

Barriers for Non-Status Women:

A Legal and Policy Overview for the BC Society of Transition Houses

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1 Introduction

This paper discusses access to a variety of social services and immigration policies in BC and Canada for women who are without legal immigration status and are deemed out of status or non-status women. Three fundamental issues are examined in this overview: issues of access to provincial **health** and **housing** services, and issues related to **immigration status**. Additionally, access to financial support is examined, as this is a significant component of eligibility for many provincial support services, and is an important element in a non-status woman's ability to support herself in pursuing an application to the Ministry of Immigration and Citizenship that would provide her with an immigration status in Canada. The paper also includes recommendations to policies, regulations and laws that would improve an out of status woman's ability to access critical services and immigration pathways to residency.

The non-status women considered in this overview have entered Canada in the Family Class, which includes spouses and common-law partners, parents and grandparents, and dependent children under 18 years old.

Access to Services

1.1 Income Assistance

A lack of eligibility to access work, income assistance, and support subsidies is a major barrier to accessing health and housing services in BC. There are three main sources of income for temporary residents: provincial income assistance, child support benefits, and temporary work permits.

1.1.1 Provincial Income Assistance

A lack of access to income assistance for non-status women often results in negative outcomes and generally bars their access to provincial housing services. Income assistance policies have created barriers for non-status women achieving housing stability, and being able to move forward with ministerial applications.

In BC, income assistance is available for family units generally under section 4 of the *Employment and Assistance Act* (EAA),¹ and section 7(1) of the Regulations.² The eligibility for assistance is dependent on the individual holding some status in the immigration and refugee system: convention refugee, temporary resident, permanent resident, having an ongoing Humanitarian and Compassionate Grounds application, or otherwise having a claim for protection under review by the minister. As such, a non-status woman has no access to income assistance, hardship assistance, or income supplements through the EAA and will be ineligible to apply for many provincial services.

This scheme effectively creates a circumstance in which a non-status woman fleeing domestic violence by her sponsor will not have access to income support until she has an application under consideration, or is facing a removal order. To get to a point where an application decision is pending is a lengthy process that can take up to three years.³

¹ SBC 2002, c 40 [EAA].

² BC Reg 263/2002 [EAA Regs].

³ Personal Communication, Kamaljit K Lehal, Lehal Law (13 March 2017); The Safety of Immigrant, Refugee, & Non-Status Women Project,

In response to this, 2012 section 7.1 was added to the EAA regulations, allowing for a ministerial exemption from the statutory citizenship requirements. In principle, the section provides consideration for applicants with dependent children or who are fleeing spousal abuse,⁴ however, the reliance on ministerial discretion still results in uncertainty over its effectiveness in addressing all valid claims, as well as the length of time that a non-status woman will wait for a decision – potentially leaving her without access services that require her to be receiving financial support. Additionally, it is unclear how effective this ministerial exemption has been at addressing the need for income assistance for non-status women.

Recommendations

1. The BC Ministry of Social Development & Social Innovation should enact transparency policies, reporting on the effectiveness of section 7.1 of the EAA regulations.
2. Consideration for the residency status of a non-status woman's children should be codified in section 7.1 of the EAA regulations – if her child is Canadian, the mother should have right to housing.

1.1.2 Child Support Benefits

A potential loss of access to child support for women without status could mean that a non-status woman fleeing an abusive relationship may consider staying in the relationship or perhaps leaving her child with an abusive spouse.

Currently non-status women are not eligible for federal subsidies under Canada Child Care Benefits. These benefits are only issued to qualified individuals if they or the spouse is a Canadian citizen, permanent resident, member of a protected class, or holds a temporary resident permit.⁵ This eligibility for Canada Child Care Benefits is strictly defined in section 122.6 of the *Income Tax Act*.⁶ For a woman leaving an abusive relationship with her sponsor, this may mean deciding between giving up these benefits entirely, leaving her dependents with the abusive sponsor who has the right to claim the benefits, or staying in the abusive relationship.

In BC, section 5 of the regulations to the *Child Care Subsidy Act*⁷ provides slightly stricter restrictions to eligibility for this subsidy, where the applicant is required to be a citizen, permanent resident, or convection refugee. This restriction reinforces the need for a woman facing the loss of her status to consider staying with her abusive sponsor, and may force her to leave her child with the sponsor because of her lack of access to child care subsidies.

Recommendations:

1. Access to the *Child Care Subsidy Act* should be permitted for temporary resident permit holders in section 5 of the regulations.

The Role of Canadian Immigration Laws and Policies in Relation to Women's Safety: A Lawyer's Compendium (Law Foundation of BC).

⁴ EAA Regs, ss 7.1(b), (c).

⁵ Canada Revenue Agency, Booklet T4114 (E) Rev. 16, "Canada Child Benefit and Related Provincial and Territorial Programs" (7 February 2017).

⁶ *Income Tax Act*, RSC, 1985, c 1 (5th Supp),

⁷ *Child Care Subsidy Act*, RSBC 1996, c 26, BC Reg 74/97

2. Consideration for a woman's loss of immigration status due to her fleeing an abusive sponsor should be included in section 3 of the *Child Care Subsidy Act* regulations.

1.1.3 Temporary Work Permits

Negative outcomes resulting from a lack of eligibility for income assistance and other provincial services could be mitigated by access to regular income. A woman who holds a temporary work permit or a working holiday permit can legally work in Canada. Otherwise, a non-status woman will have to wait until she has progressed her claim to where she receives approval in principle for permanent resident status. Only at that time could she apply for a work permit. For a non-status woman fleeing an abusive sponsor, this can have the effect of limiting her ability to live independently from her sponsor.⁸

Temporary work permits are administered and regulated by the Ministry of Immigration, Refugees and Citizenship Canada and Employment and Social Development Canada. Under section 30 of the *Immigration and Refugee Protection Act* (IRPA),⁹ a non-resident can only work in Canada with a temporary work permit. A non-resident may work without a temporary work permit only if they are permitted to do so by section 189 of the IRPA regulations.¹⁰ However currently the regulations do not include considerations for non-status women who may be fleeing their sponsor and who do not already have a temporary work permit.

Currently, a woman without status is ineligible to apply for a work permit under the IRPA regulations, sections 199. However, if the claimant has no other means of support and has gotten to the point of submitting a Humanitarian and Compassionate Grounds (HCG) or Permanent Resident application, they may apply for a temporary work permit under sections 206 and 207 of the IRPA regulations, respectively. This can be problematic as applications for HCG or Permanent Residency can take two to three years to complete, leaving a non-status women without access to employment.¹¹ This lack of access to a gainful employment has the potential to limit a non-status woman's access to financial support, and may undermine her ability to leave the relationship and if she does leave encourage her to return to an abuser for monetary support.

Recommendations

1. Section 186 of the IRPA regulations should allow for a non-status woman fleeing an abusive sponsor to work in Canada without a work permit.
2. Sections 206 and 207 of the IRPA regulations should allow for a non-status woman fleeing an abusive sponsor to apply for a temporary work permit.

1.2 Access to Health Services

1.2.1 Provincial MSP

Immigrant and refugee women leaving violence face significant financial insecurity and poverty. A lack of access to provincial health services is a significant issue for non-status women who are pursuing their

⁸ *Supra*, note 3.

⁹ SC 2001, c 27 [IRPA].

¹⁰ SOR/2002-227 [IRPA Regulations].

¹¹ *Supra*, note 3.

immigration claims. This is closely connected to difficulties in accessing provincial income support, meaning that non-status women must typically self-fund their health care costs.

The provincial Medical Services Plan (MSP) is managed by regional health authorities in BC. Under the Medicare Protection Act¹² and its regulations, access to MSP is limited to those who have residency in BC. Under this framework, a resident is defined as either a citizen, permanent resident, or a person with an open application for permanent residency.¹³ This eligibility requirement is problematic for non-status women, who are barred from accessing the provincial MSP program, as it creates an increased financial burden from the need to either self-fund their healthcare costs or purchase private health insurance. This has direct implications for the wellbeing of a non-status woman and her dependents.

Negative outcomes resulting from the lack of access to MSP have the potential to become compounded in the light of an application for permanent residency, which often takes two to three years to complete.¹⁴ In circumstances where the woman has fled her sponsor and is thereby not able to access MSP, this timeline limits the access to needed services for her and her children. These circumstances create an onus for women to maintain their temporary residency status for fear of losing access to MSP services, which may encourage them to stay with an abusive sponsor.

Recommendations

1. Policies of the Provincial Health Service Authority need to include considerations for clarity of coverage policies and costs for non-MSP individuals.
1. Provincial Health Authorities should establish more free-access clinics and health care resources that do not bar access based on MSP eligibility, such as the British Columbia Multicultural Health Services Society.

1.2.2 Health Care and Language Services

Language barriers have been noted to be a compounding factor reinforcing barriers to access to health care services for out of status women. A lack of access to appropriate language and translation services contributes to concerns about confidentiality and issues of trust in a health care setting, and are at risk of receiving no treatment or inadequate health care. The Provincial Language Service (PLS) is meant to provide health authorities in BC with formal interpretation and language services, including access to property trained interpreters.¹⁵ An expansion of this PLS program in 2015 was announced, including an expansion of the number of interpreters serving refugee populations in BC. However, it is unclear if this expansion has fulfilled the need of immigrant and refugee women for this service.¹⁶

The PLS is currently a discretionary program run by the Provincial Health Service Authority, empowered by the BC *Health Authorities Act*.¹⁷ There is currently no statutory provisions directed at ensuring the

¹² RSBC 1996, c-286 [Medicare Protection Act].

¹³ *Medicare Protection Act*, s 1; BC Reg 426/97, ss.2(d), (e), (g), (j).

¹⁴ *Supra*, note 3.

¹⁵ Provincial Health Service Authority, “*Provincial Language Service*” (2017), Ministry of Health, online: <<http://www.phsa.ca/our-services/programs-services/provincial-language-service>>.

¹⁶ Provincial Health Service Authority, News Release, “More Interpreters to Meet Needs of New Refugees” (2 December 2015), online: <http://www.phsa.ca/about-site/Documents/20151201_NR_refugee%20interpreters.pdf>.

¹⁷ RSBC 1996, c-180 [Health Authorities Act].

funding and availability of this program, or general access to language and translation services that are needed by immigrant and refugee women.

Recommendations

1. The Provincial Health Service Authority needs to continue to dedicate resources to interpretation services.

1.2.3 Other Health Programs and Services

Currently refugee women have access to Interim Federal Health Program (IFHP), which provides access to basic health services for resettled refugees and other claimants. Accesses to IFHP has been recently reaffirmed for refugees, including access to preventative care, supplemental care, and prescription drug coverage.¹⁸

However, under the current IFHP program refugee women will lose coverage if they lose their status due to a determination by the Immigration and Refugee Board that their refugee claim is ineligible or has been abandoned.¹⁹ Additionally, the IFHP provides no coverage for individuals who are not actively pursuing a refugee claim, or for those who have not yet received decisions on either their asylum claim or pre-removal risk assessment. Women who are fleeing domestic violence and have lost their temporary resident status will not be covered under IFHP until they have effectively entered the refugee class by pursuing an application. In these circumstances, a non-status women will be unable to access both federal and provincial health programs.

Additional health services are provided in BC under the EAA for “General Health Supplements” available to qualified individuals, subject to their application to the minister.²⁰ However, difficulties for non-status women in qualifying for income assistance under the EAA results in a lack of eligibility. Additionally, the *Child, Family and Community Service Act*²¹ provides support for health and parenting services, including services for children and youth, in-home support, parenting programs, and support for children who witness domestic violence. Currently, access to services under the statute is provided on a discretionary basis by the minister’s director and it is uncertain how readily available this assistance is for non-status women.

Recommendations

1. Ministries overseeing health programs should enact policies of transparency regarding discretionary approvals for services.
2. Access to services dependent on ministerial discretion should ensure specific considerations are made for non-status women fleeing domestic abuse.

¹⁸ Immigration, Refugees and Citizenship Canada, “Notice – Changes to the Interim Federal Health Program” (11 April 2016), online: <<http://www.cic.gc.ca/english/department/media/notices/2016-04-11.asp>>; Also see *Canadian Doctors for Refugee Care v Canada (Attorney General)*, 2014 FC 651.

¹⁹ Immigration, Refugees and Citizenship Canada, “Determine your eligibility – Interim Federal Health Program” (13 October 2016), online: <<http://www.cic.gc.ca/english/refugees/outside/arriving-healthcare/individuals/apply-who.asp>>.

²⁰ EAA Regs, ss 2(1) and 67(1).

²¹ *Child, Family and Community Service Act*, RSBC 1996, C 46, Part II.

3. Broader agency policy considerations for the IFHP should be included for women in domestic violence who intend to pursue ministry applications.

1.3 Housing

1.3.1 BC Housing

Reduced housing options have been reported to contribute to negative outcomes for non-status women, including the return to abusive spouses and sponsors. Issues relating to access to housing for non-status women are twofold: general difficulties in accessing the rental market, and challenges in accessing provincial subsidized housing. BC Housing provides subsidized housing in the province. However, due to eligibility issues in accessing BC Housing services non-status women may be forced to seek housing on the market, which may be cost-prohibitive and difficult to find, or through Transition House programs. Out of status woman are eligible for housing and services at Transition, Second and Third Stage Housing and Safe Homes across the Province.²²

In BC, if a person is receiving income assistance under the EAA they are eligible to apply for subsidized housing services under BC Housing.²³ However, this generally operates as a barrier to accessing direct housing services and housing-related income assistance, due to issues of uncertain eligibility under the EAA.²⁴ For a woman without legal status, an inability to access employment assistance benefits directly contributes to uncertain access to housing.

Additional BC Housings services that are available, subject to residency and income assistance eligibility include housing-related income assistance under the Rental Assistance Program, priority placement services available for victims of abuse, and housing directly managed by BC Housing.²⁵ Non-status women are currently ineligible for these programs due to residency restrictions.

Support for rental market housing may be available for non-status women through the BC Housing Homelessness Prevention Program and Homeless Outreach Program, however no clear guidelines are published by BC Housing.

²² In 2017, The Building Supports Project, a partnership between The BC Society of Transition Houses (BCSTH), the FREDA Centre for Research on Violence Against Women and Children, SFU and the BC Non-Profit Housing Association launched the Building Supports Public Awareness Campaign, “You are not alone.” informing the public and immigrant and refugee women experiencing violence of the free services available at these houses in more than 100 communities across BC. <<http://bcsth.ca/blog/not-alone-new-public-awareness-campaign-reaching-immigrant-refugee-women-experiencing-violence/>>; <<http://www.bcsth.ca/youarenotalone>>.

²³ BC Housing, “Subsidized Housing” (2017), online: <<https://www.bchousing.org/housing-assistance/rental-housing/subsidized-housing>>.

²⁴ While access to the EAA may be gained through a ministerial application under section 7.1 of the regulations, it is uncertain how effective this option is for non-status women without children.

²⁵ BC Housing, “Rental Assistance Program (RAP)” (2017), online: <<https://www.bchousing.org/housing-assistance/rental-assistance-financial-aid-for-home-modifications/rental-assistance-program>>; BC Housing, “Priority Placement Program” (2017), online: <<https://www.bchousing.org/housing-assistance/women-fleeing-violence/priority-placement-program>>.

Recommendations

- BC Housing should waive residency requirements for housing support services, and make needs-based assessments independent of the requirement for income assistance under the EAA.

2 Immigration Status

Under IRPA there are three classes of admission into Canada as a temporary resident: the family class, the skilled worker class, and the refugee class.²⁶ In addition to IRPA, there is the possibility to immigrate directly to BC through the Provincial Nominee Program, however, this avenue is typically reserved for Economic Class applicants who are carefully vetted.²⁷ The non-status women considered in this overview have entered Canada in the Family Class, which includes spouses and common-law partners, parents and grandparents, and dependent children under 18 years old.²⁸

A major issue identified in this report has been a lack of support for Family Class women who are fleeing violence. For women who have complications with their immigration status, specifically those women in the Family Class that have lost their sponsorship, there are few avenues to pursue to acquire legal immigration status – all of which require lengthy and involved ministry applications. Often, when faced with a removal order, their last opportunity to gain legal status is to apply under Humanitarian and Compassionate Grounds (HCG).

2.1 Spousal Sponsorship

Non-status women in Canada under the under the Family Class, connected to a sponsor are defined in section 13(1) of IRPA as a spouse or conjugal/common law partner. In circumstances in which a woman is within an abusive relationship with this sponsor, the woman cannot apply for permanent resident status on her own unless making a HCG under section 25, or by a ministerial order. The requirement for a woman to stay with her sponsor to maintain her temporary resident status may have the effect of forcing her to choose between losing her status or staying in an abusive relationship. This in effect supports the power imbalance between the woman and her abusive partner/sponsor.

Amendments to IRPA coming into force in Spring 2017, a further complicating issue relating to spousal sponsorship has been Conditional Permanent Resident status.²⁹ This residency status effectively forced the sponsored woman to cohabit in with their sponsoring spouse for a two-year period to gain her permanent resident status. The repeal of Division 8 of Part 5 of IRPA is a positive step in addressing the power imbalance issues of spousal abuse.³⁰ However, issues associated with the Conditional Permanent Resident program, cited by the Ministry as being a perceived lack of access to information and perceived challenges in pursuing the residency application, remain as issues for general temporary residents

²⁶ IRPA, s 12.

²⁷ British Columbia, The BC Provincial Nominee Program, *Skills Immigration and Express Entry BC–Program Guide*, (Vancouver: Economic Development).

²⁸ IRPA, s 12.1.

²⁹ Regulations Amending the Immigration and Refugee Protection Regulations, (2016) C Gaz I, 150:44.

³⁰ *Ibid*; SOR/2002-227, ss 72.1–72.4.

sponsored in the Family Class. If the woman believes that she is subject to their spouses' power in holding her valid status, then she is more likely to stay in an abusive relationship.³¹

Currently Operational Bulletins IP1 and IP8, addressing inland processing of temporary residents and spouse or common-law partners, do not include considerations for instances of sponsor abuse affecting women applicants.³² While considerations of domestic violence may be included in ministerial considerations generally under HCG applications for permanent residency, this will only occur after the agency application has been submitted, potentially leaving a woman fleeing her sponsor without legal status, and vulnerable to a removal order.

Recommendations

1. Consideration for issues of spousal abuse for the temporary residents in the Family Class should be codified in the IRPA regulations – a woman should be entitled to keep her temporary resident status if leaving an abusive sponsor.
2. The Ministry should enact policies to encourage more transparency regarding policies, immigration status, and ministerial considerations that may affect a temporary resident's decision making.

2.2 Provincial Nominee Program

Currently the BC Provincial Nominee Program (PNP) invites nominated individuals to apply for permanent resident status through Immigration, Refugee and Citizenship Canada. The program favors Economic Class applicants, generally focused on skilled workers, healthcare professionals, and graduate and post-graduate students.³³ Currently, strict income or education requirements bar access to this program for most non-status women who have already come into Canada through other means.³⁴

Recommendations

1. The PNP should be made open to fast-track abused women to receive a certificate for them to proceed to their federal application.
2. The PNP should create a category for discretionary consideration for fast tracking temporary resident applications in cases involving domestic violence.

2.3 Humanitarian and Compassionate Grounds Applications

Applications to permanent residency may be pursued on Humanitarian and Compassionate Grounds under section 25 of IRPA. Many women identified in the Building Supports project have lost their

³¹ Building Supports Project Phase 1 Final Report, *Housing Access for Immigrant and Refugee Women Leaving Violence* (Vancouver: BCSTH 2015). Findings indicate that "...women who had been sponsored by their abusive partners expressed their confusion and fear surrounding the revoking of their status upon leaving the abuser."

³² Immigration, Refugees and Citizenship Canada, "Operational bulletins and manuals" (27 February 2017), online: <<http://www.cic.gc.ca/english/resources/manuals/index.asp>>.

³³ Province of British Columbia, "About the BC PNP" (2017), *Welcome to BC*, online: <<https://www.welcomebc.ca/Immigrate-to-B-C/B-C-Provincial-Nominee-Program/About-the-BC-PNP>>.

³⁴ British Columbia, The BC Provincial Nominee Program, *Skills Immigration and Express Entry BC-Program Guide*, (Vancouver: Economic Development) at 9.

sponsorship and are pursuing a residency application as their last resort to stay in Canada. In these circumstances, a person currently in Canada who has lost their immigration status is entitled to apply for citizenship through an application for permanent residency, as a convention refugee, or through HCG considerations. However, while still in the process of preparing her application, a non-status woman will not have legal status and will thereby be subject to removal orders. The lengthy application process that can take two to three years to complete all the required steps is a significant complicating issue.³⁵ This can have the effect of compounding issues of access to provincial income support, health services, and housing. Furthermore, in circumstances where there is an abusive or otherwise dangerous relationship, this timeline keeps a non-status woman and her children in danger of not receiving needed services.

An additional issue of note is the general requirement for an address in all ministry applications, including those under HCG. A non-status woman who has fled her sponsor may not have a permanent address, and may be dissuaded from providing her address at a transition house. This may be due to a fear that Border Services will target her at this address and issue a removal order.

Recommendations

1. Currently HCG applications take far too long and compound issues faced by non-status women pursuing their claim. HCG applications should be subject to an accelerated review process.
2. The requirement of an address for HCG applications should be removed and the use of a third-party address should be allowed.

2.4 Ministerial Discretion and Operational Guidelines

Section 25.1 and 25.2 of IRPA pertain to ministerial discretion over individual HCG applications, allowing those who would otherwise be ineligible for permanent resident status to be exempt from any outstanding criteria. Generally, the discretion afforded to the ministry in assessing HCG applications is problematic in that there is a lack of transparency as to the weight that the ministry will give the factors relevant to a given application.

The CIC operations manual require that agents assess each HCG application with consideration for the purpose of the statute and to make the assessment “In light of all available information...weighing all the relevant factors... [by an] objective determination of the decision-maker.”³⁶ Currently, there is no commitment to ensure that an applicant’s circumstances that may include domestic abuse are a part of those considerations, even though they may be relevant and valid issues to the application.

Furthermore, there are reported circumstances in which non-status women who have lost her sponsorship may choose to have their dependents remain with her former sponsor, who may be a permanent resident or Canadian citizen.³⁷ The CIC guidelines indicate that HCG applications must

³⁵ *Supra*, note 3.

³⁶ Immigration, Refugees and Citizenship Canada, “Humanitarian and compassionate: Processing in-Canada Applications” (2 March 2016), online: <<http://www.cic.gc.ca/english/resources/tools/perm/hc/processing/canada/all.asp>>.

³⁷ Immigration, Refugees and Citizenship Canada, “Humanitarian and Compassionate Assessment: Hardship and the H&C Assessment” (2 March 2016), online: <<http://www.cic.gc.ca/english/resources/tools/perm/hc/processing/hardship.asp>>.

consider “the best interests of any children directly affected by [the decision]”. It is currently unclear what factors are to be weighed when making this consideration, and whether the father’s residency status is relevant.

Recommendations

1. The ministry should adopt policies to promote transparent reporting on applications made under sections 25.1 and 25.2 of IRPA.
2. Considerations for women facing domestic violence and pursuing HNG applications should be codified in the IRPA Operations Manuals.
3. The assessment of hardship in HCG applications should be clarified in the IRPA Operations Manual to include consideration for dependents that may be at risk of being taken from the applicant solely based on the residency status of the father.

2.5 Access to Legal Aid

While out of status women do qualify for legal aid in BC through the *Legal Services Society Act*³⁸, which enables the Legal Service Society (LSS) to determine who is eligible for legal aid without discrimination toward residency status.

Anecdotal reports have indicated that the LSS has prioritized access to legal aid services to some classes of immigrants and refugees, and that there are issues in access to legal aid for women pursuing their HCG or permanent residency applications.³⁹ This lack of access extends to funding for the writing of the applications themselves. Although the issue of access to legal aid is a province-wide issue, the potential impact to non-status women is significant, as they may be forced to expose themselves to unnecessary risk by pursuing their applications without qualified guidance.

2.6 Removal Orders

Women who have lost their temporary resident status face specific and daunting challenges, including a disproportionate social and economic burden – especially if they have dependents. These challenges become compounded by the fact that they are under constant risk of being arrested without a warrant, or issued a removal order by Canada Border Services Agency (CBSA). These outcomes result in circumstances where a non-status woman may only acquire legal status through their existing permanent resident, temporary resident, or HCG applications, or a Pre-removal Risk Assessment process.⁴⁰

The threat of removal is an issue that conflates many of the negative outcomes identified in this report, especially with regards to a non-status woman’s concern about confidentiality when accessing health and housing services. Anecdotal reports indicate that CBSA agents have targeted transition houses, clinics, and other social service providers in BC to issue removal orders to non-status women. Currently there is no statutory framework barring CBSA from seeking non-status women at service providers, which has the effect of keeping women from accessing them for fear of being apprehended there.

³⁸ SBC 2002, c 30, s 10(1)(d).

³⁹ Personal Communication, Lisa Rupert and Andrea Vollans, YWCA Metro Vancouver (16 November 2016).

⁴⁰ IRPA, ss 25, 55(2), 112.

Additionally, when removal orders are issued by CBSA, anecdotal reports indicate that there is a lack of clarity on the process of deferring that order due to an in-process agency application.⁴¹ This is the result of a lack of guidance in statute or in the Operations Manuals on this process. In some circumstances, it has been reported that written deferral requests must be submitted, but there are no clear guidelines providing this direction.

Recommendations

1. The ministry should promote a policy that bar CBSA agents from seeking non-status women at key service providers.
2. Guidelines on the deferral of removal orders should be published in Operations Manuals, or in the IRPA regulations.

2.6.1 Sanctuary City

The concept of a Sanctuary City refers to a city that has declared itself to be a safe space for non-status immigrants, providing access to municipal and police services without fear of removal. In 2016 Vancouver declared itself a Sanctuary City. The principle of the Sanctuary City movement is to promote inclusive access to essential services for all people, including non-status immigrants.⁴² These principles have been argued to be in support of both Canadian Constitutional principles and binding international conventions targeting racial discrimination and discrimination against women.⁴³

In a Sanctuary City, non-status immigrants can use municipal services, limited to shelters, food banks, police services, libraries, and community centres without fear of being detained by Border Services. This effectively ensures that CBSA will not have access to hospitals, clinics, schools, parks, community centers, or neighborhood houses.⁴⁴

However, the current limitation of services available through Sanctuary City status excludes the provincial services addressed in this report. Additionally, findings in the Building Supports project⁴⁵ and in anecdotal reports⁴⁶ indicate that the CBSA have targeted health care providers and transition houses.

Recommendations

- Policy considerations should be made to extend Sanctuary City principles to include access to limited provincial services for non-status women fleeing violence in Vancouver.
- CBSA should make commitments to abide by Sanctuary City goals, and provide transparent tracking of their activities pursuant of non-status women accessing services in Vancouver.

⁴¹ Personal Communication, Kamaljit K Lehal, Lehal Law (13 March 2017).

⁴² AMSSA, "Info Sheet" (2014), online: <<http://www.amssa.org/wp-content/uploads/2015/05/AMSSA-Info-Sheet-Issue-13-Sanctuary-Cities1.pdf>>.

⁴³ Westcoast Leaf, "Position Paper: Sanctuary City Policy" (2015), online: <<http://www.westcoastleaf.org/wp-content/uploads/2015/01/WCL-Position-Paper-Sanctuary-City.pdf>>.

⁴⁴ Sanctuary City Vancouver, "*Sanctuary City Principles*" (nd), online <<http://www.sanctuarycityvan.com/sanctuary-city-principles/>>.

⁴⁵ Building Supports Project Phase 1 Final Report, *Housing Access for Immigrant and Refugee Women Leaving Violence* (Vancouver: BCSTH 2015).

⁴⁶ Personal Communication, Lisa Rupert and Andrea Vollans, YWCA Metro Vancouver (16 November 2016).

3 Conclusion

Although there have been legislative efforts to account for the needs of vulnerable women in the Canadian immigration system, women who are without legal immigration status face unique challenges but are given inadequate consideration. Currently, limitations in the statutory frameworks that regulate immigration and social services compound existing issues faced by non-status women. These issues include increased vulnerability to spousal abuse, a lack of housing security, and a lack of access to health services for themselves and their dependents.

Barriers to accessing provincial housing and health services are primarily created by the citizenship requirement for accessing the provincial income assistance program. Statutory frameworks that regulate provincial housing and healthcare services limit their access by requiring compliance with the BC EAA, which acts as a gatekeeper to these services. This has compounded the already difficult circumstances faced by non-status women, who may be fleeing abusive sponsors, as they are broadly ineligible for BC Housing programs and MSP.

Despite the repeal of Conditional Permanent Resident Status in IRPA, the current immigration framework does not adequately protect vulnerable women who have lost their status. IRPA Operations Manuals are unclear as to any considerations for issues faced by non-status women. Specifically, there is a lack of clear directions for ministry agents to consider issues of spousal abuse. This creates an environment of uncertainty regarding a non-status women's ministry application, compounded by the length of the HCG application process and difficulty in accessing legal aid services. Furthermore, the CBSA practice of issuing removal orders at social service providers promotes further uncertainty and insecurity for non-status women, especially at housing providers.

In addressing these issues policy recommendations are directed at broadening residency requirements for provincial social services, and providing more adequate consideration for the circumstances of non-status women in the Canadian immigration framework.