

Unprotected, Unrecognized

Canadian Immigration Policy and Violence Against Women, 2008-2013



**MIGRANT
MOTHERS
PROJECT**

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Executive Summary
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ACKNOWLEDGEMENTS

Whereas this report focuses on the Canadian state's treatment of people with precarious immigration status, we acknowledge that colonization, denial of sovereignty, exploitation of indigenous lands, and violence against indigenous peoples, contribute to a crisis in native communities across Canada. We offer support for the campaign to honour missing and murdered aboriginal women, girls and trans people, while working to build relationships of mutual respect and solidarity among immigrant and indigenous communities.

We extend our gratitude to women living with precarious immigration status, who have been contributing to this report through partaking in interviews, community events, and membership on the project's advisory board. We are also grateful for the lively discussions and dialogues among immigrant women, social and health service providers, grassroots activists, lawyers and educators, whose knowledges and wisdom inspired this report.

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The report is written and edited by Rupaleem Bhuyan.

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ABOUT THE MIGRANT MOTHERS PROJECT

The Migrant Mothers Project (MMP) was launched in 2011, as a collaborative research project led by Rupaleem Bhuyan at the University of Toronto in partnership with a network of community stakeholders, legal clinics, community health centres, and grassroots women. The MMP examines how immigration policies contribute to the production of violence against women and creates barriers for women seeking safety and support.

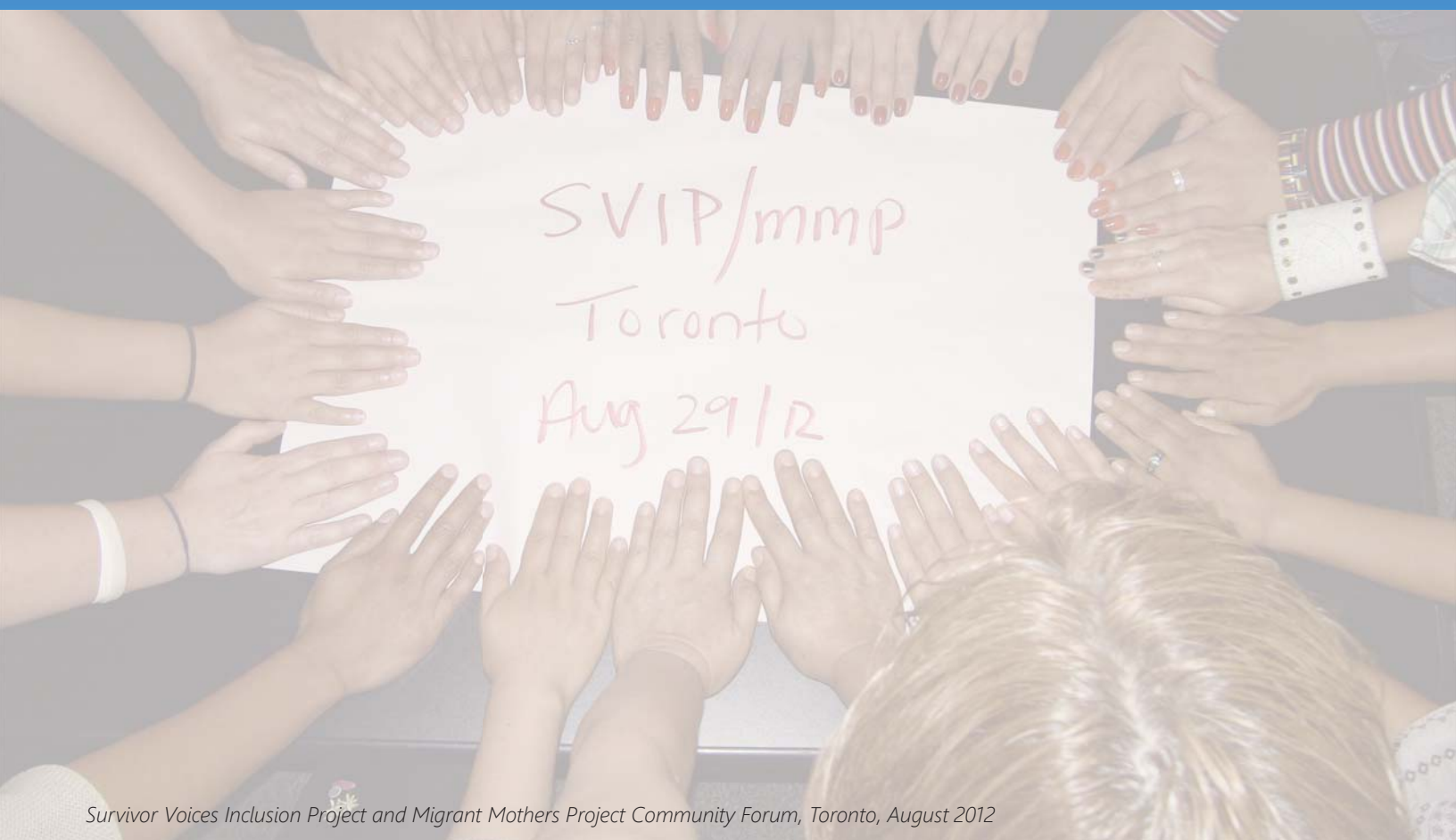
Community Advisory Board

Mercedes Umaña (Women's Health in Women's Hands Community Health Centre) served as the community collaborator from 2011-2012. 7. Harmy Mendoza (Women Abuse Council of Toronto: WomenACT) served as the Community Collaborator from 2013-2014. The Community Advisory Board includes community members committed to immigrant rights, as well as service providers and legal advocates working in Toronto based community organizations:

| | |
|---------------------------|---|
| Karin Baqi | South Asian Legal Clinic of Ontario |
| Sandra Cordero | Community Member |
| Rosa Delgado | Sistering |
| Olga Florean | Community Member |
| Isabelle Garcia | Community Member |
| Harmy Mendoza | Women Abuse Council of Ontario: WomenACT |
| Grissel Orellano | Toronto Rape Crisis Centre/Multicultural Women against Rape |
| Laarni Paras | Springtide Resources |
| Maria Olaya | Toronto Rape Crisis Centre/Multicultural Women against Rape |
| Soheila Pashang | Community Member |
| Francisco Rico | FJC Refugee Centre |
| Geri Sadoway | Parkdale Legal Clinic |
| Tanisha Sri Bhaggiyadatta | Springtide Resources |
| Wangari Tharao | Women's Health in Women's Hands Community Health Centre |
| Mercedes Umaña | Women's Health in Women's Hands Community Health Centre |
| Fernanda Villanueva | Community Member |
| Tamar Witelson | METRAC |
| Susan H. Young | Ontario Association of Interval and Transitional Housing |
| Roxana Zuleta | Community Member |

See www.migrantmothersproject.com for more details.

EXECUTIVE SUMMARY



Survivor Voices Inclusion Project and Migrant Mothers Project Community Forum, Toronto, August 2012

In 2013, The Migrant Mothers Project conducted research to understand how immigration and refugee policies impact the safety of immigrants who have a precarious status. Since 2008, the Canadian government has introduced an unprecedented number of legislative and regulatory changes that have impacted immigrants' and refugees' access to legal representation, access to social and health services, and pathways to permanent residence. We wanted to understand how immigration policy changes are impacting how community based organizations work with women with precarious immigration status, especially in cases where women are seeking safety from violence.

Over the past two decades, anti-violence against women advocates have grappled with intersecting oppressions that impact women's efforts to flee or recover from violence. When Linda MacLeod and Maria Shin were commissioned by Health Canada to study the service delivery needs of immigrant and refugee women, they emphasized that many immigrants and refugees who are abused are isolated due to language and cultural barriers, racism, the 'strangeness' of their environment and the power that their immigration sponsors held over them. Supporting refugee claimants, immigrants who were facing sponsorship breakdown, and developing programs to address language barriers, ethno-cultural differences, and queer and trans people in immigrant communities emerged as key concerns in anti-violence against women programs and services. More recently, organizations have identified immigration status as a pivotal factor that increases vulnerability to abuse and neglect .

Goals for this report

This report is a collaborative effort to develop feminist analyses of immigration and refugee policies and their impact on violence against women. In this report we focus on people who self-identify as women or who are identified by the state as women or female. We focus on the gendered dimensions of immigration policy to bring visibility to specific ways in which the Canadian state is complicit in producing gender inequality in the form of violence against racialized women, economic exclusion and marginality, family separation, and through detention and deportation. This report is geared towards people working in the violence against women “sector”, community-based organizations that serve immigrants and refugees, and grassroots community groups that are mobilizing their own resources to support immigrants with precarious status.

The primary goals of this report are to:

1. Develop a framework for understanding precarious immigration as part of the spectrum of violence against women (VAW)
2. Identify how recent immigration policies are impacting women’s rights and safety
3. Illustrate case examples of individual, community and policy advocacy taking place across Canada.

Our report focuses on immigration and refugee policies that were introduced between 2008-2013, a period which has been described as the most active in Canadian immigration policy development since

this country’s inception. This period also coincides with the period that Minister Jason Kenney served as the Minister of Immigration and Citizenship in Canada. During this time, the Canadian government introduced sweeping changes that:

- Increase employer control over temporary foreign workers;
- Restrict family sponsorship;
- Increase financial and social conditions on family sponsorship applications for spouses, children, parents, or grandparents;
- Limit immigrants and refugees’ access to health care, social assistance and legal services;
- Deny refugee protection to people coming from countries that are deemed “safe” by the Minister of Citizenship and Immigration; or who the Minister considers to be “irregular” because they arrived in a group of two or more;
- Criminalize immigrants, making it easier to detain and deport immigrants and refugees

According to Minister Jason Kenney, these policies fulfill Canada’s economic and political agenda, to ensure that only the “best and brightest” become full members of Canadian society, while securing Canada from the threat of “fraudsters”, “criminals” and “terrorists”. We argue that this policy agenda diminishes the rights of immigrants and refugees, while fuelling racism against immigrants and refugees.

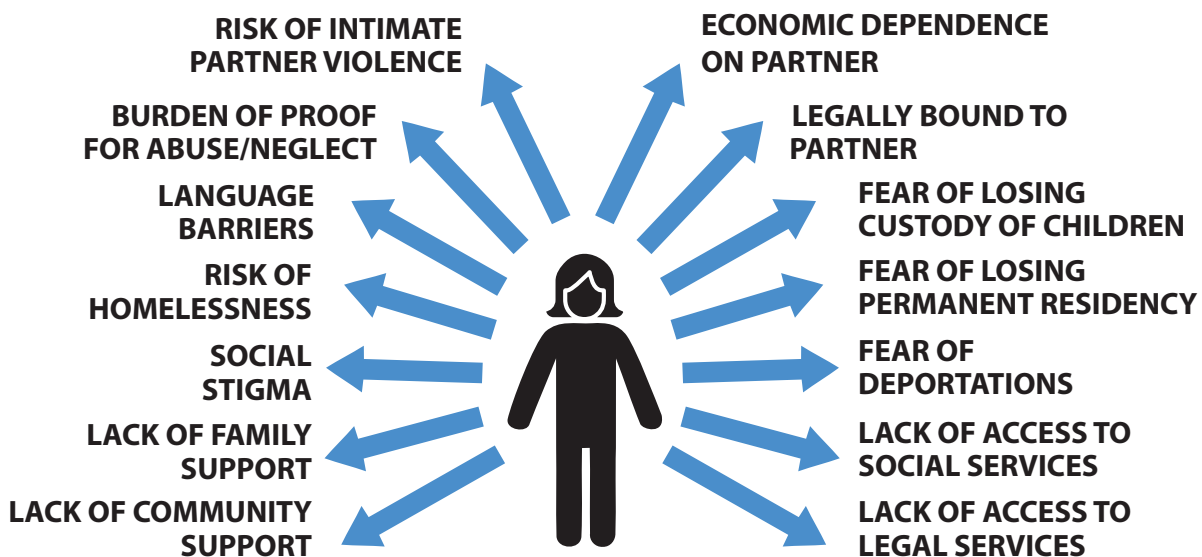
Immigration Policy and the Spectrum of Violence Against Women

Since the battered women's movement emerged in the 1970s, service providers have focused on emergency and transitional housing, income assistance, childcare and other forms of support for women and children fleeing abuse and neglect. These types of supports have been critical in assisting women who seek to leave abusive relationships and find ways to build lives free from violence. Many anti-violence against women programs, however, are structured to support permanent residents or citizens and thus pivot around women's eligibility for different forms of social assistance. People with a precarious immigration status—including temporary foreign workers, international students, sponsored spouses, and refugees whose claims are denied or dismissed—are denied access to many public benefits (e.g. health care, housing, income assistance, legal aid), and thus are often turned away from vital services.

For women who have faced violence, access to shelter, income support, and legal assistance can often be the difference between returning to an abusive situation and independence from a violent relationship. Additionally, there have been significant funding cuts and restructuring of social service and income assistance provided by federal, provincial, and municipal governments. Immigrant women also face the devastating threat of detention and deportation, which may result in separating families and being forced to return to dangerous circumstances in one's country of origin. This is further compounded for LGBTQ women who often face further isolation from their family and immigrant community.

This research sought to identify gaps in services for immigrants with precarious status, but also to document how the current political climate is impacting the capacity of anti-violence against women and immigrant service organizations to advocate for immigrant and women's rights.

VULNERABILITIES FOR MIGRANT WOMEN



Research Methods

This report is informed by research and community engagement activities that were conducted by the MMP with guidance from our Community Advisory Board. Our research activities involved analysis of federal and regional public policies and regulations issued between 2008-2013. We reviewed community-generated research and commentary on immigration policy changes that are available through the web, relevant list-serves and through a review of Canadian media coverage. We also conducted conversational interviews with 17 service providers, academics and policy makers working in different regions of Canada (e.g. Vancouver, Montreal, and Toronto).

Our community activities complement our research, through engaging in dialogue with communities across Canada to better understand the impact of immigration policy on front-line service delivery.

On June 5, 2014, we brought together service providers, legal advocates and activists across Canada to take part in a daylong symposium that tackled intersections between violence against women and precarious immigration status. This report shares highlights from our research and offers recommendations for organizational and policy advocacy.

Key Themes

Through our community forums and interviews, we learned that budgetary cuts to settlement services and a political climate that pressures organizations to refrain from advocacy, also detrimentally impact how organizations can respond to policy changes that are unfolding at a rapid pace.

Amidst the sense of crisis in immigrant serving organizations, we also learned about inspiring community and grassroots campaigns that are

advocating for and with immigrants and refugees. Campaigns to challenge cuts to the Interim Federal Health Program; opposition to the crack down on 'marriage fraud' and the new conditional permanent residence for sponsored spouses; and campaigns to protect temporary foreign workers from exploitation and abuse are unfolding in different regions of Canada. These grassroots campaigns have had some success in pushing local and provincial governments, and in some cases using the courts to pressure the federal government to ensure immigrant and refugees' rights.

Conclusion

This report covers only a snapshot of the advocacy efforts across Canada to improve policy and service delivery that addresses violence against women. We were unable to address several policy changes that were introduced in 2014, including: Bill C-24, the *Strengthening Canadian Citizenship Act*, Bill S-7, *Zero Tolerance for Barbaric Cultural Practices* that was tabled in November 2014; proposed changes to the Live-in-Caregiver program, due to be implemented November 30, 2014; and proposed cuts to social assistance for refugee claimants.

This rapid pace of policy development continues to take place without meaningful consultation from anti-violence against women advocates. We join the call for a National Action Plan on Violence Against Women, as put forward by the Canadian Network of Women's Shelters and Transition Houses (2013) that adheres to guidelines set out by the UN Convention on the Elimination of All Forms of Discrimination against Women and the UN Declaration on the elimination of violence against women. We hope this report contributes to dialogue and critical assessment of Canadian laws and policies towards upholding the rights for immigrant and refugee women in Canada.

Impact of Immigration Policy Changes on Rights and Access to Services

- Service providers in CIC funded organizations regularly turn away people who are not permanent residents or convention refugees;
- Changes to the Interim Federal Health Program impacted all groups of refugees, even those who are still eligible for health care under the new regulations; several provinces reinstated some access to health care using provincial resources (e.g. Alberta, Manitoba, Saskatchewan, Nova Scotia, Quebec and Ontario);
- Strict timelines for refugee claimants make it almost impossible for women to gather documentation to properly support their claims;
- Information sharing between CBSA and Ontario Works has led to some refugee claimants getting their social assistance cut as soon as they received a negative decision (even when they are still eligible for benefits). This can create undue hardships for refugee claimants who are going through the appeal process;
- Service providers are discriminating against immigrants/refugees, due to heightened suspicion and hysteria of immigrants abusing the system;
- Criminalization of immigrants is leading to racial profiling and increasing the threat of immigration enforcement. For example, applying for a refugee claim can now result in immediate detention;
- Permanent residence and citizenship are more difficult to access; both the eligibility and process is more onerous, more expensive, and excludes many people living in Canada;
- Applying for an exception to Conditional Permanent Residence (CPR) as a victim of abuse, neglect, or forced marriage is onerous and unsafe; the sponsored spouse carries the burden of proof and it is uncertain if victims seeking this option will gain permanent residence;
- Many spouses who are eligible to apply for the exception for CPR are discouraged by the complicated rules and choose to remain with their abusive spouse/partner;

Budgetary Cuts and Advocacy Chill

- Service providers (especially those working in CIC funded organizations), regularly turn away people who are not permanent residents or convention refugees;
- When service providers do support people with a precarious status, they are afraid or unable to exchange information about these cases for fear of jeopardizing their funding;
- Budgetary cuts, along with legal aid cuts in Ontario, have made it increasingly difficult to support women with precarious status who have complex legal issues (i.e. family law, immigration law, criminal justice law);
- CIC has been more stringent in prohibiting advocacy by organizations who sign contribution agreements with CIC;

Provincial and Regional Differences

- Settlement services that are located in community settings see a broad range of immigrants who have a precarious status (e.g. public library, primary or secondary schools, faith-based programs, community health centres and mobile clinics);
- Refugee claimants are more visible in the larger cities of Toronto, Montreal and Vancouver; whereas temporary foreign workers are more visible in rural regions of Ontario;
- Due to the closure of the Ottawa IRB Hearing office, refugee claimants in Ontario must travel longer distances for their hearing, increasing the financial burden of travel and lodging for refugees and their lawyers;
- Organizations in Windsor and the Niagara region are working with temporary foreign workers employed through the seasonal agricultural program and low-skilled program, but many organizations are not funded to support these communities;
- In Windsor, advocates reported that there is an increase in dangerous border crossings (i.e. Windsor train tunnel, Detroit river);
- The hostile anti-immigrant climate, in the wake of Quebec's Charter of Rights debates, has created new challenges for immigrants seeking service in Quebec;
- Strong partnerships between indigenous and immigrant community-based organizations in British Columbia could serve as a model for building solidarity across Canada.

Recommendations for Organization and Community Advocacy:

The following recommendations identify key areas for community organizations to develop policies and practices for working with immigrants with precarious status.

- Develop and implement access without fear policies by: not requiring women to disclose their immigration status when seeking services; ensuring that all referrals for services are screened to be safe for women with precarious status; when/if immigration status is disclosed, to safeguard this information and not disclose women's immigration status to anyone without a woman's expressed consent.
- Develop outreach to temporary foreign workers and women with a precarious status or nonstatus, including live-in-caregivers who are being abused by their employers to share information on worker's rights, identify needs, and advocate for better access to services.
- Develop and/or implement anti-racist and anti-oppressive policies and practices that address anti-immigrant attitudes among service providers and in professional networks; this would include language access policies and practices for women with limited English or French.
- Develop and/or strengthen advocacy networks to exchange up-to-date information on policy changes and to develop viable alternatives for women with precarious status to gain access to affordable housing, child care, and social assistance.
- Identify alternative funding to support programs and advocacy to address the needs of women who have a precarious immigration status.
- Exchange knowledge and information on the impact of immigration policies through tool-kits, webinars and in-person meetings.
- Work with existing networks (e.g. Canadian Council for Refugees, National Action Plan, YWCA Canada, Canadian Association of Refugee Lawyers) to strengthen attention to intersections between violence against women and precarious immigration status.
- Seek legal support to assist women to determine the best route for applying for permanent residence, through either a refugee claim or an H&C application.
- Document cases involving Conditional Permanent Residence and access to the "exceptions for victims of abuse, neglect and forced marriage" which may be used in a legal challenge.
- Develop media campaigns to inform the public and policy makers about the lived realities of living with precarious immigration status.

Recommendations for Policy Advocacy

The following recommendations lay out general goals for policy advocacy directed towards federal, provincial and municipal governments.

- Expand eligibility for CIC services (i.e. language classes, settlement services) to refugee claimants and temporary foreign workers.
- Abolish the two-year conditional status for sponsored spouses.
- Set up mechanisms for sponsored family members who are abused to apply for permanent residence independent from their sponsor.
- Grant temporary foreign workers permanent status upon entry to Canada.
- Abolish the live-in requirement for the Live-In-Caregiver program.
- Grant victims of human trafficking permanent residence in Canada.
- Call on the Immigration and Refugee Board to implement the guidelines for gender-based analysis for refugee determination.
- Call on the Immigration and Refugee Board to create and implement guidelines for LGBT refugee determination.
- Call upon the Privacy Commission to protect the privacy of people who are accessing social and health services; thus prohibiting information sharing about immigration status between different government organizations.
- Call upon municipal and provincial governments to implement access without fear policies for the police, public schools, and for health and social services such that all residents have access to services regardless of their status.

