

## **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.



## ***FEDERAL BRIEFING DOCUMENT 5***

### **Coordination of Responses to Immigrant, Refugee, and Non-Status Women<sup>1</sup> Who are Victims of Violence**

**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 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

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<sup>1</sup> 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.

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’<sup>2</sup> 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 co-ordinated strategies to address...spousal abuse” (Ad Hoc Federal-Provincial-Territorial Working Group Reviewing Spousal Abuse Policies and Legislation, 2003, p. 83).
- 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.

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<sup>2</sup> 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

- 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

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