canada, regardless of their past and current status, whether they have obtained citizenship, and including all those with “precarious immigration status.” This classification would include sponsored family members who have not yet obtained permanent resident status, those with temporary resident visas (work permits, students, etc.), women in the Live-in Caregiver Program (LCP), and anyone with irregular status (without legal immigration papers due to expiry of papers, smuggling, trafficking, etc.).

The term “refugee” can also be ambiguous, sometimes including only those granted asylum in Canada, and at other times referring to everyone in the process of making an application, including refugee claimants awaiting decision regarding permanent residency status. In general, refugee women have a distinct and separate set of resources available to them and may face policy barriers and challenges that are significantly different from immigrant women.

Immigration’s legal status is “experienced differently depending on gender, age, race, ethnicity, religion, language, social location, and the health and/or migration path followed” (Oxman-Martinez et al 2005). These differences are not just a matter of
semantics—a woman’s social location and legal status can very much determine what kinds of rights and services she can expect when encountering violence. Keeping in mind these complexities, this report uses the term “immigrant, refugee and non-status women” in the broadest sense, including all immigrant and refugee women, regardless of their legal status or length of residency in Canada.

**Current Classes of Immigration**

Canadian immigrants and refugees may be considered according to four major classes that determine their location in the legal system:

1. **Independent immigrants** (including nominated relatives) are granted landed immigrant status on the basis of the accumulated points earned for education, work experience, occupation and economic resources under the points system. Typically when a family applies for landed immigrant status, the husband is designated as the independent immigrant and the wife is categorized as a family class immigrant along with the children, even if they are all immigrating together.

2. **Family class immigrants** are sponsored either by the independent immigrants or family members who are already residing in Canada as permanent residents or citizens. Because men are often designated as the head of the household, women tend to be considered “sponsored” by their spouses, even when they are applying for immigration together. Women are thus over-represented in the family class. Between 2001 and 2004, women were 61% of the family class admissions (Boyd 2006).

3. **Business class immigrants** include investors, entrepreneurs and self-employed persons who must make a $400,000 investment that can be used by the provinces for economic development and job creation. Entrepreneurs must own and manage a business in Canada that creates employment for Canadian citizens or permanent residents. Despite their relative class privilege, many business class immigrants nonetheless experience social isolation and linguistic barriers. Women in this category most often depend on their spouses for their legal status, as they are generally not the principal applicants.

4. **Refugees** are further subdivided into two classes: first, “resettled refugees” who, even before their arrival to Canada, have been sponsored by the government of Canada or by a private group; and second, persons who make their own way out of the country or situation they are fleeing.

In both the US and Canada, women are more likely than men to be admitted in administrative and visa categories as family members and as spouses rather than as independent immigrants.

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2 Much of the following information is indebted to Roxanna Ng, "Gendering Policy Research on Immigration" in *Gendering Immigration/Integration Policy Research*. Ottawa: Status of Women, 1998. CIC and Statistics Canada documents were also consulted.
Researchers point to significant barriers rooted in legislation and policy and suggest that sexism, racism and class biases have fundamentally shaped the thinking and design of economic, social and immigration policies. They argue that “…sexism, racism and class biases do not only pertain to people’s attitudes,” but more importantly, they are “…systemic features of our society, including policy formulation” (Ng 1998). Given these structural factors affecting immigrant and refugee women’s social location and legal status, a gender lens to inform policy making—whether in immigration or anti-violence policy/legislation—is necessary and critically important. For example, the CIC’s immigration points system privileges paid, male labor as opposed to unpaid, or underpaid, household and child-rearing labor, predominantly done by women. The current immigration policies also exacerbate women’s dependency on their sponsor for immigration status, creating a situation that negatively impacts the safety of women (Community Coordination for Women’s Safety 2006), as they are less able to exit abusive relationships.

Inter-related Issues for Trafficked and Non-Status Women
Canada is a source, transit point, and destination country for men, women, and children trafficked for the purposes of commercial sexual exploitation and forced labour (Riiskjær and Gallagher 2008). Many of these victims enter Canada legally but then are unlawfully exploited in agriculture and domestic servitude. When trafficking victims encounter violence, their precarious legal status creates additional barriers to accessing services. Human trafficking is a distinct practice with a long history, but there has been considerable confusion over its exact definition and the activities included in its scope. The source of confusion is partly due to outdated definitions that used to restrict the definition of human trafficking to the trafficking of women and girls for “immoral purposes,” something that later changed to include a more gender-neutral and less value-laden language. Another source of confusion has to do with the fact that many human trafficking activities often parallel other illegal practices such as human smuggling, slavery, forced labour, child labour, etc.3

In the real world, “regular” immigrants, refugees and smuggled/trafficked migrants do not actually occupy mutually exclusive categories, and regardless of which category they are placed in, women and children are particularly vulnerable. In an analysis of European asylum policy, one report concludes that much of present day policy-making is in fact part of the problem, not the solution. Current policy development is compounding the problem, moving legislation towards ending the right of asylum in

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3 Article 3(a) of the Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime (2000) [http://www.unodc.org/unodc/en/treaties/CTOC/index.html - Fulltext]. UN General Assembly Resolution 55/25, Annex II, U.N. GAOR, U.N. Doc. A/45/49 (2001), which entered into force on 28 January 2004. It defined “trafficking in persons” as the act, the means, and the purpose of “the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purposes of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs.”
Europe (Morrison 2001). A 2001 report completed for the United Nations High Commission for Refugees found that a large percentage of refugees who claim asylum in Europe have been trafficked or smuggled. There appears to be a compelling case for the need to ensure that anti-smuggling and trafficking initiatives are coordinated with immigrant and refugee protection policies.

A report commissioned by the RCMP in 2004 states that in spite of the judiciaries’ nominal acceptance of the official discourse regarding the trafficking of women for the purposes of prostitution by organized crime, their judgments are in fact often marked by a lack of sensitivity to the cultural, economic and social reality of the exploitation, violence and stigma experienced by these women (Brockett and Parent 2004). This study also concludes that the majority of cases involving trafficking victims are in fact analyzed outside the victim discourse, and judged according to the moralistic sex slave/sex worker dichotomy. When determined to be “undeserving,” the victims are often not entitled to the consideration afforded to “victims.” Victims of trafficking, in other words, continue to face an uphill battle. In May 2006 the Canadian government announced that immigration officers will issue temporary resident permits (TRPs) for up to 120 days to victims of human trafficking. They also announced that these victims will be exempt from the processing fee and will be eligible for health care benefits under the interim federal health care program. However, only “bona fide” victims of trafficking are eligible for these benefits, and increasing security protocols since September 11 have resulted in a number of new and restrictive measures that view entrants to Canada through a security lens before a humanitarian or compassionate one.

The Immigration and Refugee Act (IRPA, passed in 2001 as Bill C-11), which replaced the Immigration Act of 1976 as the primary federal legislation regulating immigration to Canada, expanded the offences relating to organizing entry into Canada and increased the penalties associated with these offences. It made trafficking in persons a criminal offense with penalties of up to life imprisonment and fines of up to one million dollars. The Feminist Alliance for International Action (FAFIA)’s report, Canada’s Failure to Act (2003), raised concerns that IRPA’s preoccupation with “improperly documented travelers,” its emphasis on sweeping efforts to criminalize smuggling and trafficking, together with the increased measures of interdiction, will have a differential and disadvantageous impact on women. Similarly, Boyd (2006) argues that “gender based analysis did provide a framework for more gender sensitive changes” in several sections of IRPA, but that there is great variation between individuals and between various government agencies concerning the “application of a human rights based protection of victims and the emphasis placed on crime and security aspects of trafficking” (Boyd 2006; Gozdziak and Collett 2005; Oxman-Martinez et al 2005).

Women who have been trafficked are at increased risk for a range of physical and mental health problems. Victims are usually vulnerable, often young and single (or single mothers), from poorer educational and socioeconomic backgrounds. Most victims are likely to stay in abusive situations because they are either unable, or afraid, to ask for legal help because of past or present abusive situations, fear of retaliation, language barriers, or expectations of deportation and criminal charges. As a result of these
barriers, trafficked and non-status women are most at risk for inadequate health care and other forms of social assistance.

D. Intersections and Coordination

As many previous reports have recommended, there needs to be better collaboration, networking, and information-sharing within and between sectors; better working conditions for service providers; and better training on a range of topics, with a particular focus on issues related to violence against women for the settlement and English Language Services for Adults (ELSA) sectors; and immigrant and refugee issues for the anti-violence/victim services sector (Community Coordination for Women’s Safety, 2006; Light 2008). The emphasis on collaboration and cross-sector coordination addresses the widespread concern that immigrant, refugee and non-status women experiencing violence also face specific needs stemming from immigration and their status in Canada. Since multiple factors, in combination, increase the vulnerability of immigrant and refugee women, multiple policy efforts, in combination, can increase the safety of women regardless of their status in Canada.

Because of the complexity of sponsorship and immigration matters, clear and accurate information is difficult to access, not only for the women experiencing violence, but also for the service providers. Service providers face a doubly difficult task: understanding the complex and constantly changing policies surrounding immigrant and refugee women’s safety, while also interpreting and explaining these policies to their clients. It is thus critical to combine policy change with sustained and ongoing legal education.

E. Protecting Immigrant Women: a Cross-National Comparison

This section takes a cross-jurisdictional look at immigrant women abused by citizen, or lawful permanent resident spouses. The most thorough policy response to this issue is the US’s first comprehensive federal legislation responding to violence against women, the Violence Against Women Act (VAWA) 1994. The VAWA provided key funding to enhance investigation and prosecution of the violent crimes perpetrated against women, increased pre-trial detention of the accused, gave victims the right to mandatory restitution, and allowed civil redress in the cases that prosecutors chose not to prosecuted. It advocated for “a multipronged approach that requires the criminal justice system, the social services system, and nonprofit organizations to collaborate to effectively respond to domestic violence,” and recognized the “particular difficulties battered immigrant women face.” The VAWA included special provisions, known as the Battered Immigrant Women Protection Act, to prevent the use of immigration status as a tool of control and to increase protections available to this class of domestic violence victims (Conyers 2007).

The VAWA (reauthorized in 2000 and 2005) allowed abused immigrant spouses to “self-petition” for legal residence and citizenship in the US, rather than face the loss of legal status or possible deportation. It contained, however, class biases and stipulated that
the women must be married to the US permanent resident or citizen spouse for at least three years, creating extreme hardships for women who experience abuse in the early years of marriage. While no one felt that the VAWA completely addressed the needs of victims of domestic violence and critics decried its emphasis on criminalization and prosecution, many anti-violence advocates still believe that it was a vital first step in creating new penalties for gender-related violence and new grant programs encouraging states to address domestic violence and sexual assault (Dragiewicz 2008). Perhaps most significantly, the VAWA acknowledged the particular vulnerability of immigrant victims of violence, it was designed to help immigrants escape abuse, achieve safety and security, and become active participants in US society (Meyer-Emerick 2001). The following are some key provisions:

- Allowed abused immigrant women to self-petition to request permanent residency without having to leave the US.
- Suspended deportation proceedings.
- Changed conditional residency status to permanent residency status.
- Allowed the abused immigrant women to request work authorization.
- Extended protections for immigrants regardless of how they entered the country.
- Created a new type of visa for victims of serious crimes that will allow some to attain lawful permanent residence.

Although not all aspects of VAWA will be applicable in Canada, the principles underlying the American legislation may help guide Canadian policy change to increase the safety of vulnerable women with precarious legal status. Ensuring a path to legal status allows the abused women to access much-needed resources, such as health care and social assistance, currently available only to citizens or permanent residents in most countries. Increasing protection for temporary status and undocumented immigrant women would also have the effect of diminishing fear among women who have legal status, but remain concerned about potentially losing it.

The following chart compares policies concerning immigrant women in four national contexts—Canada, United States, United Kingdom, and Australia. While the details of specific legislations and provisions may change frequently, the chart provides a general comparison of the various policy initiatives that seek to protect and empower abused immigrant women facing precarious legal status.
Comparison Chart of Policies Concerning Immigrant Women in Four Countries

<table>
<thead>
<tr>
<th>Canada</th>
<th>US</th>
<th>UK</th>
<th>Australia</th>
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<td>Provided that a woman who has permanent resident status, (&quot;landed immigrant&quot; or protected person/refugee) she 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. 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 will likely have to make a new application on humanitarian and compassionate (H&amp;C) grounds. An application for permanent resident status on H&amp;C grounds 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, this should also be mentioned.</td>
<td>Under the Violence Against Women Act (VAWA) passed in 1994, the spouses and children of US citizens or lawful permanent residents (LPR) may self-petition to obtain lawful permanent residency. The immigration provisions of VAWA allow certain battered immigrants to file for immigration relief without the abuser's assistance or knowledge, in order to seek safety and independence from the abuser. VAWA provisions relating to immigration are codified in section 204(a) of the Immigration and Nationality Act (INA), the law that governs immigration in the US. The self-petitioning spouse: • Must be legally married to the US citizen or lawful permanent resident batterer. A self-petition may be filed if the marriage was terminated by the abusive spouse's death within the two years prior to filing. A self-petition may also be filed if the marriage to the abusive spouse was terminated, within the two years prior to the marriage being entered</td>
<td>Those who enter the UK on the basis of marriage are required to remain in that relationship for two years in order to secure residence and access to state support. Ending the relationship within that period, even if due to violence, limits access to support. There are only limited and discretionary allowances to remain in the UK in cases where proof of domestic violence can be given. Immigration status therefore shapes the level and nature of protection from violence. The requirements to be met by a person who is the victim of domestic violence and who is seeking indefinite leave to remain in the UK are that the applicant is able to produce such evidence as may be required by the Secretary of State to establish that the relationship was cause to permanent break down before the end of that period as a result of domestic violence. In addition, the UK government's policy focus on human trafficking has primarily viewed women in these circumstances as illegal migrants, rather than victims of abuse. The</td>
<td>Implemented in November 1991, the Family Violence Provisions (FVP) of Australia’s migration program allow certain people applying for permanent residence in Australia to continue with their application after the breakdown of their spouse or partner relationship if they, or a member of their family unit, have experienced family violence committed by their spouse, de facto or interdependent partner (who is an Australian citizen or permanent resident). Application of the FVP depends on eligibility criteria and proof of violence. Acceptable evidence may be judicially or non-judicially determined. Acceptable judicially determined claims include: • certain court injunctions • certain court orders against the spouse or partner made under an Australian state or territory law • evidence that a court has convicted the spouse or partner of an act of violence against the visa applicant or their dependants (or has recorded a finding of</td>
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| Women who do not have permanent resident status, women with temporary status (work, study, or visitor permits), with no immigration status at all, with “inland spousal sponsorship” applications in progress, refugee claimants, and live-in caregivers face a different set of challenges. | filing, by divorce related to the abuse.  
- Must have been battered in the United States unless the abusive spouse is an employee of the United States government or a member of the uniformed services of the United States.  
- Must have been battered or subjected to extreme cruelty during the marriage, or must be the parent of a child who was battered or subjected to extreme cruelty by the US citizen or lawful permanent resident spouse during the marriage.  
- The Obama administration just announced in 2009 that foreign women who have been victims of severe domestic beating and sexual abuse could receive asylum status in the United States. | government’s under-identification of abuse in the trafficking process and over-hasty deportations compromise the safety and well being of women who have experienced abuse and they remain vulnerable upon return to their countries of origin. | Acceptable non-judicially determined claims include both:  
- statutory declaration completed by the spouse or interdependent partner of the person alleged to have committed the family violence which sets out the allegation of family violence and names the person alleged to have committed it  
- two statutory declarations, completed by competent people in two different professions, that:  
  - set out the evidence on which they have based their opinion that family violence has occurred  
  - name the person alleged to have committed it. |
Appendix

Key Issues and Focus Group Discussion

As part of the consultation phase, we conducted five focus groups with service providers in key communities who have a significant population of immigrant, refugee and non-status women in BC. Frontline workers were invited to discuss issues of common concern among their clientele of immigrant, refugee and non-status women who have experienced violence. We discussed the nature of the problems and risk factors particular to these groups, soliciting suggestions for improving existing services and promoting the development of other relevant and appropriate services and policies. The focus groups were well attended by representatives from the anti-violence and settlement sectors.

For discussion purposes, focus group participants were presented with the following four broadly defined key issue areas which were previously identified as policy priorities for increasing safety for immigrant and refugee women: immigration, cultural competency, settlement, and the legal system. These key issue areas reflect findings from the Community Coordination for Women’s Safety consultation in March 2006 that addressed specific policy provisions impeding safety of immigrant, refugee and visitor women experiencing violence (CCWS 2006), as well as previous meetings held with immigrant women of colour who work as front-line advocates with immigrant and refugee women. A survey taken at the end of the focus group indicate that the participants felt they gained new insights about the issues, and that they felt hopeful about impacting policy changes.

Participants in the focus group identified several additional issues including: health care; funding; education; specific refugee trauma, how to look after people regarding lasting effects of abuse and trauma once they arrive in Canada; building language capacity; preparing women to talk about sponsorship concerns with, or without, their spouses; and training and support for victims of human trafficking. In particular, many expressed concerns that women who are trafficked and women with temporary visitor status, or no legal status, are especially vulnerable and face little social assistance. They often find that subsidized housing excludes the children of women leaving abusive relationships. There was also great interest in extending public education and information outreach to women before their arrival in Canada and many emphasized that crucial legal information be provided on an ongoing, continual basis.

In general, the focus groups echoed the findings from the Provincial Cross-sector Forum and Consultation: Improving Responsiveness of Services for Immigrant and Refugee Women Experiencing Violence, held in 2008 and organized by the Ministry of Attorney General, Multicultural and Immigration Branch. As in the Cross-sector Forum, the focus groups identified a need for better collaboration, better training, and more services as primary needs. The participants strongly emphasized the need for more, and better, interpretation and translation resources to address the language barriers facing many immigrant and refugee women. They supported the Cross-sector Forum’s
recommendation to develop strategies to address language issues as a priority health and safety concern.

Focus group participants were provided with the following discussion points based on key issues distilled from the 2003 consultations and the literature review and were asked to comment.

1. Immigration

Sponsored immigrant and refugee women and domestic live-in caregivers are especially vulnerable to abusive relationships. Uncertainty around women’s immigration status makes it difficult for women to access services such as income assistance or subsidized housing and job training programs (Metropolitan Action Committee on Violence Against Women and Children 2004).

1.1 Services should be available to women experiencing violence regardless of their immigration status. Women should be able to access social assistance without becoming inadmissible for permanent residence status. Legal aid eligibility should be extended to every woman who is, or is likely to be, in Canada with no status. Steps should be taken to ensure that women with permanent resident status know that they have the right to social assistance. Service providers should be knowledgeable and able to present options that ensure the women’s safety without jeopardizing their status or risking deportation.

Many focus group participants echoed their frustration with accessing accurate and timely information regarding immigration policies. Especially in cases where non-citizen women face criminal charges, there are serious legal implications for pending citizenship or permanent residency applications, yet not all frontline workers are aware of how to proceed. Focus group participants reiterated how important it was to obtain legal advice.

In addition, focus group participants pointed out that legal aid for example is unavailable in the Kootenays, requiring women to seek legal advice from Vancouver. Smaller and rural communities face even more difficulties accessing timely legal information.

1.2 Women who are non-status, temporary or visitor status have little to no access to services, and face few alternatives to staying in abusive relationships. Services should be available to non-status, temporary or visitor status women or refugee claimants awaiting status. For example, policies could mandate that the English language schools provide safety and “know your rights” training to students with temporary or visitor status.
It was suggested during several focus groups that temporary residents are not eligible to receive services from multicultural societies and are not eligible for income assistance.

It was pointed out that private language schools in BC are mostly unregulated and may be difficult to reach. On the other hand, ELSA programs are government-run, and could be reached and cooperation encouraged, for them to provide basic information on abuse issues. There could even be an anti-violence ELSA curriculum.

Home stay abuses appear to be a growing problem for women on temporary, visitor or student status. There seem to be no regulations or central regulatory agency overseeing that the international students and temporary visitors are safe in home stays. There is a critical need for an ombudsman and a need to address concerns for abuse in this context.

1.3 Citizenship and Immigration Canada should respond to women who write to them with the details of the abuse they have endured. CIC should strongly consider such information when these abusers/husbands try to sponsor other women into Canada.

See the next section for more discussion on sponsorship. Some focus group participants felt that there should be a more formal process for individuals who wish to become sponsors, requiring information beyond just the sponsor’s financial documentation. There was a suggestion that a different application be used for second-time sponsors. However, some participants expressed concern that such effort would worsen the already difficult and onerous immigration bureaucracy.

The current process does not check if the potential sponsor has a criminal record, if he is sponsoring numerous women, and if other sponsorship breakdowns have occurred with this sponsor. In one case, a participant recalled hearing about a man who allegedly had sponsored 7 people.

1.4 There should be a “fast track” for abused women, and a specialized legal aid system that serves as a resource for service providers.

CIC should conduct interviews with women in a confidential way, to inform them that the information given will not affect their status, and once determined as abused, the woman’s case should be fast-tracked.

1.5 CIC should develop a policy to protect women who, as a result of the relationship breakdown, are taken out of the refugee claim process and left in legal limbo. To help refugee women in these situations, as well as abused women applying for humanitarian and compassionate grounds to stay in Canada, CIC should develop a protocol to offer legal information about navigating the immigration legal system. CIC should also consider abuse a
ground to guarantee landed status to women who report it, on the basis that it is a life-threatening situation.

A suggestion was made that an immigration legal aid lawyer should be made available to women facing possible deportation due to sponsorship breakdown. It was also stated that CIC should create a more user-friendly form that the women can fill out to express, in their own words, why they want to remain in Canada.

It was pointed out that some definitions in this document were unclear, and that there needs to be clearer definitions of immigrants, non-status, and especially “refugees”—in order to distinguish them from “refugee claimants” and “asylum-seekers.” These definitions may reflect different stages in the process, but there should be a clear understanding of the specific needs and vulnerabilities at each stage of the legal process.

1.6 A clear and safe process needs to allow abused women to “self-petition” for permanent residency, refugee status and citizenship. This process needs to be applied without risking loss of legal status or possible deportation, due to the reporting of the violence perpetrated against them by the principal applicants, usually husbands. Abused women in the entrepreneurial category should likewise be eligible to apply on their own behalf.

Focus group participants agreed that this kind of process would ensure women’s safety without jeopardizing their legal status. It was pointed out that the abuser may not always be husbands, but could be other family members.

2. Sponsorship

Being a sponsor consists of making a commitment to the Canadian government to “assume responsibility” for the essential needs of the sponsored individual and to ensure that she/he does not require social assistance during the period of undertaking. The period can range from 3 years after becoming a permanent resident (for spouse, common-law partner, conjugal partner, or adult child over the age of 22) to considerably longer (for children under the age of 22, the period of undertaking can last 10 years or until they reach 25 years of age). The sponsorship regime has a discriminatory effect on immigrant women who are sponsored by their husbands. It exacerbates women’s unequal status within the marriage, diminishes their dignity and degree of independence, aggravates existing socio-economic disadvantages and violates their most basic human rights.

Many participants felt strongly that sponsorship issues pose critical problems for women facing violence, and suggested both small and comprehensive policy changes.
2.1 CIC should establish provisions to recognize the breakdown of sponsorship due to violence. These provisions should include definition/recognition of: power-based crimes, marriages of convenience, safety issues for women and children, and the impact on the marriage of a victim’s extended family both in Canada and in the country of origin.

Many participants felt strongly that clear and accessible information regarding sponsorship breakdown should be provided to women on a continual basis in multiple ways. This information should be included in the paperwork from CIC before the women arrive, upon arrival, and when receiving passports and visas.

This information should be presented in the women’s first language and in a culturally sensitive manner. It should also focus specifically on sponsorship.

It was also suggested that the sponsorship breakdown is very one-sided, giving the sponsor all the power, as they are able to pull their sponsorship at any given time. The current process requires only a faxed request from the sponsor to end their sponsorship. It was suggested that the sponsorship process be tightened, placing a greater onus on the sponsor by requiring them to provide “good reason” for pulling a sponsorship and reneging on the undertaking.

It was also pointed out that there should be policies in place to allow women to work immediately (instead of the current process which can take up to 18 months), in cases of sponsorship breakdown. This has implications beyond just financial aspects. For example, if a woman with only a visitor permit works “under the table” to support herself, her family or her under/unemployed sponsor or partner with a work permit, she is exposed to human rights violations, e.g. long hours/low pay, verbal/sexual abuse, etc.

In another example; a woman works two jobs and attends English classes to support a child and an unemployed husband, who receives income assistance. There is nothing presently in place to hold the sponsor/husband financially accountable in such situations.

Many women work under the table because they do not have a work permit and when their employers or husbands abuse them, they have few options. By issuing work permits before permanent residency status is granted, CIC can allow women to leave abusive relationships and earn their own income without exposing themselves to illegal and potentially harmful working conditions.

2.2 Points system and immigration fees should be abandoned or reworked in order to increase women’s ability to proceed as independent applicants. This will reduce risks to their safety that arise as a result of being dependent on
their spouse, especially when working as a caregiver, exotic dancer, etc. or through trafficking.

There is a $550 permanent residency application fee for sponsored spouses, which is no longer covered by Legal Aid. Many frontline workers felt that this often creates hardship for abused women and should be abolished.

Temporary work permits should be expedited. Open-ended work permits should be created for the women experiencing abuse. Participants also suggested that CIC provide work permits instead of extending a visitor’s visa to people applying for permanent residence under sponsorship. It was mentioned that in the case of common law marriages, this would provide opportunity for women to work and support themselves.

The issue of the 3-month waiting period required for any immigrant person before they are eligible to apply for health care, needs to be looked at through the lens of an immigrant woman leaving an abusive relationship. A person immigrating to Canada is not covered by any medical plan for the first 3 months unless they have private medical insurance coverage. Even if a woman is pregnant and leaves a relationship, she cannot access healthcare. A focus group participant recalled the case in which the doctor and nurse backdated the paperwork to help a woman in dire need.

2.3 CIC should consider abuse as grounds to guarantee landed status to women who report it, on the basis that it is a life-threatening situation. CIC should also consider expediting the processing period for the sponsorship applications. Many abused women are risking their lives because of the slowness of the system.

Many participants felt that the sponsorship period is too long and should be shortened. Current sponsorship agreement states that the undertaking ends on the last day of the period of 3 years following the day on which the sponsored person become a permanent resident. Many felt that once the legal status of permanent residency is achieved, all sponsorship obligations should be voided immediately.

There appeared to be widespread confusion about the exact duration and terms of the sponsorship undertaking even among the frontline workers in the settlement sector.

2.4 In cases where a sponsored woman is in the process of applying for a visa waiver and her marriage ends because of abuse, the breakdown of the marriage should not adversely affect her visa waiver application. Policy with regards to breakdown of sponsorship needs to be inclusive of senior women who have been sponsored by the adult children and are being abused.
2.5 There should be a policy of sponsorship debt forgiveness if the sponsorship breakdown is caused as a result of abuse.

Participants suggested creating a separate agency similar to the Family Maintenance Enforcement Program that would collect the money on behalf of the women, alleviating the need for a woman to go to her abuser for financial assistance.

2.6 We need policies to allow self-petition so that women can continue their applications for immigration or citizenship status without being subjected to violence by the sponsoring spouse or family member. Once a sponsorship application is in process, even if the sponsor, who is the abuser, tries to withdraw the application, CIC should proceed with such applications either on the woman’s merits and/or on humanitarian and compassionate grounds.

It was pointed out that if abuse is happening, it is the abuse that should have priority over all other considerations, since abuse can be life threatening and is illegal in Canada.

2.7 There should be extensive public education and training about the sponsorship issue. We would need clear and easy-to-understand guidelines explaining if, and how, women can get their sponsorship debt forgiven and when they can make a new application on humanitarian and compassionate (H&C) grounds.

H&C applications often have a long wait and carry very small chances of success (1%). Many settlement workers said they were hesitant to recommend this route because it is such a long shot and they did not want to raise false hopes or drag their clients into a long, drawn out process. Many expressed enthusiasm for an expedited process for abused women.

As of now, most women are advised simply to seek legal counsel. Focus group participants agreed that the information must be presented in the women’s native language and specifically address the issue of sponsorship. Relevant information could include: preventative measures, bank account information and how to establish their own identity, photocopies of identification documents; such as passports, social insurance cards, other paperwork from CIC, etc. This information should be made available in a culturally sensitive way, and provided on an ongoing basis, at multiple points of contact with CIC or settlement workers.

Many settlement workers also felt that the telephone service for CIC is poor and frustrating, and that it is very difficult to speak with a person and receive correct and current information. They felt that there is a need for more accountability on the part of the CIC in making the information and their services more accessible.
3. Cultural Competency

Language barriers and lack of access to interpretation are a serious impediment to accessing services. Many newcomers lack access to information about Canadian laws and rights, social infrastructure and available services. Interpretation and culturally sensitive services were consistently identified as key factors in ensuring safety of immigrant women with limited English proficiency.

3.1 Adequate interpreter services are critically important.

All focus groups emphasized the importance of language access in ensuring the safety of immigrant and refugee women with limited or no English proficiency. They stated that building language capacity is critical for improving services. There were some suggestions of utilizing telephone-based interpretation service, although its efficacy and ease-of-use were in question.

Not only should there be interpreters available at all points of contact, but there should be measures to ensure that the interpreters are culturally sensitive and properly trained. Several participants spoke of cases where interpreters acted unprofessionally and passed inappropriate judgments on deserving versus undeserving victims of violence.

A point was also raised that some interpreters do not have adequate professional and clinical language training to be effective. Questions were raised concerning whether there exists a regulatory body that oversees interpreters and translators. The Society of Translators & Interpreters of BC is one such body although its services are not known among social service sectors.

3.2 Adequate training should be provided for the police, Crown, victim services, and religious communities.

Hospitals and medical offices should also be provided with training. This training is especially important because there is a big push for medical and legal partnerships, as doctors are often the first to see signs of abuse. There appears to be some variation in hospital policies concerning abuse. Vancouver General Hospital, for instance, is now required to screen for domestic violence. The procedure seems to vary from hospital to hospital, some are required to call a social worker when abuse is disclosed and some are not. It was suggested that there could be more standardized/coordinated policies in the health sector and that the health sector should share in the financial burden of interpretation and translation expenses.

Training around interpretation needs, the dynamics and the impact of abuse, should be made available to CIC, hospitals and medical office staff. The training should include a list of community resources, though the reality is that
most agencies are only available Monday through Friday, during business hours.

3.3 General information on Canadian laws and practices, with specific information about services available for women who experience violence, should be provided to women prior to, or immediately upon, their arrival in Canada.

All information should be made accessible in multiple languages. In addition, training should be offered as to how we can consider the cultural differences in legal systems—marriage vs. common-law, secular vs. religious laws, whether Canadian divorce is recognized in the country of origin, and the fact that in some cases, the woman may lose her right to return home to visit her family after a divorce. Many women need the appropriate education and awareness around the various impediments, and so do the legal service providers.

3.4 An information packet at the point of entry should provide key phone numbers and information in a variety of languages in an easy-to-understand format e.g. brochures, frequently asked questions, myths & facts, etc.

There are several resources that already exist, but the question is how to make them more readily available and easily accessible. Some of these initiatives include the South Fraser Women’s Services Society’s Handbook for Physicians: Violence Against South Asian Women. The Save Our Daughters Coalition, an initiative based in Surrey, BC, has started preparing an informational “passport” for South Asian women leaving India to come to Canada. It is aimed at providing women with some pertinent information on resources, before their arrival in Canada

4. Settlement and Housing

Current policies for subsidized housing can deny assistance to sponsored immigrants in cases of a sponsorship breakdown, even if the breakdown is due to abuse. There is little to no hardship assistance for non-status women, even if they are in the middle of the immigration application process.

Lack of acceptable options in temporary shelters and subsidized housing can force immigrant, refugee and non-status women to enter a continuum of homelessness, and may even force them to return to abusive relationships (Chan et al. 2005). Children, especially male children, can pose more difficulty in securing shelters and subsidized housing for women.

Many focus group participants brought up concerns of adequate housing for women leaving an abusive relationship. Although most focus group participants did not specifically use the language of “homelessness” to describe the situation many women face, it is worth considering research which found that a sizable portion of the population at-risk of homelessness is left out by policies that focus too narrowly on more recognizable forms of poverty and economic disadvantage. Vancouver
researchers found that in 2006, among immigrants and refugees, “homelessness may be expressed in ways other than presence among the 'street' or 'sheltered' homeless population,” and that “homelessness more often takes the form of ‘hidden’ homelessness that is characterized by involuntary ‘doubling-up’ or sharing housing accommodation, while in other cases it is revealed by unsustainable rent burdens” (Fiedler et al. 2006). Women experiencing violence are likely to face this condition of hidden homelessness.

4.1 The definition of a victim of violence needs to be re-defined with immigrant/refugee women in mind and this new definition needs to be consistently applied in all Ministry of Housing and Social Development offices. Hardship assistance should be reinstated for women who have no immigration status but are in the process of applying.

Many focus group participants felt that settlement issues and other deciding factors are entirely dependent on the particular officers in charge of application processing, and that these officers often make arbitrary decisions with lasting effects. There should be policies to ensure that settlement and housing issues are addressed in a consistent manner.

Many also expressed the need for more outreach and home visits to make sure that the refugees are settling and adjusting well in Canada. While everyone recognized that insufficient funding is a concern in every sector, and that such an effort would require even more work and more funding, there was widespread agreement that some sort of ongoing oversight may be necessary.

4.2 Housing policies need to reflect trends in our society: our society is becoming more and more diverse, with people from various different ethnic origins. There is a need for greater sensitivity towards different cultures and an increase in the availability of senior housing and assisted living complexes. The federal government also needs to subsidize more co-operative housing for low-income earners, especially women leaving abusive relationships.

Focus group participants identified subsidized housing as one of the most important issues when discussing immigrant women wanting to leave abusive relationships. A place for these women to go is important for their safety and well-being.

Focus group participants also argued for more consistency in services provided by MCFD, including services for older children who may not be able to access a shelter for women. An example was provided that a 16-year-old boy was not allowed into a shelter with his mother. There is a need for Independent Care Agreements that would address the legal status of youth in cases of abuse by the mother/father and/or both.
The sponsorship system is much too rigid. A participant discussed a case in which BC Housing rejected women because they are being sponsored and are thus ineligible for social assistance. It was pointed out that Income Assistance can “go after” the sponsor if they don’t pay up within three years.

4.3 The subsidized housing organizations should change and/or be flexible with their policy and/or legislation for eligibility criteria. The housing societies need to include single, visitor women as eligible for subsidized housing. At present, we are not aware of any single housing society that accepts this group of women.

There is a continuum of “limbo” periods for immigrant women leaving abusive relationships, including the time at the shelter (30 days), then waiting for housing (3-4 months). Some shelters clarified that they assist refugee and immigrant women regardless of their immigration status.

4.4 The Ministry of Housing and Social Development should ensure that all staff should adhere to the policy prohibiting workers from contacting sponsors if abuse is suspected.

Focus group participants felt that there is quite a bit of confusion about this policy of confidentiality. Many emphasized the need to ensure that no one informs the abusive sponsor about the whereabouts of women fleeing an abusive situation, no matter what, but that sometimes the housing sector workers lack training about the policies.

5. Legal System

A woman’s reluctance, or fear of proceeding through the legal system is often considered to be the most persistent challenge in cases of violence. These fears may be a rational reaction to the realities of their lives and what they know about the immigration and criminal justice system. The limitations of the legal system are exposed when it fails to provide abused women with long-term protection, forces women to choose between personal safety and family life, and allow domestic violence laws to reinforce male domination. (For more information, see EVA’s Briefing Note 6: Effective Enforcement of Protection Orders from the series, Critical Elements of an Effective Response to Violence Against Women. It is available at www.endingviolence.org)

5.1 Protective orders are still one of the few legal remedies available to women experiencing violence (ACLU 2007). Without necessarily viewing protective orders as the only way to ensure women’s safety, systemic barriers and patterns of disparity must be addressed for those seeking to obtain protective orders.
Research suggests there are **systemic barriers** that must be addressed (Logan et al. 2005, Russell and Light 2006). One study, published in 2000,\(^4\) found that there are inherent differences in women who actually go through with the process of filing for a protective order (Wolf et al. 2000). In this study, women who sought protection orders were more likely to: (1) be older, (2) have better prospects for financial independence, (3) be married to the abuser but no longer living with him, (4) be recently sexually abused, (5) have seen friends or family abused or threatened, (6) be pregnant, and (7) be depressed, than women who did not seek protection orders. One glaring absence in such studies is a direct and in-depth discussion of race and immigration status. In a notable 2003 study, a team of researchers conducted focus group sessions with 41 women from social service agencies that serve intimate partner violence (IPV) women with diverse ethnic and cultural backgrounds (Wolf et al. 2003). The study found three recurring themes: (1) Predisposing characteristics, situational and personal factors; (2) fears and negative experiences with police response; and (3) fears of possible repercussions. These studies share in the conclusion that many questions remain regarding the protective order process, barriers, and outcomes that need future research attention; for example, there are many unanswered questions about women who are denied, or who do not follow through on protective orders.

Many focus group participants felt that protective measures such as peace bonds and restraining orders are generally ineffective. Unless there is physical evidence of abuse, it was perceived to be difficult to obtain a restraining order.

5.2 There should be enhanced coordination and renewed efforts to address the lack of coordination among some victim services and responses to breaches of protection orders. Hospital-criminal justice system coordination should also be improved.

5.3 The immigration and refugee system does not take into account ongoing custody issues in Canadian family court. There should be improved coordination between the legal systems and service providers, and between family law and immigration law.

5.4 CIC should acknowledge having children born in Canada as an important factor to allow women to gain status in Canada. This is especially necessary for women who have children and are struggling through the family law system.

It was suggested that if a child is born in Canada, the onus should be on the CIC to prove that the mother should not be allowed to stay in Canada, rather than the mother having to prove why she should remain in Canada. Many participants also felt that there is a great deal of misinformation about the

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\(^4\) The study was part of the Interagency Consortium on Violence Against Women and Family Violence Research in Seattle, Washington.
rights of mothers with Canadian-born children, and expressed the need for public education to prevent women from mistakenly thinking that having children in Canada grants them legal status.

5.5 CIC should develop a protocol to offer women in legal limbo about their options in navigating the immigration legal system.

Many focus group participants felt that it is difficult for many immigrant women to understand the various menu options on the telephone when contacting CIC, and that the CIC needs to offer services at times that are more convenient for the clients, not just the agency staff.
Works Cited

(Please see more details in the Increasing the Safety of Immigrant Women- Annotated Bibliography.)


Section 3: Focus Groups
A. Introduction

The objective of the Safety of Immigrant, Refugee and Non-Status Women Project is to address serious policy gaps or problems that compromise the safety of refugee, immigrant, and non-status women who experience violence.

Building on existing research, we collected information pertaining to public policy and practice issues. Some of this information had already been gathered by EVA BC as part of a consultation with immigrant serving organizations in 2003. At that time, we had a roundtable discussion with immigrant women of colour working as frontline advocates for immigrant, refugee, and non-status women. We also invited the Philippine Women’s Centre, Vancouver and Lower Mainland Multicultural Family Support Services, MOSAIC, the Prince George Elizabeth Fry Society and Battered Women’s Support Services as well as a prominent immigration lawyer to provide us with written submissions on policy issues impeding the safety of immigrant, refugee, and non-status women experiencing violence. We received written submissions from three of the six invitees: Vancouver and Lower Mainland Multicultural Family Support Services, the Prince George Elizabeth Fry Society and Battered Women’s Support Services. The findings of our 2003 consultation were incorporated into our materials for the current project. Complete copies of the 2006 submissions: Community Coordination for Women’s Safety, “Analysis of Policies Affecting Immigrant, Refugee and Visitor Women Who Experience Violence,” BCASVACP, 2006, can be requested from the EVA BC office. Summaries of the issues raised can be found on our website: www.endingviolence.org.

To build on the foundations we laid in 2003, we conducted a cross-jurisdiction and cross-sector scan of more recent work being done to address immigrant, refugee and non-status women’s issues. A literature review of relevant writings on violence against immigrant, refugee, and non-status women in Canada and elsewhere set the context and guided our questions. The Literature Review can be accessed on the EVA BC Website. We have also collected and analyzed demographic information using Statistics
Canada’s 2006 Census data in order to understand the backgrounds of key communities in BC.

We organized four focus groups with service providers in key communities with significant populations of immigrant, refugee and non-status women in BC: in Vancouver, Victoria, Kelowna, and Prince George. In addition, another focus group was organized for the Law Foundation’s projects that are currently working on issues related to immigrant and refugee women. Frontline workers from the anti-violence and settlement sectors were invited to discuss issues of common concern among their clientele of immigrant, refugee, and non-status women who have experienced violence. We discussed the nature of the problems and risk factors particular to these groups, as well as suggestions for actions to improve existing services, and ways to promote the development of other relevant and appropriate services and policies. The main purpose of the focus groups was to verify the findings of our 2006 consultation and the 2008-09 researches and literature review.

After this phase of consultation, we will develop policy backgrounders containing legal analysis and suggested solutions on key topic areas to present to policy makers. We will make available materials produces as part of this project for workers in anti-violence, legal and immigrant-serving agencies, to assist them in supporting women who face these barriers.

We thank all the focus group members for sharing their time and expertise.

B. Overview

The focus groups were well attended by representatives from the anti-violence and settlement sectors. We organized the five focus groups with service providers in communities with significant populations of immigrant, refugee, and non-status women. These included representatives from Stopping The Violence Counselling, Stopping The Violence Outreach and Multicultural, Community-Based Victim Assistance, Crisis Centres, Sexual Assault Centres, Transition Houses, Safe Homes, Settlement Services: English Language Services for Adults (ELSA), and Settlement Workers in Schools (SWIS) programs.

The focus groups were divided to reflect the regions as defined by the EVA BC website.

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<tr>
<th>Date</th>
<th>Location/Projects</th>
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<tbody>
<tr>
<td>February 10, 2009</td>
<td>A focus group with other Law Foundation immigrant women projects</td>
</tr>
<tr>
<td>March 3, 2009</td>
<td>Prince George (North Coast, North Central and Northeast regions)</td>
</tr>
<tr>
<td>March 5, 2009</td>
<td>Victoria (North and South Vancouver Island)</td>
</tr>
<tr>
<td>March 10, 2009</td>
<td>Kelowna (Interior, Okanagan, East and West Kootenay)</td>
</tr>
<tr>
<td>March 23, 2009</td>
<td>Vancouver (Lower Mainland and Fraser Valley)</td>
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We identified facilitators in the selected communities to co-facilitate the focus groups with the support of, and in coordination with, the Lead Coordinator. Letters of invitation were emailed to a larger group of service providers in the anti-violence and settlement sectors to ensure a good representation from these sectors. An Overview Document containing some background information and information on issues identified in the research was emailed to participants upon confirmation of their attendance for the focus groups. These issues were used as discussion points in the focus groups. A copy of the Overview Document is attached to this Summary as Appendix A.

Each of the focus groups adhered to a similar format to ensure consistency of the information collected. In addition to the discussion points/issues raised in the Overview Document, the following questions guided the discussions at all the focus groups:

- Are there any contextual issues (case scenarios) that need to be noted in this section that we have left out in the Overview Document?
- Are there practices and policy issues that we may not have raised?
- Do you have any suggestions based on your own experience in terms of how the recommendations in this section might best be implemented?

A written survey was also designed to further complement the discussions of the focus groups. The overall feedback that we received from the survey confirmed that the focus groups provided new insights into the issues. A majority of participants were hopeful about impacting policy changes, which was the main focus of this project. The results of the survey affirmed that the following were very significant factors in affecting the safety of immigrant, refugee and non-status women:

- Slow criminal/legal process in dealing with reports of abuse;
- Inadequate training for police, Crown, victim services and religious communities;
- Difficulty navigating the immigration legal system;
- Putting the immigration/application status at risk;
- Inadequate interpreter services, including for legal services;
- Inadequate information regarding Canadian laws, rights and services;
- Inadequate coordination among victim services, immigration, settlement, legal and criminal services;
- Reluctance or fear of obtaining protective orders;
- Being financially dependent on the abusive spouse or partner;
- Burden of sponsorship debt;
- Inadequate financial and social assistance for victims;
- Lack of funding for services.

The following five key issues were identified in our Overview Document as important policy priorities in ensuring safety for immigrant, refugee, and non-status women: immigration, sponsorship, cultural competency, settlement and the legal system. All the focus groups verified our findings and supported the recommendations we had outlined.
As well, they provided specific case scenarios demonstrating additional gaps or barriers that persist for this particular group of women. We are aware of the recent changes to legal aid as it relates to immigration issues. These changes were reflected in our Overview Document.

Here is a summary of the major issues, case scenarios and recommendations shared by the focus group participants. In the Summary, the information is categorized to provide a snapshot of the dialogue and the issues raised during focus group discussion. There is some repetition of the issues and information that is contained in this document, as it outlines the discussions during the focus groups.

To start, the groups identified additional issues of concern not identified in the Overview Document provided to them, although there was some overlap between these and the Overview Document concerns.

### Additional issues raised by focus group participants:

- Health care;
- Funding for service providers;
- Collaboration and coordination between immigration, settlement and the anti-violence sectors;
- Information regarding women’s rights, responsibilities and the law;
- How to support women who arrive in Canada, especially refugees, who have experienced trauma prior to their arrival;
- Language capacity of service providers;
- Specific refugee trauma;
- Preparing women to talk about sponsorship concerns in front of their husbands;
- Training and supports for human trafficking;
- The term “non-status” has Aboriginal reference. Is this term being used correctly?

### Additional gaps and barriers identified included:

a) Insufficient counselling services to ensure that women remain safe from the abuse and their abusers;
b) Conflict between service providers and agency mandates
   1. Settlement workers
   2. ESL teachers
   3. Addressing abuse in schools, settlement agencies or ELSA programs;
c) Inconsistency in the provision of services among service providers, i.e. welfare office, BC Housing, which cases will be approved;
d) Inconsistency of immigration information and accessibility to that information;
e) Lack of assistance to women who write to CIC about the abuse they endure:
   1. Inconsistent advertising of available services;
   2. Insufficient access to Legal Aid, small number of lawyers doing pro-bono;
   3. Lack of understanding of the legal system is a drawback;
Focus group participants shared case scenarios during discussions to provide tangible examples of situations their clients face.

Case Scenarios

- The sponsor is responsible for the medical care of the woman, and he will receive a medical bill. This informs him of her whereabouts and increases her safety risk.
- When a woman migrates to Canada, she is too excited to pay attention to certain details such as her documents, which do not seem too important at that time. Often the documents go to the person who picks them up, and she/he could have a language barrier as well.
- Sometimes, when a woman comes to Canada, she assumes that her sponsor will complete the paperwork to obtain her landed status. Often the sponsor never makes an application so that the woman is left without any status for a long time.
- If a woman is in an abusive relationship within the first 3 months of her arrival in Canada, her sponsor has all her documents and she has no paperwork to prove her status and thus cannot access information and services. This jeopardizes the woman’s safety. During the first 3 months – documents i.e. SIN card, MSP card are in the process of being acquired and if the woman cannot return to her sponsor, there is little that is in place for her.

1. IMMIGRATION

a. Categories of Women Not Adequately Protected by Current Definitions in Immigration Process

Non-status immigrant women include:

- Live-in caregivers, women who come to Canada in the nanny category – after marrying they give up their nanny status. In cases where they experience violence – they have to apply as refugees;
- Expedited Labour Market Opinion (ELMO);
- Working holiday students;
- Short-term work permit workers also have non-status issues.

These women are not just temporary visitors to Canada, because they plan to stay. To understand their immigration reality is to see immigration as more of an issue of process, a stage-by-stage application, and not just a single moment of status vs. non-status.
International students are often unprotected if they experience abuse. Their needs are not met by agency mandates because they are non-status. Teachers in private schools, often men, are very reluctant to approach the topic.

b. Unclear Definitions

Some definitions are unclear; for example, refugees and refugee claimants are different from government-sponsored refugees. Furthermore, refugees differ from asylum-seekers in their legal status. Even within the asylum-seeker category there is a difference between asylum-seekers applying from within Canada, compared to those from outside Canada.

Confusion is prevalent even for government-sponsored refugees; for example, they may have access to certain extra services during their first year and then access to far fewer in the years to come.

Recommendations

- Definitions of each category of immigrant, refugee and non-status women need to be set for the purpose of clarity and consistency across the system.
- Specification of services offered to each different category within the immigration system need to be set, again for the purpose of clarity and consistency across the system.

c. CIC (Citizenship and Immigration Canada)

There is a lack of consistency around the information provided by CIC staff that results in the onus being on the clients to check out the information for themselves via phone or a visit to the agency office.

The current practice verifies only the potential sponsor's financial situation. There is no process currently in place to check if the potential sponsor has a history of abuse, except for processes in place to check into criminal convictions, or if other sponsorship breakdowns have occurred with this sponsor, or if this particular sponsor is sponsoring multiple women.

There is a lack of privacy and the hours of operation of the CIC office only meets the desires of the staff and not the needs of their clients. Some programs are no longer available or available for certain clients only, although information regarding programs/resources is advertised as being available for all. The information is outdated and it misinforms the clients of the services of CIC.
Recommendations

- There should be a more formal process for individuals who wish to become sponsors.
- There is a need for better cross agency communication to help the women navigate the system.
- CIC needs more education on where there are gaps in the laws, which can put women in situations that threaten their safety and well-being.
- CIC needs to provide correct information, especially to settlement workers, as it is currently a tedious and time-consuming process to check for the latest information electronically.
- CIC needs in-service training to be more aware and more sensitive in handling the needs of immigrant, refugee and non-status women.
- There is a need for the anti-violence and settlement sectors to work with the CIC.
- There was also a suggestion that CIC should create a user-friendly form that the women can fill out to express why they want to remain in Canada. It should be a holistic approach service delivery model that is “fast tracked.”
- CIC should develop a policy to protect women who, as a result of a relationship breakdown, are taken out of the refugee claim process and left in legal limbo.
- To help refugee women in these situations, as well as abused women applying for humanitarian and compassionate grounds to stay in Canada, CIC should develop a protocol to offer legal information about how to navigate the immigration and legal systems.
- CIC should also consider abuse as grounds to guarantee landed status to women who report it, on the basis that it is a life-threatening situation.

d. IRPA (Immigration and Refugee Protection Act)

The IRPA is the policy framework for identifying and selecting refugees overseas.

The Refugee Protection Division decides claims for refugee protection made by persons in Canada. It also makes decisions on loss applications regarding refugee protection status.

Citizenship and Immigration Canada (CIC) is responsible for filing these applications and deciding refugee protection claims made outside Canada, in Canadian embassies and consulates.

Recommendations

- There is a need to focus on the implications of the IRPA, as this framework has changed; yet the resources and programs available through it have not changed.
- It would be helpful to include more explanations and definitions of IRPA.
There is a separate protocol to deal with statelessness, which was not covered, in depth during the focus groups. For more information on statelessness — please see Statelessness in Canada: An introduction.

http://www.ccrweb.ca/stateless.htm

e. Interpreters

Government-funded interpreters and translators are important for all the key services where women seek assistance and language is a barrier.

The Provincial Language Service is a government contract across British Columbia. It was argued that these interpreters do not always have the clinical language training to be effective in cases involving violence against women and legal issues.

Neighbours and family members are not appropriate individuals to provide interpretation, as they often do not understand the complexity of confidentiality issues.

Workers face the difficulty of filling out forms for some immigrants who do not understand the implications of the translated text.

**Recommendations**

- Language capacity needs to be built and language barriers reduced in order to improve services for women seeking assistance.
- Having a settlement worker accompany the woman to her first appointment with immigration would be beneficial and if an interpreter is needed then the settlement worker will arrange it.
- There are now more service providers with employees who speak various languages, and this skill set should be developed. Training should be made available to these employees to ensure consistent interpretation of legal protocols.
- Over the phone interpretation is a positive way to increase the reach of services to women seeking assistance, but it can be frustrating to use a telephone system when it involves complicated options.
- If both spouses are signing a document, there needs to be a representative there to explain to the woman what she is signing. The woman needs to know that she can retain a copy of the documents in her language before she arrives in Canada, as well as leave a copy with her family and/or a friend.

f. Finances

Even among permanent residents, the head of a family is assumed to be a man, and he receives cheques such as the Goods & Services Tax returns and Child Tax Benefits for the entire family.
Immigration Loans Program (ILP) is funded from the federal government’s Consolidated Revenue Fund. Loans are largely given to government-assisted or privately sponsored members of the Convention Refugees Abroad, Country of Asylum and Source Country classes. The loans may be approved to pay for:

- the costs of medical examinations abroad;
- travel documents; and
- transportation to Canada.

Assistance loans are also available to newcomers to cover expenses such as housing rental, telephone deposits and work tools.

Interest is charged on ILP loans. The interest rate is set each January by the Department of Finance.

Resettlement Assistance Program is provided by the Government of Canada to Convention Refugees Abroad and members of the Source Country Class, and in some instances, members of the Country of Asylum Class who have been identified as Joint Assistance Sponsorship (JAS) cases, admitted to Canada as government-assisted refugees. These funds are given to help pay for:

- meeting the refugee at the airport or port of entry;
- temporary accommodation;
- help in finding permanent accommodation;
- basic household items; and
- general orientation to life in Canada.

This money is also used to provide the refugee with income support for up to one year or until that person becomes self-sufficient, whichever comes first.

Refugee claimants are expected to work, but are not eligible for child tax benefits (often only after 18 months).


**Recommendations**

- Government cheques should be issued to both husband and wife. This could provide financial support to the woman in the case of an abusive relationship.
- Childcare subsidies make it possible for women to seek and obtain work, as it assists them with their expenses. Childcare should be considered as a related issue to immigration and work.
g. Transportation loans

These loans are available as part of the Immigration Loans Program (ILP) – see above.

In cases of separation, women get stuck with the repayment of this bill – it is among the hidden payment burdens.

**Recommendation**

- Loans and other financial burdens should be kept separated as well.

See CCR website, “End the burden of transportation loans!”
http://www.ccrweb.ca/transportationloans.htm

h. Settlement Issues

Settlement issues and other deciding factors are dependent on the officers in charge of processing the applications and their decisions are often arbitrary.

**Recommendations**

- There should be policies to make sure that application decisions are based on a set of standard criteria that are consistently applied.
- There is a need for more outreach and home visits to make sure that immigrants/refugees are settling in well. Participants acknowledged that meeting this need is difficult for programs, as they are already strapped for funding, but agreed that it would be ideal for their clients.

i. Public Education

Public education is absolutely critical, as both leaving and not leaving an abusive relationship may result in the death of women and children.

Issues/concerns that need to be addressed by public education include:

- Racist labeling and representation in the mainstream media, particularly for South Asians. It is difficult for women to come forward when there is so much backlash going on in their communities. Systemic patriarchy is also a major cultural factor in many communities.
- In some instances women come forward but later back out and it is important for the system to understand the reasons why. Often cultural considerations dominate the woman’s choices. She wants the violence to stop but does not want to end the
relationship. It is important to be aware that in many communities, including the South Asian community, there are many different cultures. It is important to acknowledge differences in cultural backgrounds when determining the best path of support for each woman. The age group of the woman is important as well.

- Immigrant women often do not have many choices about the situation that they find themselves in and service providers have to be understanding of that. For many immigrant women, their families dominate their choices or strongly influence their decisions.
- Sometimes women are coming from nations where they were denied rights before they migrate to Canada. The immigration could have been against their will; they could have been forced to marry or even sold.
- A comment was made that it is not just husbands that are the abusers. Other family members can be perpetrators of abuse as well.
- Asian women often come as visitors. While their immigration application is in the process, they have no rights to stay in the country if their sponsor reneges.
- In some cases, the sponsoring person has no idea as to the amount of work involved in sponsoring someone.

**Recommendations**

- There should be more public education, cross-sector workers’ education and further education and training within the immigration and welfare agencies on the dynamics of violence against women.
- More information needs to be made available to those who have to use legal services. Language can be a barrier, so this information may require the assistance of interpreters.
- There is a need for more creative ways for women to get together to deal with the situation that involves the stigma around the abuse and establishing safety. It is important to acknowledge cultural and other differences in generating alternative ways of networking to access a safe environment where women can speak freely about these issues.
- Men need to be educated and not left out of this dialogue.
- Sponsors and those being sponsored need to be educated about the realities of what sponsorship entails.

**j. Coordination**

The immigration process is complex particularly when abuse is involved. The process will engage multiple sectors.

At present, there is limited coordination between these different bodies/portfolios, which puts the onus on the woman to negotiate between them. Often this results in gaps in her overall service, as women face barriers to access and to understanding of the system; cultural competence, language barriers, etc.
Recommendations

- CIC, settlement agencies, schools, transition housing, and legal services need to get together at the same table. One example is the former Vancouver Coordination Committee that did this work.
- Participants agreed that a possible solution to improve services for the women is to create partnerships between settlement workers and those who work in immigrant serving agencies. If agencies work together and do not duplicate the work they do, it would result in roadmaps, not roadblocks, being developed and executed.
- The need to employ the “wrap around” model of services for women was shared. This is where the woman, and all the workers involved in working with her, meet to avoid duplication and to better understand the services being provided to her. In most cases it addresses the woman’s biggest fear, deportation, and creates trust for the workers.
- There is a need for some sort of standardization of the information provided by service providers, as there is sometimes inconsistency between agencies providing similar services, e.g. a woman calling one shelter and being given information that is contradictory to information received from another shelter, supposedly offering the same services.
- Services should be available to women experiencing violence regardless of their immigration status; non-status, temporary, visitor or refugee claimants awaiting status - all should be covered.
- Women should be able to access social assistance without becoming inadmissible for permanent residence status.
- Legal aid eligibility should be extended to every woman who is, or is likely to be, without status in Canada.
- Steps should be taken to ensure that women with permanent resident status know they have the right to social assistance.
- Service providers should be knowledgeable and able to present options that ensure the women’s safety without jeopardizing their status or risking deportation.
- Coordination is important. A provincial association should get funding to organize the coordination of services at this scale.
- There is a problem with information not being properly disseminated among frontline workers. This results in a great deal of duplication and decreased efficiency. We need to find a way to coordinate these services.
- A clear and safe process needs to be developed system-wide to allow abused women to “self-petition” for permanent residency, refugee status, and citizenship without the risk of losing her legal status or of facing possible deportation due to violence perpetrated by the principal applicants (usually husbands). Abused women in the entrepreneurial category should likewise be eligible to apply on their own behalf.
- There should be a “fast track” for abused women, and a specialized legal aid system that serves as a resource for the service provider.
Case Scenario

A 9-year-old boy was abused in his country of birth and when he entered Canada, he called 911 because he knew we had different laws based on the legal information he obtained through the Internet, before the family migrated.

There is a need for the parents to become informed as to what constitutes abuse in Canada. Some Canadian Embassies in foreign countries have relevant information about Canadian anti-violence and abuse laws on their websites, however, not everyone has access to the technology that would allow them to access information in that manner.

k. Information Needed

There is a need for more information on women immigrating under family-class immigrant category.

l. ELSA (English Language Services for Adults)

ELSA is available for people with immigration status. Senior relatives who are brought in to take care of children are vulnerable to abuse. Young women who are trafficked remain vulnerable. Immigrants feel that they are on a treadmill upon their arrival and experience high levels of anxiety and stress, feeling high levels of pressure not to step off the “treadmill”.

<table>
<thead>
<tr>
<th>Recommendations</th>
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<tbody>
<tr>
<td>• ELSA program should make room for education on issues of violence against women.</td>
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<tr>
<td>• Approaching ELSA coordinators and intervening in the curriculum might have some effect.</td>
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m. Work Permits

Women without work permits often work “under the table”, leaving them with no recourse in situations where their bosses are abusive.

Women should be able to obtain work permits before a Permanent Residence status is granted. This would give women their own income and have accessibility to health care resources.
n. Rural Perspective

The Northern focus is very different – it is often very isolating for immigrant, refugee and non-status women.

It is very hard to speak to someone on the phone when you call an immigration office as they are often busy and keep limited hours. Often, only a recording is available.

You have to be fluent in English to understand the various options on the phone.

Immigrant women are not aware of the resources available to them. In one case, a woman came to a transition house, but did not even think that she would qualify for that shelter.

Recommendations

1. Training
   • Training and workshops for frontline workers and systems people are vital.
   • Education on issues regarding violence against women is essential for the authorities making policies and/or who are working with immigrant women and refugees.
   • Settlement agencies should be invited every time there is a focus group or meetings relating to immigrant and refugee women.
   • Specific information and training should be made available for workers within the welfare office.
2. List of Resources and Services
   • It is important to have a list of service providers in the north and isolated communities.
   • In terms of live-in caregivers, Filipino Women’s Centre has good resources.
3. Medical Services During first 3 months
   • The issue of a 3 month waiting period for any immigrant person before applying for health care services needs to be looked at from the lens of an immigrant woman leaving an abusive relationship.
   • A person immigrating to Canada is not covered by the provincial medical plan for the first 3 months; they are required to have a private medical insurance.
   • Even if a woman is pregnant she cannot access medical care. In one instance, the doctor and nurse backdated the paperwork in order to treat a pregnant mother in need of attention.
4. Information to women
   • Orientation to Canadian services, laws and rights should be provided to the women at their country of origin.
   • It is important to give women the relevant information.
   • Rights and responsibilities documents: participants agreed that the government should fund violence against women information in different languages to improve and increase accessibility.
   • Save Our Daughters Coalition, Surrey, BC proposed preparing a document to be
given to women in their home country, before they arrive in Canada, called a “passport”. This document details a list of resources available to them upon their arrival in Canada. The South Fraser Women’s Resource Services Society will undertake the work of this initiative.

- It is important to have a roadmap of the services existing in each community.
- There should be something in the interim between when a woman arrives in Canada and when she becomes a permanent resident, ideally the creation of some department or body mandated to address their unique concerns.
- Women who enter into sponsorship agreements/relationships should be informed of the limited nature of their rights, until they have their permanent landed status. They will not be legally entitled to all services until they have gained their immigrant status.

2. SPONSORSHIP

The Undertaking to Sponsor specifies the time of commitment as 3 years for a spouse, and 10 years for parents (or siblings up to 24 years of age)

a. Information

Recommendations

- A booklet should be given to the sponsoree with specific information about their rights/responsibilities and the services that are and are not available to the sponsored person. The information needs to be clear and easily available.
- The day the woman arrives in Canada, both spouses should be made to sign the terms of the sponsorship agreement, thus making the sponsor unequivocally aware of his responsibilities.
- An important question was to identify the appropriate timing for presenting women with the relevant information. The information is critical when the situation is critical to a woman needing assistance.
- Women are often unaware of the available services due to isolation by their husbands or in some cases extended family members. They are not able to socialize and find out what is available; therefore women need to know what their rights are in Canada before their arrival here and what resources are available.
- There are numerous points of contact when a woman is sponsored. Information must be available at all these points of contact, so that a woman knows exactly where to find the information she needs. Important points of contact that were identified were the instance, prior to her arrival in Canada, when a woman receives her paperwork from CIC, her time of arrival in Canada and at the time of receiving her passport and visa. It is important that this information be provided on a continual basis.
- It is critical that the information be available in the language of the women and is
specific to sponsorship cases. Information that could be relevant includes: preventative measures, bank account information and how to establish their own identity. The information should be presented in a culturally sensitive way.

- There needs to be a broader access to better translators, as one of the main barriers for women seeking assistance is often language: when English is the second language, misunderstandings persist as things literally get lost in translation.

b. The Sponsor

The break down of sponsorship is a very one-sided situation with the sponsor having the power to withdraw the application to sponsor at any given time.

**Recommendations**

- The sponsorship process should place more onuses on the abusive sponsors.
- A sponsor should be required to have “good reason” for withdrawing an application to sponsor. Current practice is to simply send a fax requesting a cancellation of the sponsorship application.
- There should be mechanisms in place for the woman sponsoree to challenge the withdrawal of the application to sponsor.
- A possible policy that could be created would require the sponsor to be financially responsible for the woman for one year following a sponsorship breakdown.

c. Employment and Access to Social Assistance

The Income Assistance Act says the recipient or the sponsor needs to be a permanent resident or Canadian citizen before they are eligible for social assistance, although there are exceptions in the case of sponsorship breakdowns.

**Recommendations**

- There should be mechanisms in place for women to work if the sponsorship breaks down. The current process can take up to 18 months.
- Sponsorship breakdowns should not affect benefits or services, such as BC Housing.
- Changes are needed in repressive welfare policies. It was articulated that everybody is on welfare, as it includes, for example, the child tax benefit. The distinction of deserving and not deserving should be done away with. Being on welfare should not be stigmatized.
- Temporary work permits could be expedited or created as an open-ended work permit for women. This would be beneficial in assisting women to earn their own money.
d. CIC

**Recommendations**

- CIC should have a follow-up system rather than expecting all immigrants to seek out their services. New immigrants do not realize these services exist because they are often “culture bound” and the services may not exist in their country of origin.
- CIC should establish provisions to recognize breakdown of sponsorship due to violence. These provisions should include definition/recognition of: power-based crimes, marriages of convenience, safety issues for women and children, the impact on the marriage of a victim’s extended family, both in Canada and in the country of origin.
- There needs to be greater attention paid to the creation of joint standards or a working together model between CIC and support services, such as settlement, welfare, schools etc. (healthy schooling).
- More training is needed for CIC staff around resources and what services are available to women.
- More staff is needed to deal properly with sponsorship ‘fall-out’ issues.
- CIC needs to hire more immigrants.
- Settlement workers are not experts and the phone service for CIC is poor, making it difficult to talk with a person and receive correct and current information. There is a need for better service and more accountability on the part of CIC.
- Workers would like to see a different funding distribution within CIC’s administration offices, especially in rural communities.
- The CIC needs to do a better job of educating women on the realities of immigration when they first undertake to immigrate: women are often not aware of the impact of migration on their life in a new country when they first undertake to immigrate. They are unprepared for the loss of such things as familial support from the extended family.

**e. Issues**

In the case of domestic workers, it takes 3-6 years for a partner to be sponsored. This results in relationships changing due to the long-term separation. There are risks and vulnerabilities involved in these situations.

**Recommendations**

- The point system and fees should be abandoned, as there is a fee of $550 that is not covered by Legal Aid.
- The male-centered point system should be abandoned. When you use the point system, it should have a gender-based analysis
- Humanitarian and Compassionate applications often have a long wait, yet carry small chances of being granted (1%). There should be different categories adopted
with a new category for abused women. Settlement workers, in the past, have been hesitant to recommend this route because it is such a long shot.
• A shorter period of sponsorship may be advisable, as once the legal status of permanent residency has been achieved, there is no more need for sponsorship

f. Seniors

Seniors tend to be isolated partly because the sponsors are not aware of their obligations or sponsor expectations and partly because seniors are not aware of their rights. Adult children often sponsor their parent to stay home and act as baby-sitters for their grandchildren.

Recommendation

• CIC needs to be proactive in educating seniors and sponsors of their rights and responsibilities and be more flexible i.e. changing the rules, especially when it comes to sponsoring elders and the low-income criteria.

g. Resources

Information made available:

• In Toronto, the Red Cross has information available regarding the resources and support available for women.

• Community Airport Newcomers Network (C.A.N.N.), funded by Citizenship and Immigration Canada, alerts newcomers to resources at Vancouver airport. At Vancouver Airport, CIC have posted lists with phone numbers for accessing resources.

h. Public Education

Recommendations

• Service providers should be educated around issues of sponsorship. This includes all agencies that may work with women.
• A provincial body such as EVA BC should manage public education otherwise it would become confusing. It is crucial to have one body, with a feminist perspective, providing training so that information remains consistent.
i. Sponsorship Debt

Women are often indebted to their partners for the costs incurred through the sponsorship process. As sponsors are financially responsible for these women who are not able to work right away, the women are forced to rely economically on their sponsor.

According to the current policy, a man is responsible for a woman when he sponsors her, but what happens when the relationship becomes abusive?

**Recommendations**

- Policies must be established to ensure that immigrant settlement workers and anti-violence workers have a seat at the table to navigate the case.
- An idea to have an agency similar to the Family Maintenance Enforcement Program was presented. The idea calls for the creation of an agency that would alleviate the need for a woman to go to her abuser for financial assistance. This process would have the agency collect the money on the behalf of the woman.
- In-depth resources, information and policy need to be developed to assist women.

j. Myth

There is a myth that having a child in Canada grants the mother eventual landed status in Canada. This myth about being granted status in Canada as a result of having a baby continues to put women in vulnerable situations.

**Recommendation**

- CIC should actively clarify this information to dispel the myth.

Case Scenario

A woman is often waiting for the sponsorship application from the abuser. From the time the application is filed until the decision is made, the sponsor can cancel the sponsorship. It takes 12 – 18 months to process the application and it can be withdrawn at any time – even the day before permanent residency status is issued.

**Recommendations**

- The sponsor needs to understand and recognize that the application to sponsor cannot be withdrawn. In the meantime, any request to withdraw the application should be questioned regarding the reason for the withdrawal of the application and the application should be flagged by CIC.
• In cases where a sponsored woman is in the process of applying for a visa waiver and her marriage ends because of abuse, the breakdown of the marriage should not adversely affect her visa waiver application. Policy with regards to breakdown of sponsorship also needs to be inclusive of senior women who have been sponsored by adult children and are being abused.
• We need policies to allow self-petition so that women can continue their applications for immigration or citizenship status without being subjected to violence by the original sponsor. Once a sponsorship application is in process, even if the sponsor, who is the abuser, applies to withdraw the application, CIC should process such applications either on the woman’s merits and/or on humanitarian and compassionate grounds.

Case Scenario

A man in Alberta got immigration status as a skilled worker, went back home, got married, brought his spouse, then the abuse started. The woman did not know anyone in Alberta and was feeling very isolated. He served the papers for divorce and is ready to go back and get re-married. This should go on his file and he should not be able to make a sponsorship application again.

Recommendations

• There is a need for some kind of registry or system to track an abusive partner who keeps getting married, abusing his wife, divorcing her, re-marrying and sponsoring another one.
• CIC should flag and investigate the file for someone who cancels the sponsorship and look into the reasons behind it.
• There should be proper documentation. The marriage license should perhaps be issued to both the spouses in the country of their marriage. It should contain information regarding previous sponsors.

k. Missing areas:

• Media: continues to racialize violence against women and especially immigrant, refugee and non-status women. There is a need for more education and awareness in prevention efforts.
• Need for accessible health care: This is especially the case for pregnant women in abusive relationships. There are lots of issues that are raised as a result.
3. CULTURAL COMPETENCY

Culture plays an important role in how people behave and react. In some cultures, people do not make eye contact when talking to others, especially someone with authority, and it does not mean that the person is guilty.

**Recommendations**

- Consideration needs to be made for the cultural context that affects women’s experiences.
- Airlines should have a list of names of people coming with different languages.
- Policies should be culturally sensitive.
- There is a need to educate local and federal representatives on cultural differences in communities.
- All participants expressed that there was a need for expansion of multicultural services.
- There is a need for an OMBUDSMAN.

**a. Interpreter services**

Limited interpretation services are available. In one case, the legal aid office told a woman that they do not have an interpreter for her and that she has to come up with her own interpreter.

There are various dialects within the languages, too.

There is no adequate compensation for the services provided. It is not possible to access appropriate and competent free services.

**Recommendations**

- There is a need for monitoring of interpreter cases to realize the implications of non-verbal communication and cultural competency. It is not just about matching language-to-language, but also cultural and political associations.
- Interpretation must be available at all points of contact. It is important to keep in mind that if you are under stress, support and translation over the phone may be more difficult for the woman seeking services.
- There is a need for subsidies for interpretation/translation and perhaps a body to regulate interpretation and gender considerations.
b. Training

Training on abuse issues for interpreters is needed. Questions were raised regarding the existing training available for interpreters on violence against women.

**Recommendations**

- Language used for translating materials should be “user-friendly”. This includes print and media as well.
- Training around the interpretation needs and the dynamics and impact of abuse should be made available to CIC, hospitals and medical office staff. This is because doctors are the first point of contact and therefore the first to see the signs of abuse. The training should include a list of community resources. Although training is vital, the reality is most agencies that respond are available Monday through Friday.
- The training should include a cultural awareness component.
- Training in the education system is also needed. An example shared was that because a person’s English is poor, they are assessed as being at lower levels then they actually are and thus assessed as incompetent.
- Adequate training should be provided for the police, Crown, victim services and religious communities.

c. Training Issues

Victoria Police Department has an advisory committee to address diversity issues. MCFD need more training specifically re: cultural diversity issues.

Availability of relevant and accessible information is very crucial.

Question: who would provide the training? The SAFE HARBOUR* is a program for all employers to become aware of the work environment and its affect/effect on workers.

**Recommendations**

- There is a need for the creation of inter-agency training/education for those working with the immigrant population.
- There is a need for consistent training to translators and training that is sensitive to different target groups.
d. Information on Canadian Laws

Every nation has its own legal culture. Canada’s differs from that of the home nations of women coming to this country.

Recommendations

• When dealing with immigrant women, it is important to understand the legal culture of where she is coming from and to educate her regarding Canada’s legal system—marriage vs. common-law, whether a Canadian divorce is recognized in the country of origin, difference in secular vs. religious laws—and the fact that in some cases, the woman may lose her right to return home to visit her family.
• Materials need to be in plain language. The English used should not be “lawyer English,” but simple English, even ESL English. Regular updates on the materials would be necessary.
• Women and legal services need to be educated around the impediments to using the legal services.

e. Information package

Women need information at various places, points of contact and in different languages: at doctor’s offices, schools, shopping places, dentists, places of worship, and hair salons. South Fraser Women’s Services Society created a Handbook for Physicians: Violence Against South Asian Women. They also, in conjunction with the Save Our Daughters Coalition, have initiated the “passport” information program for South Asian Women, which will be made available to women in India. Thus these women will have the pertinent information and resources before their arrival in Canada.

Some Cultural Situations to Consider:

• Language competency is critical for settlement work and the challenge is when police are involved and there is a need for an interpreter.
• Settlement workers often have to work outside normal working hours and are not paid for this. It is often difficult to find a translator due to the concern around confidentiality among workers and volunteers. There continues to be issues of safety within cultural contexts.
• Some subjects of conversation are taboo in certain cultures and women have difficulty talking, especially to strangers, about these.
• The difficulty created by the definition of terms from the system’s perspective.
• The experience of leaving an abusive situation is difficult at any time and for anyone - the language barrier compounds it. Also, when some women are ready and want to leave an abusive relationship, there is little in the way of support.
• More staff is needed as workers often get ‘burnt out’.
• Under funding and lack of experienced staff contributes to the problems.
• A phone service for providing a translator for transition houses.
• Doctors and hospitals do not usually want to pay for a translator: Campbell River Hospital WILL pay for a translator; Comox Hospital will NOT.
• The health sector should share interpreter/translator expenses.
• Legal Aid provides money to pay for interpreters, yet some lawyers use settlement workers to do the interpretation for their clients.
• Lawyers use their services to work directly with the client and often will not contact or have a translator present.

**Recommendations**

1. An information package should include a section on myths and facts.
2. The orientation packet: there is a need for constant and repeated contact and outreach efforts.
3. Local/Provincial input is important from agencies and organizations and needs to include:
   • Information on the relevant Canadian laws and practices
   • Information for Permanent Residents
   • Information from MOSAIC and SUCCESS - which is translated into different languages.
   • Example of S. Korea - which has resources/programs to prepare immigrants for life in Canada.
   • Website – settlement.org
   • Website – shelter.net.org provides information on abuse in different languages.

4. SETTLEMENT

Information is needed on the following: health (family doctor), schools, parenting, single moms (discipline vs. abuse), MSP, Myths & homophobia – vis-à-vis abuse.

**a. Housing policies**

When a woman leaving an abusive relationship is looking for housing, it is very difficult to find affordable, or subsidized, housing.

A woman who is fleeing abuse must prove to the authorities that she is fleeing abuse. In recent cases, women have been denied assistance without proof and in cases of emotional abuse proof is difficult to obtain.

Insufficient co-op housing and subsidized housing was identified as the single most important issue when discussing immigrant women wanting to leave an abusive relationship. A place for these women to go is important for their safety and well-being.
Recommendations

• More affordable housing is needed for women leaving abusive relationships and this should include international students and home stays.
• Accessible housing is needed for senior women and women with disabilities leaving abuse. Eligibilities need to be relaxed to make them more accessible for these women.
• In addition, daycare is required for children so that women can return to school or do casual work.

b. Housing Organizations

There is a continuum of “limbo” periods for immigrant women leaving abusive relationships. These periods include the time at the shelter (30 days), then waiting 3-4 months for housing. This moving around and “limbo” impacts the children as well.

Recommendations

• There is need for more collaboration between service providers and MHSD to make subsidized housing more accessible for immigrant women. There is a need for consistency of information and services received from MHSD offices.
• CIC needs to acknowledge that people sometimes occupy the in-between space between temporary and permanent resident.

c. Settlement workers within the community agencies

Question: what does a settlement worker (SW) do?

• Introduces the newcomers to Canada and to the community, helps them with applying for social insurance and child-care subsidy.
• Does Needs Assessments, introduces other agencies and service providers, helps access ESL, make connections, provides introductions to schools and gives information about various trainings.
• Acts as a window into the Canadian system for a new immigrant.
• In a small community, services are so limited that an SW becomes like a family member and a counsellor.
• SW becomes the resource person for any information that the newly arrived immigrant seeks.

Recommendations

• There should be pay equity across the board.
• The Ministry of Housing and Social Development should ensure that all their staff
adheres to the policy prohibiting workers from contacting sponsors if abuse is suspected.

- Every community needs affordable housing.

5. LEGAL SYSTEM

a. Legal Aid

If a woman has been charged with a criminal offence and she does not have her citizenship, her legal matters could have an effect on her citizenship application.

Some workers are not aware that it is important for their clients to apply for legal aid.

Children are not often included in legal aid coverage until the mother’s status is determined.

In terms of services such as legal aid, smaller communities are not receiving the same services as larger communities. In the Kootenays, legal aid is unavailable and therefore individuals in these rural areas cannot access it. For example, only two lawyers in the region are contracted to provide legal aid covered advice. Often the abuser has hired one of the two lawyers. The result is that women have difficulties accessing legal aid. In the past, lawyers have had to come from Vancouver to provide legal services to clients.

In most cases, legal aid can approve $25.00 per hour to pay for a certified Interpreter. Workers pointed out that this does not cover the full cost for the service, as most interpreters charge $40.00 per hour.

There is often difficulty with interpretation even when a woman is able to receive legal aid and has an immigration lawyer. Lawyers complain that they do not get paid enough and many lawyers lack the necessary immigration law knowledge. Overall, there is a shortage of immigration lawyers especially in smaller communities.

Legal aid is given to refugees and not a visiting person who has a child. The process can get very complicated for women with children.

There is a lack of clear understanding around intersections of immigration law and family court.

Recommendations

- To ensure the safety of a woman, it is important that an immigration legal aid lawyer is available for her, as she could be facing deportation due to sponsorship
breakdown as a result of the violence perpetrated against her.

• When looking at legal family issues, it is very important to look at the children and women’s situation to ensure safety and access to legal advice for both.
• Everyone should have the right to equal representation, advocacy and outreach to the required/needed support systems.
• There is a lack of knowledge about legal options, which often leads women to make decisions that are detrimental to their safety.
• The legal system needs to have an awareness of the stigma attached to going through the courts in certain cultures.
• When a sponsor makes multiple sponsorships, CIC needs to “Red Flag” such cases and investigate why the sponsorships have broken down.

b. Protection Orders

• Restraining order – through family court.
• Peace Bonds – through criminal court.

Unless there is physical evidence of abuse, it is difficult to get a restraining order. And if the restraining order is breached, the man is arrested and jailed for one night.

A restraining order is only a piece of paper and whether or not it prevents the perpetrator from stalking or contacting the woman depends on the character of the man.

Police and the judicial system do not take breaches of restraining orders seriously.

In some cases, even if the partner/husband has a criminal record, the women, with or without status, will not report the abuse.

The police will sometimes question the wording on an order and not intervene on the grounds that there has not been a breach of specifically worded clauses. Without standardized wording on restraining order clauses, it is difficult to expect the police to protect the safety of the woman. The following example was provided: the order stated that the man was not to be in the apartment and he was not - he was outside shouting, threatening and intimidating the woman – the police would not intervene.

Recommendations

• Explore other protective measures besides Restraining Orders and Peace Bonds.
• Believe women’s stories of abuse.
• Accessibility issues around language needs and cost need to be addressed.
• Protective orders are still one of the few legal remedies available to women experiencing violence. Without necessarily viewing protective orders as the only way to ensure women’s safety, systemic barriers and patterns of disparity must be addressed for those seeking to obtain protective orders.
• The immigration and refugee system does not take into account ongoing custody issues in the Canadian family court. There should be improved coordination between the legal systems and service providers, and between family law and immigration law.
• Protective measures such as peace bonds and restraining orders are simply a piece of paper and often do not make a difference. These legal mechanisms need to be readapted.
• Judges require training and education regarding violence against women.
• There is a need for more lawyers prepared to do legal aid work, particularly in rural areas.
• There should be fewer repercussions for women and their children.
• The police and the judicial systems MUST take breach of restraining orders VERY seriously.

c. Protection of Children

Coordination and renewing efforts for increasing the safety of women and children is needed in schools:

• It is difficult for a woman to know if there was any coordination between the formal systems involved (judicial, police, etc and the school), as the school only becomes aware of the safety issues at home when a family member approaches the SWIS worker.
• Coordination happens in individual cases rather than on a collective level.
• Most children are referrals from school counselors to the Settlement Workers in Schools (SWIS) worker
• If there is any order that involves a safety issue, the school is informed and it is usually the lawyer or social worker that provides the information because it is a child protection issue.
• Before an order is in place, the school is usually informed that a child will miss some time.
• Sometimes children are kept out of school for different amounts of time and arrangements may be made to pick them up early.
• A father can prevent a child from leaving the home with the mother and/or the mother from leaving with the child.

d. Children Born in Canada to Women Without Status

There are many cases when children are born in Canada to immigrant women whose status is pending. There is a definite need for more protocols to be in place.
A participant referred to a case when the mother was not legally entitled to stay in Canada and she left with the child. At 18 years of age, the child was legally able to return to Canada, but not the woman.

**Recommendations**

- We need to address the issue of non-status women giving birth in Canada – what rights do they have?
- If a child is born in Canada, the onus should be on immigration to prove the woman should not be in Canada. It should not be the women proving why she should remain in Canada.

**e. Navigating the Immigration Legal system**

**Recommendations**

- When an immigrant is charged with an indictable offence she should qualify for legal aid.
- All charges of communication for the purpose of prostitution should be covered by legal aid when the person charged is an immigrant woman.

**f. Ministry of Children and Family Development**

There is a need to look into the role played by child protection workers when working with immigrant women and families (regardless of status) and the Ministries policies.

**Case Scenario**

In one case, the abuser was Canadian. The Canadian-born child was placed with the non-status mother. The father was receiving disability assistance, but the child was placed with the mother who had no access to support or services.

A woman is married to a rich person. She was in an abusive relationship and needed help but the authorities would not help because it is said that she has a lot of money and she should use her Registered Retirement Savings Plan (RRSP). In reality, the woman had no access to her husband’s money or RRSPs.

Women who own property (often in their name, but attached to their husbands) are not eligible for Employment Assistance/Temporary hardship.
Recommendations

- There is a need for education for the women and training for the workers.
- We need to look at how Child Protection agencies deal with families (regardless of status), and what their policies are.

6. CONCLUSION

The above discussions provided us with the ability to understand the nature of gaps and barriers faced by immigrant, refugee and non-status women across BC as well as ways to improve services to these women. This focus group summary is incorporated into the Literature Review, an in-depth national and international research document.

Concluding Recommendations

1. We cannot change the system so we have to become a voice – validating their position and our position and have a dialogue.
2. We have to build capacity.
3. Women themselves feel that they are stepping in-between their original country and the western world.
4. Depending upon where they come from – in their home country, they will not go to any person with authority like the police.
5. We have preconceived notions of what we think the woman needs, but it would be important to take some time to totally understand what she wants.
6. We are providing information to clients, but it is important to know if they understand that information.
7. It is important to use simple language.
8. Funding for women’s programs is extremely low.
9. Mail order brides – their safety and wellbeing is an ongoing concern.
10. Settlement workers from outside the Lower Mainland expressed their concern that they do not always receive training on the issues around violence against women or given sufficient information. There is more training available in Vancouver and there is often no money in their budget to attend it in addition to limited space in the training. There may be one seat for the entire Northern region – it is insufficient and does not allow more than one person to attend the training.
11. When a woman becomes a widow while she is in her country, she should be able to apply for immigration status in Canada. Some work in this area has started but needs to be continued.
12. Income assistance for women seems to be dependent on the worker and thus there is the need for policy to ensure that consistent information and service is provided to all women.
13. Homestay abuse: there are no regulations or regulatory agencies that monitor home- stays, and no central agency overseeing this industry.
14. Women who are non-status, or have temporary or visitor status, have no access to services and face few alternatives to staying in abusive relationships if they want to stay in Canada.

15. The sponsor should be made responsible for the person they are sponsoring. It should go on their record and they should be made accountable for it.

16. There needs to be extended legal coverage for women experiencing physical, sexual and/or emotional abuse.

17. Some processes should be fast tracked

18. Although criminal and family law address cases of violence against women separately, they should be dealt with together. This need has not yet been recognized in the legal system.

19. Cross-sector information sharing between settlement and anti-violence workers is important.

20. We need coordination, collaboration and training.
Appendix A

Increasing the Safety of Immigrant, Refugee, and Non-Status Women

An Overview Document for Focus Groups
January 2009

A. Introduction

The objective of this project is to address serious policy gaps or problems that compromise the safety of refugee, immigrant, and non-status women who experience violence.

Building on existing research, we collected information pertaining to public policy or practice issues, and conducted a cross-jurisdiction and cross-sector scan of work that is already being done to address immigrant, refugee, and non-status women’s issues. A literature review of relevant writings on violence against immigrant, refugee, and non-status women in Canada and elsewhere have set the context and guided our questions. We have also collected and analyzed demographic information using Statistics Canada’s 2006 Census data in order to understand the backgrounds of key communities in BC.

We have organized four (4) focus groups with service providers in key communities with significant populations of immigrant, refugee and non-status women in BC — in Vancouver, Victoria, Kelowna, and Prince George. Frontline workers are invited to discuss issues of common concern among their clientele of immigrant, refugee, and non-status women who have experienced violence. We hope to discuss the nature of the problems and risk factors particular to these groups, as well as suggestions for actions to improve existing services, and ways to promote the development of other relevant and appropriate services and policies.

After this phase of consultation, we will develop policy backgrounders containing legal analysis and suggested solutions on key topic areas to present to policy makers. We will also produce materials for workers in anti-violence, legal and immigrant-serving agencies to assist them in supporting women who face these barriers.

The following provides an overview of policies, legislation, and services in both the anti-violence and settlement services sectors, and outlines some of the key policy issues we have identified thus far. We hope to use this document to generate conversation with you on what is not working, where safety is impacted, and where policy is needed or needs to be amended.
B. Overview

Research indicates that the severity and prevalence of intimate partner violence are higher among immigrant women.5 Aspects of the immigrant context such as the immigrants’ social isolation and legal and linguistic barriers negatively affect the health of immigrants, including both access to and quality of care.6

Women face economic vulnerability, as immigrants, and the material need for affordable housing, employment, transportation, and childcare are all crucial factors in women’s struggle for safety and independence. Poverty levels tend to be higher among less-educated immigrants, immigrant women, those who do not speak English at home, and those who are of non-European ethnicity. In 2006, the unemployment rate of recent immigrants was almost double that of the non-immigrant population and their average income was considerably lower than that of the Canadian-born population ($20,999 versus $36,243, respectively).7

Women’s sponsorship and immigrant or refugee status is a significant barrier, rooted in legislative and policy realities. Because of the complexity of sponsorship and immigration matters, clear and accurate information is difficult to access, not only for the women experiencing violence but also the service providers. As many previous reports have recommended, we need: better collaboration, networking, and information-sharing within and between sectors; better working conditions for service providers; and better training on a range of topics, with a particular focus on issues related to violence against women for the Settlement/ELSA sector and immigrant and refugee issues for the anti-violence/Victim Services sector.8

There is widespread consensus that immigrant, refugee and non-status women experiencing violence also face specific needs stemming from immigration and their status as newcomers to Canada. Multiple factors, in combination, increase the vulnerability of immigrant and refugee women.9

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C. Key Issues

The following are some of the key issues we have identified as important policy priorities in ensuring safety for immigrant, refugee, and non-status women. Following a brief description of issues are some ideas for policy recommendations. We would appreciate your feedback at the focus group in order to develop concrete strategies.

1. Immigration

Sponsored immigrant and refugee women and domestic live-in caregivers are especially vulnerable to abusive relationships. Uncertainty and fear around women's immigration status makes it difficult for women to access services such as income assistance or subsidized housing and job training programs. For example, if a woman without permanent resident status needs to go on welfare, this will make her inadmissible for permanent resident status under the financial criteria set by the Immigration and Refugee Protection Act (IRPA).

1.1 Services should be available to women experiencing violence regardless of their immigration status. Women should be able to access social assistance without becoming inadmissible for permanent residence status. Legal aid eligibility should be extended to every woman who is or is likely to be with no status in Canada. Steps should be taken to ensure that women with permanent resident status know that they have the right to social assistance. Service providers should be knowledgeable and able to present options that ensure the women’s safety without jeopardizing their status or risking deportation.

1.2 Women who are non-status, temporary or visitor status have no access to services, and face few alternatives to staying in abusive relationships. Services should be available to non-status, temporary or visitor status women or refugee claimants awaiting status. For example, policies could mandate that the English language schools in Vancouver provide safety and “know your rights” training to students with temporary or visitor status.

1.3 Citizenship and Immigration Canada should respond to women who write to them with the details of the abuse they have endured. CIC should strongly consider such information when these abusers/husbands try to sponsor other women into Canada.

1.4 There should be a “fast track” for abused women, and a specialized legal aid system that serves as a resource for service providers.

1.5 CIC should develop a policy to protect women who, as a result of the relationship breakdown, are taken out of the refugee claim process and left in legal limbo. To help refugee women in these situations, as well as abused women applying for humanitarian and compassionate grounds to stay in Canada, CIC should develop a protocol to offer legal information about navigating the immigration legal system.
CIC should also consider abuse as grounds to guarantee landed status to women who report it, on the basis that it is a life-threatening situation.

1.6 A clear and safe process needs to allow abused women to “self-petition” for permanent residency, refugee status, and citizenship without risking loss of legal status or possible deportation due to violence perpetrated the principal applicants (usually husbands). Abused women in the entrepreneurial category should likewise be eligible to apply on their own behalf.

2. Sponsorship

Being a sponsor consists of making a commitment to the Canadian government to “assume responsibility” for the essential needs of the sponsored individual and to ensure that she/he does not require social assistance for a period of 10 years. The sponsorship regime has a discriminatory effect on immigrant women who are sponsored by their husbands. It exacerbates women’s unequal status within the marriage, diminishes their dignity and degree of independence, aggravates existing socio-economic disadvantages and violates their most basic human rights.

2.1 CIC should establish provisions to recognize breakdown of sponsorship due to violence. These provisions should include definition/recognition of: power-based crimes, marriages of convenience, safety issues for women and children, the impact on the marriage of a victim’s extended family both in Canada and in the country of origin.

2.2 Points system and immigration fees should be abandoned or reworked in order to increase women’s ability to come to Canada legally as independent applicants. This will reduce risks to their safety that arise through being dependent on their spouse, through working as a caregiver, exotic dancer, etc or through trafficking.

2.3 CIC should consider abuse as grounds to guarantee landed status to women who report it, on the basis that it is a life-threatening situation. CIC should also consider expediting the processing period for the sponsorship applications. Many abused women are risking their lives because of the slowness of the system.

2.4 In cases where a sponsored woman is in the process of applying for a visa waiver and her marriage ends because of abuse, the breakdown of the marriage should not adversely affect her visa waiver application. Policy with regards to break down of sponsorship needs to be inclusive of senior women who have been sponsored by adult children and are being abused.

2.5 There should be a policy of sponsorship debt forgiveness if the sponsorship breakdown is caused as a result of abuse.

2.6 We need policies to allow self-petition so that women can continue their applications for immigration or citizenship status without being subjected to
violence by the original sponsor. Once a sponsorship application is in process, even if the sponsor, who is the abuser, applies to withdraw the application, CIC should process such applications either on the woman’s merits and/or on humanitarian and compassionate grounds.

2.7 There should be extensive public education and training about the sponsorship issue. We would need clear and easy-to-understand guidelines explaining if and how women can get their sponsorship debt forgiven, and when they can make a new application on humanitarian and compassionate (H&C) ground.

3. Cultural Competency

Language barriers and lack of access to interpretation are a serious impediment to accessing services. Many newcomers lack access to information about Canadian laws and rights, social infrastructure, and available services.

3.1 Adequate interpreter services are critically important.

3.2 Adequate training should be provided for the police, Crown, victim services, and religious communities.

3.3 General information on Canadian laws and practices and specific information about services available for women who experience violence should be provided to women prior to, or immediately upon, their arrival in Canada.

3.4 An information packet at the point of entry should provide key phone numbers and information in a variety of languages in an easy-to-understand format e.g. brochures, Frequently Asked Questions, myths & facts, etc.

4. Settlement

Current policy for subsidized housing denies assistance to sponsored immigrants if there is a breakdown in sponsorship, even if the breakdown is due to abuse. There is no acknowledgement that there are many women and children who are victims of violent crime. There is no hardship assistance for non-status women even if they are in the middle of immigration application process.

4.1 The definition of victims of violence needs to be re-defined with immigrant/refugee women in mind. There needs to be a consistent application of the policy among all Ministry of Housing and Social Development offices. Hardship assistance should be reinstated for women who have no immigration status, but are in the process of applying.

4.2 Housing policies need to reflect trends in our society: our society is becoming more and more diverse, with people from various different ethnic origins. There is a need
for greater sensitivity towards different cultures and an increase in the availability of senior housing and assisted living complexes. The federal government also needs to subsidize more co-operative housing for low-income earners, especially women leaving abusive relationships.

4.3 The subsidized housing organizations should change and/or be flexible with their policy and/or legislation for eligibility criteria. The housing societies need to include single, visitor women as eligible for subsidized housing. At present, we are not aware of any single housing society that accepts this group of women.

4.4 The Ministry of Housing and Social Development should ensure that all staff should adhere to the policy prohibiting workers from contacting sponsors if abuse is suspected.

5. Legal System

A woman’s reluctance or fear of proceeding through the legal system is often considered to be the most persistent challenge in cases of violence, but their fears may be rational reactions to the realities of their lives and what they know about the immigration and criminal justice system. The limitations of the legal system are exposed when it fails to provide abused women with long-term protection, forces women to choose between personal safety and family life, and allow domestic violence laws to reinforce male domination.

5.1 Protective orders are still one of the few legal remedies available to women experiencing violence. Without necessarily viewing protective orders as the only way to ensure women’s safety, systemic barriers and patterns of disparity must be addressed for those seeking to obtain protective orders.

5.2 There should be enhanced coordination and renewed efforts to address lack of coordination among some victim services and better-coordinated responses to breaches of protection orders. Hospital-criminal justice system coordination should also be improved.

5.3 The immigration and refugee system does not take into account ongoing custody issues in Canadian family court. There should be improved coordination between the legal systems and service providers, and between family law and immigration law.

5.4 CIC should acknowledge having children born in Canada as an important factor to allow women to gain status in Canada. This is especially necessary for women who have children and are struggling through the family law system.

5.5 CIC should develop a protocol to offer women in legal limbo about their options in navigating the immigration legal system.
Definition of Terms

Immigrant
An immigrant is an individual who has acquired legal status to reside in Canada, including permanent residents, visitors and students. Some are recent immigrants (that is, in Canada for ten years or less), while others have resided in Canada for a long period of time (more than 10 years). The term “immigrant” also has a socially constructed meaning, “common-sense” usage referring to people of colour, people from developing countries, and individuals without official language proficiency.

Since some immigrants are Caucasian and are proficient in one of Canada’s official languages, this definition obviously falls short in identifying all immigrants. For purposes of this project, the term “immigrant” refers to individuals who have immigrated to Canada; they have legal resident status and may be permanent residents, visitors, students or refugees.

Refugee
Persons who have fled their country of origin due to a well-founded fear of being persecuted for reasons of race, religion, nationality, political opinion, or membership in a particular social group.

Visible Minority
The term, as used in this project, is based on the definition used by Statistics Canada, as defined by the Employment Equity Act. It refers to “persons, other than Aboriginal peoples, who are non-Caucasian in race or non-white in colour.” Under this definition, regulations specify the following groups as visible minorities: Chinese, South Asians, Blacks, Arabs, West Asians, Filipinos, Southeast Asians, Latin Americans, Japanese, Koreans and other groups such as Pacific Islanders (Statistics Canada, 2003). People are usually asked in surveys to self-identify.

Non-Status
From Non-status Women in Canada: Fact Sheet (Metropolitan Action Committee on Violence Against Women and Children [METRAC], 2004):

Reasons Why People Do Not Have Status in Canada

- Women who come to Canada and marry Canadian citizens or permanent residents but are never sponsored by their spouse and remain in visitor status. Once their visitor status expires they become illegal and because they do not have a sponsor they would have to leave the country.

- Many people come into Canada with a temporary resident permit. If they overstay their permit they become non-status. Some people have been in Canada without status for 10, 20 or more years. Some have been here since they were small children and are completely unfamiliar with their country of origin to which they are at risk of being deported.
• Many people make a refugee claim which is rejected, but prefer to stay illegally rather than to return to an uncertain future, or even death.

• Many women come to Canada legally (sponsored by an employer, spouse or family member), but then find themselves in an abusive relationship with their sponsor. If they escape before receiving permanent resident status they might become non-status.
Section 4: Federal Briefing Documents
FEDERAL BRIEFING DOCUMENT 1: EXECUTIVE SUMMARY

Needs of Women without Status as a Result of Leaving an Abusive Spouse

Immigrant, refugee, and non-status women are vulnerable if they leave an abusive spouse on whom they are dependent for an immigrant or refugee claim. Fear of losing a claim to permanent status may cause these women to remain in abusive relationships, putting themselves and their children at risk. Their primary options are to: have their applications severed from those of their spouses; apply for a temporary resident permit (TRP) to stay in Canada while seeking permanent status; or apply for permanent status on Humanitarian and Compassionate (H&C) grounds. Significant challenges are associated with these options. Also, proposed changes to Canada’s refugee system (Bill C-11) may threaten women’s safety.

Recommendations

Immediate

1. Bill C-11 should be reviewed with specific focus on the safety of women who are victims of violence, including, in particular, reconsideration of the concept of “safe countries of origin”, the proposal to hold hearings within two months, and a proposed bar on claimants receiving H&C consideration.

2. Citizenship and Immigration Canada (CIC) should provide or arrange for qualified interpreters for those engaged in the TRP or H&C process, for hearings, interviews, and other official meetings.

3. CIC should establish a formal, expedited process for severing dependent refugee and immigration claims for women who have left abusive spouses, whose applications could stand on their own.

4. Immigration and refugee law, regulations, policy, and guidelines should be sufficiently detailed and explicit that discretion of decision-makers is clearly guided in cases involving domestic violence - both in terms of what kind of evidence is acceptable to demonstrate that the claimant or her children have suffered domestic violence from the husband/father and in terms of granting permanent residency on H&C grounds if domestic violence has been demonstrated. (ongoing)

5. Specific, detailed information should be provided in operations manual IP 5 section 12.7 Family Violence on the nature and dynamics of domestic violence.

6. The list of factors in operations manual IP 5 section 12.7 to be considered in relation to domestic violence should include specific risk factors for women and children who are victims of violence.
7. Operations manual IP 5 section 12.7 *Family violence* and section 5.14 *Children – Best interests of a child* should be cross-referenced and officers alerted to the fact that best interests of a child are integrally bound up with the safety of their mother.

**Medium-term**

8. CIC should specifically adapt and expedite the TRP and H&C processes to address the safety of abused women and their children as a priority.

9. The amended TRP and H&C processes should be coordinated to ensure that abused women engaged in the H&C process have access to essential and emergency health and dental care, an expedited no-fee work permit, and access to subsidized child care.

10. Having Canadian-born children should serve as a compelling reason for an abused woman to be granted permanent resident status on H&C grounds.

**Longer-term**

11. Consideration should be given to introducing a statutory obligation for CIC officers to consider the safety of women who are victims of violence.
FEDERAL BRIEFING DOCUMENT 1

Needs of Women without Status as a Result of Leaving an Abusive Spouse

ISSUE: Immigrant, refugee, and non-status women are vulnerable if they leave an abusive spouse on whom they are dependent for an immigrant or refugee claim.

KEY POINTS

Women who are vulnerable to loss of status

• Certain immigrant, refugee, visitor, and non-status women are particularly vulnerable to further abuse because they may be reluctant to report spousal violence to police or leave an abusive spouse for fear of losing their claim to permanent status. These include:

  • Immigrant women in Canada who are in the process of becoming sponsored by a husband and whose husband could withdraw his sponsorship application if the woman reports the abuse or leaves the relationship;

  • Women immigrating as a dependent of a husband who is immigrating under the independent class, such as the entrepreneurial class. These women will lose their status as a dependent if they leave their abusive husband;

  • Women who are claiming refugee status as a dependent of their husband who is the principal refugee claimant. These women will lose their status as a dependent if they leave their abusive husband;

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1 This document may also apply in situations where any other family member has been left without status because of abuse by his/her sponsor, such as a senior abused by a son or daughter who has sponsored them. It may also apply to women who are in Canada as part of a temporary foreign worker program such as the Seasonal Agricultural Worker Program or the Live-in Caregiver Program, who are afraid to report or to leave an abusive situation because of fear of losing their work status or their eligibility to apply for permanent residency.

2 This could include so-called ‘mail-order brides’, a term that refers to women who met their foreign spouse through an international introduction or ‘pen-pal’ agency. (The controversy around the use of the term ‘mail-order bride’ is acknowledged. In the absence of another more ‘neutral’ term, the term ‘mail-order bride’ is used in this document. However, there is no intent to stereotype or stigmatize immigrant women who have married a Canadian as a result of an introduction or ‘pen-pal’ agency.)
• Abused women in Canada on a visitor’s visa whose visitor status is expired, not renewed, or breached because she did not comply with its terms (such as working at paid employment in contravention of the terms of her visa);

• Women named in a sponsorship application who are vulnerable in circumstances of abuse are: i) those who have a temporary resident permit (TRP) who leave their abusive husband before the sponsorship process is complete and whose temporary resident status subsequently expires; and ii) those without status who are therefore living in Canada illegally, who leave their abusive husband before the sponsorship process is complete.

Risks of further violence

• As a result of fears of losing their claim to permanent status and/or being removed, immigrant, refugee, and non-status women experiencing abuse in Canada often remain in abusive relationships, putting themselves and their children at serious risk of further abuse. This danger, in relation to withdrawal of a sponsorship application, is acknowledged in the operations manual *IP 5 Immigrant Applications in Canada made on Humanitarian or Compassionate Grounds* under section 12.7 Family Violence.

• Such loss of potential immigration or refugee status and threat of removal may constitute re-victimization and may contravene the *Canadian Charter of Rights and Freedoms, Section 7 - Life, liberty, and security of person*. It could be argued that Canadian policies that make it difficult for a woman to leave an abusive relationship themselves constitute a form of abuse that threatens her and her children’s rights to life or security of the person.

• A situation in which a woman is forced to leave Canada while a custody case is in progress, leaving her children in the custody of a father who has been violent towards their mother, is not in the best interests of the child. It may also put the mother at risk as she may choose to stay in the abusive relationship rather than risk having to leave her children.

Legal options currently available

• The primary avenues open to such non-status or temporary status women are:
  o For women who are dependent refugee claimants or are dependent on husbands who are “independent class” immigrants, but whose claims could stand on their own merits, to have their applications severed from those of their husbands;
  o To apply for a TRP to remain in Canada while seeking permanent status;
  o To apply for permanent residence on Humanitarian and Compassionate (H&C) grounds.

Challenges associated with current legal options

• With respect to dependent refugee claimants or dependent independent class immigrants whose claims could stand on their own, there is currently no formal process in place to ensure that the severing of a woman’s case from that of her...
husband who is the principal applicant will happen in a routine, expedited manner and that her case will not have to “go back to the beginning” rather than continuing from the point at which she asked to have her case processed on its own merits. While she has a right to access her personal information in an existing application, there is no policy or guidelines in place that allow a woman who has severed her application from that of her husband to access her file on a routine basis or to have the data in that file transferred to her own application as the principal applicant.

- Regarding the H&C process for women whose sponsorship applications were withdrawn by abusive husbands or whose refugee or immigration claims could not stand on their own, there are a number of difficulties. These include: the complexity and length of the process; the ongoing threat of removal; a non-status or temporary status woman’s lack of access to services; inability to apply for a work permit without a TRP for six months or more; lack of guidance for Citizenship and Immigration Canada (CIC) officers in dealing with women who are victims of violence and in the exercise of their discretion in decisions regarding such applicants; and lack of training for CIC officers on issues related to violence against women.

- Changes to Canada’s refugee system proposed in Bill C-11 (the proposed Balanced Refugee Reform Act) may threaten the safety of women refugee claimants in a number of ways.

**Addressing the challenges**

- Establishing a formal process for severing dependent refugee and immigration applications for women who have left abusive spouses and an expedited, comprehensive H&C process specifically targeted to domestic violence victims, together with a TRP process specifically targeted to abused women, would go a long way toward resolving these difficulties.

- In addition to the enhanced H&C and TRP processes described above, coordination of these processes with the operations of the CBSA would act as an additional safeguard to ensure that abused women who have applied for permanent residency on H&C grounds cannot be removed from Canada while that process is underway. This is particularly important in cases involving unresolved custody and access issues.

- The primary focus of any laws, regulations, policy, guidelines, and processes pertaining to immigration and refugee matters involving women who are victims of domestic or sexual violence (including changes proposed in Bill C-11) must be safety for the women and their children. This focus is consistent with the program objectives and comments on appropriate use of discretion cited in 2. Program objectives of IP 5, as well as instructions to officers in section 12.7 Family violence to “be sensitive to situations where the spouse (or other family member) of a Canadian citizen or permanent resident leaves an abusive situation and, as a result, does not have an approved sponsorship” (p.40).

- Enhanced training and guidelines for CIC officials dealing with abused immigrant, refugee, and non-status women are essential for women’s and children’s safety.
THE CONTEXT

Murder of immigrant women

• There have been approximately 75 domestic violence homicides in the past five years in BC\(^3\). A significant number of these victims have been immigrant women.

• In 2007, Sunny Yong Sun Park, her young son, and her parents were murdered by Park’s husband, Peter Hyun Joon Lee in Oak Bay, an affluent neighbourhood in Victoria. This murder resulted in a high profile coroner’s inquest and an investigation by BC’s Representative for Children and Youth. The results of both investigations, published in late 2009, emphasized the need for cross-sector information-sharing and coordination and the importance of risk assessment. The coroner’s report included a recommendation for universally available advocacy services. The Representative for Children and Youth’s report included a recommendation for strengthened services to immigrant women in circumstances of domestic violence.

Seeking status

• Proposed changes to Canada’s refugee system are to be welcomed if they increase support for refugees in need of protection and decrease delays in rendering final decisions on asylum claims. However, the Canadian Council for Refugees has put forward a number of concerns about changes proposed in Bill C-11 which have particular relevance for women refugees who have suffered gender-based violence. (Canadian Council for Refugees, 2010). These include:

  • The concept of “safe countries of origin” or “democratic countries with robust human rights records” for purposes of fast-tracking the return of failed asylum claimants, as countries otherwise considered “democratic” or “safe” may have poor records in terms of gender-based crimes;

  • The proposal to hold hearings within two months, which may be problematic for refugees who require time to build trust before they can testify openly, such as traumatized women who have been victims of sexual assault or sexual torture;

  • A proposed bar on claimants receiving H&C consideration\(^4\), which is an important avenue for abused women whose circumstances are not adequately addressed in the refugee system.

  • Assurances of public consultation on Bill C-11 are welcome, but must include lawyers, community-based agencies, and provincial organizations addressing needs of immigrant, refugee, and non-status women who are victims of violence.

  • H&C applications and applications as independent refugees or independent immigrants severed from their original applications as dependents of their husbands

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\(^3\) This is likely a conservative estimate as deaths occurring in a family context are not always appropriately classified as domestic violence cases.

\(^4\) The Canadian Council for Refugees points out that “Bill C-11 would bar refugee claimants from applying for H&C (while the claim is in process and for 12 months afterwards). Applicants for H&C would also be barred from raising factors related to risks feared in the country of origin.” (Canadian Council for Refugees, 2010).
are complex and best completed with the help of a lawyer. With cumulative Legal Aid cutbacks over many years, such legal service is difficult or impossible to access.

- The H&C process is lengthy, sometimes taking two or three years, in the meantime leaving the claimant without status and vulnerable to removal or in the uncertain position of constantly having to apply to renew a TRP.

- Applicants who are applying for a TRP on the basis of not meeting the requirement of the Immigration and Refugee Protection Act to enter or remain in Canada – that is, people who do not qualify to enter or remain in Canada on ordinary grounds - must show the officer “compelling reasons” for the TRP to be issued.

- The H&C process, handled by the CIC branch dealing with admission to Canada, is not coordinated with the Canada Border Services Agency (CBSA) that is responsible for the removal of inadmissible persons. This means that removal of a claimant from the country could (and reportedly does) occur while the H&C process is underway.

- There is no formal, protected channel through which an abused woman can pass on relevant information to the CBSA about ongoing abuse or threats by her husband with an assurance that this information will not be disclosed to her husband or his family. This lack of confidentiality puts the woman and her children at further risk.

- Interpreters are generally provided by CIC only for hearings. For all other meetings and interviews, the client is expected to either know English or bring someone who can interpret for them. This may be problematic in that if initial interviews, for example, are interpreted by a non-accredited or unqualified interpreter, there is potential for errors, omissions, or misunderstandings which could then be used at hearings as the basis of cross-examination to show inconsistencies or allege credibility concerns.

Surviving in Canada

- While awaiting the outcome of the H&C process, a non-status woman does not have access to services, including essential or emergency health and dental care, social assistance, or subsidized housing, placing her and her children at risk of health problems, poverty, and homelessness.

- While awaiting the outcome of the H&C process, a non-status woman or temporary status woman with a TRP of less than six months does not have the right to apply for a work permit to work to support herself and her children, thus limiting her ability to live independently from her husband.

- A non-status woman or temporary resident is not eligible for child care subsidy, thus making employment outside the home difficult or impossible.

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5 According to CIC guidelines “An inadmissible person’s need to enter or remain in Canada must be compelling and sufficient enough to overcome the health or safety risks to Canadian society” (Citizenship and Immigration Canada, 2007, p. 18) and may include the fact that an applicant was a victim of human trafficking.
Operations Manual IP 5

• The criteria in operations manual, *IP 5 section 12.7 Family Violence* are discretionary guidelines rather than mandatory directives. The decision to grant permanent resident status on the basis of an H&C application is therefore subject to considerable discretion on the part of immigration officers. While the operations manual states that this discretion is intended to work for the applicant’s benefit, there are no detailed criteria to guide that use of discretion. In the absence of guidance regarding the nature, dynamics, and risk factors of violence against women, wide discretion available to CIC officers may result in inconsistent decisions across situations with similar facts and increased risk for women and children. The only avenue to challenge a negative H&C decision is to seek leave to appeal to the Federal Court of Canada, an expensive process. If a woman is under a removal order, she would have to seek a stay of that order pending the Federal Court appeal, which involves another, expensive court motion. There are no guarantees that the stay would be granted.

• Section 12.7 *Family violence* in the operations manual states that: “Officers should be sensitive to situations where the spouse (or other family member) of a Canadian citizen or permanent resident leaves an abusive situation and, as a result, does not have an approved sponsorship.” (p.40).

• While criteria in section 12.7 pertain to temporary or non-status women who have suffered domestic violence, these criteria are rather limited and general in nature:
  - The type of evidence that should be considered in determining whether there was, in fact, abuse, includes “police incident reports, charges or convictions, reports from shelters for abused women, medical reports, etc.” (p. 40). Unlike in Australia, this list does not include statutory declarations from the victim, professionals, or others familiar with her situation. These sources of verification are important because many abused women are too fearful to report the violence to police or seek help. In addition, many newcomers to Canada are unaware of the protections and services available to them;
  - There is no specific information on the nature and dynamics of domestic violence, including the fact that victims are almost always under the control of their abusive husbands, often resulting in social isolation and fear of disclosing;
  - There is no information about the particular complexities of the circumstances surrounding so-called ‘mail-order brides’;
  - There is no reference to specific risk factors for women or their children who are victims of domestic violence that should be considered when making a decision;
  - There is no cross-referencing of this section with section 5.14 *Children – Best interests of a child*.

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6 Under 2. *Program objectives* of the operations manual, *IP 5*, it states: “The purpose of H&C discretion is to allow flexibility to approve deserving cases not anticipated in the legislation. This discretionary tool is intended to uphold Canada’s humanitarian tradition.” (p.7).

Statutory obligations regarding women and children

- In a recent case before the Federal Court of Canada, *Sultana and Others v. Minister of Citizenship and Immigration*, 2009, the court reviewed the concept of the “best interests of the child” in an H&C application and stated how important it was for an immigration officer to properly consider all of the evidence in that regard. This decision is consistent with s.3 (1) of the *Immigration Act*, which states that one of the objectives of the Act is to see that “families are reunited in Canada”. Preventing a women without status from attending to custody matters pertaining to her children by, for example, removing her from Canada while a custody case is still before the courts, would appear to be contrary to this objective.

- In the operations manual *IP 5 section 5.14 Children – Best interests of a child*, there is a statutory obligation to take into account the best interests of a child who is directly affected by a decision under this section, codifying “departmental practice into legislation, eliminating any doubt that the interests of a child will be taken into account” (p. 20).

- No such statutory obligation exists in relation to considering safety for women who are victims of domestic violence.

Guidelines on Domestic Violence

- Detailed guidelines for CIC officers in dealing with cases involving women and their children who are victims of domestic violence may be best addressed by developing a stand-alone guideline comparable to *Guideline 4. Women Refugee Claimants Fearing Gender-Related Persecution Guidelines*.

- *Guideline 4* deals with substantive issues. In contrast, *Guideline 8. Guideline on Procedures with respect to Vulnerable Persons Appearing Before the IRB* deals only with procedural issues. An appropriate guideline addressing the particular circumstances of victims of domestic violence should either deal with both substantive issues and procedural issues or should focus on substantive issues and be cross-referenced with *Guideline 8* that has been revised to include specific reference to victims of domestic violence.

US and Australian models

- Canada has, in some important respects, a well-deserved reputation for a fair and humanitarian approach to immigration and refugee law and policy. *Guideline 4. Women Refugee Claimants Fearing Gender-related Persecution*, for example, has served as a model for initiatives in the US. On the other hand, Canada has fallen behind other developed nations such as Australia and the US in some important

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7 While this Briefing Document focuses on domestic violence, it is suggested that any new or revised guidelines include a focus on both domestic and sexual violence, given the serious risk posed to women and girls by sexual violence worldwide. See also the Briefing Document in this series: *Citizenship and Immigration Canada Guidelines For Cases Involving Victims of Domestic or Sexual Violence*.
immigration areas relating to the safety of abused women and their children. Australia in 1991 introduced Family Violence Provisions into its migration program. In 1994, the US Violence Against Women Act (VAWA) provisions relating to immigration were codified in its Immigration and Nationality Act (INA).

- In the US, in provisions initiated in 1994 under VAWA, abused women who have been legally married for at least three years can “self-petition” for permanent residency if their husbands fail to file for permanent residency on their behalf. Unlike Canada’s H&C process, this “self-petition” process is geared specifically to women who have been abused. It not only allows the abused woman to apply for permanent residency herself, independent of the abuser, but also prevents her deportation and allows her to support herself by granting her a work permit during this process. Another legal mechanism also exists in the US for an abused woman to obtain legal status – the U-Visa. However, this visa depends on a woman’s willingness to assist government officials in the investigation or prosecution of the criminal abuse.

- In Australia, the 1991 Family Violence Provisions (FVP) of its migration program allow women applying for permanent residency to continue with their application after the breakdown of their spousal relationship if they or a member of their family unit have experienced violence from the husband or partner. Proof of violence may be judicially or non-judicially determined and may include a statutory declaration by the abused partner or two statutory declarations from competent people in two different professions setting out the allegation of family violence or the evidence on which they have based their opinion that family violence occurred and naming the person alleged to have committed it.

Temporary resident permits

- In Canada, a process currently exists whereby CIC officers can authorize TRPs for up to three years, after which another TRP must be applied for. The normal length of time for which a TRP is issued is six months to a year, with possibility of renewal. A TRP authorizes a person who is inadmissible or does not meet the requirements of the Immigration and Refugee Protection Act or Regulations either as a temporary resident or as a permanent resident to enter or stay in Canada.

- The TRP process has been adapted specifically for use in the case of victims of trafficking in persons (VTIPs), including expediting the process so that no-fee VTIP TRPs are generally granted after an interview with a CIC officer, with no requirement to attend before the Immigration and Refugee Board. These VTIP TRPs may be issued for up to 180 days and can be reissued at the end of that period. The temporary residency period is designed to assist these victims to escape from the influence of their traffickers, recover from their experience, and decide if they want to return to their home country or stay in Canada and assist in the investigation or prosecution. Holders of VTIP TRPs may receive emergency and essential health and dental services through the Interim Federal Health Agreement, as well as provincial income assistance. Trauma counselling and referrals to other services are also provided. VTIP TRP holders are also eligible to apply for a no-fee work permit,
which is generally issued the same day as the VTIP TRP. There is no requirement that a trafficking victim cooperate with police investigations or criminal proceedings.

Permanent resident status

• Once the sponsorship, refugee, or immigration process is complete and a woman has obtained permanent residence in Canada (as long as the legal or common-law marriage is a legitimate one and she has not obtained her permanent status on false pretences), she is no longer vulnerable to removal or loss of status because she leaves her abusive husband. However, many abused immigrant women are not aware of this fact and are subject to threats from an abusive husband that he will “withdraw” his sponsorship or that she will lose her status and be deported if she leaves him or reports the abuse.

• It is possible that an abused woman who has obtained permanent status on the basis of false pretences, including a marriage entered into solely for the purpose of immigration, has been a victim of intimidation or coercion on the part of the man, his or her family, or others.

RECOMMENDATIONS

Severing of dependent refugee or independent class immigration applications

1. Citizenship and Immigration Canada (CIC) should establish a formal, expedited process for severing dependent refugee and immigration claims for women who have left abusive husbands, whose applications could stand on their own.

2. The process of applying for refugee or immigrant status as independent claimants should be made more accessible to women who have left abusive husbands by simplifying the application process and/or by providing for legal advice and support to assist them through the process, including coordinating with Legal Aid in BC.

Amendments to the TRP and H&C processes

3. CIC should specifically adapt and expedite the temporary resident permit (TRP) and Humanitarian and Compassionate (H&C) processes to address the safety of abused women and their children as a priority.

4. The amended TRP and H&C processes should be coordinated to ensure that abused women engaged in the H&C process have access to essential and emergency health and dental care, an expedited no-fee work permit, and access to subsidized child care.

5. CIC should provide or otherwise arrange for qualified interpreters for those engaged in the TRP or H&C process, not only for hearings but for interviews and other official meetings.
Amendments to the TRP process

6. The TRP process should be adapted specifically for victims of domestic violence who are without status because they have lost the potential sponsorship of an abusive spouse or the potential for being granted refugee status or immigration within the independent class because they have left an abusive spouse who was the principal applicant.

7. Policy should be put in place to ensure that, once domestic violence has been established, it should be considered a “compelling reason” to issue or extend a TRP and that TRPs or extensions in these circumstances are expeditiously granted to allow an abused woman to stay legally in Canada.

8. TRPs specifically adapted for women who are victims of domestic violence should be free and should ensure access to essential and emergency medical and dental care, a no-fee work permit, and subsidized child care while engaged in and awaiting the results of an expedited H&C application.

Amendments to the H&C process

9. The H&C process should be adapted specifically for victims of domestic violence who are without status because they have lost the potential sponsorship of an abusive husband or have lost their status as a refugee or independent immigrant applicant dependent on an abusive husband who was the principal applicant.

10. The H&C process should be made more accessible to abused women, by simplifying the application process and/or by providing for legal advice and support to assist them through the process, including coordinating with Legal Aid in BC.

11. The H&C process should be expedited in order to meet safety needs of women and children and avoid placing them at risk of further violence or removal from Canada.

12. The H&C process should be coordinated with the Canada Border Services Agency (CBSA) in order to ensure that abused women who have applied for permanent residency on H&C grounds cannot be removed from Canada while that process is underway.

13. Immigration and refugee law, regulations, policy, and guidelines should be sufficiently detailed and explicit that discretion of decision-makers is clearly guided in cases involving domestic violence - both in terms of what kind of evidence is acceptable to demonstrate that the claimant or her children have suffered domestic violence from the husband/father and in terms of granting permanent residency on H&C grounds if domestic violence has been demonstrated. In particular:

• Acceptable evidence that the claimant or her children have suffered domestic violence from the former sponsor should include statutory declarations from the abused partner or from competent professionals setting out the allegation of domestic violence or the evidence on which they have based their opinion that domestic violence occurred and naming the person alleged to have committed it.
• CIC officers should be advised that if an applicant has successfully demonstrated that she or her children have suffered domestic violence in Canada, the woman should normally be granted permanent residency on the basis of H&C grounds.

14. Detailed specific information should be provided in operations manual IP 5 section 12.7 Family Violence on the nature and dynamics of domestic violence.

15. Information should be provided in section 12.7 on the complexities and potential risks involved in the circumstances of ‘mail-order brides’.

16. The list of factors in section 12.7 to be considered in relation to domestic violence should include specific risk factors for women and children who are victims of violence.

17. Having Canadian-born children should serve as a compelling reason for an abused woman to be granted permanent resident status on H&C grounds.

18. Operations manual IP 5 Section 12.7 Family violence and section 5.14 Children – Best interests of a child should be cross-referenced and officers alerted to the fact that best interests of a child are integrally bound up with the safety of their mother.

19. CIC should establish and inform women about a formal, protected channel through which they can pass on relevant information to CBSA about ongoing abuse or threats from abusive husbands without putting themselves or their children at further risk.

20. Consideration should be given to introducing a statutory obligation for CIC officers to consider the safety of women who are victims of violence.

**Provision of information to clients**

21. CIC should take proactive steps to ensure that adequate, linguistically appropriate information is provided to immigrant women both before they immigrate and immediately upon arriving in Canada. Particular attention should be paid to finding effective ways to inform so-called ‘mail-order brides’ and participants in temporary foreign worker programs about the realities of immigrating to or working in Canada and about the particular vulnerabilities they may face as ‘mail-order brides’ or temporary foreign workers. Information should be provided on:
   • the facts about sponsorship and other forms of dependent immigration;
   • the nature, dynamics, and risks of domestic violence;
   • their rights in Canada;
   • relevant Canadian laws, including immigration, family, civil, and criminal law;
   • options and services available to them in Canada, including language training, settlement services, skills training, social assistance, cultural support services, legal advocacy, victim support services, and how to get help if they need it;
   • any sponsorship or criminal history of their proposed sponsor.

22. CIC should take every reasonable opportunity to inform women that once they have obtained permanent status through sponsorship or as a dependent applicant in a

refugee or independent class immigrant application, their sponsor or the principal applicant cannot “withdraw” sponsorship or cause them to lose their status.

23. CIC should take every reasonable opportunity to inform immigrant, refugee, and non-status women about any special measures that are in place to help ensure their safety and assist them in gaining permanent resident status in Canada.

24. Keeping in mind that abused women are often subject to isolation and control by abusers, information on the above matters should be provided directly to the women, at various stages of the process, in various formats, and in women’s own language.

25. CIC should take proactive steps to ensure that other ministries and agencies responding to the needs of immigrant, refugee, and non-status women have accurate and consistent information about legal and policy realities for immigrant, refugee, and non-status women and have adequate and linguistically appropriate information resources to provide to the women themselves.

Guidance regarding women and their children who are victims of domestic violence (see also above under Amendments to the H&C process)

26. Detailed guidelines should be developed for CIC officers in dealing with cases involving women and their children who are victims of domestic violence, comparable to Guideline 4. Women Refugee Claimants Fearing Gender-Related Persecution Guidelines. Two options should be considered:

- This guideline should address both substantive issues informing officials about the particular nature, dynamics, and impacts of domestic violence and procedural accommodations that should be made in cases involving domestic violence, similar to those included in Guideline 8. Guideline on Procedures with Respect to Vulnerable Persons Appearing Before the IRB; or

- This guideline should address substantive issues informing officials about the particular nature, dynamics, and impacts of domestic violence and be cross-referenced with Guideline 8. Guideline on Procedures with Respect to Vulnerable Persons Appearing Before the IRB, which have been revised to include specific reference to victims of domestic violence.

Whatever form these guidelines take, they should be cross-referenced as appropriate with the operations manual IP 5.

27. Policy and guidelines on women who are victims of domestic violence should take account of the fact that an abused woman who has obtained permanent status on the basis of false pretences, including a marriage entered into solely for purposes of immigration, may have been a victim of intimidation or coercion on the part of the man, his or her family, or others. Investigations of such circumstances and subsequent action should be informed by an understanding of the nature, dynamics, and risk factors inherent in domestic violence.

28. CIC should provide adequate training to all CIC officials dealing with abused immigrant, refugee, or non-status women to ensure that officials understand the particular pressures and serious risks faced by these women and their children.
Changes proposed in Bill C-11

29. Bill C-11 (proposed Balanced Refugee Reform Act) should be reviewed with a specific focus on the safety of women who are victims of violence, including, in particular, re-consideration of the concept of “safe countries of origin”, the proposal to hold hearings within two months, and a proposed bar on claimants receiving H&C consideration.

30. Any public consultation on Bill C-11 must proactively include lawyers, community-based agencies, and provincial organizations addressing the needs of immigrant, refugee, and non-status women who are victims of violence.

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REFERENCES


Citizenship and Immigration Canada.


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LEGAL CASE CITED

Sultana and Others v. Minister of Citizenship and Immigration, 2009 FC 533

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 of Immigrant, Refugee, and Non-Status Women Project.

The federal Briefing Documents in this series include:

- Needs of Women without Status as a Result of Leaving an Abusive Spouse
- Gender Bias in Immigration Criteria
- Citizenship and Immigration Canada Guidelines for Cases Involving Victims of Domestic or Sexual Violence
- Sponsorship Debt for Abused Women
- Coordination of Responses to Immigrant, Refugee, and Non-Status Women who are Victims of Violence
- Training of Immigration Officials on Violence Against Women

The provincial Briefing Documents in this series include:

- Legal Aid for Abused Immigrant, Refugee, and Non-Status Women
- Collection of Sponsorship Debt Accrued by Abused Immigrant Women
- Family Justice Issues for Abused Immigrant, Refugee, and Non-Status Women
- Criminal Justice System Issues for Abused Immigrant, Refugee, and Non-Status Women
- Child Protection Issues for Abused Immigrant, Refugee, and Non-Status Women
- Health Care Services for Abused Immigrant, Refugee, and Non-Status Women
- Coordination of Responses to Immigrant, Refugee, and Non-Status Women who are Victims of Violence in BC
- Training on Violence Against Immigrant, Refugee, and Non-Status Women
Gender Bias in Immigration Criteria

Gender bias in criteria and rules that determine eligibility to immigrate to Canada may threaten the safety of abused women and their children. A number of immigration criteria and rules make it easier for men than for women to immigrate to Canada as independent immigrants. These include: the points system for skilled workers and professionals; the Business Immigration Program; and the Canada Experience Class. Programs that favour male applicants encourage women’s dependence on men for their immigration status. Women may therefore remain in abusive relationships in order to be allowed into Canada or to gain permanent resident status. The only immigration program that favours traditional female skills is the Live-in Caregiver Program. But this program restricts participants in ways that other immigration programs do not. Some aspects of this program may also put some women at risk of abuse by employers. It is important that all new legislation and programs, including the proposed *Balanced Refugee Reform Act*, be assessed for their impact on women, especially women’s safety.

Recommendations

**Immediate**
1. If monitoring and comparative research on the gender impacts of the *Immigration and Refugee Protection Act* (IRPA), as suggested in the gender-based analysis of IRPA, have taken place, the results should be made public and corrective action taken as appropriate. If such monitoring and comparative research has not taken place, Citizenship and Immigration Canada (CIC) should undertake such monitoring and comparative research on an urgent basis, make public the results, and take corrective action as appropriate.

2. CIC should institute a policy that all new programs, legislation, policies, guidelines, and criteria, including the proposed *Balanced Refugee Reform Act*, must be assessed for gender bias, including ways in which identified bias might jeopardize the safety of abused women and their children, and that this gender bias must be addressed before new initiatives are implemented.

**Medium-term**
3. CIC should conduct a gender and safety audit of all existing programs, legislation, policies, guidelines, and criteria to assess for gender bias, including how this bias
might jeopardize the safety of abused women and their children, and take immediate steps to address such bias where it is identified.

Longer-term
4. CIC should work with provincial settlement services, language and employment programs, and educational institutions to develop strategies to enable abused non-status or temporary status women to acquire language skills, employment skills, and post-secondary education necessary to qualify for application for permanent residency through the Canada Experience Class as it is currently set out.

5. CIC should amend the Canada Experience Class criteria to include lower skill jobs that are often occupied by women, in order to facilitate more women becoming permanent residents on their own merits rather than as dependents of their husbands.

6. CIC should undertake comprehensive reviews of the points system and the Live-in Caregiver Program to identify ways to address gender bias in order to facilitate more women entering Canada as independent immigrants on their own merits rather than as dependents of their husbands or as Live-in Caregivers.
Gender Bias in Immigration Criteria

ISSUE: Gender bias in criteria and rules that determine eligibility to immigrate to Canada may threaten the safety of abused women and their children

KEY POINTS

• A number of immigration criteria and rules make it easier for men than for women to immigrate to Canada as independent immigrants. These include: the points system for skilled workers and professionals; the Business Immigration Program; and the Canada Experience Class.

• Programs that favour male applicants encourage women’s dependence on men for their immigration status. Women may therefore remain in abusive relationships in order to be allowed entry to Canada or to gain permanent resident status. This dependence puts abused women and their children at high risk of victimization.

• The immigration points system, the Business Immigration Program, and the Canada Experience Class are all biased in favour of men because men are more likely than women to be well-educated, to be trained for high skill jobs, to have substantial cash sums, to have been enrolled in Canadian post-secondary educational institutions, and to have work experience in managerial, professional, or technical occupations or skilled trades in their home country or in Canada.

• The only immigration program that favours the traditional skills of women is the Live-in Caregiver Program. However, this program restricts the participants in ways that other immigration programs do not. The program does not provide an opportunity to apply for permanent resident status or the ability to bring in family members until after two years of employment. As the program requires the caregiver to live with the family and the caregiver is dependent on her employment in order to be eligible for permanent residency, some circumstances of the Live-in Caregiver Program may put some women at risk of abuse by their employer.

• It is important that all new legislation and programs, including the proposed Balanced Refugee Reform Act (Bill C-11), be assessed for its impact on women, and in particular the safety of women who are victims of violence.
• The promised public consultation on Bill C-11 is applauded. It is important, in order to canvas a women-centred perspective and assess and address any potential gender bias, that this consultation includes the women-serving community.

THE CONTEXT

• To apply to immigrate as a skilled worker or professional, there are six categories in which an applicant can earn a maximum of 100 points. Three of these categories, worth a maximum of 70 of those points, depend on education, ability in English and/or French, and work experience in professional, managerial, or high skill occupations. In all of these categories, men are more likely to have more points than women, thus becoming the principal applicant on whom their wives are dependent for their application.

• The Business Immigration Program has three classes of business immigrants: investors, entrepreneurs, and self-employed persons. Applicants in the investor and entrepreneurial classes must have business experience and a net worth of $800,000 or $300,000 respectively. In addition, investor class applicants must have at least $400,000 to invest in Canada. Applicants in the self-employed class must have the experience, intention, and ability to establish a business that will, at minimum, create their own employment and that will make a significant contribution to cultural activities or athletics in Canada or must purchase or manage a farm in Canada. These criteria are far more likely to apply to men than women.

• The Canada Experience Class is a category that allows temporary residents who have worked in Canada for two years in a skilled, professional, managerial, or technical occupation or successfully completed a course of at least two years at a Canadian post-secondary educational institution plus completed one year at a skilled, managerial, professional, or technical job to apply for permanent resident status. Again, this class would exclude most female immigrants.

• In the Live-in Caregiver Program, caregivers must work within their employer’s home caring for children, elderly persons, or persons with disabilities. They may not bring other family members, including their own children, with them to Canada. This program provides participants with only a temporary resident permit (TRP). They may apply for permanent resident status only after they have worked for two of the three years following the date of arrival. Live-in caregivers may not bring in any other family members until after they are eligible to apply for and have received permanent resident status. Family members living abroad will not receive their papers to come to Canada until the live-in caregiver has received permanent resident status.

• The gender-based analysis of the Immigration and Refugee Protection Regulations (Gender-Based Analysis of the Immigration and Refugee Protection Regulations. C. Gaz. 2002) acknowledges this gender bias. Regarding federal skilled workers selection criteria, it states:

  "The global labour market is highly gendered.....the selection criteria may have differential impact by gender. Although modifications have been made as a result of consultations, disproportionate impacts of the criteria by gender and diversity..."
continue to be identifiable, largely because of the differential treatment of men and women in source countries.

Perhaps even more significantly, the analysis also states:

The new selection grid will require on-going monitoring to identify and assess the extent of potential differential impacts by gender, age and source country.

• Such monitoring implies that action may need to be taken in response to identification of continued differential impacts by gender.

• The gender-based analysis goes on to acknowledge that, despite potential benefits in the 2002 Immigration and Refugee Protection Act (IRPA):

  ...patterns of gender discrimination and labour market segmentation by race and gender remain prevalent, particularly in many of Canada’s top source countries.

• Similarly, gender bias in the Low Income Cut-Off for urban areas of $500,000 as a measure of immigrants’ “ability to establish”:

  ...may likely have a differential impact by gender, given that women the world over have less money, and earn less, than men do.

  The gender analysis states that “Ongoing monitoring is required.”

• Finally, gender bias is also noted in the “years of education” requirement. The gender-based analysis states:

  The requirement of degrees/certificates AND years of education will likely have differential and disproportionate impacts by gender. The requirements also tend to reflect linear paths of education. Research indicates that women are more likely to have non-linear educational paths – often linked to child-bearing, child-rearing and related family responsibilities. In many of Canada’s source countries, women and men have very different access to education. Reliance on formal education as an indicator of skill may disproportionately disadvantage women.

  The analysis goes on to state that:

  Comparative research into educational credentials from Canadian source countries may be needed to assess if, or to what extent there are differential impacts, by gender and source country under the criteria.

RECOMMENDATIONS

1. Citizenship and Immigration Canada (CIC) should conduct a gender and safety audit of all existing programs, legislation, policies, guidelines, and criteria to assess for gender bias, including how this bias might jeopardize the safety of abused women and their children, and take immediate steps to address such bias where it is identified.

2. As priorities, CIC should undertake comprehensive reviews of the points system and the Live-in Caregiver Program to identify ways to address gender bias in order to
facilitate more women entering Canada as independent immigrants on their own merits rather than as dependents of their husbands or as Live-in Caregivers.

3. CIC should institute a policy that all new programs, legislation, policies, guidelines, and criteria, including the proposed Balanced Refugee Reform Act (Bill C-11), must be assessed for gender bias, including ways in which identified bias might jeopardize the safety of abused women and their children, and that this gender bias must be addressed before new initiatives are implemented.

4. If monitoring and comparative research on the gender impacts of the Immigration and Refugee Protection Act (IRPA), as suggested in the gender-based analysis of IRPA, have taken place, the results should be made public and corrective action taken as appropriate. If such monitoring and comparative research has not taken place, CIC should undertake such monitoring and comparative research on an urgent basis, make public the results, and take corrective action as appropriate.

5. It is important, in order to canvas a women-centred perspective and assess and address any potential gender bias, that the promised public consultation on Bill C-11 includes the women-serving community.

6. CIC should work with provincial settlement services, language and employment programs, and educational institutions to develop strategies to enable abused non-status or temporary status women to acquire language skills, employment skills, and post-secondary education necessary to qualify for application for permanent residency through the Canada Experience Class as it is currently set out.

7. CIC should amend the Canada Experience Class criteria to include lower skill jobs that are often occupied by women, in order to facilitate more women becoming permanent residents on their own merits rather than as dependents of their husbands.

See also the Briefing Document Needs of Women without Status as a Result of Leaving an Abusive Spouse – Suggested Actions addressing the severing of dependent immigration applications from those of an abusive spouse and amendments to the TRP and H&C processes.

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REFERENCES


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Citizenship and Immigration Canada Guidelines for Cases Involving Victims of Domestic or Sexual Violence

Citizenship and Immigration Canada (CIC) has acknowledged the vulnerabilities and needs of women who are victims of domestic or sexual violence in a number of ways, including in operations manual IP 5. Immigrant Applications in Canada made on Humanitarian or Compassionate Grounds and Guideline 4. Women Refugee Claimants Fearing Gender-Related Persecution. However, these documents do not adequately address the specific circumstances and needs of these women. While Guideline 8, Guidelines on Procedures with Respect to Vulnerable Persons Appearing Before the IRB, as currently written, clearly could include women who are victims of violence, it would better serve the safety needs of these women and their children if it included discussion of their particular vulnerabilities and potential remedies. Or, procedural guidelines could be included in a comprehensive domestic/sexual violence guideline.

Recommendations

Immediate
1. Any CIC guidelines relating to new refugee legislation should include a focus on the safety of claimants who have been victims of gender-based violence.

Medium-term
2. A detailed guideline should be developed for CIC officers for dealing with cases involving women and their children who are victims of domestic or sexual violence, comparable to Guideline 4. Women Refugee Claimants Fearing Gender-Related Persecution Guidelines. Two options should be considered:
   • This domestic/sexual violence guideline should address both substantive issues informing officials about the particular nature, dynamics, and impacts of domestic and sexual violence and procedural accommodations that should be made in cases involving domestic or sexual violence, similar to those included in Guideline 8. Guideline on Procedures with Respect to Vulnerable Persons Appearing Before the IRB; or
   • This domestic/sexual violence guideline should address only substantive issues, informing officials about the nature, dynamics, and impacts of domestic and sexual violence, and be cross-referenced with Guideline 8. Guideline on Procedures with Respect to Vulnerable Persons Appearing before the IRB, which
should be revised to include specific reference to victims of domestic or sexual violence, including in the title.

3. The domestic/sexual violence guideline should be tailored to address the needs of all types of applicants, including immigrant, refugee, and non-status women and temporary foreign workers such as Seasonal Agricultural Workers and Live-in Caregivers.

4. The domestic/sexual violence guideline should be applicable to all types of hearings or other CIC matters in which abused women may be engaged.

5. The domestic/sexual violence guideline should include reference to any new legislation governing the refugee process, including the need for CIC officials to consider as a priority the safety of refugee claimants who are victims of gender-based violence.

6. Any additional procedural guidelines developed, whether included in a new domestic/sexual violence guideline or in existing procedural Guideline 8, should include reference to the need for interpreters, not only for CIC hearings, but for all official CIC matters.
FEDERAL BRIEFING DOCUMENT 3

Citizenship and Immigration Canada Guidelines
for Cases Involving Victims of Domestic or Sexual Violence

ISSUE: There is a need for specific guidelines for CIC officials on handling cases involving immigrant, refugee, and non-status women1 who are victims of domestic or sexual violence.

KEY POINTS

• There is a need for a specific guideline on the circumstances, vulnerabilities, and needs of victims of domestic or sexual violence, comparable to Guideline 4. Women Refugee Claimants Fearing Gender-Related Persecution.

• This domestic/sexual violence guideline should be applicable to all types of applicants, including immigrant, refugee, and non-status women and their children and temporary foreign workers.

• This domestic/sexual violence guideline should be applicable to all types of hearings in which abused women may be engaged, including applications for temporary resident permits (TRPs) and for permanent residence on Humanitarian and Compassionate (H&C) grounds for women who have lost their status or potential for sponsorship as a result of leaving an abusive spouse, and requests for a dependent immigrant or refugee application to be severed from that of the primary applicant husband because of abuse.

• This domestic/sexual violence guideline should include procedural accommodations as well as substantive issues or, alternatively, should be cross-referenced with Guideline 8. Guidelines on Procedures with Respect to Vulnerable Persons Appearing Before the IRB, revised to include specific reference to victims of domestic or sexual violence.

• While Guideline 8, as currently written, clearly could include women who are victims of domestic or sexual violence, it would better serve the interests of abused women and their children, including their safety interests, if it included discussion of the

1 This document may also apply in situations where any other vulnerable person has been a victim of domestic or sexual violence. It may also apply to women who are in Canada as part of a temporary foreign worker program such as the Seasonal Agricultural Worker Program or the Live-in Caregiver Program who are being abused by an employer or fellow worker.
particular vulnerabilities of victims of domestic or sexual violence, as well as potential remedies.

• If Guideline 8 is amended to specifically address the circumstances of abused women, the title should also include reference to victims of domestic or sexual violence.

• Alternatively, guidelines regarding procedural accommodations could be included in the more comprehensive substantive domestic/sexual violence guideline.

• Abused ‘mail-order brides’\(^2\), a term that refers to women who met their foreign spouse through an international introduction or ‘pen-pal’ agency, may have vulnerabilities and needs specific to their circumstances which should be acknowledged in any guidelines - substantive or procedural - regarding victims of domestic or sexual violence.

• Applicants who have been abused by other family members, such as seniors abused by a son or daughter, or women in Canada as part of a temporary foreign worker program such as the Live-in Caregiver Program who have suffered abuse by an employer, may be in need of similar protections as women who have suffered domestic or sexual violence.

• These domestic/sexual violence guidelines should address the same range of issues as Guideline 4.

• In addition, these domestic/sexual violence guidelines should include reference to: the provision of information to clients; the need for interpreters for all official Citizenship and Immigration Canada (CIC) business; and the need for coordination among various divisions and departments of CIC and between CIC and relevant provincial ministries and agencies, including child protection, the criminal and family justice systems, and Legal Aid.

• Cross-referencing of all CIC documents addressing the specific circumstances and needs of victims of domestic or sexual violence will ensure maximum safety.

• It is important that training of CIC officials include the implementation of any guidelines addressing the needs and circumstances of immigrant, refugee, and non-status women.

THE CONTEXT

• In focusing here on the needs of women who are victims of domestic or sexual violence, there is no intention to minimize the traumas that other applicants may have suffered.

• Proposed changes to Canada’s refugee system are to be welcomed if they increase support for refugees in need of protection and decrease delays in rendering final

\(^2\) The controversy around the use of the term ‘mail-order brides’ is acknowledged. In the absence of another more ‘neutral’ term, the term ‘mail-order bride’ is used in this document. However, there is no intent to stereotype or stigmatize immigrant women who have married a Canadian as a result of an introduction or ‘pen-pal’ agency.
decisions on asylum claims. However, the Canadian Council for Refugees has put forward a number of concerns about Bill C-11 (proposed *Balanced Refugee Reform Act*) which have particular relevance for women refugees who have suffered gender-based violence. (Canadian Council for Refugees, 2010). These include:

- The concept of “safe countries of origin” or “democratic countries with robust human rights records” for purposes of fast-tracking the return of failed asylum claimants, as countries otherwise considered “democratic” or “safe” may have poor records in terms of gender-based crimes;
- The proposal to hold hearings within two months, which may be problematic for refugees who require time to build trust before they can testify openly, such as traumatized women who have been victims of sexual assault or sexual torture;
- A proposed bar on claimants receiving H&C consideration, which is an important avenue for abused women whose circumstances are not adequately addressed in the refugee system.

Any guidelines for CIC officials relating to new refugee legislation should include a focus on the safety of refugee claimants who have been victims of gender-based violence.

CIC has acknowledged the particular vulnerabilities and needs of women who are victims of domestic or sexual violence in a number of ways, including: the operations manual, *IP 5. Immigrant Applications in Canada made on Humanitarian or Compassionate Grounds*, especially section 5.5, where domestic violence considerations are listed as a factor on which applicants may base their requests for H&C considerations, and section 12.7 *Family Violence*; and *Guideline 4. Women Refugee Claimants Fearing Gender-Related Persecution*.

While *Guideline 8. Guideline on Procedures with Respect to Vulnerable Persons Appearing before the IRB* clearly could apply to women who are victims of domestic or sexual violence, domestic and sexual violence is not listed as an example of a source of a person’s vulnerability. Examples listed include experience or witnessing of torture and physical or mental illness.

An abused woman who has obtained permanent status on the basis of false pretences, including a marriage entered into solely for the purpose of immigration, may have been a victim of intimidation or coercion on the part of the man, his or her family, or others. It is important that guidelines relating to investigations of such circumstances and subsequent action taken be informed by an understanding of the nature, dynamics, and risk factors inherent in violence against women.

**RECOMMENDATIONS**

1. A detailed guideline should be developed for CIC officers for dealing with cases involving women and their children who are victims of domestic or sexual violence, comparable to *Guideline 4. Women Refugee Claimants Fearing Gender-Related Persecution Guidelines*. Two options should be considered:
• This domestic/sexual violence guideline should address both substantive issues informing officials about the particular nature, dynamics, and impacts of domestic and sexual violence and procedural accommodations that should be made in cases involving domestic or sexual violence, similar to those included in Guideline 8. Guideline on Procedures with Respect to Vulnerable Persons Appearing Before the IRB; or

• This domestic/sexual violence guideline should address only substantive issues, informing officials about the nature, dynamics, and impacts of domestic and sexual violence, and be cross-referenced with Guideline 8. Guideline on Procedures with Respect to Vulnerable Persons Appearing before the IRB, which should be revised to include specific reference to victims of domestic or sexual violence, including in the title.

2. This domestic/sexual violence guideline should follow approximately the same format as Guideline 4. It should:

• Outline the nature and dynamics of violence against women and its impacts on women, including minimization, fear of disclosure, and fear of retaliation;

• Outline factors to be considered in determining the validity of a claimant’s allegation of domestic or sexual violence;

• Assess the feared harm a woman who is a victim of domestic or sexual violence may face if she is not provided with temporary or permanent status in Canada;

• Discuss evidentiary considerations;

• Outline special problems at determination hearings faced by women claimants alleging domestic or sexual violence;

• Provide a framework of analysis to guide decision-makers.

3. This domestic/sexual violence guideline should be tailored to address the needs of all types of applicants, including immigrant, refugee, and non-status women and temporary foreign workers such as Seasonal Agricultural Workers and Live-in Caregivers.

4. This domestic/sexual violence guideline should include reference to the particular vulnerabilities and needs of so-called ‘mail-order brides’.

5. This domestic/sexual violence guideline should make reference to situations where an applicant has been abused by any other family member, such as a senior abused by a son or daughter.

6. This domestic/sexual violence guideline should be applicable to all types of hearings or other CIC matters in which abused women may be engaged.

7. This domestic/sexual violence guideline should include reference to any new legislation governing the refugee process, including the need for CIC officials to consider as a priority the safety of refugee claimants who are victims of gender-based violence.
8. This domestic/sexual violence guideline should address the fact that an abused woman who has obtained permanent status on the basis of false pretences, including a marriage entered into solely for the purpose of immigration, may have been a victim of intimidation or coercion on the part of the man, his or her family, an international agency, or others.

9. This domestic/sexual violence guideline should include reference to provision of information to clients, including ensuring that CIC officials make every effort to provide adequate, linguistically appropriate information to immigrant, refugee, and non-status women, including participants in temporary foreign worker programs, at all stages of the immigration, refugee, or employment process. Information should be provided on:
   • the nature, dynamics, and risks of domestic and sexual violence;
   • their rights in Canada;
   • relevant Canadian laws, including immigration, refugee, family, and criminal law;
   • the particular vulnerabilities of ‘mail-order brides’ and participants in the various temporary foreign worker programs;
   • options and services available to them in Canada, including language training, settlement services, skills training, social assistance, cultural support services, legal advocacy, victim support services, and what to do if they need help.

10. Any additional procedural guidelines developed, whether included in a new domestic/sexual violence guideline or in existing procedural Guideline 8, should include reference to the need for interpreters, not only for CIC hearings, but for all official CIC matters.

11. Any guidelines developed should include reference to the need for coordination among various divisions and departments of CIC and between CIC and relevant provincial ministries and agencies, including but not limited to child protection, the criminal and family justice systems, and Legal Aid.

12. All CIC documents addressing the specific circumstances and needs of victims of domestic or sexual violence, including operations manuals and guidelines, should be cross-referenced in order to help ensure maximum accommodation of the needs of abused women and their children, including especially their need for safety.

13. Training of CIC officials should address the implementation of any new domestic/sexual violence guideline.

14. Any other CIC guidelines relating to new refugee legislation should include a focus on the safety of claimants who have been victims of gender-based violence.

See also Suggested Actions under Federal Briefing Document 1. Needs of Women without Status as a Result of Leaving an Abusive Spouse

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REFERENCES


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 of Immigrant, Refugee, and Non-Status Women Project.
FEDERAL BRIEFING DOCUMENT 4: EXECUTIVE SUMMARY

Sponsorship Debt for Abused Women

Sponsorship debt or threat of sponsorship debt may significantly impact the safety of abused immigrant women and their children. Sponsorship debt may be accrued by a woman who leaves her abusive spouse whom she has sponsored and whose spouse subsequently collects social assistance within the sponsorship period. Sponsorship debt or threat of sponsorship debt may deter women from leaving an abusive relationship and may significantly impact their ability to gain financial independence. A sponsor who is being abused by her sponsoree may be faced with a situation where she either continues to accept the abuse or exposes herself to large debt. While current federal and provincial policy allows for suspension of sponsorship debt collection and interest accrual in cases of abuse, the debt is not cancelled and may be collected at a later date. A further complicating issue is that sponsors who have an outstanding sponsorship debt are ineligible to sponsor anyone else under the family class.

Recommendations

Immediate

1. In the interest of safety for abused immigrant women and their children, Citizenship and Immigration Canada (CIC) should take immediate steps to address the issue of sponsorship debt incurred by sponsors who are abused by their sponsoree, both by forgiving existing sponsorship debt and by revising sponsorship undertakings to ensure that such debt is not accrued or is forgiven in situations where such abuse has been demonstrated. Discretion of officials should be guided to the extent that, once abuse has been demonstrated, it will generally be considered grounds for cancelling sponsorship debt.

2. CIC should take immediate steps to ensure that criteria for meeting the burden of “substantial proof” of domestic violence for purposes of cancelling existing sponsorship debt and exempting abused sponsors in the future include statutory declarations from the women or from competent professionals.

3. CIC should work with the provinces to develop consistent policy, guidelines, and practices to ensure that immigrant women are freed from sponsorship debt arising from domestic violence.
4. The Federal Government should ensure that wording in the federal undertaking clearly states that the provinces have the right to not only suspend debt collection but cancel it.

Medium-term

5. CIC should implement policy that women who have outstanding sponsorship debt because they left an abusive spouse who subsequently received social assistance are not precluded from sponsoring family members until they have paid back the monies he received in social assistance. This policy should be stated in the Application to Sponsor and Undertaking as well as in other materials provided to abused immigrant women.

6. CIC should implement policy that abused immigrant women who were sponsored under the family class and are forced to claim social assistance because of fleeing an abusive relationship are not precluded from sponsoring family members while receiving social assistance. This policy should be stated in the Application to Sponsor and Undertaking as well as in other materials provided to abused immigrant women.
FEDERAL BRIEFING DOCUMENT 4

Sponsorship Debt for Abused Women

ISSUE: Sponsorship debt or the threat of sponsorship debt may significantly impact the safety of abused immigrant women and their children.

KEY POINTS

The current situation

• Sponsorship debt may be accrued by an abused woman who leaves her abusive spouse whom she has sponsored and whose spouse then collects social assistance within the three years (or, under an older form of the undertaking, ten years) named in a sponsorship undertaking she has signed. This undertaking makes her legally responsible for that debt.

• Sponsorship debt or threat of sponsorship debt may act as a deterrent to women leaving an abusive relationship and may significantly impact their ability to gain financial independence. A sponsor who is being abused by her sponsoree may be faced with a situation where she either continues to accept the abuse or exposes herself to large debt.

• While current federal and provincial policy allows for suspension of sponsorship debt collection and interest accrual in circumstances of abuse, the debt is not cancelled and may be collected at a later date.

Potential remedies

• A requirement that a victim must repay a debt incurred by an offender may be considered a form of re-victimization. It may also constitute an infringement of the Canadian Charter of Rights and Freedoms, Section 7 - Life, liberty and security of person. It could be argued that Canadian policies that make it difficult for a woman to leave an abusive relationship themselves constitute a form of abuse that threatens her right to life or security of person.

1 This briefing document may also apply in situations where another family member has accrued sponsorship debt because of abuse by his/her sponsor, such as a senior abused by a son or daughter whom they have sponsored.
Sponsorship Undertakings and sponsorship debt may also constitute infringements of the Charter’s Section 15 – Equality Rights that states that every individual has the right to equality before the law and equal protection and benefit of the law. It could be argued that the burdens imposed on abused immigrant women by sponsorship undertakings and sponsorship debt constitute unequal treatment before the law.

There have been successful attempts by counsel and agencies such as the BC Public Interest Advocacy Centre (PIAC) to have the Province of BC cancel the collection of sponsorship debts in individual situations of abuse.

Discretion is already inherent in many aspects of the federal and provincial positions on the accrual and collection of sponsorship debt. Therefore, one option for addressing the burden placed on abused women by sponsorship debt may be for both Citizenship and Immigration Canada (CIC) and provincial ministries to develop policy to guide discretion in these matters. Policy could state that once abuse had been determined, it should generally be considered grounds to cancel sponsorship debt. Such policy would also have to address the difficulties some immigrant women face in meeting the “substantial proof” requirement.

Bars to sponsorship

A further complicating issue is that sponsors who have an outstanding debt arising from an undertaking are ineligible to sponsor anyone else under the family class. Women with such outstanding sponsorship debt could still make the application to sponsor other family members, which would inevitably be refused, but they could appeal the matter to the Immigration Appeal Division (IAD) on Humanitarian and Compassionate (H&C) grounds. Such an appeal would be complex, time-consuming, and best handled by a lawyer. Legal Aid, however, is generally not available for these cases.

In addition, an abused immigrant woman who was sponsored under the family class and is forced to claim social assistance because of fleeing an abusive relationship is ineligible to sponsor under the family class while she is in receipt of such services.

THE CONTEXT

Sponsorship application and undertaking

The Federal Government treats sponsors and sponsorees who are victims of abuse very differently. The current Sponsorship Agreement addresses the issue of domestic violence perpetrated against sponsored persons by stating that: “Sponsored persons and/or their family members who are being abused or assaulted by their sponsors should seek safety away from their sponsors even if this means that they will have to apply for social assistance benefits. A sponsor cannot force Citizenship and Immigration Canada to remove you from Canada.”

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2 This could include so-called ‘mail-order brides’, a term that refers to women who met their foreign spouse through an international introduction or ‘pen-pal’ agency. (The controversy around the use of the term ‘mail-order bride’ is acknowledged. In the absence of another more ‘neutral’ term, the term ‘mail-order bride’ is used in this document. However, there is no intent to stereotype or denigrate immigrant women who have married a Canadian as a result of an introduction or ‘pen-pal’ agency.)
and Immigration Canada, 2008). This encouragement for sponsored victims of domestic abuse to leave their abuser is in marked contrast to the penalties imposed on abused sponsors who leave their abusive sponsorees, in the form of sponsorship debt incurred if their abuser subsequently receives social assistance.

- The CIC Application to Sponsor and Undertaking appears to be inconsistent on the matter of eligibility of an applicant who has previously sponsored someone who has (or whose family members have) received social assistance during the period covered by the undertaking. Section E. Eligibility Assessment states that if an applicant answers “yes” to the question “Have persons you previously sponsored or their family members received social assistance during the validity period of the undertaking?” they are not eligible to be a sponsor and should not submit their application. On the other hand, the final paragraph in Section G. Undertaking states the applicant’s understanding that they will not be allowed to sponsor another person “....if I am in default of any sponsorship undertaking. This holds true for both this undertaking and any past undertakings where I have not satisfactorily paid back my debts.” This clearly implies that it is not the fact that sponsored persons received social assistance that is the bar to sponsorship, but the unpaid sponsorship debt.

- Furthermore, while it is possible (albeit, expensive) to appeal a negative response to a sponsorship application, this is not stated on the Application to Sponsor and Undertaking. On the contrary, the form states that if an applicant is ineligible for any of the reasons contained in Qs. 5 – 13, they should not submit their application.

- Until 2002, the older forms of sponsorship undertakings imposed a ten-year period of financial responsibility. This was reduced to three years after organizations such as the National Organization of Women and the Law (NAWL) advocated for changes. NAWL provided a written brief to the 2001 Standing Committee on Citizenship and Immigration backed by a study which analyzed the impact of spousal sponsorship undertakings on the equality rights of immigrant women. (Côté et al, 2001; Han, 2009). These formed the basis for comments contained in the Regulatory Impact Analysis Statement (RIAS) for the Immigration and Refugee Protection Regulations published in the Canada Gazette in 2002.

- In section XIV of RIAS, it was acknowledged that the length of the spousal sponsorship undertaking was decreased because of concerns that the undertaking aggravated domestic violence: “The Regulations take into account the protection of …spouses, common-law partners and conjugal partners from violence. The duration of sponsorship for a spouse, common-law partner and conjugal partner was decreased from 10 to 3 years given concerns that domestic violence is aggravated by the implied dependency created by the undertaking of support.” (Regulatory Impact Analysis Statement. Immigration and Refugee Protection Regulations C. Gaz. 2002). While a three-year undertaking is clearly preferable to a ten-year undertaking, the government’s acknowledgement that this was changed because the ten-year undertaking aggravated domestic violence is also applicable to the current undertaking. The difference is in degree, not in substance.
• The current Application to Sponsor and Undertaking addresses the issue of abuse by stating that “The Minister and the province concerned may choose not to take enforcement action to recover money... if the default is the result of abuse...” However, the document goes on to say that “The decision not to act at a particular time does not cancel the debt. The Minister and the province concerned may recover the debt when circumstances have changed.” (Citizenship and Immigration Canada, 2009). Therefore, the decision to suspend collection results in a debt that hangs over the woman and may be collected at any time.

• Federal and provincial discretion appears to be inherent in the wording of the undertaking. As noted, the undertaking states that the federal and provincial governments may choose not to collect the debt in cases of abuse and may collect the debt when circumstances change. The undertaking further states that the sponsor “...will continue to be in default until the amount of benefits received are repaid in full or repaid to the satisfaction of the government concerned (italics added). (Citizenship and Immigration Canada, 2009).

Provincial suspension of debt collection

• In 2006, BC Ministry of Community Services announced that its relevant collection branch “was prepared to suspend debt collection and interest accrual where there was substantial proof of abuse or threat of abuse by a sponsoree, and where collection could potentially harm the sponsor’s health or safety.” (Correspondence from Deputy Minister Sheila Wynn, 2006). However, while suspension of debt and interest accrual in circumstances of abuse suggests some provincial movement in favour of an abused sponsor, this policy addresses only the suspension of debt, not forgiveness of the debt. In addition, it is difficult for many women who are victims to meet the criteria of “substantial proof”. This would be especially true for those immigrant women in rural areas where access to services may be limited.

• The BC Government also has the discretion to forgive debts under section 18 of the BC Financial Administration Act.

Impact of bars to sponsorship

• An inability to sponsor family members to come to Canada may seriously impact abused immigrant women’s ability to settle in Canada and earn their own living because it increases their social isolation, deprives them of emotional support necessary to recover from trauma, and cuts off potential financial and child-care support from family members.

• The predicament for many women is that they cannot find a job because they do not have the education or language skills, so they are forced to accept social assistance. For many this creates a vicious cycle: they are alone with young children, they cannot upgrade their skills and find work because they need family to help look after their children. But they cannot get their family here because they are receiving social assistance. For others who are working, the job is often poorly paid and does not enable them to repay sponsorship debt. So they are unable to bring family members here to provide the support they need to upgrade their skills in order to earn a higher wage.
Legal responses

- The successful attempts to cancel sponsorship debt collection in BC pertain to an old form of the undertaking which contained vaguer wording than the current undertaking and did not contain language stating that governments could collect on the sponsorship debts even if they arose out of circumstances of abuse. In addition, these successful cases occurred through settlement negotiations or on an individual basis, and there is as yet no case precedent which can be consistently applied in other cases.

- In a recent decision, the Ontario Court of Appeal in Mavi v. Canada (Attorney General), 2009 found that governments, in the exercise of their discretion regarding the collection of sponsorship debt, have a duty of procedural fairness to those from whom they are trying to collect this debt. This means that sponsors’ individual circumstances must be considered before the government can collect on sponsorship debts and that they cannot force people to pay substantial sponsorship debts without first providing them with an opportunity to explain why they should not have to pay. Leave has recently been granted to appeal this decision to the Supreme Court of Canada.

- In an earlier case (Singh v. Minister of Employment and Immigration, [1985]), the court found that, unless it specifically states that it applies only to Canadian citizens, the Canadian Charter of Rights and Freedoms applies to anyone on Canadian soil. On this basis, refugees have a right to Section 7 – Life, liberty and security of person protection and therefore have a right to procedural fairness, including oral hearings, because their security of person is at stake.

- While the Mavi decision was based on administrative law arguments, there are also potential constitutional (Section 7- Life, liberty and security of person or Section 15 - Equality rights) arguments against the collection of sponsorship debt when there are health and/or safety concerns, including abuse of the sponsor.

- With respect to Section 15, only those who sponsor a foreign national are required to sign an undertaking and subjected to sponsorship debt. Thus, only those who have signed these undertakings are responsible for paying back abusive spouses’ social assistance. It is arguable that this constitutes unequal treatment before the law. Additionally, domestic violence is suffered disproportionately by women. Therefore, the health and safety repercussions of sponsorship debt incurred as a result of domestic violence are suffered disproportionately by women, which may also constitute an infringement of Section 15.

- Constitutional challenges have thus far not reached the courts.

RECOMMENDATIONS

1. In the interest of safety for abused immigrant women and their children, Citizenship and Immigration Canada (CIC) should take immediate steps to address the issue of sponsorship debt incurred by sponsors who are abused by their sponsoree, both by forgiving existing sponsorship debt and by revising sponsorship undertakings to
ensure that such debt is not accrued or is forgiven in situations where such abuse has been demonstrated. Discretion of officials should be guided to the extent that, once abuse has been demonstrated, it will generally be considered grounds for cancelling sponsorship debt.

2. CIC should take immediate steps to ensure that criteria for meeting the burden of “substantial proof” of domestic violence for purposes of cancelling existing sponsorship debt and exempting abused sponsors in the future include statutory declarations from the women or from competent professionals.

3. CIC should work with the provinces to develop consistent policy, guidelines, and practices to ensure that immigrant women are freed from sponsorship debt arising from domestic violence.

4. The Federal Government should ensure that wording in the federal undertaking clearly states that the provinces have the right to not only suspend debt collection but cancel it.

5. CIC should implement policy that women who have outstanding sponsorship debt because they left an abusive spouse who subsequently received social assistance are not precluded from sponsoring family members until they have paid back the monies he received in social assistance. This policy should be stated in the Application to Sponsor and Undertaking as well as in other materials provided to abused immigrant women.

6. CIC should implement policy that abused immigrant women who were sponsored under the family class and are forced to claim social assistance because of fleeing an abusive relationship are not precluded from sponsoring family members while receiving social assistance. This policy should be stated in the Application to Sponsor and Undertaking as well as in other materials provided to abused immigrant women.

7. CIC should state in the Application to Sponsor and Undertaking and in other information available to immigrant women that, while certain factors may make an applicant initially ineligible to sponsor a family member, such decisions can be appealed, and what first steps a woman must take to launch such an appeal.

8. CIC should take proactive steps to ensure that adequate, linguistically appropriate information is provided to immigrant women both before they immigrate and immediately upon arrival. Particular attention should be paid to finding effective ways to inform so-called ‘mail-order brides’ about the realities of immigrating to Canada and about the particular vulnerabilities they may face. Accurate and consistent information should be provided on:
   - the facts about sponsorship;
   - the nature, dynamics, and risks of domestic violence;
   - their rights in Canada;
   - relevant Canadian laws, including immigration, family, civil, and criminal law;
• options and services available to them in Canada;
• any sponsorship or criminal history of their proposed sponsor.

This includes helping to ensure that other ministries and agencies responding to the needs of immigrant women have accurate and consistent information about sponsorship to provide to abused immigrant women.

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LEGAL CITATIONS


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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 of Immigrant, Refugee, and Non-Status Women Project.
FEDERAL BRIEFING DOCUMENT 5: EXECUTIVE SUMMARY

Coordination of Responses to Immigrant, Refugee, and Non-Status Women Who are Victims of Violence

Lack of coordination between Citizenship and Immigration Canada (CIC) and the criminal, family justice, and child protection systems, settlement and language services, health services, labour and employment programs, child care subsidy program, schools, community-based services, and the private bar may place abused immigrant, refugee, and non-status women and children at risk. Lack of coordination relates to policies, practices, and provision of accurate, consistent information to women about immigration and refugee issues, including their rights, obligations, and options. Joint initiatives, inter-agency protocols, information-sharing, and cross-training are some of the ways in which coordination can be facilitated.

Recommendations

Immediate

1. CIC should proactively reach out to other departments, levels of government, and agencies to coordinate policies and practices and share information as appropriate to ensure the safety of women and their children. CIC should also respond positively when approached by other departments, agencies, or ministries for purposes of coordination. Where appropriate, coordination strategies should be formalized in policy, protocols, guidelines, and operations manuals. (ongoing)

2. CIC should facilitate coordination between the branch that deals with admission to Canada and the Canada Border Services Agency (CBSA) to make sure that an abused non-status woman is not removed from Canada while she is engaged in or awaiting the results of a Humanitarian and Compassionate (H&C) application or before a child custody matter has been resolved.

3. CIC should facilitate coordination between CBSA and provincial services providing safe shelter, essential health care, and other help and support to abused non-status women to ensure that non-status women who seek help are not apprehended by CBSA and removed from Canada.

4. CIC should facilitate coordination and appropriate risk related information-sharing with provincial child protection authorities to make sure that both authorities are aware of the concerns and actions of the other in order to protect Canadian-born children whose mothers face removal from Canada.
5. CIC should make appropriate referrals to provincial agencies serving abused immigrant women to ensure that abused non-status women receive the support they need to negotiate the expedited temporary resident permit (TRP) and H&C process.

Medium-term
6. CIC, police, and criminal and family justice ministries should work together to develop policy or protocols to address situations where domestic violence is perpetrated against non-status women.

7. CIC should coordinate with the provincial Legal Aid program and the Provincial Government to ensure that Legal Aid is provided to abused non-status women facing removal from Canada, especially while a child custody matter is still before the courts.

8. CIC should coordinate with other federal departments and the Provincial Government to ensure that abused women and their children have access to services such as essential health and dental care and subsidized child care while engaged in and awaiting the result of an H&C application.

9. CIC should ensure that accurate, complete, and consistent information in their own language is provided to immigrant, refugee, and non-status women, both before they come to Canada and immediately upon arrival. Information should address their rights, responsibilities, and options, including options for obtaining permanent residency.
Coordination of Responses to Immigrant, Refugee, and Non-Status Women

ISSUE: Lack of coordination among those who respond to abused immigrant, refugee and non-status women may impact the safety of these women and their children.

KEY POINTS

• Lack of coordination between Citizenship and Immigration Canada (CIC) and the criminal, civil, and family justice systems, the child protection system, settlement services, language services, health care services, the child care subsidy program, schools, labour and employment programs, community-based support services, and the private bar may leave abused immigrant, refugee, and non-status women and their children vulnerable to further abuse. This lack of coordination relates to policies, practices, and the provision of accurate and consistent information to women about immigration and refugee issues, including their rights, obligations, and options. Joint initiatives, inter-agency protocols, information-sharing, and cross-training are some of the ways in which coordination can be facilitated.

• There is no coordinated attempt to link the best interests of the child and the mother.

• Lack of coordination between the branch of CIC which deals with admission to Canada and the Canada Border Services Agency (CBSA), which is responsible for the removal of inadmissible persons means that an abused non-status woman may be subject to removal while she is in the process of applying for permanent resident status on Humanitarian and Compassionate (H&C) grounds.

• Access to provincial services such as essential health and dental care and subsidized child care while engaged in and awaiting the result of an H&C application varies with the specific status of immigrant or refugee women. Not only is the situation not straightforward, but it includes some inconsistencies. For example, lack of coordination between the Federal and Provincial Governments may result in a

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1 For purposes of this document, immigrant women may include participants in temporary foreign worker programs such as the Seasonal Agricultural Worker Program and the Live-in Caregiver Program.
temporary resident’s eligibility to apply for a work permit, but inability to access subsidized child care in order to take employment.

• Lack of coordination between CIC and the family justice system regarding non-status women who have unresolved custody issues involving Canadian-born children may result in a woman being removed from Canada while a custody case is still in progress, thus leaving her children in the custody of a father who has been violent towards their mother.

• Lack of coordination between CIC and provincial child protection authorities may result in a lack of information-sharing about the risks facing Canadian-born children if their mother is removed from Canada.

• There is a need for coordination between CIC and provincial Legal Aid in cases involving abused non-status women. Cases such as those involving potential removal from Canada and those involving child custody issues are complex, with potentially serious results for women and their children. Yet Legal Aid is increasingly difficult or impossible to access in these situations.

• There is a need for coordination between CIC and the police, provincial justice ministries, and other provincial services such as hospitals and transition houses regarding the handling of domestic violence cases involving immigrant, refugee, or non-status women. The threat of deportation will prevent many women from reporting the abuse or seeking safe shelter, essential health care, or other services, thus putting them and their children at risk by causing them to remain in an unsafe situation.

• There is no coordinated approach or legislative framework to regulate the ‘mail-order bride’ industry, a term that refers to women who met their foreign spouse through an international introduction or ‘pen-pal’ agency.

THE CONTEXT

• The need for coordination of responses to domestic violence has been highlighted as a key safety factor in many research, government, and coroner’s reports in recent years (Ad Hoc Federal-Provincial-Territorial Working Group Reviewing Spousal Abuse Policies and Legislation, 2003; BC Coroner’s Service, 2009; Critical Components Project Team, 2008; Light, 2007; Representative for Children and Youth, 2009).

• The Ad Hoc Federal-Provincial-Territorial Working Group examining domestic violence responses in Canadian provinces and territories cited the “key lesson learned” in the three-year review process as the “need for comprehensive and coordinated strategies to address…spousal abuse” (Ad Hoc Federal-Provincial-Territorial Working Group Reviewing Spousal Abuse Policies and Legislation, 2003, p. 83).

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2 The controversy around the use of the term ‘mail-order bride’ is acknowledged. In the absence of another more ‘neutral’ term, the term ‘mail-order bride’ is used in this document. However, there is no intent to stereotype or stigmatize immigrant women who have married a Canadian as a result of an introduction or ‘pen-pal’ agency.
• Examples of cross-sector approaches to this issue exist in other jurisdictions. In the US, for example, the Violence Against Women Act (VAWA) 1994 advocated for a multi-pronged approach that encouraged systems to work together to protect abused women, including specific provisions for abused immigrant women.

• Assurances of public consultation on Bill C-11 (proposed Balanced Refugee Reform Act) are welcome, but must utilize a coordinated federal-provincial-territorial approach, including lawyers, community-based agencies, and provincial organizations addressing needs of abused immigrant, refugee, and non-status women.

• Lack of coordination between CIC and other responders regarding abused immigrant, refugee, and non-status women is more than simply a matter of efficiency or convenience for the woman. It is a matter of safety, as any factor that results in a woman staying longer in a violent relationship or that prevents her from knowing what services and options are available to her puts her and her children at further risk.

• Front-line workers have described cases where women without status have called the police about domestic violence, were reported by the police to CIC for being without status, and were subsequently removed from Canada.

• Front-line workers have described cases of non-status women being threatened with criminal charges if they leave the country with their children before a custody matter has been resolved.

• There have been incidents reported in BC and Ontario where CBSA officials have contacted a transition house, waited outside a transition house to apprehend a non-status resident, entered a transition house in search of a non-status woman, or arrived at a hospital after having been alerted that a non-status woman was a patient.

• In a recent case before the Federal Court of Canada, Sultana and Others v. Minister of Citizenship and Immigration, 2009, the court reviewed the concept of the “best interests of the child” in an H&C application and stated the importance of a CIC officer properly considering all the evidence in that regard. This decision is consistent with S.3 (1) of the Immigration and Refugee Protection Act (IRPA), which states that one of the objectives of the Act is to see that “families are reunited in Canada”. It is also consistent with “a statutory obligation to take into account the best interests of a child who is directly affected by a decision” under section A 25(1) of the IRPA, pertaining to the H&C process. (Citizenship and Immigration Canada, 2009, p. 20).

• It may also be that the failure to coordinate the CBSA with the provincial family court process in custody cases, thereby putting children and their mother at risk, constitutes an infringement of Section 7 of the Canadian Charter of Rights and Freedoms which guarantees the right to life, liberty, and security of the person.

• CIC policies control some elements of the circumstances that may impact so-called ‘mail-order brides’ (for example, policies restricting migration of minors, sponsorship
by those with a violent crime record, and minimum duration of relationships in order to be considered for sponsorship) but there is no coordinated approach.

RECOMMENDATIONS
1. Citizenship and Immigration Canada (CIC) should proactively reach out to other departments, levels of government, and agencies to coordinate policies and practices and share information as appropriate to ensure the safety of women and their children. CIC should also respond positively when approached by other departments, agencies, or ministries for purposes of coordination. Where appropriate, coordination strategies should be formalized in policy, protocols, guidelines, and operations manuals.

2. CIC should provide training to all CIC officials dealing with abused immigrant, refugee, or non-status women on the importance of coordination and appropriate information-sharing as a safety issue for women and their children, and on effective coordination strategies.

3. Any public consultation on Bill C-11 (proposed Balanced Refugee Reform Act) must take a coordinated federal-provincial-territorial approach and proactively include lawyers, community-based agencies, and provincial organizations addressing the needs of immigrant, refugee, and non-status women who are victims of violence.

4. CIC should facilitate coordination between the branch that deals with admission to Canada and the Canada Border Services Agency (CBSA) to make sure that an abused non-status woman is not removed from Canada while she is engaged in or awaiting the results of a Humanitarian and Compassionate (H&C) application or before a child custody matter has been resolved.

5. CIC should facilitate coordination and appropriate risk related information-sharing with provincial child protection authorities to make sure that both authorities are aware of the concerns and actions of the other in order to protect Canadian-born children whose mothers face removal from Canada.

6. CIC should facilitate coordination between CBSA and provincial services providing safe shelter, essential health care, and other help and support to abused non-status women to ensure that non-status women who seek help are not apprehended by CBSA and removed from Canada.

7. CIC should make appropriate referrals to provincial agencies serving abused immigrant women to ensure that abused non-status women receive the support they need to negotiate the expedited temporary resident permit (TRP) and H&C process.

8. CIC should coordinate with other federal departments and the Provincial Government to ensure that abused women and their children have access to services such as essential health and dental care and subsidized child care while engaged in and awaiting the result of an H&C application.

9. CIC should coordinate with the provincial Legal Aid program and the Provincial Government to ensure that Legal Aid is provided to abused non-status women.
facing removal from Canada, especially while a child custody matter is still before the courts.

10. CIC, police, and criminal and family justice ministries should work together to develop policy or protocols to address situations where domestic violence is perpetrated against non-status women.

11. CIC should work with Department of Justice and appropriate provincial authorities to develop a coordinated approach to protecting so-called ‘mail-order brides’, including legislation and policy to regulate the operations of international introduction agencies.

12. CIC should ensure that accurate, complete, and consistent information in their own language is provided to immigrant, refugee, and non-status women, both before they come to Canada and immediately upon arrival. Information should address their rights, responsibilities, and options, including options for obtaining permanent residency.

13. CIC should take appropriate action to ensure that other relevant agencies, departments, and ministries in contact with abused immigrant, refugee, and non-status women have access to accurate, complete, and consistent information to pass on.

14. CIC should coordinate with international introduction agencies and organizations dealing with temporary foreign workers such as Live-in Caregivers or Seasonal Agricultural Workers to ensure that prospective ‘mail-order brides’ or temporary foreign workers are made aware of the realities of working in or immigrating to Canada, the particular vulnerabilities they may face, and what to do if they need help.

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LEGAL CASE CITED

Sultana and Others v. Minister of Citizenship and Immigration, 2009 FC 533

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 of Immigrant, Refugee, and Non-Status Women Project.
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.
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.
  o In April 1996 in Vernon, Mark Chahal shot and killed his estranged wife, Rajwar Gakhal and eight family members, as well as himself, in the worst mass murder in the province’s history.
  o 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.
  o In December 2003, Denise Purdy was murdered by her husband, Kelvin Purdy, in Nanaimo.
  o 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.
  o 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.
  o On October 29, 2006, Navreet Kaur Waraich was stabbed to death by her husband, Jatinder Singh Waraich in Surrey.
  o 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.

¹ For 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 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.

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.

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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 of Immigrant, Refugee, and Non-Status Women Project.
Section 5: Provincial Briefing Documents
PROVINCIAL BRIEFING DOCUMENT 1: EXECUTIVE SUMMARY

Legal Aid for Abused Immigrant, Refugee, and Non-Status Women

Since 2002, Legal Aid funding and services have declined dramatically in BC. Many in desperate need of legal advice and representation, including abused immigrant, refugee, and non-status women, cannot access it, even when it may mean removal from Canada or losing custody of their children. Women – including those who do not understand Canada’s legal system or their rights and who lack fluency in English – must represent themselves against husbands or governments who are well-represented by counsel. It is incontrovertible that women, especially marginalized women such as immigrant and refugee women, are being denied access to justice in BC. Lack of adequate Legal Aid representation for immigrant, refugee, and non-status women is not only a matter of fair and equal access to justice but a matter of safety for this at-risk group and their children.

Recommendations

Immediate

1. As part of its Domestic Violence Action Plan, the BC Government should ensure that abused women who have legitimate needs for legal representation on serious family or immigration matters and cannot afford to pay for it are able to obtain legal representation through Legal Aid.

2. Given the safety issues faced by these women and their children, Legal Services Society (LSS) should give priority to legal representation for abused immigrant, refugee, and non-status women involved in serious immigration or family law cases.

3. LSS should ensure that abused immigrant, refugee, and non-status women facing removal from Canada who cannot afford counsel to represent them are provided with Legal Aid representation in immigration hearings.

4. LSS should ensure that abused immigrant, refugee, and non-status women engaged in child custody or other serious family law matters who cannot afford counsel to represent them are provided with Legal Aid representation in family law hearings.
5. The BC Government must provide sufficient funds to pay for adequate qualified interpretation services for those who are not fluent in English, for the application and intake process, interviews, and court appearances.

**Medium-term**

6. LSS should ensure that abused immigrant, refugee, and non-status women facing crippling sponsorship debt who cannot afford counsel to represent them in relevant legal proceedings are provided with Legal Aid representation.
PROVINCIAL BRIEFING DOCUMENT 1

Legal Aid for Abused Immigrant, Refugee, and Non-Status Women

ISSUE: Legal Aid representation for abused immigrant, refugee, and non-status women in serious immigration and family law hearings is essential.

KEY POINTS

• Since 2002, Legal Aid funding and services have declined dramatically in BC. Many in desperate need of legal advice and representation, including abused immigrant, refugee, and non-status women, cannot access it, even when it may mean removal from Canada or losing custody of children. Women – including those who do not understand Canada’s legal system or their rights and who lack fluency in English – must represent themselves against husbands or governments who are well-represented by counsel.

• It is incontrovertible that women, especially marginalized women such as immigrant and refugee women – are being denied access to justice in BC. By continuing to seriously underfund Legal Aid, it is arguable that the BC Government is not meeting its obligations under the Canadian Charter of Rights and Freedoms, which obligates Canadian governments to address historical disadvantages, or under the United Nations Convention on the Elimination of All Forms of Discrimination Against Women or the United Nations International Covenant on Economic, Social and Cultural Rights.

• Government should fill gaps in Legal Services Society’s (LSS) budget left by declining revenue from charitable foundations. Fair and equal access to justice is government’s responsibility and should not depend on the financial strength of charitable foundations.

• When a woman receives family law Legal Aid, the amount of lawyers’ time allocated is inadequate, even if her case qualifies for extended family services. Cases involving abused immigrant, refugee, or non-status women are particularly complex, involving not only family issues but also immigration and refugee issues, as well as language challenges. In such cases, both a family law and an immigration law referral are required.

1 For purposes of this document, immigrant women may include participants in temporary foreign worker programs such as the Seasonal Agricultural Worker Program and the Live-in Caregiver Program.
• It is becoming increasingly difficult to obtain Legal Aid representation in immigration and refugee cases. As a result of funding constraints, LSS is introducing stricter merit screening of immigration and refugee applications, which means that some cases that would have been covered before April 1, 2009 are no longer covered. (Legal Services Society, 2009).

• Another high need group for Legal Aid representation is women who face sponsorship debt as a result of leaving an abusive spouse whom they have sponsored and whose spouse subsequently collects social assistance within the sponsorship period. Sponsorship debt may deter women from leaving an abusive relationship and may impact their ability to gain financial independence, thus putting them and their children at risk.

• The barriers and risks faced by abused immigrant, refugee, and non-status women should establish this group as among the highest priorities for receiving Legal Aid to assist them in their legal struggles to gain permanent status in Canada, to be relieved of sponsorship debt, to retain custody of their children, and to address other serious family law matters.

• It is particularly crucial that Legal Aid be provided to abused non-status women facing removal from Canada, especially while a child custody matter is still before the courts. Project focus group participants consistently reported that immigrant, refugee and non-status women do not have adequate access to legal aid and are therefore effectively denied legal representation to assist them in addressing complex issues and systems. There is a need for more lawyers prepared to do legal aid work particularly in rural areas.

• There is a lack of clear understanding around intersections of immigration law and family court

• It is important that LSS recognizes the particular complexity of these cases and the fact that abused immigrant, refugee, and non-status women may be engaged in two separate but related legal battles: one to remain in Canada and one to retain custody of her children. Such circumstances may require two lawyers, one experienced in immigration matters and the other in family law matters. In such cases, Legal Aid policy and tariffs should accommodate the need for these two lawyers to coordinate with each other.

• Funding for and availability of language interpreters is often insufficient to cover actual costs of interpreters for interviews with the result that women do not have access to interpretation services.

• In response to the Lee/Park Coroner’s Report recommendation that all victims and abusers should be provided with universally available advocacy services, the Government’s Domestic Violence Action Plan cites the availability of Legal Aid services throughout BC. Such a claim is highly misleading. Serious underfunding of Legal Aid over many years has made its availability increasingly difficult or impossible to obtain for many victims of domestic violence, including immigrant, refugee, and non-status women.
• There is a need for different approaches to the delivery of Legal Aid services that may help make these services more accessible to immigrant, refugee, and non-status women.

THE CONTEXT

• Cuts to BC Government funding to LSS began in 2002, with accompanying significant reductions in Legal Aid services. In addition, Notary Foundation grants have decreased significantly over the past few years and projections are that the Law Foundation grant will also decline over the next two years. Core government funding for LSS has fallen from $88.3M in 2001/2002 to $66.5M in 2010/2011. Total budget figures have declined from $101.5M in 2001/2002 to $71.4M in 2010/2011. These decreases have occurred in spite of significantly rising costs and significant increases in demands for Legal Aid services.

• Recent murders and serious injury of immigrant women and their families as a result of domestic violence have gained public attention and are of grave concern to police, government, and the community. Lack of legal assistance to help abused immigrant, refugee, and non-status women and their children to live safely in Canada, independent of their abusive husbands, will force these women and their children to remain in abusive situations or to return to unsafe situations in their country of origin. Thus lack of Legal Aid not only denies justice to these women but puts them and their children at great risk.

• Any government action or lack of action that puts women and their children at risk is arguably contrary to Canada’s Charter of Rights and Freedoms, Section 7 – Life, liberty, and security of person.

• Abused immigrant, refugee, and non-status women face multiple barriers to accessing justice. These may include: the isolating, damaging dynamics of abuse; the fact that these women may have only temporary or no status in Canada; language barriers; cultural pressures from extended family and other community members to stay with an abusive spouse and to not disclose the abuse to authorities; potential loss of sponsorship if they leave an abusive spouse who was in the process of sponsoring them; poverty resulting from leaving an abusive spouse and from being unable to work in Canada; sponsorship debt; continuing risks to the safety of themselves and their children; and lack of awareness of rights, options, and available services in Canada.

• Cuts to LSS family law services impact women significantly more than men, as women are the primary users of family law Legal Aid and most female Legal Aid applicants are applying for family law services. This gender disparity in the effects of the cuts is inconsistent with the Provincial Government’s stated commitments to women’s empowerment, a holistic approach to women’s health, and the elimination of violence against women. It can also be argued that any government action or inaction that supports this gender disparity is contrary to the Canadian Charter of Rights and Freedoms, Section 15 – Equality Rights.

• The United Nations Committee on the Elimination of Discrimination Against Women in its concluding observations on Canada in November 2008 wrote:
The Committee is concerned at reports that financial support for civil legal aid has diminished and that access to it has become increasingly restricted, in particular in British Columbia, consequently denying low-income women access to legal representation and legal services. (United Nations Committee on the Elimination of Discrimination against Women, 2008, p. 5).

Since that time, nothing substantial has been done to alleviate this serious situation. On the contrary, further Legal Aid reductions have been made since that time, including the closure of the family law clinic in Vancouver.

- The UN Committee on Economic, Social and Cultural Rights has stated that governments have a duty to provide for the economic, social and cultural rights of men and women equally, including establishing:

  …appropriate venues for redress such as courts and tribunals or administrative mechanisms that are accessible to all on the basis of equality, including the poorest and most disadvantaged and marginalized men and women. (United Nations Committee on Economic, Social and Cultural Rights, 2005)

**RECOMMENDATIONS**

In the interests of safety for abused immigrant, refugee, and non-status women and their children:

**Provincial Government**

1. The BC Government must fulfill its obligations under Canada’s Charter of Rights and Freedoms, the United Nations Convention on the Elimination of All Forms of Discrimination Against Women, and the United Nations International Covenant on Economic, Social and Cultural Rights by providing adequate funds to Legal Services Society (LSS) to ensure that those who have legitimate needs for legal representation on serious family or immigration matters and cannot afford to pay for it are able to obtain legal representation through Legal Aid.

2. The BC Government must provide sufficient funds to pay for adequate qualified interpretation services for those who are not fluent in English, for the application and intake process, interviews, and court appearances. Project focus group participants reported that current LSS allowable hourly rates for interpreters are not adequate to cover the actual cost of interpreter services with the result that in practice, women do not have access to these services.

3. The BC Government should provide funds to make up any decreased LSS revenue resulting from declining charitable foundation contributions.

4. As part of its Domestic Violence Action Plan, the BC Government should ensure that abused women who have legitimate needs for legal representation on serious family or immigration matters and cannot afford to pay for it are able to obtain legal representation through Legal Aid.
Legal Services Society

5. Given the safety issues faced by these women and their children, LSS should give priority to legal representation for abused immigrant, refugee, and non-status women involved in serious immigration or family law cases.

6. LSS should ensure that abused immigrant, refugee and non-status women facing removal from Canada who cannot afford counsel to represent them are provided with Legal Aid representation in immigration hearings. If a woman is detained due to her non-status or other inadmissibility ground(s), she is provided with duty counsel while in detention but not necessarily for the subsequent mandatory 7 day and 30 day reviews. Outside of detention, women facing removal hearings receive no automatic provision for legal aid. The only way for non-status women to obtain some kind of status is to file a Humanitarian and Compassionate application. There is limited and at times no funding for a lawyer to file an H&C application.

7. LSS should ensure that abused immigrant, refugee, and non-status women facing crippling sponsorship debt who cannot afford counsel to represent them in relevant legal proceedings are provided with Legal Aid representation. LSS should ensure that abused immigrant, refugee, and non-status women facing removal from Canada who cannot afford counsel to represent them are provided with Legal Aid representation in immigration hearings.

8. LSS should ensure that abused immigrant, refugee, and non-status women engaged in child custody or other serious family law matters who cannot afford counsel to represent them are provided with Legal Aid representation in family law hearings. The amount of lawyers’ time allotted by LSS is inadequate.

9. LSS should ensure that abused immigrant, refugee, and non-status women who are receiving Legal Aid services for complex custody or other serious family law matters have continued access to extended family services.

10. In complex cases involving both immigration and family law matters, immigrant, refugee, and non-status women should be provided with both a family law referral and an immigration law referral.

11. LSS should accommodate the need for coordination between immigration lawyers and family law lawyers in cases involving abused immigrant, refugee, or non-status women who are engaged in both immigration matters and family law matters, by allocating more lawyers’ time to these cases or allowing for the appointment of two legal counsel: one to deal with family law matters and one to deal with immigration matters.

12. LSS should coordinate with Citizenship and Immigration Canada, including the Canada Border Services Agency, to ensure that Legal Aid is provided to eligible abused non-status women facing removal from Canada while a custody matter is still unresolved and that women are not removed while a custody matter is still before the courts.
13. LSS should explore different models or approaches to the delivery of Legal Aid services to help make them more accessible to immigrant, refugee, and non-status women.

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

The provincial Briefing Documents in this series include:
• Legal Aid for Abused Immigrant, Refugee, and Non-Status Women
• Collection of Sponsorship Debt Accrued by Abused Immigrant Women
• Family Justice Issues for Abused Immigrant, Refugee, and Non-Status Women
• Criminal Justice System Issues for Abused Immigrant, Refugee, and Non-Status Women
• Child Protection Issues for Abused Immigrant, Refugee, and Non-Status Women
• Health Care Services for Abused Immigrant, Refugee, and Non-Status Women
• Coordination of Responses to Abused Immigrant, Refugee, and Non-Status Women in BC
• Training on Violence Against Immigrant, Refugee, and Non-Status Women

The federal Briefing Documents in this series include:
• Needs of Women Without Status as a Result of Leaving an Abusive Spouse
• Gender Bias in Immigration Criteria
• Citizenship and Immigration Canada Guidelines for Cases Involving Victims of Domestic or Sexual Violence
• Sponsorship Debt for Abused Women
• Coordination of Responses to Immigrant, Refugee, and Non-Status Women who are Victims of Violence
• Training of Immigration Officials on Violence Against Women

Please note that this Briefing Document was amended in April 2011.
**PROVINCIAL BRIEFING DOCUMENT 2: EXECUTIVE SUMMARY**

Collection of Sponsorship Debt Accrued by Abused Immigrant Women

Sponsorship debt or the threat of sponsorship debt may significantly impact the safety of abused immigrant women and their children. Sponsorship debt may be accrued by an abused woman who leaves her abusive spouse whom she has sponsored and whose spouse subsequently collects social assistance within the period named in a sponsorship undertaking she has signed. The undertaking makes her legally responsible for that debt. Sponsorship debt or threat of sponsorship debt may deter women from leaving an abusive relationship and may significantly impact their ability to gain financial independence. A sponsor who is being abused by her sponsoree may be faced with a situation where she either continues to accept the abuse or exposes herself to enormous debt. While current federal and provincial policy allows for suspension of sponsorship debt collection and interest accrual in circumstances of abuse, the debt is not cancelled and may be collected at a later date. While the legal obligations contained in sponsorship undertakings are a federal matter, the collection of sponsorship debt has been assigned by the Federal Government to the provinces. Therefore, a potential resolution of the issue of sponsorship debt for abused women lies in provincial policy change.

**Recommendations**

**Immediate**
1. As part of its *Domestic Violence Action Plan*, the BC Government should address the most pressing issues putting abused immigrant women at risk, including the need to cancel sponsorship debt accrued by women who have been abused by their sponsoree.

2. The BC Government should develop an accessible and effective process by which women can demonstrate that they are victims of domestic violence.

**Medium-term**
3. The BC Government should develop guidelines for provincial officials so that once abuse has been “proven” it will generally be considered grounds for cancelling sponsorship debt.
**Longer-term**

4. The province should work with the Federal Government to ensure that wording in the federal undertaking and other information material provided to abused immigrant women clearly states that women who have outstanding sponsorship debt arising from a sponsorship undertaking because they left an abusive spouse who subsequently received social assistance are not precluded from sponsoring family members until they have paid back the monies he received in social assistance.

5. The province should work with the Federal Government to ensure that wording in the federal undertaking and other information material provided to abused immigrant women clearly states that women who were sponsored under the family class and are forced to claim social assistance because of fleeing an abusive relationship are not precluded from sponsoring family members while receiving social assistance.
PROVINCIAL BRIEFING DOCUMENT 2

Collection of Sponsorship Debt
Accrued by Abused Immigrant Women

ISSUE: Sponsorship debt or the threat of sponsorship debt may significantly impact the safety of abused immigrant women and their children.

KEY POINTS

The current situation

• Sponsorship debt may be accrued by an abused woman who leaves her abusive spouse whom she has sponsored and whose spouse subsequently collects social assistance within the period named in a sponsorship undertaking she has signed. The undertaking makes her legally responsible for that debt.

• Sponsorship debt or threat of sponsorship debt may deter women from leaving an abusive relationship and may significantly impact their ability to gain financial independence. A sponsor who is being abused by her sponsoree may be faced with a situation where she either continues to accept the abuse or exposes herself to enormous debt.

• While current federal and provincial policy allows for suspension of sponsorship debt collection and interest accrual in circumstances of abuse, the debt is not cancelled and may be collected at a later date.

• While the legal obligations contained in sponsorship undertakings are a federal matter, the collection of sponsorship debt has been assigned by the Federal Government to the provinces. Therefore, a potential resolution of the issue of sponsorship debt for abused women lies in provincial policy change.

Potential remedies

• A requirement that a victim must repay a debt incurred by an offender may be considered a form of re-victimization. It may also constitute an infringement of the

This briefing document may also apply in situations where any other family member has accrued sponsorship debt because of abuse by his/her sponsor, such as a senior abused by a son or daughter whom they have sponsored.
Canadian Charter of Rights and Freedoms, Section 7 - Life, liberty and security of person. It could be argued that Canadian policies that make it difficult for a woman to leave an abusive relationship are themselves a form of abuse that threatens her right to life or security of person.

- Sponsorship Undertakings and sponsorship debt may also constitute infringements of the Charter’s Section 15 – Equality Rights, that states that every individual has the right to equality before the law and equal protection and benefit of the law. It could be argued that the burdens imposed on abused immigrant women by sponsorship undertakings and sponsorship debt constitute unequal treatment before the law.

- Discretion is already inherent in many aspects of the federal and provincial positions on the accrual and collection of sponsorship debt. Therefore, one option for addressing the burden placed on abused women by sponsorship debt may be for BC’s Ministry of Housing and Social Development to develop policy to guide discretion in these matters. Policy could state that once abuse had been determined, such abuse should generally be considered grounds to cancel sponsorship debt. Such policy would also have to address the difficulties some immigrant women face in meeting the requirement for “substantial proof”.

Bars to sponsorship

- A further complicating issue is that sponsors who have an outstanding debt arising from an undertaking are ineligible to sponsor anyone else under the family class. Women with such outstanding sponsorship debt could still make the application to sponsor other family members, which would inevitably be refused, and then they could appeal the matter to the Immigration Appeal Division (IAD) on Humanitarian and Compassionate (H & C) grounds. Such an appeal would be complex, time-consuming, and best handled by a lawyer. Legal Aid, however, is generally not available for these cases.

- In addition, an abused immigrant woman who was sponsored under the family class and is forced to claim social assistance because of fleeing an abusive relationship is ineligible to sponsor under the family class while she is in receipt of such services.

- A provincial policy of cancellation of sponsorship debt in cases of domestic violence would remove these bars to sponsorship.

THE CONTEXT

Provincial discretion to suspend or cancel debt

- The current federal Application to Sponsor and Undertaking addresses the issue of abuse by stating that “The Minister and the province concerned may choose not to take enforcement action to recover money...if the default is the result of abuse...”

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2 This could include so-called ‘mail-order brides’, a term used to describe women who met their foreign spouses through an international introduction or ‘pen-pal’ agency. (The controversy around the use of the term ‘mail-order bride’ is acknowledged. In the absence of another more ‘neutral’ term, the term ‘mail-order bride’ is used in this document. However, there is no intent to stereotype or stigmatize immigrant women who have married a Canadian as a result of an introduction or ‘pen-pal’ agency.)
However, the document goes on to say that “The decision not to act at a particular time does not cancel the debt. The Minister and the province concerned may recover the debt when circumstances have changed.” (Citizenship and Immigration Canada, 2009). Therefore, the decision to suspend collection results in a debt that hangs over the woman and may be collected at any time.

- Provincial and federal discretion appears to be inherent in the wording of the federal undertaking. As noted above, the undertaking states that the federal and provincial governments may choose not to collect the debt in circumstances of abuse and may collect the debt when circumstances change. The undertaking further states that the sponsor “...will continue to be in default until the amount of benefits received are repaid in full or repaid to the satisfaction of the government concerned (italics added). (Citizenship and Immigration Canada. (2009).

- The BC government also has the discretion to forgive debts under section 18 of the BC Financial Administration Act.

- In 2006, the then BC Ministry of Community Services announced that its relevant collection branch, the Ministry of Employment and Income Assistance “was prepared to suspend debt collection and interest accrual where there was substantial proof of abuse or threat of abuse by a sponsoree, and where collection could potentially harm the sponsor’s health or safety.” (Correspondence from Deputy Minister Sheila Wynn, received September 21, 2006). However, while suspension of the debt and interest accrual in circumstances of abuse suggests some provincial movement in favour of a sponsor who is a victim of abuse, this policy addresses only suspension, not forgiveness of the debt. In addition, it is difficult for many women who are victims to meet the criteria of “substantial proof”. This is especially true for immigrant women in rural areas where access to services is limited.

Impact of bars to sponsorship

- An inability to sponsor family members to come to Canada may seriously impact abused immigrant women’s ability to settle in Canada and earn their own living because it increases their social isolation, deprives them of emotional support necessary to recover from trauma, and cuts off potential financial and child-care support from family members.

- The predicament for many women is that they cannot find a job because they do not have the education or language skills, so they are forced to accept social assistance. For many this creates a vicious cycle: they are alone with young children or they cannot upgrade their skills and find work because they need family to help look after their children, but they cannot get their family here because they are receiving social assistance. For other women who are working, the job is often poorly paid and does not enable them to pay back money owed in the form of sponsorship debt. So they are unable to bring their family members here to provide the support they need to upgrade their skills in order to earn a higher wage.
Legal responses

- There have been successful attempts by counsel and agencies such as BC Public Interest Advocacy Centre to have the Province cancel collection of sponsorship debt in situations of abuse. However, the successes pertain to an old form of the undertaking which contained vaguer wording than the current undertaking and did not contain language stating that governments could collect on sponsorship debts even if they arose out of circumstances of abuse. Also, these cases occurred through settlement negotiations or on an individual basis: there is as yet no case precedent which can be consistently applied in other cases.

- In a recent decision, the Ontario Court of Appeal in Mavi v. Canada (Attorney General), 2009 found that governments, in the exercise of their discretion regarding the collection of sponsorship debt, have a duty of procedural fairness to those from whom they are trying to collect this debt. This means that sponsors’ individual circumstances must be considered before the government can collect on sponsorship debts and that they cannot force people to pay substantial sponsorship debts without first providing them with an opportunity to explain why they should not have to pay. Leave has recently been granted to appeal this decision to the Supreme Court of Canada.

- In an earlier case (Singh v. Minister of Employment and Immigration, [1985]), the court found that, unless it specifically states that it applies only to Canadian citizens, the Charter of Rights and Freedoms applies to anyone on Canadian soil. Thus, refugees have a right to Section 7 – Life, liberty and security of person protection and therefore have a right to procedural fairness, including oral hearings, because their security of person is at stake.

- While the Mavi decision was based on administrative law arguments, there are also potential constitutional (Section 7 - Life, liberty and security of person or Section 15 - Equality rights) arguments against the collection of sponsorship debt when there are health and/or safety concerns, including abuse of the sponsor.

- Regarding Section 15, only those who sponsor a foreign national are required to sign an undertaking and subjected to sponsorship debt. Thus, only those people who have signed sponsorship undertakings are responsible for paying back their spouses’ social assistance. It is arguable that this constitutes unequal treatment before the law. Additionally, domestic violence is suffered disproportionately by women. Therefore, the health and safety repercussions of sponsorship debt incurred as a result of domestic violence are suffered disproportionately by women, which may also constitute an infringement of Section 15.

- Constitutional challenges have thus far not reached the courts.

Information to women

- Research and the experience of front-line workers indicate that abused immigrant, refugee, and non-status women often do not have accurate information about sponsorship, including their obligations and rights. It is important that they are provided with complete, accurate, and consistent information about sponsorship at
every opportunity, before they enter Canada, immediately upon entry, and at various points thereafter. Ministries and agencies responding to the needs of immigrant women must themselves have accurate and consistent information about sponsorship for abused immigrant women and must have adequate and linguistically appropriate information resources to provide to the women.

RECOMMENDATIONS

1. In the interest of safety for abused immigrant women and their children, the BC Government should take immediate steps to address the issue of sponsorship debt incurred by sponsors who are victims of domestic violence.

2. The BC Government should develop an accessible and effective process by which women can demonstrate that they are victims of domestic violence.

3. The BC Government should take immediate steps to ensure that criteria for meeting the burden of “substantial proof” of domestic violence for purposes of cancelling existing sponsorship debt and exempting abused sponsors in the future include statutory declarations from the women or from competent professionals.

4. The BC Government should develop guidelines for provincial officials so that once abuse has been “proven” it will generally be considered grounds for cancelling sponsorship debt.

5. The BC Government should work with Citizenship and Immigration Canada (CIC) to facilitate coordination of federal and provincial policies and practices to ensure that abused immigrant women are freed from sponsorship debt arising from domestic violence, which may involve ensuring that sponsorship debt does not accrue or that accrued sponsorship debt is cancelled once abuse has been demonstrated.

6. The province should work with the Federal Government to ensure that wording in the federal undertaking clearly states that the provinces have the right not only to suspend debt collection, but to cancel it.

7. The province should work with the Federal Government to ensure that wording in the federal undertaking and other information material provided to abused immigrant women clearly states that women who have outstanding sponsorship debt arising from a sponsorship undertaking because they left an abusive spouse who subsequently received social assistance are not precluded from sponsoring family members until they have paid back the monies he received in social assistance.

8. The province should work with the Federal Government to ensure that wording in the federal undertaking and other information material provided to abused immigrant women clearly states that women who were sponsored under the family class and are forced to claim social assistance because of fleeing an abusive relationship are not precluded from sponsoring family members while receiving social assistance.

9. As part of its Domestic Violence Action Plan, the BC Government should address the most pressing issues putting abused immigrant women at risk, including the need to cancel sponsorship debt accrued by women who have been abused by their sponsoree.
10. As part of its *Domestic Violence Action Plan*, the BC Government, in consultation with Legal Services Society, should ensure that abused immigrant women who have legitimate needs for legal representation on issues related to sponsorship debt and cannot afford to pay for it are able to obtain legal representation through Legal Aid.

11. The BC Government should work with CIC and provincial ministries and community agencies to ensure that abused immigrant women are provided with accurate and consistent information on:
   - the facts about sponsorship;
   - their rights in Canada;
   - relevant Canadian laws, including immigration, family, civil, and criminal law;
   - options and services available to them in Canada, including language training, settlement services, skills training, social assistance, cultural support services, legal advocacy, and victim support services.

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This document is one of a series of eight provincial and six federal Briefing Documents produced by the Ending Violence Association’s Community Coordination for Women’s Safety Program as part of its Safety of Immigrant, Refugee, and Non-Status Women Project.
PROVINCIAL BRIEFING DOCUMENT 3: EXECUTIVE SUMMARY

Family Justice Issues for Abused Immigrant, Refugee, and Non-Status Women

As needs of abused immigrant, refugee, and non-status women and their children may differ in important ways from those who are Canadian-born, it is essential that family justice initiatives in BC take account of this vulnerable population. Legal Aid funding cuts have meant that many women – including women who do not understand Canada's legal system or their rights and who are not fluent in English – are forced to represent themselves against husbands who are well-represented by counsel. Barriers and risks faced by these women should establish this group as among the highest priorities for family law Legal Aid.

Recommendations

Immediate

1. As part of its Domestic Violence Action Plan, the Ministry of Public Safety and Solicitor General (MPSSG) and Ministry of Attorney General should ensure that the family justice process is included as an integral component of the Action Plan and that the Action Plan includes a specific focus on the needs and circumstances of abused immigrant, refugee, and non-status women and their children.

2. As part of the Domestic Violence Action Plan, MPSSG and the Ministry of Attorney General (MAG) should ensure that all family justice personnel are well-trained in the nature and dynamics of domestic violence against immigrant, refugee, and non-status women, including risk-factors. (ongoing)

3. The Ministry of Attorney General, in its review of the Family Relations Act, should include a specific focus on the needs of abused immigrant, refugee, and non-status women and their children.

4. As part of the updating of the Violence Against Women in Relationships (VAWIR) Policy, MAG and MPSSG should ensure both that the family justice process is included as an integral component of the policy and that the policy includes a specific focus on the particular needs and circumstances of abused immigrant, refugee, and non-status women and their children.

5. As part of the updating of the VAWIR Policy, MPSSG and MAG should work with police and Citizenship and Immigration Canada (CIC) to develop policy or protocols to address situations of domestic violence against non-status women. These should ensure that: women and children's safety is a priority; any pending removal issues
arising from women’s lack of status are put “on hold” until custody matters have been resolved; and women are aware of these protections.

6. The Ministry of Attorney General should take steps to ensure coordination between the family justice system and CIC, including Canada Border Services Agency, to make sure that an abused non-status woman is not removed from Canada while a child custody matter is still before the courts.

Medium-term

7. The Ministry of Attorney General should work with CIC to develop policy or protocols to coordinate the Humanitarian and Compassionate (H&C) process and family justice process related to child custody matters, including expediting the child custody process where an abused immigrant, refugee, or non-status woman is engaged in an H&C process to gain permanent status in Canada.

8. The Ministry of Attorney General, in its continuing efforts to improve the family justice process in BC, should ensure that any woman not fluent in English is provided with language interpretation by a qualified interpreter in all family law related matters, both within and outside of court.

9. The Ministry of Attorney General should ensure that psychological assessments as per s. 15 of the Family Relations Act are always undertaken with appropriately trained interpreters to allow assessments to be conducted in the language normally used within that family.
PROVINCIAL BRIEFING DOCUMENT 3

Family Justice Issues for Abused Immigrant, Refugee, and Non-Status Women

ISSUE: Abused immigrant, refugee, and non-status women face particular challenges in dealing with family justice issues in BC.

KEY POINTS

• As needs of abused immigrant, refugee, and non-status women and their children may differ in important ways from those of Canadian-born women and children, it is essential that any family justice initiatives in BC, including the Review of the Family Relations Act, specifically take account of this particularly vulnerable population.

• Cuts to Legal Aid funding in BC since 2002 have meant that many women in desperate need of legal advice and representation, including abused immigrant, refugee, and non-status women, cannot access it, even when it may mean losing custody of their children. Women – including women who do not understand Canada’s legal system or their rights and who do not have fluency in English – are being forced to represent themselves against husbands who are well-represented by counsel.

• The barriers and risks faced by abused immigrant, refugee, and non-status women should establish this group as among the highest priorities for family law Legal Aid to assist them to address serious family law matters, including retaining custody of their children.

• It is particularly crucial that Legal Aid be provided to abused non-status women facing removal from Canada, especially while a child custody matter is still before the courts.

• It is important that family justice personnel be well-trained in the particular circumstances of abused immigrant, refugee, and non-status women, including risk factors.

• It is essential that all non-English-speaking women, including abused immigrant, refugee, and non–status women, are provided with a qualified language interpreter for family law matters, both within and outside the court.
• It is important that language interpreters used to assist abused immigrant, refugee, or non-status women in family law matters are trained in the nature and dynamics of domestic violence and the particular impacts such violence may have for these women.

• It is important that psychological assessors conducting assessments as per s. 15 of the *Family Relations Act* be highly knowledgeable about the nature and dynamics of domestic violence and specific pressures facing abused immigrant, refugee, and non-status women.

• In order to maximize safety for immigrant, refugee, and non-status women, it is important that the family justice system response to domestic violence against immigrant, refugee, and non-status women be coordinated with other provincial service providers responding to domestic violence as well as with Citizenship and Immigration Canada (CIC), including the Canada Border Services Agency (CBSA).

• Lack of coordination between CIC and BC’s family justice system regarding non-status women with unresolved custody issues involving Canadian-born children may result in her being removed from Canada while a custody case is still in progress, leaving children in the custody of a father who has been violent towards their mother. Such a situation may compromise the “best interests of the child”. It may also put the mother at risk as she may choose to stay in the abusive relationship rather than risk having to leave her children.

THE CONTEXT

• The Representative for Children and Youth in her report * Honouring Christian Lee* following the Lee/Park murders in Oak Bay in 2007, recommended:

  That the Ministry of Attorney General undertake a review and enact necessary changes to improve administration of justice in family law matters in domestic violence cases, to better protect the safety of children and their mothers, and to ensure that the perspective of the child is considered. (Representative for Children and Youth, 2009)

• The Ministry of Attorney General is conducting a comprehensive review of the *Family Relations Act* to assess whether and how it could more effectively address domestic violence (Ministry of Public Safety and Solicitor General, 2010a).

• As part of its *Domestic Violence Action Plan*, the Province is updating the *Violence Against Women in Relationships Policy* to ensure a coordinated approach across all components of the justice system, setting out roles and responsibilities of all service providers who respond to domestic violence (Ministry of Public Safety and Solicitor General, 2010b).

• Cuts to Legal Services Society (LSS) family law services impact women significantly more than men, as women are the primary users of family law Legal Aid and most female Legal Aid applicants are applying for family law services.

• It is indisputable that women – especially marginalized women such as immigrant and refugee women – are being denied access to justice in BC. By continuing to
seriously underfund Legal Aid, it is arguable that the BC Government is not meeting its obligations under the Canadian Charter of Rights and Freedoms, which creates an obligation on Canadian governments to address historical disadvantages, or under the United Nations Convention on the Elimination of All Forms of Discrimination Against Women or the United Nations International Covenant on Economic, Social and Cultural Rights.

• Abused immigrant, refugee, and non-status women face multiple barriers to accessing justice. These may include: the isolating, damaging dynamics of abuse; lack of any or of permanent status in Canada; language barriers; cultural pressures from extended family and other community members to stay with an abusive spouse and to not disclose the abuse to authorities; poverty resulting both from leaving an abusive spouse and from being unable to work in Canada; sponsorship debt; continuing risks to themselves and their children; and lack of awareness of rights, options, and services.

• When a woman receives family law Legal Aid, the amount of lawyers’ time allocated for family law cases is inadequate, even if her cases qualify for extended family services. Cases involving abused immigrant, refugee, or non-status women are particularly complex and time-consuming, involving not only family issues but also immigration and refugee issues, as well the need for language interpretation. In such cases, there should be both a family law referral and an immigration law referral.

• Front-line workers have described cases of non-status women being threatened with criminal charges if they leave the country with their children before a custody matter has been resolved. There have also been reports from workers of non-status women being removed from Canada while custody matters are still before the courts.

• There have been anecdotal reports from women and service providers that those conducting psychological assessments as per s. 15 of BC’s Family Relations Act do not always have an adequate understanding of the dynamics of family violence.

• There is also anecdotal evidence that psychological assessors are sometimes not accompanied by adequate interpreter services, thereby forcing the assessment to be conducted in English. In such circumstances, women who usually communicate with their children in their own language are required to relate to their children in English, with the result that reports assess the women’s relationship and interaction with their children as “stilted” or “limited”, or “without open communication”.

RECOMMENDATIONS

1. The Ministry of Attorney General (MAG), in its review of the Family Relations Act, should include a specific focus on the needs of abused immigrant, refugee, and non-status women and their children.

2. As part of its Domestic Violence Action Plan, the Ministry of Public Safety and Solicitor General (MPSSG) and Ministry of Attorney General (MAG) should ensure that the family justice process is included as an integral component of the Action Plan and that the Action Plan includes a specific focus on the needs and
circumstances of abused immigrant, refugee, and non-status women and their children.

3. As part of the updating of the Violence Against Women in Relationships Policy, the MAG and MPSSG should ensure both that the family justice process is included as an integral component of the policy and that the policy includes a specific focus on the particular needs and circumstances of abused immigrant, refugee, and non-status women and their children.

4. As part of the updating of the Violence Against Women in Relationships Policy, MPSSG and the MAG should work with police and Citizenship and Immigration Canada (CIC), including Canada Border Services Agency (CBSA), to develop policy or protocols to address situations where domestic violence is perpetrated against non-status women. These should ensure that: women and children's safety is a priority; any pending removal issues arising from women’s lack of status are put “on hold” until custody matters have been resolved; and women are aware of these protections.

5. The Ministry of Attorney General should take steps to ensure coordination between the family justice system and CIC, including CBSA, to make sure that an abused non-status woman is not removed from Canada while a child custody matter is still before the courts.

6. The Ministry of Attorney General should work with CIC to develop policy or protocols to coordinate the Humanitarian and Compassionate (H&C) process and family justice process related to child custody matters, including expediting the child custody process where an abused immigrant, refugee, or non-status woman is engaged in an H&C process to gain permanent status in Canada.

7. As part of the Domestic Violence Action Plan, MPSSG and the MAG should ensure that family justice personnel are well trained in the nature and dynamics of domestic violence against immigrant, refugee, and non-status women, including risk factors.

8. As part of its Domestic Violence Action Plan, the BC Government, working with Legal Services Society (LSS), should ensure that abused women who have legitimate needs for legal representation on serious family matters and cannot afford to pay for it are able to obtain legal representation through Legal Aid.

9. The BC Government should provide sufficient funds to LSS to pay for qualified interpretation services for those not fluent in English, for the Legal Aid application and intake process, interviews, and court appearances related to family law matters.

10. The Ministry of Attorney General, in its continuing efforts to improve the family justice process in BC, should ensure that any woman not fluent in English is provided with language interpretation by a qualified interpreter in all family law related matters, both within and outside of court.

11. The Ministry of Attorney General should ensure that psychological assessments as per s. 15 of the Family Relations Act are always undertaken with appropriately trained interpreters to allow assessments to be conducted in the language normally used within that family.
12. The Ministry of Attorney General should make every effort to ensure that language interpreters used to assist abused immigrant, refugee, and non-status women in family law matters, including psychological assessments, are trained in the nature and dynamics of domestic violence and the particular impacts of such violence for immigrant, refugee, and non-status women and their children.

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PROVINCIAL BRIEFING DOCUMENT 4: EXECUTIVE SUMMARY

Health Care Services for Abused Immigrant, Refugee, and Non-Status Women

Abused immigrant, refugee, and non-status women and their children in BC face a range of challenges in accessing health care. Despite the province-wide availability of Provincial Language Services, most health authorities in BC do not have formal interpretation policies and/or do not utilize appropriately trained interpreters in their health facilities. Women and children who are ineligible for free essential health care or do not have access to appropriate interpreters are put at risk of untreated or inadequately treated health problems, including injuries resulting from the violence itself. In addition, training of health care providers on the specific needs of abused immigrant, refugee, and non-status women and their children is essential.

Recommendations

Immediate
1. Ministry of Public Safety and Solicitor General should include both health ministries on inter-ministry bodies responsible for developing and implementing a response to violence against women.

2. Citizenship and Immigration Canada (CIC), the police, provincial justice ministries, provincial health ministries, Regional Health Authorities, and hospitals should work together to ensure that abused non-status women who are hospital patients are not placed at risk of deportation.

3. BC health ministries should work with health authorities, hospitals, clinics, and other health care professionals to develop province-wide policy and guidelines to ensure that regardless of where a non-English-speaking patient in BC seeks health care services, she will be provided with appropriate interpretation services in a timely fashion. Policy and guidelines should address best practices for provision of language interpretation.

4. BC health ministries should work with CIC, health authorities, hospitals, clinics, health care professionals, universities, the Provincial Language Service, and other relevant interpretation services to ensure that appropriate ongoing training is provided to front-line staff on interpretation issues. (ongoing)

Medium-term
5. BC health ministries should work with CIC, health authorities, hospitals, clinics, and health care professionals to develop a multi-pronged approach to ensure that all
non-English-speaking persons using health care services have accurate information in their own language on accessing appropriate interpretation services.

6. BC health ministries and health authorities should work with the Provincial Language Service and other relevant interpretation services to ensure that interpreters are adequately trained in the nature and dynamics of domestic and sexual violence, including how this violence may impact on immigrant, refugee, and non-status women and their children.

7. CIC and the Province should work together to ensure that specially adapted and expedited temporary resident permit (TRP) and Humanitarian and Compassionate (H&C) processes are implemented for abused immigrant, refugee, or non-status women so that these women and their children have access to emergency and essential health and dental care while awaiting the outcome of an H&C application.

**Longer-term**

8. As part of the Province’s *Domestic Violence Action Plan*, health ministries should work with Regional Health Authorities and CIC to establish clinics and other strategies across BC to provide accessible health care services to abused non-status women and their children, as well as health care services specifically targeted to abused immigrant and refugee women.
PROVINCIAL BRIEFING DOCUMENT 4

Health Care Services for Abused Immigrant, Refugee, and Non-Status Women

ISSUE: Abused immigrant, refugee, and non-status women and their children in BC face a range of challenges in accessing appropriate health care services.

KEY POINTS

- Abused immigrant, refugee, or non-status women and their children who are ineligible for essential health care are put at risk of untreated health problems, including injuries resulting from the violence itself. The cost of essential medical services for someone who is ineligible for free health care in BC and has no other health insurance is prohibitive.

- It is important that ways be found to provide emergency and essential health care services to all abused immigrant, refugee, or non-status women regardless of their immigration, refugee, or insurance status. Vancouver's Pine Clinic provides a model for the delivery of such medical services to people who have no medical coverage.

- An amended and expedited temporary resident permit (TRP) process and process based on humanitarian and compassionate (H&C) grounds (see federal Briefing Document 1, Needs of Women Without Status as a Result of Leaving an Abusive Spouse) will ensure that abused immigrant, refugee, and non-status women have access to essential health and dental services while they await permanent resident status in Canada.

- There is a need for coordination between CIC and the police, provincial justice ministries, provincial health ministries, and other provincial services such as health authorities and hospitals regarding the handling of domestic violence cases involving non-status women. The threat of deportation will prevent many such women from reporting abuse or seeking essential health care, thus putting them and their children at risk.

1 For purposes of this document, immigrant women may include participants in temporary foreign worker programs such as the Seasonal Agricultural Worker Program or the Live-in Caregiver Program.
• It is important that any new training initiatives developed as part of BC’s Domestic Violence Action Plan include health care providers and a focus on the particular health care needs of immigrant, refugee, and non-status women and their children.

• Appropriate language interpreter services are crucial for abused immigrant, refugee, and non-status women seeking health care services, because interpretation affects not only the quality of health care for women and their children’s, but also their safety.

THE CONTEXT

• Immigrant, refugee, and non-status women’s access to health care coverage in BC is complex and varies with immigrant or refugee status.

• The BC Medical Services Plan (MSP) website states that:

  An individual must be a resident of B.C. in order to qualify for medical coverage under MSP. A resident is a person who meets all of the following conditions:
  • must be a citizen of Canada or be lawfully admitted to Canada for permanent residence;
  • must make his or her home in B.C.;
  • must be physically present in B.C. at least 6 months in a calendar year; and
  • dependents of MSP beneficiaries are eligible for coverage if they are residents of B.C.

  ....some holders of study and/or work permits issued under the federal Immigration and Refugee Protection Act are deemed to be residents, but tourists or visitors to B.C. do not qualify… (Ministry of Health Services, 2010)

• New BC residents who are eligible for medical coverage through MSP are eligible only after they have completed a waiting period, calculated as the balance of the month in which a person became a BC resident, plus two months. There is an appeal process.

• In limited circumstances – for example, foreign victims of trafficking in persons (VTIPS) who have been issued a 180 day TRP, Government Assisted Refugees (GARs), some refugee claimants – the federal government may provide some initial medical/dental coverage through the Interim Federal Health (IFH) Program. IFH coverage is immediate for eligible persons. However, IFH coverage is not indefinite: it is limited to 180 days for VTIPs and generally limited to one year (renewable if necessary) for refugee claimants. It is not automatic and is provided based on a needs assessment, except in the case of GARs.

• GARs are eligible for regular BC health services on arrival and receive IFH coverage for services not covered by MSP and for some extended benefits, normally for 12 months. For Privately Sponsored Refugees (PSRs) the IFH coverage may extend to 24 months. IFH coverage is not available for independent immigrants or sponsored family class immigrants.

• In order to qualify for medical coverage through MSP, a temporary foreign worker must have a work permit that is valid for six months or more. If a work permit limits a foreign worker to a specific employer, it is the employer’s responsibility to enrol the
worker in MSP. In certain cases, that employer must provide medical coverage during the waiting period.

- Women who have lost their sponsorship status because they have left an abusive spouse before the sponsorship process is complete may find themselves in Canada without legal status and therefore without access to no-cost medical services.
- While awaiting the outcome of the H&C process, a non-status woman does not have access to essential or emergency health and dental care.
- There are reports from front-line workers that Canada Border Service Agency (CBSA) officials have arrived at hospitals in search of abused non-status women who are patients.
- The TRP process has been adapted specifically for use in the case of trafficking victims. These VTIP TRPs may be issued for up to 180 days and can be reissued at the end of that period. Holders of VTIP TRPs may receive emergency and essential health and dental services through the Interim Federal Health Agreement.
- Few services exist in BC to provide medical care to those without medical coverage. The only such service in the Lower Mainland is Vancouver’s Pine Clinic. This is a youth-focused service, providing medical services to those over 24 years old only on weekday mornings. While it does have access to language interpretation services, it is not specifically equipped to provide services to those who do not speak English. It relies primarily on non-English-speaking patients bringing someone with them who can act as an interpreter.
- Vancouver’s Bridge Community Health Clinic provides a good model for delivery of services to refugees and refugee claimants, including free primary health care services. Staff include physicians, nurses, interpreters, settlement workers, nutritionist, psychologist, and psychiatrist. Services are offered in partnership with Immigrant Services Society of BC, and BC Multicultural Health Services Society.
- Policy regarding provision of language interpretation services to patients who do not speak English is set at the Health Authority level. Not all Regional Health Authorities in BC have policy that appropriate language interpreter services will be provided to non-English-speaking patients. Health Authority policies are as follows:
  - Vancouver Coastal Health Authority website states:
    Spoken Language interpreters are available to help with communication between staff and patients who have limited English. These interpreters may be requested by VCH staff only. If you or your family needs the help of an interpreter, please speak to a staff member.
    No other language interpretation policy is in place. Responsibility for language interpretation services has recently moved to the Provincial Language Service, so policy and practice is currently in transition.
  - Vancouver Island Health Authority (VIHA) has no language interpretation policy. The VIHA website directs patients to bring their own interpreter if they require language interpretation services. PIHA personnel also said that if someone
requires an interpreter, the switchboard makes an announcement asking for people who speak a particular language to identify themselves.

• Interior Health Authority has no language interpretation policy. Practices vary from use of whoever may be available on-site to use of Provincial Language Service interpreters.

• Fraser Health Authority (FHA) website states:

  • At no cost, we are prepared to provide an interpretation or written translation in over 60 different languages and dialects for patients, clients, or residents…
  
  • To access this service, please inform your healthcare provider when you schedule your appointment that you will require the use of language services. For unexpected and unscheduled visits, request the service from a staff member on your care team. We will do our best to provide a trained interpreter to meet your needs.

Responsibility for language interpretation in two FHA regions has recently moved to the Provincial Language Service, so policy and practice is currently in transition. Email communication has been used to inform staff about current practice in terms of who to call for interpretation services. Current practice also includes staff orientation and the provision of cards for patients to give to staff to request interpretation services.

• Northern Health Authority, while it has a brief written Interpretation Services policy, relies on volunteer interpreters rather than on qualified paid interpreters such as those supplied by the Provincial Language Service.

• Provincial Health Services Authority (PHSA), including provincial health institutions such as BC Women’s Hospital and Health Centre, BC Children's Hospital, and the Provincial Language Service, has a comprehensive Language Access Policy that states:

Effective language access will be achieved using a multi-pronged approach, such as the use of professional interpreters for verbal communication and professional translators for written communication….and

PHSA discourages the use of family and friends as interpreters….and

All patient/client information collected during the course of an interpreting or translation request is deemed, and will remain, confidential.

• There are reports from women and from front-line workers of cases in which interpreter services have not been provided to non-English-speaking patients, even in hospitals where policy exists that such interpreter services must be provided.

• As language interpretation is a key safety issue for abused immigrant, refugee, and non-status women, it is crucial that health authorities have comprehensive policies
on provision of language interpretation services to non-English-speaking patients that address use of qualified interpreters, the importance of confidentiality provisions, and the need for all front-line staff to be aware of and adequately trained on the language interpretation policy.

- The Provincial Language Service, a program of PHSA, provides in-person interpreter services on an on-call or appointment basis and 24-hour telephone interpreter services in over 150 languages to health care agencies and government institutions.

RECOMMENDATIONS

In the interests of safety for abused immigrant, refugee, and non-status women and their children:

Women’s access to health care

1. Citizenship and Immigration Canada (CIC) and the Province of BC should work together to ensure that specially adapted and expedited temporary resident permit (TRP) and Humanitarian and Compassionate (H&C) processes are implemented in the case of abused immigrant, refugee, or non-status women so that these particularly vulnerable women and their children have access to emergency and essential health and dental care while awaiting the outcome of an H&C application.

2. As part of the Province’s Domestic Violence Action Plan, health ministries should work with Regional Health Authorities and CIC to establish clinics and other strategies across BC to provide accessible health care services to abused non-status women and their children, as well as health care services specifically targeted to abused immigrant and refugee women.

Information to women

3. BC should work with CIC officials to ensure that linguistically-specific information materials for immigrant, refugee, and non-status women entering BC clearly state who is and who is not eligible for no-cost health care in Canada, the waiting period for medical coverage for new BC residents, options for appealing waiting periods, and the cost of health care if paid for privately, and should strongly recommend that anyone entering Canada who is not eligible for free essential health care services enter with private medical insurance.

4. BC should work with CIC officials to ensure that linguistically-specific information materials for immigrant, refugee, and non-status women entering BC strongly advise that they not allow a temporary permit to expire, that if it expires they renew it without delay, and the consequences — including for health care coverage — of being without legal status.

Coordinated response

5. In order to ensure a specific focus on the health care needs of immigrant, refugee, and non-status women, Ministry of Public Safety and Solicitor General should
include both health ministries on inter-ministry bodies responsible for developing and implementing a response to violence against women.

6. CIC, the police, provincial justice ministries, provincial health ministries, Regional Health Authorities, and hospitals should work together to ensure that abused non-status women who are hospital patients are not placed at risk of deportation.

Training

7. BC health ministries should work with Regional Health Authorities, hospitals, clinics, universities, and other health care professionals to ensure that adequate training is provided to health care practitioners in BC on an ongoing basis on the unique needs of immigrant, refugee, and non-status women who are victims of violence.

8. Any inter-ministry committee developing or implementing training as part of the Province’s Domestic Violence Action Plan should include both health ministries.

9. Any training developed as part of the Domestic Violence Action Plan should include a specific focus on the health care needs of abused immigrant, refugee, and non-status women and their children.

Language interpretation

10. BC health ministries should work with health authorities, hospitals, clinics, and other health care professionals to develop province-wide policy and guidelines to ensure that regardless of where a non-English-speaking patient in BC seeks health care services, she will be provided with appropriate interpretation services in a timely fashion. Policy and guidelines should address best practices for provision of language interpretation, including:
   • Importance of using qualified interpreters;
   • dangers of using family members or friends for interpretation;
   • ongoing training for interpreters;
   • confidentiality issues;
   • informing patients about how to access interpreters;
   • informing staff about the policy and how to access qualified interpreters;
   • use of professional in-house interpreters where demand justifies.

11. BC health ministries should work with health authorities, hospitals, clinics, other health care professionals, universities, the Provincial Language Service, and other relevant interpretation services to ensure that appropriate ongoing training is provided to front-line staff on interpretation issues, including:
   • health authority and institutional policies regarding the provision of language interpretation services to non-English-speaking patients;
   • the key role played by appropriate language interpretation for non-English-speaking patients;
• the particular needs of abused women and their children regarding language interpretation, including interpretation as a safety issue;
• how best to meet the interpretation needs of abused immigrant, refugee, and non-status women and their children.

12. BC health ministries and health authorities should work with the Provincial Language Service and other relevant interpretation services to ensure that interpreters are adequately trained in the nature and dynamics of domestic and sexual violence, including how this violence may impact on immigrant, refugee, and non-status women and their children.

13. BC health ministries should work with CIC and health authorities, hospitals, clinics, and other health care professionals to develop a multi-pronged approach to ensure that all non-English-speaking persons using health care services have accurate information in their own language on accessing appropriate interpretation services.

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REFERENCES


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This document is one of a series of eight provincial and six federal Briefing Documents produced by the Ending Violence Association’s Community Coordination for Women’s Safety Program as part of its Safety of Immigrant, Refugee, and Non-Status Women Project.
PROVINCIAL BRIEFING DOCUMENT 5: EXECUTIVE SUMMARY

Protection of Children of Abused Immigrant, Refugee, and Non-Status Women

The safety of children of abused immigrant, refugee, and non-status women should be accorded the highest priority. Lack of coordination and appropriate risk related information-sharing among provincial and federal authorities and community agencies responsible for meeting the needs of children and their mothers may leave the children of abused immigrant, refugee, and non-status women at risk. While there is a legal obligation for Citizenship and Immigration Canada (CIC) to consider the best interests of a child, the best interests of a child may not be able to be properly assessed without input from provincial authorities. A situation in which a woman is removed from Canada while a custody case is in progress, leaving her Canadian-born children in the care of a father who has been violent towards their mother, is not in the best interests of the child. It may also put the mother at risk as she may choose to stay in the abusive relationship rather than risk having to leave her children. A child whose mother is at risk of violence is also at risk. There is a need for Legal Aid to be available in cases involving abused immigrant, refugee, or non-status women. Cases such as those involving potential removal from Canada and those involving child custody issues are complex, with potentially very serious results for both women and their children.

Recommendations

Immediate

1. As part of the BC Government’s Domestic Violence Action Plan, the Ministry of Children and Family Development (MCFD) should ensure that its Best Practice Approaches: Child Protection and Violence Against Women guidelines adequately and specifically address the safety of children of abused immigrant, refugee, and non-status women.

2. As part of its Domestic Violence Action Plan, the BC Government should ensure that its selected standard risk assessment tool and its advanced risk assessment training adequately and specifically address the safety of children of abused immigrant, refugee, or non-status women.

3. All those who are working in the area of child protection, family justice, criminal justice, victim services, settlement services, Legal Aid, social assistance, health care, education, and housing should be adequately trained in the particular vulnerabilities of children whose mothers are abused and who are immigrants.
refugees, or without status in Canada. Such training should include not only specific risk factors in these circumstances, but also the importance of effective cross-sector coordination and information-sharing in order to ensure the safety of these children. (ongoing)

Medium-term
4. Where there are unresolved custody matters regarding Canadian-born children, the Ministry of Attorney General and MCFD should coordinate and share necessary risk related information with CIC, including Canada Border Services Agency, to ensure that, in the interests of children’s safety, non-status women are not removed from Canada.
PROVINCIAL BRIEFING DOCUMENT 5

Protection of Children of Abused Immigrant, Refugee, and Non-Status Women

ISSUE: The safety of children of abused immigrant, refugee, and non-status women should be accorded the highest priority.

KEY POINTS

• Lack of coordination among the criminal and family justice systems, the child protection system, police, settlement services, social assistance, health services, the education system, housing services, legal advocacy services, the federal immigration system, and community-based agencies, may leave the children of abused immigrant, refugee, and non-status women at risk. The need for coordination relates to policies and practices, including the sharing of information that is key to keeping children safe.

• While there is a legal obligation for Citizenship and Immigration Canada (CIC) to consider the best interests of a child, the best interests of a child may not be able to be properly assessed without input from provincial authorities such as the Ministry of Children and Family Development (MCFD), the Ministry of Attorney General, or the Ministry of Public Safety and Solicitor General (MPSSG).

• Lack of coordination between CIC and provincial child protection authorities or the criminal or family justice system may result in a lack of information-sharing about the risks facing Canadian-born children if their mother is removed from Canada. A situation in which a woman is removed from Canada while a custody case is in progress, leaving her Canadian-born children in the care of a father who has been violent towards their mother, is not in the best interests of the child. It may also put the mother at risk as she may choose to stay in the abusive relationship rather than risk having to leave her children. A child whose mother is at risk of violence is also at risk.

• There is a need for Legal Aid to be available in cases involving abused immigrant, refugee, or non-status women. Cases such as those involving potential removal from Canada and those involving child custody issues are complex, with potentially very serious results for both women and their children. Yet Legal Aid is increasingly difficult or impossible to access in these situations.
• Lack of adequate training on domestic violence, its effects on children, its particular complexities and risks for immigrant, refugee, and non-status women and their children, and the particular needs arising out of these circumstances, may increase risk for children.

THE CONTEXT

• Two ministries with specific responsibility for the protection of children in BC are Ministry of Children and Family Development (MCFD) and the Ministry of Attorney General (MAG). MCFD is responsible for the safety of children who may be ‘at risk’ or ‘in need of protection’. The MAG, through the family justice system, is responsible for ensuring the safety and best interests of children who are the subject of custody disputes and, through the criminal justice system, for protecting the public from criminal victimization.

• In the CIC Operations Manual IP 5 section 5.14 Children – Best interests of a child, there is a statutory obligation\(^1\) to take into account the best interests of a child who is directly affected by a decision under this section, codifying “departmental practice into legislation, eliminating any doubt that the interests of a child will be taken into account” (p. 20).

• In a recent case before the Federal Court of Canada, Sultana and Others v. Minister of Citizenship and Immigration, 2009, the court reviewed the concept of “best interests of the child” in a Humanitarian and Compassionate (H&C) application and stated how important it was for an immigration officer to properly consider all of the evidence in that regard.

• In response to a recommendation in the Coroner’s Report on the deaths of the Lee/Park family, the BC Government’s Domestic Violence Action Plan includes the development of an advanced course for professionals involved in domestic violence response, including child protection personnel. This advanced course will involve training on a selected standard risk assessment tool.

• In response to a recommendation in the report of the Representative for Children and Youth on the murder of Christian Lee, the BC Government’s Domestic Violence Action Plan includes updating MCFD’s 2006 Best Practices Approaches: Child Protection and Violence Against Women guidelines. According to the Action Plan, these updated guidelines will be included in the above-noted advanced training.

• Over the past decade, Legal Aid funding and therefore Legal Aid services have declined dramatically. It is becoming increasingly difficult to obtain Legal Aid representation in family law and in immigration and refugee cases.

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\(^1\) This authority comes from s.25 of the Immigration and Refugee Protection Act which states: “The Minister shall, upon request of a foreign national who is inadmissible or who does not meet the requirements of this Act, and may, on the Minister’s own initiative, examine the circumstances concerning the foreign national and may grant the foreign national permanent residence status or an exemption from any applicable criteria or obligation of this Act if the Minister is of the opinion that it is justified by humanitarian and compassionate considerations relating to them, taking into account the best interests of a child directly affected, or by public policy considerations.”
• When a woman receives family law Legal Aid, the amount of lawyers' time allocated for family law cases is inadequate, even if her case qualifies for extended family services. Cases involving abused immigrant, refugee, or non-status women are particularly complex and time-consuming, involving not only family issues but also immigration and refugee issues, as well as challenges regarding language interpretation. In such cases, there should be both a family law referral and an immigration law referral.

• As a result of funding constraints, Legal Services Society is introducing stricter merit screening of immigration and refugee Legal Aid applications, which means that some cases that would have been covered before April 1, 2009 are no longer covered. (Legal Services Society, 2009).

RECOMMENDATIONS

1. The Ministries of Children and Family Development, Attorney General, Public Safety and Solicitor General, Advanced Education and Labour Market Development, Housing and Social Development, Health Services, and Education, police, Legal Services Society, BC Housing, and community-based agencies should work with Citizenship and Immigration Canada (CIC) to develop strategies to guide coordination of policies, practices, and appropriate risk related information-sharing to ensure that the safety and best interests of children of abused immigrant, refugee, and non-status mothers are considered as priorities in decisions that affect their mother’s status in Canada.

2. Where there are unresolved custody matters regarding Canadian-born children, the MAG and MCFD should coordinate and share necessary risk related information with CIC, including Canada Border Services Agency, to ensure that, in the interests of children’s safety, non-status women are not removed from Canada.

3. All those who are working in the area of child protection, family justice, criminal justice, victim services, settlement services, Legal Aid, social assistance, health care, education, and housing should be adequately trained in the particular vulnerabilities of children whose mothers are abused and who are immigrants, refugees, or without status in Canada. Such training should include not only specific risk factors in these circumstances, but also the importance of effective cross-sector coordination and information-sharing in order to ensure the safety of these children.

4. As part of the BC Government’s Domestic Violence Action Plan, MCFD should ensure that its Best Practice Approaches: Child Protection and Violence Against Women guidelines adequately and specifically addresses the safety of children of abused immigrant, refugee, and non-status women.

5. As part of its Domestic Violence Action Plan, the BC Government should ensure that its selected standard risk assessment tool and its advanced risk assessment training adequately and specifically addresses the safety of children of abused immigrant, refugee, and non-status women.
6. As part of its Domestic Violence Action Plan, the BC Government should ensure that abused immigrant, refugee, and non-status women who have legitimate needs for legal representation on cases that could impact the safety of their children, including child custody cases and cases which could result in a woman’s removal from Canada, and cannot afford to pay for it are able to obtain legal representation through Legal Aid.

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REFERENCES


LEGAL CASE CITED
Sultana and Others v. Minister of Citizenship and Immigration, 2009 FC 533

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

It is important that the criminal justice system is equipped to respond to the particular circumstances of immigrant, refugee, and non-status women who are victims of domestic or sexual violence. As the needs of these women and their children may differ in crucial ways from those of abused Canadian-born women and their children, it is essential that any initiatives designed to improve the criminal justice system’s response to violence against women, including initiatives being undertaken as part of the Government’s Domestic Violence Action Plan, specifically take account of this particularly vulnerable population.

Recommendations

Immediate

1. The Ministry of Public Safety and Solicitor General (MPSSG) and the Ministry of Attorney General (MAG) should ensure that the Government’s Domestic Violence Action Plan, including the criminal justice system components, incorporates a specific focus on the needs and circumstances of abused immigrant, refugee, and non-status women and their children.

2. As part of the Domestic Violence Action Plan, MPSSG and MAG should ensure that all criminal justice personnel are well trained in the nature and dynamics of domestic violence against immigrant, refugee, and non-status women, including risk-factors that may be specific to this group, and on the importance of coordination and risk related information-sharing and federal and provincial privacy legislation.

3. As part of the updating of the Violence Against Women in Relationships (VAWIR) Policy, MPSSG and the MAG should ensure that the policy includes a specific focus on the needs and circumstances of abused immigrant, refugee, and non-status women and their children.

4. As part of the updating of the VAWIR Policy, MPSSG and MAG should work with police and Citizenship and Immigration Canada (CIC) to develop policy or protocols to address situations where domestic violence is perpetrated against non-status women. These should ensure that: women and their children’s safety is a priority; offenders are arrested for their abuse; any pending removal issues arising from
women’s lack of status be put “on hold” until custody matters have been resolved; and women are aware of these protections.

5. MPSSG and MAG should ensure that abused immigrant, refugee, and non–status women who do not speak English are provided with a qualified interpreter for all criminal justice matters, both within and outside the court, including at the time of the initial police response.

Medium-term
6. MPSSG should ensure that all its contracted victim-serving agencies receive adequate training on the importance of coordination and risk related information-sharing and on federal and provincial privacy legislation, while appreciating that the safety of women and their children must be the overriding concern.

7. MPSSG and the MAG should make every effort to ensure that language interpreters used to assist abused immigrant, refugee, and non-status women in criminal justice system matters are trained in the nature and dynamics of domestic violence and the particular impacts of such violence for immigrant, refugee, and non-status women and their children.
service providers responding to domestic violence as well as with Citizenship and Immigration Canada (CIC), including the Canada Border Services Agency (CBSA).

- Lack of coordination between CIC, including CBSA, and police regarding non-status women who have unresolved custody issues involving Canadian-born children may result in a lack of information-sharing about the risks facing Canadian-born children if their mother is removed from Canada. A situation in which a woman is removed from Canada while a custody case is in progress, leaving her Canadian-born children in the care of a father who has been violent towards their mother, is arguably not in the best interests of the child. It may also put the mother at risk as she may choose to stay in the abusive relationship rather than risk having to leave her children.

THE CONTEXT

- Many of the women murdered and seriously injured in BC in recent years as a result of domestic violence have been immigrants. Some of the risk-factors and needs relating to domestic violence cases involving immigrant, refugee, and non-status women, many of whom do not speak fluent English, may differ from those involving Canadian-born women.

- In response to the murder of the Lee/Park family in Oak Bay in 2007, two reports were produced: the British Columbia Coroner’s Service Report, Findings and Recommendations as a Result of the Inquest Into the Death of CHUN, Kum Lea; PARK, Moon Kyu; LEE, Christian Thomas Jin Young; PARK, Yong Sun; LEE, Hyun Joon and the report of the Representative for Children and Youth, Honouring Christian Lee.

- In response to these two reports, the BC Government has developed a Domestic Violence Action Plan, led by the Ministry of Public Safety and Solicitor General.

- As part of its Domestic Violence Action Plan, the Province is reviewing and updating the Violence Against Women in Relationships Policy to ensure a coordinated approach across all components of the justice system, setting out roles and responsibilities of all service providers who respond to domestic violence (Ministry of Public Safety and Solicitor General, 2010).

- Front-line workers have described cases of non-status women being threatened with criminal charges if they leave the country with their children before a custody matter has been resolved. There have also been reports from workers of non-status women being removed from Canada while custody matters are still before the courts.

- Research has indicated that in some instances, lack of qualified interpreters as part of the police response to domestic violence against non-English-speaking women in BC have put abused immigrant women at risk of further violence. (Light, 2007).

RECOMMENDATIONS

1. The Ministry of Public Safety and Solicitor General (MPSSG) and the Ministry of Attorney General (MAG) should ensure that the Government’s Domestic Violence
Action Plan, including the criminal justice system components, incorporates a specific focus on the needs and circumstances of abused immigrant, refugee, and non-status women and their children.

2. As part of its review and updating of the Violence Against Women in Relationships Policy, MPSSG and the MAG should ensure that the policy includes a specific focus on the particular needs and circumstances of abused immigrant, refugee, and non-status women and their children.

3. MPSSG and MAG should take steps to ensure coordination between the criminal justice system and Citizenship and Immigration Canada (CIC) to make sure that an abused non-status woman is not removed from Canada while a child custody matter is still before the courts.

4. As part of the Province’s review and updating of the Violence Against Women in Relationships Policy, MPSSG and MAG should work with police and CIC to develop policy or protocols to address situations where domestic violence is perpetrated against non-status women. These should ensure that: women and their children’s safety is a priority; offenders are arrested for their abuse; any pending removal issues arising from women’s lack of status be put “on hold” until custody matters have been resolved; and women are aware of these protections.

5. In order to address the safety of abused immigrant, refugee, and non-status women and their children, MPSSG and the MAG should ensure that abused immigrant, refugee, and non-status women who do not speak English are provided with a qualified language interpreter for all criminal justice matters, both within and outside the court, including at the time of the initial police response.

6. As part of the Domestic Violence Action Plan, MPSSG and the MAG should ensure that all criminal justice personnel are well trained in the nature and dynamics of domestic violence against immigrant, refugee, and non-status women, including risk factors that may be specific to this group, and on the importance of coordination and risk related information-sharing and federal and provincial privacy legislation.

7. MPSSG should ensure that all its contracted victim-serving agencies receive adequate training on the importance of coordination and risk related information-sharing and on federal and provincial privacy legislation, while appreciating that the safety of women and their children must be the overriding concern.

8. MPSSG and the MAG should make every effort to ensure that language interpreters used to assist abused immigrant, refugee, and non-status women in criminal justice system matters are trained in the nature and dynamics of domestic violence and the particular impacts of such violence for immigrant, refugee, and non-status women and their children.

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REFERENCES


Ministry of Public Safety and Solicitor General.


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Coordination of Responses to Immigrant, Refugee, and Non-status Women who are Victims of Violence in BC

Coordination among those who respond to abused immigrant, refugee, and non-status women and their children is key to their safety. Coordination is necessary regarding policies, practices, and the provision of accurate and consistent information to women. Cross-sector bodies, joint initiatives, inter-agency protocols, information-sharing, and cross-training are some of the ways in which coordination can be facilitated.

Recommendations

Immediate

1. BC’s inter-ministry body responsible for violence against women should consult with Citizenship and Immigration Canada (CIC) and Department of Justice on the proposed Balanced Refugee Reform Act to ensure that safety of abused refugee women is considered a priority. This is particularly important regarding the concept of “safe countries of origin”, the proposal to hold hearings within two months, and a proposed bar on claimants receiving Humanitarian and Compassionate (H&C) consideration.

2. As part of the Province’s Domestic Violence Action Plan, in the review and updating of the Violence Against Women in Relationships Policy, Ministry of Public Safety and Solicitor General (MPSSG) and Ministry of Attorney General should work with police and CIC to develop policy or protocols to address situations where domestic violence is perpetrated against non-status women.

3. Government ministries and police responsible for developing a police domestic violence investigation policy and developing and implementing training on a provincial standard risk assessment tool as part of the Domestic Violence Action Plan, should consult with immigrant-serving ministries and agencies.

4. Ministry of Children and Family Development (MCFD) should work closely with immigrant-serving ministries and agencies in the updating of its Best Practice Approaches: Child Protection and Violence Against Women guidelines and subsequent training.
5. MCFD should take steps to ensure coordination and risk related information-sharing with CIC to make sure that both authorities are aware of the concerns and actions of the other in order to protect Canadian-born children whose mothers face removal from Canada.

6. MPSSG should include Immigration and WelcomeBC Branch on any inter-ministry bodies responsible for developing and implementing a response to violence against women. (ongoing)

7. MPSSG, as the lead ministry in responding to violence against women, should proactively reach out to other involved ministries, levels of government, institutions, and community-based organizations on an ongoing basis in order to coordinate policies and practices and share information as appropriate to ensure the safety of abused immigrant, refugee, and non-status women and their children. (ongoing)

8. All inter-ministry bodies responsible for developing and implementing a response to violence against women in BC should consult closely with community-based immigrant-serving organizations. (ongoing)

Medium-term

9. A formal relationship should be established between the inter-ministry body charged with ongoing development and coordination of the BC Government’s response to violence against women and the Community Coordination for Women’s Safety Program Provincial Working Group.
PROVINCIAL BRIEFING DOCUMENT 7

Coordination of Responses to Immigrant, Refugee, and Non-status Women¹ Who are Victims of Violence in BC

ISSUE: Coordination among those who respond to abused immigrant, refugee, and non-status women is key to the safety of these women and their children.

KEY POINTS

• Lack of coordination may leave abused immigrant, refugee, and non-status women and their children vulnerable to further abuse. Coordination is essential among the criminal and family justice systems, the child protection system, settlement services, language services, health care services, BC Housing, the child care subsidy program, schools, labour and employment programs, community-based support and advocacy services, the private bar, and Citizenship and Immigration Canada (CIC). Coordination is necessary in relation to policies, practices, and the provision of accurate and consistent information to women about immigration and refugee issues, including their rights, obligations, and options.

• Cross-sector bodies, joint initiatives, inter-agency protocols, information-sharing, and cross-training are some of the ways in which coordination can be facilitated.

• As Government develops and implements its new Domestic Violence Action Plan, it is critical that it links on an ongoing basis with existing operational and coordinating initiatives in the community at both the provincial and local levels.

• It is essential that those responding to abused immigrant, refugee, and non-status women and their children understand that, while coordination and risk related information-sharing are key to women and children’s safety, they must be undertaken with an appreciation of:
  • the importance of having appropriate risk management mechanisms in place in order to ensure that information-sharing between agencies does not place women and their children at greater risk;

¹ For purposes of this document, immigrant women may include participants in temporary foreign worker programs such as the Seasonal Agricultural Worker Program or the Live-in Caregiver Program.
• the importance of understanding federal and provincial privacy legislation, particularly regarding the potential use of statutory exceptions which allow information to be shared in the public interest or for health and safety reasons in domestic violence cases.

• Women’s access to provincial services such as essential health and dental care, subsidized child care, and subsidized housing while engaged in and awaiting the result of an H&C application varies with the specific status of immigrant or refugee women. Not only is the situation not straightforward, but it includes inconsistencies. For example, lack of coordination between the Federal and Provincial Governments may result in a temporary resident’s eligibility to apply for a work permit, but inability to access subsidized child care in order to take employment.

• Lack of coordination between CIC and the family justice system regarding non-status women who have unresolved custody issues involving Canadian-born children may result in a woman being removed from Canada while a custody case is still in progress, thus leaving her children in the custody of a father who has been violent towards their mother. Such a situation may compromise the “best interests of the child.” It may also put the mother at risk as she may choose to stay in the abusive relationship rather than risk having to leave her children.

• Lack of coordination between CIC and provincial child protection authorities may result in a lack of information-sharing about the risks facing Canadian-born children if their mother is removed from Canada.

• There is a need for coordination between CIC and provincial Legal Aid in cases involving abused non-status women. Cases such as those involving potential removal from Canada and those involving child custody issues are complex, with serious results for both women and their children. Yet Legal Aid is increasingly difficult or impossible to access in these situations.

• There is a need for coordination between CIC and the police, provincial justice ministries, provincial health ministries, and other provincial services such as health authorities, hospitals, or transition houses regarding the handling of domestic violence cases involving non-status women. The threat of deportation will prevent many women from reporting the abuse or seeking safe shelter, essential health care, or other services, thus putting them and their children at risk by causing them to remain in an unsafe situation.

• While there are federal policies that control some elements of circumstances that may impact so-called ‘mail-order brides’2 - women who met their foreign spouse through an international introduction or ‘pen-pal’ agency - there is no coordinated federal-provincial approach or legislative framework to regulate the ‘mail-order bride’ industry.

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2 The controversy around the use of the term ‘mail-order brides’ is acknowledged. In the absence of another more ‘neutral’ term, the term ‘mail-order bride’ is used in this document. However, there is no intent to stereotype or stigmatize immigrant women who have married a Canadian as a result of an introduction or ‘pen-pal’ agency
• The Community Coordination for Women’s Safety (CCWS) cross-sector Provincial Working Group could play a key role in linking Government coordinating bodies with coordination initiatives already operating in the community. The Working Group could provide Government coordinating bodies with information, suggestions, and feedback from the field. The Government coordinating body could, in turn, provide information updates to the Working Group. In such a way, a dynamic relationship of consultation and information-sharing could inform the work of both the Government and CCWS.

THE CONTEXT

• The need for coordination of responses to domestic violence has been highlighted as a key safety factor in many research, government, and coroner’s reports in recent years (Ad Hoc Federal-Provincial-Territorial Working Group Reviewing Spousal Abuse Policies and Legislation, 2003; BC Coroner’s Service, 2009; Critical Components Project Team, 2008; Light, 2007; Representative for Children and Youth, 2009).

• The Ad Hoc Federal-Provincial-Territorial Working Group examining domestic violence responses in Canadian provinces and territories cited the “key lesson learned” in the three-year review process as the “need for comprehensive and coordinated strategies to address…spousal abuse” (Ad Hoc Federal-Provincial-Territorial Working Group Reviewing Spousal Abuse Policies and Legislation, 2003, p. 83).

• The Jury Recommendations arising from the Coroner’s Inquest into the deaths of the Lee and Park Families in Oak Bay approached the issue of coordination from a number of perspectives. The jury recommended that:
  • All police departments work across jurisdictional boundaries as one unit;
  • Special domestic violence units be set up regionally and coordinated with all stakeholders;
  • All updated “K” file information be shared across all jurisdictional lines immediately and with all agencies;
  • Develop a single domestic violence unit across all provincial jurisdictional lines and include all agencies and services.

(British Columbia Coroner's Service, 2009).

• The Representative for Children and Youth in her report investigating the death of Christian Lee in Oak Bay recommended:

  That the Ministry of Public Safety and Solicitor General take the lead in a special initiative that focuses on the issue of safety of children and youth in domestic violence situations, by ensuring a coordinated, effective and responsive system in Greater Victoria and throughout British Columbia.

She goes on to say that such a coordinated approach:
...will require the participation of the Ministry of Attorney General, Crown Counsel, Counsel, MCFD and representatives of the RCMP and municipal police forces.

and that such an approach should include, among other things:

Provisions to ensure the system is accessible and understandable to people outside of mainstream culture and language.

(Representative for Children and Youth, 2009).

• The Community Coordination for Women’s Safety (CCWS) Program of the Ending Violence Association of BC (EVA BC), funded by MPSSG, works with communities across BC to support the development of coordinated, cross-sector responses to violence against women. EVA and CCWS are the lead partners in the Safety for Immigrant, Refugee, and Non-Status Women Project of which this Briefing Document is a part. The CCWS cross-sector Provincial Working Group utilizes a solutions-based model to address the challenges of policy and program implementation and resolve systemic issues in the area of domestic and sexual violence in BC. The Working Group is composed of key representatives of a wide range of organizations charged with responding to violence against women and their children in the Province, including police, government ministries, community-based agencies, hospital and educational institutions, and the private bar.

• Examples of cross-sector approaches to this issue exist in other jurisdictions. In the US, for example, the Violence Against Women Act (VAWA) 1994 advocated for a multi-pronged approach that encouraged systems to work together to protect abused women, including specific provisions for abused immigrant women.

• Lack of coordination among front-line responders regarding abused immigrant, refugee, and non-status women is more than simply a matter of efficiency or convenience for the woman. It is a matter of safety, as any factor that results in a woman staying longer in a violent relationship or that prevents her from knowing what services and options are available to her puts her and her children at further risk.

• Front-line workers have reported cases where women without status have called the police about domestic violence, were reported by the police to CIC for being without status, and were subsequently removed from Canada.

• Front-line workers have described cases of non-status women being threatened with criminal charges if they leave the country with their children before a custody matter has been resolved.

• There have been incidents reported in BC and Ontario where CBSA officials have contacted a transition house, waited outside a transition house to apprehend a non-status resident, entered a transition house in search of a non-status woman, or arrived at a hospital after having been alerted that a non-status woman was a patient.

• BC is engaged in a number of senior level coordination initiatives:
• a Senior Officials Task Force to provide an action plan within 60 days in response to the recommendations of the Coroner’s Jury and the Representative for Children and Youth reporting on the Lee/Park deaths in Oak Bay in 2007;
• the Violence Against Women Steering Team which consists of representatives from the Ministries of Attorney General (MAG), Public Safety and Solicitor General (MPSSG), Children and Family Development (MCFD), Healthy Living and Sport, Health Services, and BC Housing, and which is currently developing its terms of reference;
• A secretariat whose mandate is to oversee the development of the BC Government’s Domestic Violence Action Plan.

• A Domestic Violence Action Plan currently being developed by Government includes a number of important initiatives: a domestic violence police investigation policy; a standardized set of bail conditions and terms for high-risk domestic violence offenders; a provincial standard domestic violence risk-assessment tool for first responders; review and updating of the Violence Against Women in Relationships Policy; advanced police training; updating of MCFD’s Best Practice Approaches: Child Protection and Violence Against Women Guidelines; and advanced risk-assessment training for MCFD staff.
• Canadian Council for Refugees has put forward a number of concerns about the proposed Balanced Refugee Reform Act (Bill C-11) which have particular relevance for refugees who have suffered gender-based violence. (Canadian Council for Refugees, 2010).
• Assurance of public consultation on Bill C -11 is welcome, but it must utilize a coordinated federal-provincial-territorial approach including lawyers, community agencies and provincial organizations addressing needs of immigrant, refugee, and non-status women who are victims of violence. The input of these groups is particularly important in relation to:
  • Consideration of the concept of “safe countries of origin” or “democratic countries with robust human rights records” for purposes of fast-tracking the return of failed asylum claimants, as countries otherwise considered “democratic” or “safe” may have poor records in terms of gender-based crimes;
  • The proposal to hold hearings within two months, which may be problematic for refugees who require time to build trust before they can testify freely, such as traumatized women who have been victims of sexual assault or sexual torture;
  • A proposed bar on claimants receiving H&C consideration, which is an important avenue for abused women whose circumstances are not adequately addressed in the refugee system.

RECOMMENDATIONS
1. Ministry of Public Safety and Solicitor General (MPSSG), as the lead ministry in responding to violence against women, should proactively reach out to other involved ministries, levels of government, institutions, and community-based organizations on an ongoing basis in order to coordinate policies and practices and
share information as appropriate to ensure the safety of abused immigrant, refugee, and non-status women and their children.

2. Where appropriate, coordination strategies should be formalized in policy, protocols, and guidelines.

3. To ensure a specific focus on the needs of immigrant, refugee, and non-status women, MPSSG should include Immigration and WelcomeBC Branch on any inter-ministry bodies responsible for developing and implementing a response to violence against women.

4. In order to ensure federal-provincial coordination on matters relating to the safety of abused immigrant, refugee, and non-status women, all inter-ministry bodies responsible for developing and implementing a response to violence against women in BC should consult closely with Citizenship and Immigration Canada (CIC).

5. BC’s inter-ministry body responsible for violence against women should consult closely with CIC and Department of Justice on the proposed Balanced Refugee Reform Act to ensure that safety of abused refugee women is considered a priority. This is particularly important regarding the concept of “safe countries of origin”, the proposal to hold hearings within two months, and a proposed bar on claimants receiving Humanitarian and Compassionate (H&C) consideration.

6. To ensure that community voices are heard and community expertise is utilized, all inter-ministry bodies responsible for developing and implementing a response to violence against women in BC should consult closely with community-based immigrant-serving organizations.

7. To utilize the experience and expertise of community-based organizations and professionals working in the area of violence against women, including violence against immigrant, refugee, and non-status women, a formal relationship should be established between the inter-ministry body charged with ongoing development and coordination of Government’s response to violence against women and the Community Coordination for Women’s Safety Program Provincial Working Group.

8. To ensure that needs of abused immigrant, refugee, and non-status women are taken into account, Government ministries and police responsible for developing a police domestic violence investigation policy and developing and training on a provincial standard risk assessment tool, as part of the Domestic Violence Action Plan, should consult with immigrant-serving ministries and agencies.

9. To ensure that the needs of abused immigrant, refugee, and non-status women and their children are taken into account, Ministry of Children and Family Development (MCFD) should work closely with immigrant-serving ministries and agencies in the updating of its Best Practice Approaches: Child Protection and Violence Against Women guidelines and subsequent training.

10. MCFD should take steps to ensure coordination and risk related information-sharing with CIC to make sure that both authorities are aware of the concerns and actions of the other in order to protect Canadian-born children whose mothers face removal from Canada.
11. MPSSG, MCFD, Ministry of Housing and Construction Standards, BC Housing, police, hospitals, health authorities, and other provincial services providing protection, assistance, and support to abused non-status women should coordinate with the CIC branch that deals with admission to Canada and CBSA to ensure that abused non-status women who seek help are not apprehended by CBSA and removed from Canada.

12. MPSSG and BC Housing should coordinate with CIC to ensure that abused non-status women receive the protection and assistance they need to apply for both temporary and permanent status through an expedited temporary resident permit (TRP) and H&C process.

13. The BC Government should work with CIC and other federal departments to ensure that abused women and their children have access to services such as essential health care and subsidized child care while engaged in and awaiting the result of an H&C application.

14. Legal Aid and the Ministry of Attorney General should work with CIC to ensure that Legal Aid and other legal advocacy services are provided to abused non-status women facing removal from Canada, especially while a child custody matter is still before the courts.

15. As part of the Province’s Domestic Violence Action Plan, in the review and updating of the Violence Against Women in Relationships Policy, MPSSG and MAG should work with police and CIC to develop policy or protocols to address situations where domestic violence is perpetrated against non-status women.

16. MPSSG should ensure that all its contracted victim-serving agencies receive adequate training on the importance of coordination and risk related information-sharing with CIC and immigrant-serving ministries and agencies and on federal and provincial privacy legislation, while appreciating that the safety of women and children must be the overriding concern.

17. The BC Government should cooperate with CIC and the Department of Justice to develop a coordinated approach to protecting so-called ‘mail-order brides’, including legislation and policy to regulate the operations of international introduction agencies.

18. The BC Government should work with CIC to help ensure that accurate, complete, and consistent information in their own language is provided to immigrant, refugee, and non-status women, including participants or prospective participants in temporary foreign worker programs, about their rights, responsibilities, and options, both before they come to Canada and immediately upon their arrival.

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REFERENCES


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This document is one of a series of eight provincial and six federal Briefing Documents produced by the Ending Violence Association’s Community Coordination for Women’s Safety Program as part of its Safety of Immigrant, Refugee, and Non-Status Women Project.
PROVINCIAL BRIEFING DOCUMENT 8: EXECUTIVE SUMMARY

Training on Violence Against Immigrant, Refugee, and Non-Status Women

It is essential for the safety of women and children that those in positions to respond to violence against immigrant, refugee, and non-status women be well trained. Lack of adequate training on domestic and sexual violence, including complexities and risks of this violence for immigrant, refugee, and non-status women, may put women and children at increased risk. Domestic violence poses a real danger for immigrant, refugee and non-status women, as it does for Canadian-born women. A significant number of immigrant women and their families have been murdered or seriously injured by husbands, ex-husbands or other family members in BC.

Recommendations

Immediate

1. Any training developed as part of BC’s Domestic Violence Action Plan must include a focus on the needs of immigrant, refugee, and non-status women and their children.

2. Any inter-ministry committee developing or implementing training as part of BC’s Action Plan should include Immigration and WelcomeBC Branch.

3. Provincial ministries serving women victims of violence and their children should work closely with federal and provincial ministries serving immigrants and with community-based immigrant and women-serving agencies to develop and deliver training curricula and resources. (ongoing)

4. Responders should be cross-trained with staff in other sectors, agencies, ministries, and levels of government wherever possible and appropriate, including personnel from Citizenship and Immigration Canada, to facilitate information-sharing and encourage a coordinated approach. (ongoing)

5. Training curricula and other resources should address both domestic and sexual violence and their potential impact on women and their children who are seeking status in Canada. (ongoing)

6. Training should include information that addresses the following factors integral to violence against immigrant, refugee, or non-status women (ongoing):
   • Need to identify safety as a priority in all actions and decisions regarding abused immigrant, refugee, and non-status women and their children;
• Importance of understanding privacy legislation from a safety perspective;
• Nature and dynamics of violence and how it may affect immigration and refugee claims;
• Risk factors that may be exacerbated by immigrant or refugee status or lack of status;
• Particular vulnerabilities of temporary foreign workers and of ‘mail-order brides’;
• Relationship between child protection and safety for immigrant, refugee and non-status women;
• Need to coordinate and share risk related information among federal and provincial responders;
• Importance of having appropriate risk management mechanisms in place;
• Need for effective referral processes for immigrant, refugee, and non-status women;
• That a woman’s need for an interpreter is a key safety issue;
• That women who have been traumatized by gender-based violence or face certain cultural pressures may need their cases to be handled by females;
• Women’s need for accurate information about their rights, options, obligations, and status.

**Longer-term**

7. Effective methods should be found to educate immigration and family law lawyers about domestic and sexual violence and immigration matters respectively and the importance of coordinating with each other regarding the best interests of immigrant, refugee, or non-status clients and their children who are victims of violence.
PROVINCIAL BRIEFING DOCUMENT 8

Training on Violence Against Immigrant, Refugee, and Non-Status Women

ISSUE: It is essential for the safety of women and their children that all those who are in a position to respond to violence against immigrant, refugee, and non-status women be adequately trained.

KEY POINTS

• Lack of adequate training on domestic and sexual violence, including the particular complexities and risks of these forms of violence for immigrant, refugee, and non-status women and the particular needs arising out of these circumstances, may put women and children at increased risk.

• 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, ex-husbands, or other family members in BC.

In April 1996 in Vernon, Mark Chahal shot and killed his estranged wife, Rajwar Gakhal 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.

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

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.

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.

• A particular focus of training on violence against immigrant, refugee, and non-status women should be on the laws, policies, and guidelines governing the rights and obligations of this client group, in order that immigrant, refugee, and non-status women have access to the rights, privileges, and services to which they are entitled, including accurate, consistent information.

• The full range of responders must be well-trained in domestic and sexual violence against immigrant, refugee, and non-status women, as an inadequate response by any service provider or any component of the system may place women or their children in jeopardy. These include: criminal and family justice system personnel, victim service and other anti-violence workers, health care providers, child protection workers, social assistance workers, BC Housing personnel, labour and employment programs, immigrant and multicultural agency personnel, settlement workers, English as a second language workers, interpreters, legal aid workers, and the private bar.

• It is essential that those responding to abused immigrant, refugee, and non-status women and their children understand that, while coordination and information-sharing are key to women and children’s safety, they must be undertaken with an appreciation of:
  • The importance of having appropriate risk-management mechanisms in place in order to ensure that information-sharing between agencies does not place women and their children at greater risk
  • The importance of understanding both federal and provincial privacy legislation, particularly regarding the overriding concern for the safety of women and their children.
  • Comprehensive training - including information on both domestic and sexual violence in general, as well as a specific focus on the circumstances, needs, and
rights of immigrant, refugee, and non-status women - must be provided on an ongoing basis in order to address the needs of a mobile work force.

• The expertise of both community-based workers and lawyers who are knowledgeable and experienced in serving abused immigrant, refugee, and non-status women 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.

• Cross-sector training best utilizes available expertise and encourages collaborative and coordinated approaches to practice.

• It is important that any new government training initiatives developed as part of BC’s Domestic Violence Action Plan include a focus on immigrant, refugee, and non-status women and their children.

THE CONTEXT

• Mary Ellen Turpel-Lafond, 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.

and

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 BC to address the particular circumstances of immigrant, refugee, and non-status women and their children who are victims of domestic or sexual violence. These include, for example:

  • Funding of 12 Multicultural Outreach programs, now in the Ministry of Public Safety and Solicitor General;

  • Implementation of three regional consultations by Immigration and WelcomeBC Branch (formerly Multiculturalism and Immigration Branch of the Ministry of Attorney General) to bring together the settlement/English Language Services for Adults (ELSA) and anti-violence sectors to increase the safety and well-being of immigrant and refugee women;

  • Ministry of Housing and Social Development policy regarding suspension of sponsorship debt collection and interest accrual in cases of abuse;

  • It is also worth noting that, while there are significant restrictions on the provision of provincial services to women who do not have legal status in Canada, Victim
Services, Stopping the Violence programs and Transition Houses can provide services to women regardless of their immigrant or refugee status.

- However, much remains to be done in order to afford maximum protection to abused women and their children, including the provision of adequate training to the full range of domestic violence responders.

- Most recently, BC’s Domestic Violence Action Plan includes: an advanced course for criminal justice professionals involved in domestic violence response, including training on a standardized risk assessment tool; advanced risk assessment training for Ministry of Children and Family Development (MCFD) and other child protection professionals involved in domestic violence response; enhanced domestic violence training within the court system; and specialized training for front-line MCFD staff working with immigrant women.

- Recent consultations by Immigration and WelcomeBC Branch involving both the immigrant settlement/ELSA and the anti-violence sectors indicated the need for training for both sectors. One of the primary needs that emerged from the Vancouver and Lower Mainland consultation, for example, was the need for:

  Better training on a range of topics, with a particular focus on issues related to violence against women for the Settlement/ELSA sector and immigrant and refugee issues for the anti-violence/Victim Services sector, and on cultural sensitivity training for all those working with immigrant and refugee women who are victims of violence. (Light, 2008, p. 4).

RECOMMENDATIONS

1. Comprehensive, in-depth training on all forms of violence against women and its potential impact on immigrant, refugee, and non-status women and their children should be provided on a regular basis to those who may be in a position to provide advice, support, or other services to this client group.

2. Any training developed as part of BC’s Domestic Violence Action Plan must include a focus on the needs of immigrant, refugee, and non-status women and their children.

3. To address the complexity of domestic and sexual violence against immigrant, refugee, and non-status women, provincial ministries serving women victims of violence and their children should work closely with federal and provincial ministries serving immigrants and with community-based immigrant and women-serving agencies to develop and deliver training curricula and resources.

4. Any inter-ministry committee developing or implementing training as part of BC’s Action Plan should include Immigration and WelcomeBC Branch.

5. Responders should be cross-trained with staff in other sectors, agencies, government ministries, and levels of government wherever possible and appropriate,

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1 The only exception to this is enhanced services funded by MPSSG through federal transfer payments specifically for permanent residents who have been in Canada for one – three years.
including personnel from Citizenship and Immigration Canada, to facilitate information-sharing and encourage a coordinated approach.

6. Resource material such as training manuals and guidelines on violence against immigrant, refugee, and non-status women should be shared across both provincial and federal levels of government, to facilitate information-sharing and encourage a coordinated approach.

7. Training curricula and other resources should address both domestic and sexual violence and their potential impact on women and their children who are seeking immigrant or refugee status in Canada.

8. Training should include information that addresses the following factors integral to violence against immigrant, refugee, or non-status women:
   - The need to identify safety as a priority in all actions and decisions regarding abused immigrant, refugee, and non-status women and their children;
   - The importance of understanding privacy legislation from a safety perspective;
   - Nature and dynamics of violence and how it may affect immigration and refugee claims;
   - Risk factors that may be exacerbated by immigrant or refugee status or lack of status;
   - Particular vulnerabilities of temporary foreign workers and of ‘mail-order brides’;
   - The relationship between child protection and safety for immigrant, refugee and non-status women;
   - The need to coordinate and share risk related information among federal and provincial responders;
   - The importance of having appropriate risk-management mechanisms in place;
   - The need for effective referral processes for immigrant, refugee, and non-status women;
   - That a woman’s need for an interpreter is a key safety issue;
   - That women who have been traumatized by gender-based violence or face certain cultural pressures may need their cases to be handled by females;
   - Women’s need for accurate information about their rights, options, obligations, and status.

9. Effective methods should be found to educate immigration and family law lawyers about domestic and sexual violence and immigration matters respectively and the importance of coordinating with each other regarding the best interests of immigrant, refugee, or non-status clients and their children who are victims of violence.

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REFERENCES


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Section 6: Conclusions & Recommendations
Conclusions and Recommendations

The Safety of Immigrant, Refugee, and Non-Status Women Project has met and exceeded the objectives relating to legal education, legal research, and legal aid through its research, construction of informational resources, drafting of briefing notes, and workshops with legal advocates, counsellors, support workers, police and others working in the anti-violence and settlement sectors.

The IWP project has improved understanding of the law and the administration of justice for immigrant, non-status, and refugee women affected by violence. It has improved public access to legal aid, made the justice system more accessible and has created a greater understanding of the issues and barriers faced by these women and children.

The knowledge gained as part of this project informs all the work done by EVA BC on the issue of violence and will continue to foster outcomes in legal education, legal research and legal aid. EVA BC will continue to develop and update its informational resources and continue its practice of consultation with service providers, and encouragement of cross-sector communication and collaboration. As one government representative stated, “I hope that they will do ongoing studies that, if they’re producing papers or other briefing notes with helpful information, will continue to educate the policy makers, to educate the bureaucrats, and educate the public on what we can do in our system to strengthen what we have.”

Representatives from all sectors acknowledge that reform of legislation and policy can take many years. The IWP has met the objective of promoting law reform, but much has yet to be achieved in this area. The IWP has already resulted in several law reform outcomes and will produce further reforms in law, policy and administration of justice as EVA BC continues work on the issues affecting immigrant, refugee, and non-status women who experience violence.

The IWP has succeeded in researching the current legal context by consulting with frontline service workers about the legal and policy gaps they have identified in their work with immigrant, refugee, and non-status women. The project drafted a set of realistic, achievable, short-term and long-term reforms for both provincial and federal governments, in hopes that the IWP will continue to inform those involved in making law and policy beyond the life of the project itself.

All the materials and resources, including the ongoing work of the project, are available on the EVA BC website at www.endingviolence.org.