

## **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, 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.
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<sup>1</sup>**

**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<sup>2</sup>;
  - 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;
  - 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

<sup>1</sup> 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.

<sup>2</sup> 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.)

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:
  - 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;
  - To apply for a TRP to remain in Canada while seeking permanent status;
  - 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<sup>3</sup>. 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

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<sup>3</sup> This is likely a conservative estimate as deaths occurring in a family context are not always appropriately classified as domestic violence cases.

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<sup>4</sup>, 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 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”<sup>5</sup> for the TRP to be issued.

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<sup>4</sup> 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).

<sup>5</sup> 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.

- 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.

### **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,<sup>6</sup> 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.

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<sup>6</sup> 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).

- 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*.

### **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<sup>7</sup>

- 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 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.

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<sup>7</sup> 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*



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

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*