



HOUSE OF COMMONS  
CHAMBRE DES COMMUNES  
CANADA

# **STRENGTHENING THE PROTECTION OF WOMEN IN OUR IMMIGRATION SYSTEM**

## **Report of the Standing Committee on Citizenship and Immigration**

**David Tilson  
Chair**

**FEBRUARY 2015**

**41<sup>st</sup> PARLIAMENT, SECOND SESSION**

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# **THE STANDING COMMITTEE ON CITIZENSHIP AND IMMIGRATION**

has the honour to present its

## **FOURTH REPORT**

Pursuant to its mandate under Standing Order 108(2) and the motion adopted by the Committee on Thursday, February 6, 2014, the Committee has studied the strengthening of protection of women in our immigration system and has agreed to report the following:





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# **STRENGTHENING THE PROTECTION OF WOMEN IN OUR IMMIGRATION SYSTEM**

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## **PREAMBLE**

On 6 February 2014, the House of Commons Standing Committee on Citizenship and Immigration (the Committee) adopted the following motion for the present study:

That the Committee study how to strengthen the integrity of the Immigration Spousal Sponsorship Program. The Committee will look at ways to ensure sponsored spouses have the skills they need to succeed in Canada; examine how to better prevent vulnerable women from being victimized by an abusive sponsor, and as a consequence any potential penalties to the sponsor. The Committee will also examine what peer countries have done to protect women in spousal sponsorship programs. More specifically, the Committee will study what actions the Government has taken or plans to take to ensure vulnerable spouses are protected and have the skills they need to succeed independently. Areas of study would include forced marriages, polygamy, proxy marriages, immigrant women in the workforce and helping women break out of isolationism.

The Committee heard from 51 witnesses over the period of 26 February to 26 May 2014.



# INTRODUCTION

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Every year, thousands of Canadians and permanent residents are joined by a spouse or partner who settles permanently in Canada through the family reunification immigration program. In 2013, 43,037 spouse and partner family class immigrants settled in Canada, 58% of whom were female.<sup>1</sup> The vast majority of these sponsorship relationships are based on mutual respect and commitment, with both partners contributing to Canadian society.

Unfortunately, there are also sponsorships that are not successful, either for the sponsor, the sponsored spouse, or for Canadian society. Sometimes the sponsor is duped and finds out after the fact that their partner used the relationship solely for the purpose of obtaining permanent resident status in Canada. Sometimes both parties are complicit in using sponsorship to circumvent normal immigration channels. Although there may be many reasons for unsuccessful spousal sponsorship, this report is focused on the situation when sponsorship is unsuccessful for the sponsored spouse; in particular, when the spouse suffers abuse at the hands of her sponsor and/or his family.<sup>2</sup> The report will examine actions the government has taken or plans to take to strengthen the protection of women in our immigration system and to ensure vulnerable spouses are protected and that they have the skills needed to succeed independently.

The report is comprised of four chapters. The first explains the legislative and regulatory framework for the spousal sponsorship program, as well as federal measures intended to prevent the abuse of sponsored spouses, and the recourse available to these spouses in the event of sponsorship breakdown due to abuse. The second chapter summarizes what the Committee heard from witnesses concerning the factors that contribute to sponsored spouses' vulnerability to abuse and the difficulty in leaving abusive situations. Witnesses also made many recommendations to the Committee on how to mitigate sponsored spouses' vulnerability and enable them to flee an abusive relationship and establish themselves successfully in Canada – these are presented in chapter three. The Committee's recommendations conclude the report in chapter four.

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1 Citizenship and Immigration Canada (CIC), [Facts and Figures 2013 – Immigration Overview: Permanent residents by category](#).

2 While a portion of sponsored spouses are male, women are disproportionately affected by abuse and are the focus of this study. As such, the feminine will be used when referring to sponsored spouses.



# CHAPTER 1: LEGISLATIVE AND REGULATORY FRAMEWORK FOR THE SPOUSAL SPONSORSHIP PROGRAM

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Family reunification is one of the goals of the [Immigration and Refugee Protection Act](#) (IRPA).<sup>3</sup> Under this legislation, permanent residents and Canadian citizens may apply to sponsor spouses or common-law partners for immigration to Canada as permanent residents. This chapter explains the requirements for spousal sponsorship and describes measures the Government of Canada has taken to mitigate the potential for abuse of sponsored spouses and to ensure victims receive support. It also describes the recourse available under IRPA and the [Immigration and Refugee Protection Regulations](#)<sup>4</sup> (Regulations) for women whose sponsorship has broken down for reasons of abuse.

## A. The Spousal Sponsorship Program

Section 12 of IRPA provides that spouses or common-law partners<sup>5</sup> may be granted permanent residence based on their relationship to a Canadian citizen or permanent resident (the sponsor). The sponsor must satisfy certain requirements, as indicated in the Regulations,<sup>6</sup> and the spouse must not be inadmissible under IRPA.<sup>7</sup>

The marriage at the heart of any sponsorship must be legally recognized according to the law of the jurisdiction where it occurred and according to Canadian federal law.<sup>8</sup> Proxy marriages, which occur when one of the participants is absent and has named a proxy to represent her, are legal in some countries and Canada permits their use for immigration purposes.<sup>9</sup> Similarly, arranged marriages – arranged by family or a marriage broker with the consent of the parties – are legal in some countries and recognized for immigration purposes in Canada. However, polygamous marriages, which occur when one or more participants already has a spouse, while also legal in some countries, are not permitted in Canada. The Regulations exclude from sponsorship marriages entered into for the purpose of acquiring immigration status in Canada (sometimes called marriages of

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3 [Immigration and Refugee Protection Act](#), (IRPA), S.C. 2001, c. 27.

4 [Immigration and Refugee Protection Regulations](#), (IRPR) SOR/2002-227.

5 According to the [Immigration and Refugee Protection Regulations](#), s. 1, “common-law partner” means, in relation to a person, an individual who is cohabiting with the person in a conjugal relationship, having so cohabited for a period of at least one year. This report uses the term “sponsored spouses” to refer to all partners being sponsored.

6 The sponsor must meet the requirements in IRPR, sections [130](#) and [133](#).

7 [Sections 34–42 of IRPA](#) list conditions that prevent people from being able to enter or remain in Canada, known as “grounds of inadmissibility”. These include international or human rights violations, serious criminality, etc.

8 CIC, [Operations Manual OP 2: Processing Members of the Family Class](#), p. 37.

9 However, Parliament recently debated [Private Member’s motion M-505](#), which asked the Government to end this practice.

convenience or bad faith relationships), marriage to minors, and marriage to spouses or partners who are married to someone else (i.e. polygamy).<sup>10</sup>

Sponsored spouses may be living abroad or in Canada. Those already in Canada submit what is called an in-land application, meaning that they remain in Canada (typically with temporary immigration status such as a visitor, student, or temporary foreign worker) while the spousal sponsorship application for permanent residence is processed. For an in-land application to be accepted, the sponsored spouse must be cohabiting with the sponsor and must have legal temporary immigration status, although the requirement for legal immigration status may be waived if the spouse is otherwise admissible to Canada.<sup>11</sup>

In 2012, the government made a number of changes to the spousal sponsorship program in an effort to deter people from using marriages of convenience to circumvent immigration rules.<sup>12</sup> Most notably, sponsored spouses cannot sponsor a new spouse unless five years have passed since they obtained permanent resident status.<sup>13</sup> As well, the government introduced conditional permanent resident status for certain sponsored spouses.<sup>14</sup> The condition applies to a spouse who has been in the marriage/relationship for two years or less and has no children with the sponsor. With conditional permanent residence, the sponsored spouse is required to cohabit in a conjugal relationship with her sponsor for a period of two years after the day on which she became a permanent resident. An exception to this condition is provided for situations of abuse or neglect. If a sponsored spouse fails to meet the condition and does not qualify for an exception, her permanent resident status may be revoked and she could be removed from Canada.

Officials from the Department of Citizenship and Immigration Canada (CIC) informed the Committee that from October 2012 to January 2014, 9,637 conditional permanent resident visas were issued.<sup>15</sup> Between July and September 2013 in Ontario alone, 190 tips were received by government officials about conditional permanent residents whose relationships were possibly not genuine; 7 departure notices were issued.<sup>16</sup> Over the year prior to February 2014, the CIC call centre received 12 calls from sponsored spouses in an abusive situation.<sup>17</sup>

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10 IRPR, ss. 4, 5, [117\(9\)\(c\)\(i\)](#), and [125](#).

11 IRPR, s. [124](#). The waiver is explained in Appendix H: [Public Policy Under 25\(1\) of IRPA to Facilitate Processing in accordance with the Regulations of the Spouse or Common-law Partner in Canada Class \(p. 53\)](#).

12 CIC, [Archived – “The Jig is Up on Marriage Fraud,” says Minister Kenney](#), News Release.

13 *Regulations Amending the Immigration and Refugee Protection Regulations*, [SOR/2012-20](#).

14 *Regulations Amending the Immigration and Refugee Protection Regulations*, [SOR/2012-227](#).

15 House of Commons, Standing Committee on Citizenship and Immigration (CIMM), [Evidence](#), 2<sup>nd</sup> Session, 41<sup>st</sup> Parliament, 26 February 2014, 1615 (Robert Orr, Assistant Deputy Minister, Operations, Department of Citizenship and Immigration).

16 [Ibid.](#), 1600.

17 [Ibid.](#), 1620.



## B. Measures Taken to Mitigate the Potential for Abuse and Ensure Victims Receive Support

The Government of Canada has taken several measures over time to mitigate the potential for abuse in spousal sponsorship and to ensure that abused sponsored spouses receive the support they require. These measures include providing information to sponsors and sponsored spouses, regulatory changes, settlement services, and training for immigration officers and border agents.

In terms of information provided, the sponsor and sponsored spouse must both sign the sponsorship agreement as part of the application package, which outlines the obligations of each party. Under the heading of “important information,” the sponsorship agreement states:

Sponsored persons and or their family members who are being abused or assaulted by their sponsors should seek safety away from their sponsors even if this means that they will have to apply for social assistance benefits. A sponsor cannot force Citizenship and Immigration Canada to remove you from Canada.<sup>18</sup>

CIC has also developed a [brochure](#) that explains conditional permanent residence, what is considered abuse or neglect, and how to request an exception to the cohabitation condition. The brochure is available online, at ports of entry, and through service providers and was being translated into languages other than French and English at the time of the CIC officials’ appearance before the Committee in February 2014.<sup>19</sup>

As well, [section 72.1\(6\)](#) of the Regulations provides that a sponsored spouse may apply for an exception from the condition on her permanent resident status in situations of abuse or neglect. Operational bulletin OB 480 provides extensive instructions to CIC immigration officers on how to handle requests for exception because of abuse or neglect, including acceptable evidence, safety precautions, and considerations for assessing such cases.

The government also uses orientation material such as the [Welcome to Canada](#) book and the citizenship study guide [Discover Canada](#) to explain Canadian values and inform newcomers of some practices accepted elsewhere that are not acceptable in Canada. For example, under the heading of “equality of men and women,” the *Welcome to Canada* guide reads: “Canada’s openness and generosity do not extend to barbaric cultural practices that tolerate spousal abuse, honour killings, female genital mutilation, forced marriage or other gender-based violence.”<sup>20</sup>

In terms of regulatory changes, the *Immigration and Refugee Protection Regulations* of 2002 included a sponsorship bar for individuals in default of court-ordered spousal or child support payments and also barred persons convicted of a personal injury crime from

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18 CIC, “[Application to Sponsor, Sponsorship Agreement and Undertaking](#),” p. 6.

19 CIMM, [Evidence](#), 26 February 2014, 1600 (Robert Orr).

20 CIC, [Welcome to Canada: What you should know](#), 2013, p. 36.

sponsoring for a limited time period. At the same time, the undertaking period – the duration for which the sponsor agrees to provide basic requirements for his spouse – was reduced from ten years to three “given concerns that family violence is aggravated by the implied dependency created by the undertaking of support.”<sup>21</sup>

More recently, the bar on offenders sponsoring a member of the family class was amended in response to the Federal Court decision *Canada v. Brar* (2008 FC 1285). In this decision, a man convicted of killing his sister-in-law was allowed to sponsor his own wife. The amended Regulations specify that persons convicted of violent offences against anyone are barred from sponsorship.<sup>22</sup> Persons convicted of an offence that results in bodily harm against an expanded list of people are also barred from sponsorship. In both cases, the bar remains in place until the offender is pardoned, acquitted, or five years have passed since the completion of their sentence.

In terms of settlement programs, CIC has allocated more than \$588 million in grants and contributions to service provider organizations to provide settlement assistance for 2014–2015.<sup>23</sup> This funding includes money for service providers to deliver pre-arrival services to some immigrants in their country of origin. It also includes money for organizations in Canada to deliver a range of services in Canada, including language instruction and an introduction to life in Canada. Of relevance to abuse-prevention, the Committee heard that:

Many CIC-funded organizations provide targeted programming designed for specific groups, including women. For example, women's-only language classes for immigrant and refugee women cover issues such as family violence, spousal abuse, women's rights, legal rights and responsibilities, and health care, and include bridging or referral to other available services in the community.

Support services also exist in the area of crisis counselling, in which organizations assist women through short-term, non-clinical counselling, and then refer them to a variety of local resources including police, shelters, and clinical counsellors in order to provide immediate assistance to individuals in violent situations.<sup>24</sup>

Finally, CIC officials also stated to the Committee that guidelines and training have been developed for immigration officers specifically on the exception to conditional permanent resident status noted above, so “they are more sensitized to these types of issues and are better prepared to deal with them.”<sup>25</sup> The Canada Border Services Agency (CBSA) also reported that “officers are trained to be sensitive to issues where the persons

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21 *Immigration and Refugee Protection Regulations*, SOR/2002-227, Regulatory Impact Analysis Statement, p. 258.

22 *Regulations Amending the Immigration and Refugee Protection Regulations*, [SOR/2011-262](#).

23 Treasury Board of Canada, [2014-15 Estimates Parts I and II The Government Expenditure Plan and Main Estimates](#), p. II-103.

24 CIMM, [Evidence](#), 26 February 2014, 1545 (Robert Orr).

25 [Ibid.](#), 1550.

may be vulnerable, or in vulnerable situations.”<sup>26</sup> CBSA has also produced an intelligence brief on forced marriage, which is distributed to CBSA and CIC officers on the front lines.<sup>27</sup>

### **C. Immigration Recourse Available to Spouses with Abuse-related Sponsorship Breakdown**

When a sponsorship breaks down because of abuse, the spouse’s immigration status is an important determinant of the recourse available to her. Spouses sponsored from overseas who are not subject to conditional permanent resident status arrive in Canada with permanent resident status. Their immigration status and right to remain in Canada is therefore secure even in the case of a sponsorship breakdown. Thus, no immigration remedy is necessary for this group.

Spouses who arrive in Canada from overseas with conditional permanent resident status may apply to avail themselves of the exception to the cohabitation condition provided by the Regulations in situations of abuse or neglect. [Section 72.1\(7\)](#) of the Regulations defines abuse, stating that it may be physical (including assault and forcible confinement), sexual, psychological (including threats and intimidation), or financial. If an exception to the condition is granted, the sponsored person maintains permanent resident status.

In order to request an exception from the application of the condition on the basis of abuse, the sponsored spouse must first call the CIC call centre and she must provide evidence that abuse was the reason for the breakdown of the marriage.<sup>28</sup> A list of possible evidence is provided to immigration officers who will be making this assessment. It includes, among other examples, proof of abuse such as police reports, a letter from women’s shelter, photographs, and sworn statements.<sup>29</sup>

Spouses whose in-land sponsorship breaks down find themselves without the pathway to permanent residency – spousal sponsorship – they had expected. There is no specific immigration remedy in Canadian law for these spouses, left with temporary or no legal immigration status. Provided they meet the eligibility criteria, such as levels of education, official language proficiency, and relevant work experience, they may apply for permanent residence through any of the economic class programs, such as Federal Skilled Worker or Canadian Experience Class.

Another option for abused spouses without permanent immigration status would be to apply for permanent residence on humanitarian and compassionate grounds, a

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26 CIMM, [Evidence](#), 4 March 2014, 1615 (Lesley Soper, Acting Director General, Enforcement and Intelligence Programs, Canada Border Services Agency).

27 CIMM, [Evidence](#), 4 March 2014, 1605 (Geoffrey Leckey, Director General, Enforcement and Intelligence Operations Division, Canada Border Services Agency).

28 CIC, “Conditional Permanent Residence Measure for Spouses and Partners in Relationships of Two Years or Less and who Have no Children in Common,” *Operational Bulletin 480*, 26 October 2012.

29 Ibid.

discretionary program that allows people to submit an immigration application which, under other circumstances, would be rejected because it fails to meet a basic requirement of the *Immigration and Refugee Protection Act*. The humanitarian and compassionate application is assessed based on the hardship the person would face if an exemption was not granted.<sup>30</sup> These applications must also take into account the best interests of a child directly affected.<sup>31</sup>

The possibility that family violence could place a sponsored spouse in a situation of hardship is specifically mentioned in the guidelines for CIC immigration officers concerning applications on humanitarian and compassionate grounds.<sup>32</sup> Officers are instructed to consider the evidence of abuse, whether there is a degree of establishment in Canada, hardship that would result if the applicant had to leave Canada, laws, customs, and culture in the applicant's country of origin, available support of relatives and friends in the country of origin, and whether the applicant has children in Canada or is pregnant.<sup>33</sup>

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30 Factors considered in assessment of hardship may include: establishment in Canada, ties to Canada, factors in the applicant's country of origin, consequences of the separation of relatives, and family violence. See CIC, [Humanitarian and compassionate consideration](#), 24 July 2014.

31 IRPA, s. 25(1).

32 CIC, [Humanitarian and compassionate consideration](#), 24 July 2014.

33 [Ibid.](#)

## CHAPTER 2: FACTORS CONTRIBUTING TO SPONSORED SPOUSES' VULNERABILITY TO ABUSE AND DIFFICULTY LEAVING AN ABUSIVE RELATIONSHIP

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Witnesses gave the Committee a vivid picture of the dynamics of abuse some sponsored spouses endure, drawn from personal experience and from front-line work with abused women or newcomers to Canada. They underscored that domestic violence knows no bounds: "it's a phenomenon that cuts across race, ethnicity, economic and social class, ability, and age."<sup>34</sup> As such, witnesses informed the Committee that, in some respects, sponsored spouses experience the issues and challenges of domestic abuse just as other women in Canada. Further, many of the dynamics of an abusive relationship are the same for sponsored spouses, such as partner control over her freedom of movement and access to money and partner-imposed isolation. And just as women in general find it difficult to leave an abusive relationship for lack of confidence, concern over children, or lack of financial independence, these barriers inhibit sponsored spouses as well.

However, witnesses also shared the view that sponsored spouses face unique challenges, mostly related to their immigration status and/or cultural background. This section of the report goes into further detail on the unique factors contributing to sponsored spouses' vulnerability to abuse and their difficulty leaving an abusive relationship. Specifically, it describes vulnerability to abuse derived from being new to and unfamiliar with Canada, cultural background, type of marriage formality, and immigration status. The descriptions provided here offer important context for the witnesses' recommendations in the following chapter, and for the course of action recommended by the Committee which concludes the report.

### A. Vulnerability Derived from Being New to Canada and Dependent on the Sponsor

The Committee heard from witnesses that sponsored spouses may be vulnerable to abuse because they are new to Canada and often dependent on their sponsor. Being new to Canada, sponsored spouses may be unfamiliar with their rights and protection under the law, or lack knowledge of services available to assist them. Their recent arrival in Canada also means that they are likely to be isolated and without a social network or connection to social services. "It has been our experience," said Deepa Mattoo of the South Asian Legal Clinic of Ontario, "that women trapped in such relationships usually have no one to turn for support other than the abuser and the families themselves."<sup>35</sup> Swarandee Virk, of DIVERSEcity Community Resources Society,

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34 CIMM, [Evidence](#), 25 March 2014, 1550 (Debbie Douglas, Executive Director, Ontario Council of Agencies Serving Immigrants [OCASI]).

35 CIMM, [Evidence](#), 4 March 2014, 1635 (Deepa Mattoo, Staff Lawyer and Acting Executive Director, South Asian Legal Clinic of Ontario [SALCO]).

explained that sponsored spouses often do not know about settlement services and may only be referred once the police and victim services have intervened in a situation.<sup>36</sup>

The isolation of some sponsored spouses may be severe, according to Melpa Kamateros of Shield of Athena Family Services, to the point where the spouse does not take transit and lacks access to the Internet.<sup>37</sup> Katie Rosenberger, of DIVERSEcity Community Resources Society, explained that isolation can lead to the most severe cases of violence. She described isolation as follows:

This type of isolation is often done with the consent and participation of the spouse and his family, including the mother and sisters-in-law. Isolation may include being accompanied to all appointments, such as the doctor, grocery store, and even educational programming. These women will not be allowed to work nor will they have access to a phone. If they are working, it's often in the family business or within constant view of another family member.<sup>38</sup>

Being new to Canada may create a dependency on the sponsor. As Kripa Sekhar, of the South Asian Women's Centre noted, often in the relationship there is an "inequality of status based on length of stay in the country, so the spouse who has lived in Canada longer has a better knowledge and support of the local community."<sup>39</sup> However, this dependency is exacerbated by two specific forms of dependency identified by numerous witnesses: financial and linguistic.

Several witnesses informed the Committee that sponsored spouses often come to Canada without financial resources. Even those who do have money, through a dowry or dowry for example, may be prevented from accessing such resources by the sponsoring family.<sup>40</sup> Some women report financial abuse by their sponsor, when for instance, the sponsor takes on debts and lines of credit in her name or puts all of his property in his parents' names, thereby excluding the sponsored spouse.<sup>41</sup>

Further, sponsored spouses, like other immigrants, often face barriers in integrating into the Canadian labour market, limiting their ability to earn money for themselves. Marie-Josée Duplessis, of the Collectif des femmes immigrantes du Québec, listed as barriers: lack of access to subsidized day care, limited access to job placement or training programs, employers' requiring Canadian experience, and difficulties with

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36 CIMM, [Evidence](#), 1 April 2014, 1655 (Swarandeep Virk, Counsellor, DIVERSEcity Community Resources Society).

37 CIMM, [Evidence](#), 4 March 2014, 1720 (Melpa Kamateros, Executive Director, Shield of Athena Family Services).

38 CIMM, [Evidence](#), 1 April 2014, 1625 (Katie Rosenberger, Manager, Counselling Services, DIVERSEcity Community Resources Society).

39 CIMM, [Evidence](#), 2 April 2014, 1710 (Kripa Sekhar, Executive Director, South Asian Women's Centre).

40 CIMM, [Evidence](#), 4 March 2014, 1635 (Deepa Matoo).

41 CIMM, [Evidence](#), 1 April 2014, 1625 (Katie Rosenberger).

education and credential recognition.<sup>42</sup> Khadija Darid, of Espace féminin arabe, emphasized discrimination as a barrier facing some immigrant women as they try to enter the Canadian workforce.<sup>43</sup> Shirin Mandani, of Reh'ma Community Services, shared that language barriers posed a barrier for her organization's clients, who found that English as a second language and Language Instruction for Newcomers to Canada classes were not sufficient for employment.<sup>44</sup> She also suggested that sometimes the skills newcomer women bring may not be relevant to Canadian labour market demands.

Many witnesses highlighted that sponsored spouses' lack of awareness and isolation are compounded when they speak neither English nor French.<sup>45</sup> As Makai Aref, of the Afghan Women's Centre of Montreal, explained, women who cannot speak English or French "cannot communicate their situations to social workers, lawyers and the police...and are thus barred from those avenues of aid."<sup>46</sup> The language barrier also increases sponsored spouses' dependency on their sponsors.<sup>47</sup>

## **B. Vulnerability Derived from Cultural Background**

Many witnesses mentioned cultural barriers that may impede women – including sponsored spouses but not limited to them – from leaving an abusive situation. Some witnesses mentioned, for example, different cultural understandings of violence, which may not include verbal, financial, or psychological abuse.<sup>48</sup> In some other cultures, it was stated, the physical abuse of women may be tolerated.

Kamal Dhillon, Canadian author, stated that "[m]arriage is considered to be permanent in many cultures, even though it's slowly changing. We are supposed to stay silent and remain married no matter what."<sup>49</sup> Other witnesses spoke of collectivist cultural values that emphasize family and "honour", as in this quote from Lorris Herenda, of Yellow Brick House:

In some cultures women are perceived as carrying the family honour, which is controlled and protected by men. If a woman is perceived to have dishonoured the family, she may be assaulted, or as we've heard mentioned, killed through honour killing. A woman who leaves her abusive partner would be considered to have dishonoured her family and could potentially become a homicide victim.

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42 CIMM, [Evidence](#), 25 March 2014, 1635 (Marie-Josée Duplessis, Executive Assistant, Collectif des femmes immigrantes du Québec).

43 CIMM, [Evidence](#), 1 April 2014, 1635 (Khadija Darid, Director General, Espace féminin arabe).

44 CIMM, [Evidence](#), 1 April 2014, 1640 (Shirin Mandani, Executive Director, Reh'ma Community Services).

45 CIMM, [Evidence](#), 4 March 2014, 1650 (Melpa Kamateros).

46 CIMM, [Evidence](#), 26 May 2014, 1535 (Makai Aref, President, Afghan Women's Centre of Montreal).

47 CIMM, [Evidence](#), 1 April 2014, 1640 (Shirin Mandani).

48 CIMM, [Evidence](#), 25 March 2014, 1535 (Amel Belhassen, representative, Women's file, Table de concertation des organismes au service des personnes réfugiées et immigrantes); CIMM, [Evidence](#), 1 April 2014, 1630 (Katie Rosenberger).

49 CIMM, [Evidence](#), 2 April 2014, 1535 (Kamal Dhillon, Author, *Black and Blue Sari*, As an Individual).

If a woman is fleeing a violent home with her children, she is not only fleeing her abuser. She is also fleeing the extended family, both his and sometimes her own.<sup>50</sup>

Witnesses also suggested that people in the sponsored spouse's cultural network, such as religious or community leaders, may encourage them to stay in the relationship, despite the abuse.<sup>51</sup> According to a number of witnesses, cultural factors can contribute to violence towards sponsored women and, at the same time, make it very difficult for them to leave an abusive relationship.

Finally, witnesses suggested that even when sponsored spouses acknowledged that they were in an abusive situation, as a result of previous experience in their countries of origin, these women might be reluctant to contact police out of fear and mistrust.<sup>52</sup> In the words of Heather Neufeld, of the Canadian Council for Refugees, women may be "afraid of the police and the authorities here because in many countries the police are organs of repression themselves."<sup>53</sup>

### **C. Vulnerability Derived from the Formality of Marriage**

The Committee wanted to know whether the type of marriage – proxy, arranged, "love" – made any difference in terms of the sponsored spouse's vulnerability to abuse. Some witnesses stated that abuse happens in all kinds of marriages.<sup>54</sup> In the words of Poran Poregbal, of the Greater Vancouver Counselling and Education Society for Families, "I would say that domestic violence and abuse happens in all forms of marriages and partner relationships. It's beyond the formality of marriage, and it's beyond age, sex, ethnicity, and everything else."<sup>55</sup>

Forced marriage was of great concern to all witnesses who addressed it. In a forced marriage, one or both participants are married against their will. Mohammad Khan, of the Muslim Canadian Congress, referred to forced marriage as a "violation of fundamental rights and the right to self-determination."<sup>56</sup> Witnesses saw forced marriage as a form of family violence, wherein women are more likely to be subject to other abuse as well.<sup>57</sup>

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50 CIMM, [Evidence](#), 8 April 2014, 1635 (Lorris Herenda, Executive Director, Yellow Brick House).

51 CIMM, [Evidence](#), 1 April 2014, 1555 (Mohammad Khan, President, Muslim Canadian Congress); CIMM, [Evidence](#), 1 April 2014, 1645 (Talat Muinuddin, President, Reh'ma Community Services).

52 See, for example, CIMM, [Evidence](#), 2 April 2014, 1710 (Kripa Sekhar).

53 CIMM, [Evidence](#), 5 March 2014, 1630 (Heather Neufeld, Representative, Canadian Council for Refugees).

54 See, for example, CIMM [Evidence](#), 25 March 2014, 1610 (Amel Belhassen).

55 CIMM, [Evidence](#), 9 April 2014, 1715 (Poran Poregbal, Founder, Executive Director and Therapist, Greater Vancouver Counselling and Education Society for Families).

56 CIMM, [Evidence](#), 1 April 2014, 1535 (Mohammad Khan).

57 CIMM, [Evidence](#), 1 April 2014, 1625 (Katie Rosenberger); CIMM, [Evidence](#), 9 April 2014, 1620 (Audrey Macklin, Professor and Chair in Human Rights Law, Faculty of Law, University of Toronto, As an Individual).



Witnesses acknowledged that there may be a fine line between an arranged and forced marriage. Laila Fakhri, of Herizon House Women's Shelter, felt that arranged marriage frequently evolves into forced marriage, and the incidence of abuse is higher in these situations.<sup>58</sup> Finally, Professor Audrey Macklin raised the concern that forced marriage needs to be addressed carefully, so that legitimate arranged marriages can still go forward.<sup>59</sup>

#### **D. Vulnerability Derived from Immigration Status**

Witnesses almost unanimously shared the view that the immigration status of sponsored spouses is a source of vulnerability to abuse and a barrier to leaving an abusive relationship. As Queenie Choo of S.U.C.C.E.S.S. explained, “immigrant women under the spousal sponsorship program are more vulnerable to abuses or domestic violence due to the sheer nature of the power imbalance in the relationship between them and their sponsor partners.”<sup>60</sup> Lawyer Elizabeth Long elaborated on this power imbalance:

There is a dilemma within the spousal sponsorship system itself, because the spousal sponsorship system is dependent on the family being together. If the woman leaves the husband, then they lose their ability to get permanent residence. What that means is that it results in situations where the abuser has tremendous power, which is magnified by this system.<sup>61</sup>

The fear of losing or not acquiring permanent legal immigration status in Canada, coupled with the fear of removal from Canada is a very powerful force in sponsored spouses' lives. Witnesses addressed both the vulnerability of spouses with conditional permanent resident status and the vulnerability of those whose in-land sponsorship has broken down.

#### **1. Sponsored Spouses with Conditional Permanent Residence**

Most witnesses shared the view that the 2012 introduction of conditional permanent residence for certain sponsored spouses has increased their vulnerability to violence.<sup>62</sup> Specifically, witnesses indicated that the conditional permanent residence regime strengthens the power of the sponsoring spouse by giving them “a new way in which to make the sponsored spouse vulnerable or exploitable....the possibility of threatening removal from Canada by withdrawing the sponsorship.”<sup>63</sup> Ms. Neufeld described the different ways an abusive sponsor could use this power:

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58 CIMM, [Evidence](#), 9 April 2014, 1715 (Laila Fakhri, Crisis Intervention Counsellor, Herizon House Women's Shelter).

59 CIMM, [Evidence](#), 9 April 2014, 1620 (Audrey Macklin).

60 CIMM, [Evidence](#), 25 March 2014, 1540 (Queenie Choo, Chief Executive Officer, S.U.C.C.E.S.S.).

61 CIMM, [Evidence](#), 9 April 2014, 1545 (Elizabeth Long, Barrister and Solicitor, Long Mangalji LLP, As an Individual).

62 See, for example, CIMM [Evidence](#), 25 March 2014, 1530 (Amel Belhassen).

63 CIMM, [Evidence](#), 9 April 2014, 1540 (Audrey Macklin).

The sponsor is able to hold over the woman that basically if she doesn't obey, if she doesn't put up with the domestic violence and she leaves before the two years are up, she can find herself without status. He can also split up with her and cause her to not have status, or he can give tips to Immigration saying that she entered into the marriage fraudulently, even if she didn't.<sup>64</sup>

Alia Hogben, of the Canadian Council of Muslim Women, also said:

Those of us who have worked in the field of violence against women know that for many women, educated or not, independent or not, self-confident or not, it is extremely difficult to come forward to report abuse and violence. Imagine how much more difficult it is to speak out for a newcomer in the precarious situation of a conditional permanent residence.<sup>65</sup>

While sponsors have always been able to threaten sponsored spouses with sponsorship breakdown and removal from Canada as a form of coercion, conditional permanent residence can make it a reality,<sup>66</sup> thus making the threat more powerful and credible. This in turn makes it “increasingly difficult for women living in violent homes to get free.”<sup>67</sup>

Given this legitimate fear of deportation, many sponsored spouses with conditional permanent resident status are unwilling to take the risk of leaving an abusive relationship. As suggested by Ms. Hogben, “[i]t is likely that some [immigrant] women will put up with the two years of abuse [as a result of the 2-year conditional permanent residence requirement] rather than approaching anyone officially.”<sup>68</sup>

As Ms. Virk explained, the permanent resident card and status in Canada is so important to sponsored spouses, they might not trust the exception provided.<sup>69</sup> Applying for the abuse exception provided in the Regulations may be perceived as risky. As Ms. Macklin explained, according to the Regulations, an abused sponsored woman is expected to “initiate the separation—which could lead to her removal from Canada—without any assurance, of course, that she will be believed in her account of being abused.”<sup>70</sup>

Witnesses focused significant attention on the required evidence spouses must supply in requesting an exception from the condition on permanent residence. Many expressed concern that the burden of proof for establishing abuse was too high, although witnesses had limited experience assisting women making these requests.

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64 CIMM, [Evidence](#), 5 March 2014, 1630 (Heather Neufeld).

65 CIMM, [Evidence](#), 2 April 2014, 1725 (Alia Hogben, Executive Director, Canadian Council of Muslim Women).

66 CIMM, [Evidence](#), 4 March 2014, 1705 (Deepa Mattoo).

67 CIMM, [Evidence](#), 8 April 2014, 1640 (Lorris Herenda).

68 CIMM, [Evidence](#), 2 April 2014, 1730 (Alia Hogben).

69 CIMM, [Evidence](#), 1 April 2014, 1700 (Swarandeeep Virk).

70 CIMM, [Evidence](#), 9 April 2014, 1540 (Audrey Macklin).

However, witnesses identified the difficulties sponsored women could face in providing the evidence listed in Operational Bulletin 480. Emphasizing the reluctance of sponsored women to approach police and their isolation from social services, abused women may not be able to produce reports from police or women's shelters as corroborating evidence. As Ms. Sekhar explained, "they are expected to provide evidence of cohabitation and abuse that are virtually impossible due to lack of reporting or access to services. In many instances documents of proof of cohabitation are with the sponsor."<sup>71</sup> In sharing her concerns, lawyer Claudia Andrea Molina referred to her experience helping clients compile evidence of abuse for humanitarian and compassionate applications, reporting that it was very complicated and traumatizing for clients and – in the case of complaining to police in order to obtain a record – sometimes made the violence worse.<sup>72</sup>

Witnesses also explained that with education and communication training, women would be able to understand their rights in the sponsorship. Kathryn Marshall stated:

Well, I think the issue doesn't seem to be so much the conditional status, it seems to be the issue of women being able to access the help and resources they need when they're in positions where they are being abused. A huge barrier for women who are in these vulnerable situations is their inability to speak an official language. It's very difficult to access front-line support networks when you're not able to communicate, when you don't know your rights, when you're unsure of your legal status in the country".<sup>73</sup>

Ms. Marshall and Ms. Siddiqui of the Coalition of Progressive Canadian Muslim Organizations both emphasized the need for the conditional permanent resident status in order to combat marriages of convenience.

## **2. Spouses Being Sponsored through the In-land Process**

The vulnerability of spouses in Canada whose sponsorship application is in process was identified by several witnesses. These women usually have temporary legal immigration status in Canada while their sponsorship application is being considered. Women have also found themselves without status when the sponsorship application was incomplete or was not submitted and their temporary status has expired.<sup>74</sup> Other examples of sponsorship breakdown shared by the witnesses include a sponsored spouse who left the relationship because of violence, or the sponsor withdrawing the sponsorship as part of the abuse or in retaliation for reporting abuse.<sup>75</sup> Lawyer Lorne Waldman stated that abused women in this situation are the most vulnerable because "they don't have any status. If the sponsorship is cancelled at any time, then their case is closed and they can

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71 CIMM, [Evidence](#), 2 April 2014, 1720 (Kripa Sekhar).

72 CIMM, [Evidence](#), 25 March 2014, 1655 (Claudia Andrea Molina, Lawyer, Cabinet Molina Inc., As an Individual).

73 CIMM, [Evidence](#), 9 April 2014, 1615 (Kathryn Marshall, Lawyer, As an Individual).

74 CIMM, [Evidence](#), 25 March 2014, 1540 (Queenie Choo).

75 CIMM, [Evidence](#), 5 March 2014, 1705 (Heather Neufeld); CIMM, [Evidence](#), 1 April 2014, 1540 (Avvy Yao-Yao Go, Clinic Director, Metro Toronto Chinese and Southeast Asian Legal Clinic).

be deported.”<sup>76</sup> However, the client has the option to apply for Humanitarian and Compassionate consideration. This provides the flexibility to grant permanent resident status to foreign nationals who would otherwise not qualify in any class, in cases in which there are compelling humanitarian and compassionate grounds.

Abused women in this situation are further vulnerable because what is often their only or best option for obtaining permanent resident status – an application on humanitarian and compassionate grounds – is far from certain. Further, enforcement action including detention and removal from Canada may occur without consideration of these factors.<sup>77</sup> Even once an application for permanent residence on humanitarian and compassionate grounds has been submitted, the applicant may still be removed from Canada before a decision is made.<sup>78</sup>

A couple of witnesses raised the particular situation of abused women who are mothers to Canadian citizen children and whose sponsorship has broken down. One example demonstrated how it was the best interests of the Canadian-born children that stopped the mother’s deportation, in a case which resulted in a successful application to remain on humanitarian and compassionate grounds.<sup>79</sup> Ms. Choo suggested that such women can be in a difficult position, caught between immigration and family law: living without status in Canada yet unable to leave with their children without consent from their ex-partner.<sup>80</sup>

Witnesses also spoke about the ways in which immigration status adds to the vulnerability of victims of forced marriage. According to these witnesses, coming forward to be identified as a victim of forced marriage reveals that the marriage was not consensual, thereby making the marriage void.<sup>81</sup> Not only would a sponsored spouse with conditional permanent resident status or a spouse being sponsored through the in-land sponsorship process lose their route to permanent residency as a result, they could be vulnerable to charges of immigration fraud. Further, forced marriage does not fit into the definition of abuse provided in the Regulations<sup>82</sup> for the exception to the condition on permanent residence, leaving women in this situation with no alternative but to stay in the abusive or forced relationship during the two year conditional period in order not to lose their

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76 CIMM, [Evidence](#), 8 April 2014, 1655 (Lorne Waldman, Barrister and Solicitor, Lorne Waldman & Associates, As an Individual).

77 [Ibid.](#), 1620.

78 CIMM, [Evidence](#), 5 March 2014, 1705 (Heather Neufeld).

79 CIMM, [Evidence](#), 8 April 2014, 1620 (Lorne Waldman).

80 CIMM [Evidence](#), 25 March 2014, 1540 (Queenie Cho); YWCA Metro Vancouver, “YWCA Mothers without Legal Status Project,” written submission.

81 CIMM, [Evidence](#), 4 March 2014, 1635 (Deepa Mattoo).

82 The original version (October 2012) of OB 480, which guides immigration officers in making determinations on exceptions to the condition to cohabit with their sponsor, did not mention forced marriage. The [revised version of OB 480](#) (June 11, 2014) defines forced marriage and explains that it may be an indicator of abuse but it does not establish forced marriage as a ground for accessing the exception, which would require a change to the Regulations.

immigration status.<sup>83</sup> Like others left without immigration status due to sponsorship breakdown, victims of forced marriage have to rely on an application for permanent residence on humanitarian and compassionate grounds to remain in Canada.

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83 CIMM, [Evidence](#), 4 March 2014, 1635 (Deepa Mattoo).



# CHAPTER 3: OPTIONS TO PREVENT VIOLENCE AND IMPROVE RECOURSE/SUPPORT FOR SPONSORED SPOUSE VICTIM-SURVIVORS

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Witnesses shared many recommendations with the Committee concerning measures the federal government could take to ensure vulnerable sponsored spouses are protected and have the skills they need to succeed independently. The recommendations can generally be grouped into the following categories: inform sponsored spouses, change spousal sponsorship program requirements and processing procedures, ensure an effective route to permanent residency for abused spouses, and ensure spouses have the settlement services and other supports they need. Witnesses also brought to the Committee's attention international best practices dealing with some of these issues.

## **A. Inform Sponsored Spouses of their Rights, Status, and How to Seek Help**

Witnesses before the Committee shared the view that providing sponsored spouses with greater information would reduce their vulnerability to violence and help them escape abusive relationships. Specifically, witnesses felt that sponsored spouses should be better informed of the following:

- the terms of the spousal sponsorship program, including clear language on the sponsored spouse's immigration status and grounds for removal (if any);
- what behaviour constitutes violence against women, which is illegal in Canada;
- other illegal and not tolerated treatment of women in Canada, including female genital mutilation and all forms of "honour"-based violence;
- Canadian laws in the areas of women's equality, rights and freedoms, spousal child access, family law rights, common law property rights; and
- how to contact police and social service agencies in the event of abuse.

Witnesses also stressed that sponsored spouses subject to conditional permanent resident status must be informed of the exception to the cohabitation requirement and how to request consideration for an exception.<sup>84</sup>

Many proposals were also shared on the best options to ensure that sponsored spouses receive the above mentioned information. Most witnesses stressed that, in order to ensure understanding is achieved, the content should be provided in the woman's

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84 CIMM, [Evidence](#), 8 April 2014, 1710 (Lorne Waldman).

language of origin. Some witnesses pointed to the need to provide this type of information while the woman is still in the country of origin,<sup>85</sup> while others focused on the post-arrival period, or both.

Witnesses suggested that CIC could distribute a booklet or information package, and could require the spouse and sponsor to sign a document attesting that they have received and understood the information.<sup>86</sup> Others proposed in-person information sessions; several witnesses thought these should be mandatory, as a requirement for obtaining a permanent resident card.<sup>87</sup> Another idea was a mandatory check-in with the sponsored spouse every six months by CIC or a designated agency.<sup>88</sup> Ms. Kamateros presented the idea of an audio or video tool for illiterate women that could be shown during an in-person meeting.<sup>89</sup> Ms. Virk reported the suggestion proposed during a focus group conducted by her organization: a centralized help line like 9-1-1 to learn about rights and laws in Canada.<sup>90</sup> Some witnesses pointed to the information provided to immigrants in other categories – such as live-in caregivers or federal skilled workers – as good examples for information that should be provided to sponsored spouses.<sup>91</sup>

Several witnesses suggested that it was equally important for sponsoring partners to be well-informed of their rights and responsibilities under Canadian law, either through an information session<sup>92</sup> or through a document the sponsor would be required to sign (written in his language of origin).<sup>93</sup>

A couple of witnesses thought that women should be tested or rated using a points system on their understanding of the above-mentioned rights and “Canadian values.”<sup>94</sup> Another suggested that newcomers should have to sign a contract indicating that they would abide by Canadian values.<sup>95</sup>

Finally, Debbie Douglas, of the Ontario Council of Agencies Serving Immigrants, recommended “a national campaign to build awareness and education on preventing violence against women, including forced marriage.”<sup>96</sup> This campaign would be targeted to

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85 See, for example, CIMM, [Evidence](#), 2 April 2014, 1730 (Alia Hogben); CIMM, [Evidence](#), 2 April 2014, 1630 (Humaira Madawa Director, Maison Afghane-Canadienne (MAFCAN)).

86 CIMM, [Evidence](#), 9 April 2014, 1535 (Kathryn Marshall).

87 CIMM, [Evidence](#), 1 April 2014, 1655 (Katie Rosenberger).

88 CIMM, [Evidence](#), 2 April 2014 1540 (Kamal Dhillon).

89 CIMM, [Evidence](#), 4 March 2014, 1655 (Melpa Kamateros).

90 CIMM, [Evidence](#), 1 April 2014, 1655 (Swarandeeep Virk).

91 CIMM, [Evidence](#), 25 March 2014, 1710 (Marie-Josée Duplessis).

92 CIMM, [Evidence](#), 5 March 2014, 1640 (Heather Neufeld).

93 CIMM, [Evidence](#), 9 April 2014, 1535 (Kathryn Marshall).

94 CIMM, [Evidence](#), 9 April 2014, 1640 (Laila Fakhri); CIMM, [Evidence](#), 9 April 2014, 1700 (Poran Poregbal).

95 CIMM, [Evidence](#), 1 April 2014 1655 (Khadija Darid).

96 CIMM, [Evidence](#), 25 March 2014, 1555 (Debbie Douglas).



service providers of all types, including those working with immigrants and refugees in shelters and housing, in health care, law enforcement, immigration, social work, and in the community.

## **B. Change Spousal Sponsorship Program Requirements and Application Processing**

In the course of the Committee's study, the question was raised as to whether the vulnerability of sponsored spouses to abuse could be mitigated through the introduction of minimum requirements in the areas of age, official language skills and/or education. All of the witnesses who addressed the issue of age were in favour of increasing the minimum age for spouses for sponsorship from 16 to 18 years old.<sup>97</sup> They thought that such a change would reduce sponsored women's vulnerability and act as a disincentive for families overseas to force their daughters into early marriage.<sup>98</sup>

On the issue of requiring sponsored spouses to meet minimum requirements for official language capability and/or education and skills, witnesses were generally opposed.<sup>99</sup> They pointed to evidence showing that women may still be vulnerable to abuse despite being fluent in English or French, highly educated, and skilled. Even while acknowledging the importance of speaking an official language, witnesses felt that the appropriate way to achieve this goal was through language training rather than requiring language proficiency as a condition of sponsorship.<sup>100</sup> These witnesses felt that introducing such selection criteria would pose a barrier to family reunification while not reducing women's vulnerability.<sup>101</sup> Some witnesses also felt that it was inappropriate for the government to put in place regulations that may interfere with the personal choices of Canadians and permanent residents concerning who they might marry.<sup>102</sup> However, Raheel Raza, of the Council for Muslims facing Tomorrow, stated a different opinion, saying, "I support the idea of people coming to Canada having language ability because that is the only way that potential victims will be able to know their rights and more importantly to access them."<sup>103</sup>

Several witnesses recommended changes to the processing of spousal sponsorship applications that would, in their opinion, reduce sponsored spouses' vulnerability to abuse. Noting that sometimes relatives complete the application form on behalf of the couple, lawyer Chantal Desloges recommended that the spousal sponsorship

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97 See, for example, CIMM, [Evidence](#), 25 March 2014, 1555 (Debbie Douglas); CIMM, [Evidence](#), 25 March 2014, 1720 (Saman Ahsan, Executive Director, Girls Action Foundation).

98 CIMM, [Evidence](#), 25 March 2014, 1600 (Queenie Choo); CIMM, [Evidence](#), 5 March 2014, 1640 (Chantal Desloges, Lawyer, Chantal Desloges Professional Corporation, As an Individual).

99 See, for example, CIMM, [Evidence](#), 25 March 2014, 1650 (Claudia Andrea Molina).

100 CIMM, [Evidence](#), 25 March 2014, 1715 (Marie-Josée Duplessis).

101 See, for example, CIMM, [Evidence](#), 9 April 2014, 1540 (Audrey Macklin).

102 See, for example, CIMM, [Evidence](#), 9 April 2014, 1640 (Elizabeth Long).

103 CIMM, [Evidence](#), 26 May 2014, 1550 (Raheel Raza, Council for Muslims Facing Tomorrow).

application form be amended to allow for disclosure of assistance in completing the application form, such as from a third party or through the use of an interpreter.<sup>104</sup>

Several witnesses believed that CIC's scrutiny of the sponsor should be enhanced by conducting interviews either in person or by phone. As Amel Belhassen, of the Table de concertation des organismes au service des personnes réfugiées et immigrantes expressed:

Furthermore, it is no longer good enough to judge the guarantor by the information they, themselves, supply. It is necessary to meet with them and look them in the eye. That is the person who will be sponsoring the woman. Making a determination on the sponsor should not be limited to reviewing the information in their file.<sup>105</sup>

Lawyer Julie Taub recommended that interviews should be compulsory for spouses subject to the conditional permanent residency requirement.<sup>106</sup>

Finally, a number of witnesses addressed the issue of changing the regulations concerning sponsorship bars. They raised the troubling situation of women who obtain refugee status in Canada on the basis of domestic violence and later apply to sponsor the abusive partner for family reunification.<sup>107</sup> Introducing a sponsorship bar for these situations, argued Ms. Desloges, would relieve the woman "of the family pressure to sponsor someone she probably doesn't want to sponsor in the first place."<sup>108</sup>

Ms. Mattoo addressed the five-year sponsorship bar imposed on formerly sponsored individuals introduced as part of the government's reforms to address marriage fraud. She suggested that this bar should not be applied to sponsored spouses who have been abused.<sup>109</sup>

### **C. Provide an Effective Route to Permanent Residency**

Many witness recommendations were directed toward the role that immigration plays in exacerbating sponsored spouses' vulnerability to violence and the inability to escape violent situations. Solutions were proposed for sponsored spouses with conditional permanent residence and for those being sponsored through the in-land sponsorship process.

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104 CIMM, [Evidence](#), 5 March 2014, 1640 (Chantal Desloges).

105 CIMM, [Evidence](#), 25 March 2014, 1535 (Amel Belhassen).

106 CIMM, [Evidence](#), 5 March 2014, 1700 (Julie Taub, Immigration and Refugee Lawyer and former member of the Immigration and Refugee Board of Canada, As an Individual).

107 CIMM, [Evidence](#), 2 April 2014, 1735 (Salma Siddiqui, President, Coalition of Progressive Canadian Muslim Organizations); CIMM, [Evidence](#), 5 March 2014, 1645 (Chantal Desloges).

108 CIMM, [Evidence](#), 5 March 2014, 1645 (Chantal Desloges).

109 CIMM, [Evidence](#), 4 March 2014, 1640 (Deepa Mattoo).

## 1. Conditional Permanent Residence for Certain Sponsored Spouses

In relation to conditional permanent resident status, some witnesses identified implementation concerns and made recommendations to improve the program. Many others, however, were opposed to the conditional permanent residence program for sponsored spouses and recommended that it be withdrawn. While many of them recognized the policy goal of combatting marriage fraud as legitimate, they suggested that the potential harm to women outweighed any possible benefits in terms of achieving this goal. These different witness positions are explored in more detail below.

Those witnesses who addressed how conditional permanent resident status has been implemented spoke primarily of concerns related to accessing the exception provided in the Regulations for situations of abuse and/or neglect. Some of the issues raised were of a practical nature. For instance, Ms. Neufeld, in sharing the experience of front-line workers trying to help women request the exception, identified the need for a CIC phone number answered in person, for telephone interpretation, and for alternative means of submitting a request. On the issue of the CIC phone number she explained:

... if you've ever tried to call the CIC call centre, as we have many, many times, usually you don't reach anyone or you stay on line for a very long time, and then the phone hangs up on you. Now if a women is in a domestic violence situation and she needs to call CIC, explain her situation, often she's not able to stay by a phone for hours to keep trying to call. Even if she does reach an agent at the CIC call centre, she then has to be transferred to another department, and an officer has to call her back. This is a problem, because there isn't necessarily a number where the woman can be called back all the time. Women need to be able to access a phone number where they can reach a person who can actually initiate the process with them.<sup>110</sup>

This concern was also reiterated by Ms. Douglas.<sup>111</sup>

Ms. Neufeld also suggested that CIC offer telephone interpretation, which other organizations, such as Legal Aid Ontario, have implemented. She suggested that sponsored spouses may not always have adequate English or French language skills to navigate a call as currently provided. Further, Ms. Neufeld suggested that some of the phone call problems could be avoided if third parties such as non-governmental organizations or lawyers were able to submit an exception request electronically or by mail on behalf of a sponsored spouse.

As is perhaps expected with a relatively new measure, a number of witnesses identified the need for CIC officers to be trained on conditional permanent residence status and the exceptions provided in the Regulations.<sup>112</sup> These witnesses reported that officers are not always aware of the correct information, despite the Operational Bulletin 480

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110 CIMM, [Evidence](#), 5 March 2014, 1630 (Heather Neufeld).

111 For example, CIMM, [Evidence](#), 25 March 2014, 1600 (Debbie Douglas).

112 CIMM, [Evidence](#), 5 March 2014, 1635 (Heather Neufeld).

on the domestic violence exception. This has led to women receiving wrong and contradictory information.<sup>113</sup>

Witnesses' concerns with the burden of proof for establishing abuse and qualifying for an exception were highlighted in a previous section of this report. Many argued that the burden of proof should be lowered. Professor Christine Straehle pointed to the contrast with the principle of presumed innocence, saying "The suggestion in cases of suspected abuse is that the sponsored woman has to prove her innocence, which is to say she has to prove she has been abused in order not to be penalized for leaving the sponsorship relationship, which is to say in order not to be deported."<sup>114</sup> Instead, Ms. Straehle recommended, "The burden of proof that there was an attempt to circumvent Canadian immigration law needs to lie with CIC and CBSA".

In regard to implementing conditional permanent residence as a way to address marriage fraud, Ms. Marshall noted that it "does bring Canadian policy in line with that of many other countries" and stated that "It's an important deterrent against marriage fraud," which in turn helps women.<sup>115</sup>

Other witnesses pointed out previously existing tools in IRPA to deal with marriage fraud, such as pre-screening of immigration applicants and enforcement measures (i.e. admissibility hearing, removal) for fraud and misrepresentation and questioned whether conditional permanent residence was a better policy option.<sup>116</sup> Some witnesses called for more evidence to inform this policy decision,<sup>117</sup> while Ms. Hogben called for an evaluation of the conditional permanent resident status policy.<sup>118</sup> Finally, some witnesses took the position that the potential harm that conditional permanent residence caused women outweighed any of the benefits of this policy option.<sup>119</sup>

Offering another perspective, two other witnesses raised the concern that a sponsored spouse could raise false allegations of abuse in order to circumvent the cohabitation condition.<sup>120</sup>

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113 CIMM, [Evidence](#), 25 March 2014, 1600 (Debbie Douglas).

114 CIMM, [Evidence](#), 1 April 2014, 1550 (Christine Straehle, Professor, Faculty of Social Sciences, University of Ottawa).

115 CIMM, [Evidence](#), 9 April 2014, 1610 (Kathryn Marshall).

116 See, for example, CIMM, [Evidence](#), 8 April 2014, 1645 (Lorne Waldman); CIMM, [Evidence](#), 9 April 2014, 1605 (Audrey Macklin).

117 CIMM, [Evidence](#), 1 April 2014, 1710 (Shirin Mandani, Executive Director, Reh'ma Community Services).

118 CIMM, [Evidence](#), 2 April 2014, 1730 (Alia Hogben).

119 See, for example, CIMM, [Evidence](#), 8 April 2014, 1645 (Lorne Waldman).

120 CIMM, [Evidence](#), 5 March 2014, 1615 (Julie Taub); CIMM, [Evidence](#), 2 April 2014, 1730 (Salma Siddiqui).

## 2. Spouses Being Sponsored Through the In-land Process

Witnesses also emphasized that it is important for abused spouses to have an effective route to permanent residency when in-land sponsorship breaks down. Several addressed the inadequacy of the current safeguard for this situation: an application for permanent residence on humanitarian and compassionate grounds. Ms. Neufeld stated that a humanitarian and compassionate application is “ill-suited” to deal with these cases; in particular because the abused sponsored spouse may have difficulty showing establishment in Canada, one of the criterion applied.<sup>121</sup> She indicated that this particular difficulty may be tied to the abuse; due to the domestic violence the woman may not be financially established in Canada, and she may have been isolated and prevented from taking language classes.

To address the situation of this group of vulnerable women, witnesses recommended a direct route to permanent residency. Many witnesses shared this sentiment without a particular solution in mind, saying simply, as did Ms. Kamateros, “We feel that there should be more leniency regarding the cases if there is a case concerned with conjugal violence, there should be an exemption for the victim, and she should be able to stay in Canada and not be deported.”<sup>122</sup> Witnesses also recommended that the government put in place special landing provisions that could be used when CIC officers discover, during the application process, that an immigrant is a victim of forced marriage.<sup>123</sup>

Others recommended changes to the current route for permanent residence on humanitarian and compassionate grounds, suggesting that the first stage of the application be expedited for immigrant women leaving abusive relationships and for mothers without legal status.<sup>124</sup> Mr. Waldman suggested that in cases of women with no legal immigration status who have been subject to abuse, humanitarian and compassionate factors should be considered before any enforcement action – such as detention or removal proceedings – is initiated.<sup>125</sup> Finally, Ms. Long also recommended a solution using existing immigration tools – she proposed that women in this situation be given a temporary resident permit, which would provide them legal status and time to meet eligibility criteria for existing programs, such as the Canadian Experience Class.<sup>126</sup> Lawyer Richard Kurland suggested that victims of abuse should be given conditional permanent resident status.<sup>127</sup>

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121 CIMM, [Evidence](#), 5 March 2014, 1640 (Heather Neufeld).

122 CIMM, [Evidence](#), 4 March 2014, 1715 (Melpa Kamateros).

123 See, for example, CIMM, [Evidence](#), 4 March 2014, 1640 (Deepa Mattoo); CIMM, [Evidence](#), 5 March 2014, 1640 (Chantal Desloges).

124 CIMM, [Evidence](#), 25 March 2014, 1540 (Queenie Choo); YWCA Metro Vancouver, “YWCA Mothers without Legal Status Project,” written submission.

125 CIMM, [Evidence](#), 8 April 2014, 1625 (Lorne Waldman).

126 CIMM, [Evidence](#), 9 April 2014, 1550 (Elizabeth Long).

127 CIMM, [Evidence](#), 4 March 2014, 1715 (Richard Kurland, Policy Analyst and Lawyer, As an Individual).

## D. Settlement Services and Other Support to Facilitate Independence

Many witnesses stressed the importance of language training. They explained that, while settlement organizations offer free language training to all permanent residents, often sponsored spouses do not attend. This could be because sponsored spouses are unaware of the settlement services available to them, or because their sponsor (especially in cases of abuse) prevents them from attending the training. To overcome the barrier of awareness and access, some witnesses suggested that sponsored spouses be put in touch with settlement organizations as soon as they receive their permanent resident visa or that they be automatically registered for classes.<sup>128</sup> To surmount the barrier of forbiddance by sponsors, some witnesses recommended that participation in language training be mandatory; Siran Nahabedian, of Shield of Athena Family Services, suggested it could be included as a condition of permanent residence.<sup>129</sup>

A number of witnesses also identified the need to help sponsored women access counselling for the abuse they have experienced. Ensuring that counselling services are available at settlement organizations was raised as one possibility.<sup>130</sup>

Financial independence was raised by several witnesses as crucial both to enabling sponsored spouses to leave abusive relationships and to moving on with their life in Canada after separation. As such, witnesses suggested that counselling for financial independence be part of targeted settlement services offered to sponsored spouses.<sup>131</sup> Others went further in suggesting that financial independence should be incorporated into the sponsorship program design. For instance, the sponsor could be required to set up a bank account in the spouse's name, which she could draw on.<sup>132</sup>

Finally, witnesses also brought forward recommendations to facilitate sponsored spouses' employment. Specifically, they recommended that the government provide better pre-arrival information on skills and jobs in demand, implement a national childcare strategy, strengthen the federal *Employment Equity Act*, and continue to work with the provinces on foreign credential recognition.<sup>133</sup>

## E. Recommendations to Address Forced Marriage

A number of witnesses made recommendations to address the situation of forced marriage in particular. In her submission to the Committee, Ms. Mattoo recommended that special protection should be extended to the victims of forced marriages and that victims

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128 Kripa Sekhar, South Asian Women's Centre, written submission.

129 CIMM, [Evidence](#), 4 March 2014, 1725 (Siran Nahabedian, Social Worker for Female Victims of Conjugal Violence and of Domestic Violence, Shield of Athena Family Services).

130 CIMM, [Evidence](#), 8 April 2014, 1630 (Humaira Madawa).

131 CIMM, [Evidence](#), 4 March 2014, 1635 (Deepa Mattoo); CIMM, [Evidence](#), 2 April 2014, 1720 (Kripa Sekhar).

132 CIMM, [Evidence](#), 1 April 2014, 1630 (Katie Rosenberger).

133 CIMM, [Evidence](#), 1 April 2014, 1640 (Shirin Mandani); CIMM, [Evidence](#), 25 March 2014, 1555 (Debbie Douglas); CIMM, [Evidence](#), 1 April 2014, 1545 (Avvy Yao-Yao Go).

should be given a thorough assessment of risk along with the humanitarian and compassionate ground assessment. Furthermore, Ms. Mattoo also recommended that CIC should raise awareness in the training of its officers and adjudicators regarding various issues of abuse, especially in cases of forced marriages.<sup>134</sup>

Mr. Khan suggested that forced marriage should be a criminal offence punishable by incarceration.<sup>135</sup> Ms. Mattoo acknowledged that some other countries had taken this approach, but argued that criminalization was not appropriate in Canada at this point due to the “lack of understanding and knowledge of the issue.”<sup>136</sup>

Superintendent Shahin Mehdizadeh of the Royal Canadian Mounted Police also emphasized the importance of training police officers and other front-line support agencies in order to identify and assist victims of forced marriage. He stated,

I am hoping that providing more awareness to the front-line police officers on this issue will provide them with the ability to recognize and assess risks to female immigrants more effectively when responding to situations of alleged family violence and forced marriage. More importantly, an understanding of these issues will provide them with the tools to activate support systems and keep the victims safe.<sup>137</sup>

Other witnesses recommended that Canada follow the approach of peer countries in dealing with forced marriage, as noted in the following section.

## **F. Experience of Other Countries**

As explained previously in this report, Canada applies various measures to deal with situations of spousal violence and abuse within its immigration system. This section provides some insights from witnesses on the policies and practices applied in Canada’s peer countries to deal with violence and eligibility for temporary/permanent residence and forced marriage.

### **1. Situations of Violence and Eligibility for Temporary/Permanent Residence**

As explained above, witnesses suggested that the conditional permanent residence policy applied in Canada as well as in some of its peer countries may increase immigrant spouses’ exposure to violence from their sponsors.

A number of witnesses referred to an alternative policy applied in the United States (U.S.) to minimize exposure to violence for sponsored spouses. As noted by Ms. Neufeld, through the U.S. *Violence Against Women Act*, “women whose sponsorship has broken

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134 CIMM, [Evidence](#), 4 March 2014, 1635 (Deepa Mattoo). A number of these recommendations were also included in the written brief provided to the Committee by Kripa Sekhar.

135 CIMM, [Evidence](#), 1 April 2014, 1535 (Mohammad Khan).

136 CIMM, [Evidence](#), 4 March 2014, 1705 (Deepa Mattoo).

137 CIMM, [Evidence](#), 26 May 2014, 1540 (Superintendent Shahin Mehdizadeh, Manitoba, "D" Division, Royal Canadian Mounted Police, As an Individual).

down or been withdrawn and processed ... [are able] to petition for permanent residence on their own behalf, apart from their sponsor, on the basis of the domestic violence they've experienced."<sup>138</sup> Both Ms. Neufeld and Ms. Straehle viewed the U.S. self-petition process as preferable to the process available to abused sponsored spouses in Canada, whose recourse is to apply for permanent residence status on humanitarian grounds.<sup>139</sup> Both Ms. Neufeld and Ms. Straehle agreed that, relative to the U.S. self-petition option, Canada's application process for permanent residence on humanitarian grounds involves "lengthy procedures"<sup>140</sup> and "long processing times."<sup>141</sup>

Christine Hyndman, of the New Zealand Ministry of Business, Innovation, and Employment, spoke of New Zealand's process for dealing with immigrant spouses experiencing domestic violence, in which victims of such abuse could apply for temporary work or residence visas, for a period of up to nine months, to support themselves in the transition to permanent resident status through priority processing by immigration officers.<sup>142</sup> As explained by Ms. Hyndman, "[f]or the residence category visas, the applicant must have intended to seek residence on the basis of a partnership with a New Zealander, and the partnership must have ended through domestic violence."<sup>143</sup> As explained by Fraser Richards, with the New Zealand Government, an application for permanent residence in New Zealand through evidence of domestic violence "does not require a criminal prosecution."<sup>144</sup> Rather, Mr. Richards clarified, "[a]s a basis we can go as low as statutory declarations from independent people who are qualified in the field."<sup>145</sup> Ms. Hyndman also contrasted the duration required for obtaining landed immigrant status for immigrant spouses who have evidence of domestic violence, stating that "[i]t should be less than a year" to go from the point of being abused and leaving the husband to receiving landed immigrant status.<sup>146</sup>

Ms. Long voiced her support for the New Zealand expedited system of transitioning an abused immigrant spouse to permanent resident status, stating that "If we feel that it's important to allow women who are abused and their children who are with them an avenue to leave their abusers, then it's very important for them to prove in a nurse's report and have a low threshold of proof because it's difficult for abused women to prove abuse."<sup>147</sup>

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138 CIMM, [Evidence](#), 5 March 2014, 1705 (Heather Neufeld).

139 [Ibid.](#), and CIMM, [Evidence](#), 1 April 2014, 1550 (Christine Straehle).

140 CIMM, [Evidence](#), 1 April 2014, 1550 (Christine Straehle).

141 CIMM, [Evidence](#), 5 March 2014, 1705 (Heather Neufeld).

142 CIMM, [Evidence](#), 8 April 2014, 1540 (Christine Hyndman, Manager, Immigration Policy, Ministry of Business, Innovation and Employment of New Zealand).

143 [Ibid.](#)

144 CIMM, [Evidence](#), 8 April 2014, 1555 (Fraser Richards, Senior Solicitor, Corporate and Registries, Ministry of Business, Innovation and Employment of New Zealand).

145 [Ibid.](#)

146 CIMM, [Evidence](#), 8 April 2014, 1605 (Christine Hyndman).

147 CIMM, [Evidence](#), 9 April 2014, 1605 (Elizabeth Long).



## 2. Forced Marriages

Several witnesses pointed to the United Kingdom (U.K.) as an example for Canada to consider in dealing with forced marriages.<sup>148</sup> In particular, they highlighted the services available to victims and legislation to prevent forced marriages from occurring.

As explained by Ms. Straehle, the U.K. government established a Forced Marriage Unit (FMU) in 2005, which was a joint initiative of the Foreign and Commonwealth office and the Home office. The FMU offers a 24-hour public helpline service for victims of forced marriage, which several witnesses thought Canada should also put in place.<sup>149</sup> Ms. Straehle pointed to the United Kingdom's Forced Marriage Unit as a best practice for Canada to consider in interacting with potential victims of forced marriage and of sponsor abuse.<sup>150</sup> She reported that this unit follows three principles: “[F]irst, the victim has the right to be believed; second, show empathy and give confidence; and third, place the victim at the heart of the process.”<sup>151</sup>

Several witnesses thought Canada should also consider making forced marriage a criminal offence, as the U.K. has done.<sup>152</sup> Though witnesses did not elaborate on the specifics, information from the U.K. parliament indicates that a bill enacted in 2014 made it an offence “to use violence, threats or any other form of coercion for the purpose of causing another person to enter into a marriage without their free and full consent” and also an offence to deceive anyone into leaving the U.K. to force them into marriage.<sup>153</sup>

Ms. Hyndman, of the Government of New Zealand, expressed concerns about the risk of forced marriages in relation to culturally arranged marriages in her country, although she noted that “[t]here are protections in place to ensure the consensual nature of marriage.”<sup>154</sup> Ms. Hyndman noted further that her government's agencies “are working to increase the understanding of forced marriage and to raise public awareness” through such measures as police staff training on the types of violence commonly associated with forced marriage and specialist police staff to investigate cases of forced marriage.<sup>155</sup>

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148 CIMM, [Evidence](#), 4 March 2014, 1615 (Superintendent Jean Cormier, Director, Federal Coordination Centres, Royal Canadian Mounted Police); CIMM, [Evidence](#), 26 May 2014, 1545 (Supt Shahin Mehdizadeh).

149 CIMM, [Evidence](#), 26 May 2014, 1540 (Raheel Raza); CIMM, [Evidence](#), 1 April 2014, 1535 (Mohammad Khan).

150 CIMM, [Evidence](#), 1 April 2014, 1545 (Christine Straehle).

151 [Ibid.](#)

152 CIMM, [Evidence](#), 26 May 2014, 1540 (Raheel Raza).

153 [Anti-social Behaviour, Crime and Policing Act 2014](#), 2014, c. 12, s. 121.

154 CIMM, [Evidence](#), 8 April 2014, 1545 (Christine Hyndman). In particular, Ms. Hyndman stated that, in New Zealand, “[a] celebrant or registrar must not knowingly marry someone under age 16 or under 18 without parental consent.”

155 [Ibid.](#)



## **CHAPTER 4: THE COMMITTEE'S RECOMMENDATIONS**

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The Committee is thankful to all of the witnesses who contributed to this study and who shared their insights into the complex issue of sponsored spousal abuse. The Committee agrees that sponsored spouses and their sponsors need to know that violence against women is not tolerated in Canada; rather, it should be made clear to everyone involved in the application process that our country strives for gender equality and mutual respect.

The Committee is concerned about the vulnerability of sponsored spouses to abuse, including the difficulties involved in escaping this abuse. The Committee recognizes that an effective response to sponsored spousal abuse involves many parties, such as front-line settlement and abuse-prevention organizations, religious and community leaders, and governments at all levels. The recommendations listed below are focused on the federal jurisdiction, and in particular, on changes within the immigration portfolio.

In particular, the Committee believes the following measures will ensure vulnerable spouses are protected and have the skills they need to succeed independently in Canada.

### **RECOMMENDATION 1**

**The Committee recommends that the Government of Canada increase the minimum age for sponsored spouses from 16 to 18 years.**

### **RECOMMENDATION 2**

**The Committee recommends that the Government of Canada expand pre-arrival orientation to ensure sponsored spouses receive information in a language they understand and to ensure that the topics covered include gender equality, women's rights, their legal rights, what constitutes abuse in Canada and how to seek help. This information should be included in Citizenship and Immigration Canada publications, such as *Discover Canada*.**

### **RECOMMENDATION 3**

**The Committee recommends that the Government of Canada evaluate conditional permanent resident status and monitor the number and outcome of abuse exception requests, percentage of tips that result in removal, and incidence of reported abuse within these sponsorships with a view to understanding the effect of this policy instrument on domestic abuse and its effectiveness in terms of addressing marriages of convenience.**

#### **RECOMMENDATION 4**

**The Committee recommends that the Government of Canada amend the *Immigration and Refugee Protection Regulations*, section 72.1(6) to include forced marriage as a ground for exception from the condition on permanent resident status.**

#### **RECOMMENDATION 5**

**The Committee recommends that the CIC designated help-line for victims of domestic violence be assessed to ensure that victims have timely and efficient assistance in their usual language.**

# APPENDIX A LIST OF WITNESSES

Organizations and Individuals	Date	Meeting
<p><b>Department of Citizenship and Immigration</b></p> <p>Angela Gawel, Director General, International Region</p> <p>David Manicom, Director General, Immigration Branch</p> <p>Ryhan Mansour, Manager, Policy, Labour Market Access and Client - Centered Program Policy, Integration / FCRO Branch</p> <p>Robert Orr, Assistant Deputy Minister, Operations</p>	2014/02/26	14
<p><b>As an individual</b></p> <p>Richard Kurland, Policy Analyst and Lawyer</p> <p><b>Canada Border Services Agency</b></p> <p>Geoffrey Leckey, Director General, Enforcement and Intelligence Operations Division</p> <p>Lesley Soper, Acting Director General, Enforcement and Intelligence Programs</p> <p><b>Royal Canadian Mounted Police</b></p> <p>Supt Jean Cormier, Director, Federal Coordination Centres</p> <p><b>South Asian Legal Clinic of Ontario (SALCO)</b></p> <p>Deepa Mattoo, Staff Lawyer and Acting Executive Director</p> <p><b>The Shield of Athena - Family Services</b></p> <p>Melpa Kamateros, Executive Director</p> <p>Siran Nahabedian, Social Worker for Female Victims of Conjugal Violence and of Domestic Violence, Athena's House</p>	2014/03/04	15
<p><b>As individuals</b></p> <p>Chantal Desloges, Lawyer, Chantal Desloges Professional Corporation</p> <p>Julie Taub, Immigration and Refugee Lawyer and former member of the Immigration and Refugee Board of Canada</p> <p><b>Canadian Council for Refugees</b></p> <p>Heather Neufeld, Representative</p>	2014/03/05	16
<p><b>As an individual</b></p> <p>Claudia Andrea Molina, Lawyer, Cabinet Molina Inc.</p> <p><b>Collectif des femmes immigrantes du Québec</b></p> <p>Marie-Josée Duplessis, Executive Assistant</p>	2014/03/25	17

Organizations and Individuals	Date	Meeting
<p><b>Girls Action Foundation</b> Saman Ahsan, Executive Director</p> <p><b>Ontario Council of Agencies Serving Immigrants (OCASI)</b> Debbie Douglas, Executive Director</p> <p><b>S.U.C.C.E.S.S.</b> Queenie Choo, Chief Executive Officer</p> <p><b>Table de concertation des organismes au service des personnes réfugiées et immigrantes</b> Amel Belhassen, Representative, Women's file</p>	2014/03/25	17
<p><b>As an individual</b> Christine Straehle, Professor, Faculty of Social Sciences, University of Ottawa</p> <p><b>DIVERSEcity Community Resources Society</b> Katie Rosenberger, Manager, Counselling Services Swarandeep Virk, Counsellor</p> <p><b>Espace féminin arabe</b> Khadija Darid, Director General</p> <p><b>Metro Toronto Chinese and Southeast Asian Legal Clinic</b> Avvy Yao-Yao Go, Clinic Director</p> <p><b>Muslim Canadian Congress</b> Mohammad Khan, President</p> <p><b>Reh'ma Community Services</b> Shirin Mandani, Executive Director Talat Muinuddin, President</p>	2014/04/01	18
<p><b>As individuals</b> Kamal Dhillon, Author, Black and Blue Sari Denise Spitzer, Canada Research Chair in Gender Migration and Health, University of Ottawa</p> <p><b>Canadian Council of Muslim Women</b> Alia Hogben, Executive Director</p> <p><b>Coalition of Progressive Canadian Muslim Organizations</b> Tahir Gora, Secretary General Salma Siddiqui, President</p> <p><b>South Asian Women's Centre</b> Kripa Sekhar, Executive Director</p>	2014/04/02	19

Organizations and Individuals	Date	Meeting
<p><b>As an individual</b></p> <p>Lorne Waldman, Barrister and Solicitor, Lorne Waldman &amp; Associates</p> <p><b>Maison Afghane-Canadienne (MAFCAN)</b></p> <p>Humaira Madawa, Director</p> <p><b>Ministry of Business, Innovation and Employment of New Zealand</b></p> <p>Lynda Byrne, Senior Advisor, Immigration Policy Phillipa Guthrey, Manager, Immigration International Christine Hyndman, Manager, Immigration Policy Fraser Richards, Senior Solicitor, Corporate and Registries</p> <p><b>Yellow Brick House</b></p> <p>Lorris Herenda, Executive Director</p>	2014/04/08	20
<p><b>Afghan Women's Organization</b></p> <p>Adeena Niazi, Executive Director</p> <p><b>As individuals</b></p> <p>Elizabeth Long, Barrister and Solicitor, Long Mangalji LLP</p> <p>Audrey Macklin, Professor and Chair in Human Rights Law, Faculty of Law, University of Toronto</p> <p>Kathryn Marshall, Lawyer</p> <p><b>Greater Vancouver Counselling and Education Society for Families</b></p> <p>Poran Poregbal, Founder, Executive Director and Therapist</p> <p><b>Herizon House Women's Shelter</b></p> <p>Laila Fakhri, Crisis Intervention Counsellor</p>	2014/04/09	21
<p><b>Afghan Women's Centre of Montreal</b></p> <p>Makai Aref, President Patmeena Sabit, Program Assistant</p> <p><b>As an individual</b></p> <p>Shahin Mehdizadeh, Superintendent, Manitoba, "D" Division, Royal Canadian Mounted Police</p> <p><b>Council for Muslims Facing Tomorrow</b></p> <p>Raheel Raza, President</p>	2014/05/26	28





# APPENDIX B LIST OF BRIEFS

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## Organizations and Individuals

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Collectif des femmes immigrantes du Québec

Espace féminin arabe

Greater Vancouver Counselling and Education Society for Families

Metro Toronto Chinese and Southeast Asian Legal Clinic

South Asian Women's Centre

The Shield of Athena - Family Services

YMCA Metro Vancouver



# REQUEST FOR GOVERNMENT RESPONSE

Pursuant to Standing Order 109, the Committee requests that the government table a comprehensive response to this Report.

A copy of the relevant *Minutes of Proceedings* ([Meetings Nos. 14 to 21, 28, 29, 36 and 37](#)) is tabled.

Respectfully submitted,

David Tilson

Chair



## Supplementary Report of the New Democratic Party on STRENGTHENING THE PROTECTION OF WOMEN IN OUR IMMIGRATION SYSTEM

The NDP was pleased the Citizenship and Immigration Committee chose to conduct a study into ways of better protecting women in our immigration system. While many women come to Canada as individuals or with their families and flourish in a new place, becoming part of our wonderful tapestry of diverse cultures living and working side by side, some women are unfortunately being placed in very vulnerable situations through the act of immigrating. In this regard, we are pleased to see multiple recommendations from the committee to strengthen the protection of women, but we do not believe these recommendations go far enough. The report also fails to reflect key elements of witness testimony, including with regards to conditional permanent residency, better support services and information for immigrant women, and long processing times for applications.

### Conditional Permanent Residency

Conditional Permanent Residency (CPR), introduced by the Conservatives in October 2012, made permanent residency for sponsored spouses conditional on living together and maintaining a conjugal relationship for two years, in cases where a couple has been together for less than two years and does not have children. The Conservatives did provide an exemption in cases where there is evidence of abuse or neglect by the sponsor, or of a failure by the sponsor to protect from abuse or neglect by another person.

At our hearings, witness after witness stressed how CPR increases the vulnerability of women in our immigration system. For instance, it was noted that the obligation to cohabit with the sponsor in order to avoid deportation exposes women to abuse, isolation, manipulation and threats:

“The challenges of sponsored spouses, particularly in instances of women who are abused, is complex and we're noticing that they're even more complex now with the two-year conditional residency requirement. Many of the challenges stem from isolation in a new country, with little or no home community support at the local level. There's also an inequality of status based on length of stay in the country, so the spouse who has lived in Canada longer has a better knowledge and support of the local community. This creates an environment where this is a scope for manipulation and threat, causing fear, ostracization and shame. It is our experience that sponsors used the new legislation to control and abuse their victims by threatening loss of status and deportation if they ever complain. It has become our experience that women trapped in such relationships usually have no one to turn to for support other than the abuser or his family. The abusers normally censor and restrict the interactions of newly-wed immigrant women with family and friends and isolate them from any support networks.”<sup>1</sup>

Ms. Kripa Sekhar, Executive Director, South Asian Women's Centre

With regards to exemptions, several witnesses testified that placing the burden of proof on the sponsored spouse makes the exemption impractical:

“If she's able to provide such proof, she will be entitled to the protection of the Abuse Clause in the Conditional Permanent Residents amendment. She will be protected from being deported. My concern is with this last kind of vulnerability. So far many of your witnesses have underlined the difficulty of providing evidence of abuse, particularly, of course, if it is a case of psychological or financial abuse. Second, your witnesses from CIC and CBSA have testified that a lot of weight lies with the immigration officers who have to make a judgment call about whether or not abuse is actually taking place. I certainly believe that the officers in question will most often be sympathetic to the woman making the allegation of abuse, however, it remains that the burden of proof is on the individual woman. Contrast this with the principles that have been adopted by the British Forced Marriage Unit

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<sup>1</sup> CIMM, [Evidence](#), 2<sup>nd</sup> Session, 41<sup>st</sup> Parliament, 2 April 2014, 1710.

(FMU). This unit was put in place in 2005 to provide, and I quote, “practical support, information, and advice to anyone who has been through, or is at risk of a forced marriage in the U.K.”<sup>2</sup>  
Prof. Christine Straehle, Professor, Faculty of Social Sciences, University of Ottawa

## RECOMMENDATION

**The government should eliminate the conditional permanent residency requirement, which increases the vulnerability of women in situations of spousal abuse. The government should also consult widely on alternative measures to ensure the integrity of Canada’s sponsorship program.**

### Providing Better Information

Many witnesses noted that a lack of information and education about their rights increases the vulnerability of immigrant women to gender-based violence and that, consequently, there is a need for information sessions for both sponsors and sponsors' spouses when they enter Canada to make them aware of their rights and responsibilities under Canadian law.

“From the service provider agency point of view, I think it is now even more significant and vital to provide these vulnerable immigrant women with the information they need should those circumstances arise so that they know who to talk to when there’s an issue, so that they’re not left in those desperate situations when a crisis comes. This is important to better prepare them for the future. To the service provider agency, we have to make those services available for these people. We have to invest in those services so this is not a vicious circle for those [...] women.”<sup>3</sup>  
Ms. Queenie Choo, Chief Executive Officer, S.U.C.C.E.S.S.

Simultaneously, funding for education and information is paramount:

“I also think that more funding should be provided to community organizations. I agree that education is important. Resources are important. Women need to know where they can get help, and if those services can be made available in the first language they speak, it will assist these women as well, so support and settlement services for immigrant women should be maintained and should be strengthened.”<sup>4</sup>  
Ms. Avvy Yao-Yao Go, Clinic Director, Metro Toronto Chinese and Southeast Asian Legal Clinic

Finally, we heard during this study that access to job markets was essential in breaking the isolation of women in Canada’s immigration system and that the government must invest in services to support and train women.

“Next are economic barriers. Newcomer women find it difficult to get employment because of lack of accreditation and lack of Canadian education and work experience. The skills they come with are not enough or relevant to the labour market needs. Without employment, they are financially dependent on their sponsors. Women who have sponsored their husbands may face further vulnerability if their husbands leave them and seek social assistance.

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<sup>2</sup> CIMM, Evidence, 2nd Session, 41st Parliament, 1 April 2014, 1545.

<sup>3</sup> CIMM, Evidence, 2nd Session, 41st Parliament, March 25, 2014, 1625.

<sup>4</sup> CIMM, Evidence, 2nd Session, 41st Parliament, 1 April 2014, 1540.

We recommend that before their arrival, they be given information on skills and jobs that are in demand. We also recommend that after they arrive, they be given information and access to skills development programs that are in accord with labour market needs.”<sup>5</sup>  
(Mrs. Khadija Darid (Director General, Espace féminin arabe)

#### **RECOMMENDATION**

**The government should facilitate immediate meetings with settlement workers for women arriving as sponsored immigrants, where they can receive information about language classes, crisis resources, their rights and responsibilities under Canadian law, and other information pertinent to their integration in the Canadian labor market as well as in Canadian society.**

#### **Long Processing Times**

The committee heard from witnesses that the isolation of vulnerable spouses contributes to abuse and can lead to the most severe cases of violence.<sup>6</sup> Long processing times in the application process to come to Canada and reunite family members, including children, contributes to the isolation of the sponsored spouse.<sup>7</sup> Additionally, the committee also heard that delays in family reunification not only adversely impact spouses who are at risk of abuse but also has a negative impact on “the social support system” and on “the criminal justice system.”<sup>8</sup>

#### **RECOMMENDATION**

**The government should audit its family reunification program and addresses the processing time delays in a timely fashion.**

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<sup>5</sup> CIMM, Evidence, 2nd Session, 41st Parliament, 1 April 2014, 1640.

<sup>6</sup> CIMM, Evidence, 2<sup>nd</sup> session, 41<sup>st</sup> Parliament, 1 April 2014 (Katie Rosenberger of DIVERSEcity).

<sup>7</sup> CIMM, Evidence, 2nd Session, 41st Parliament, 4March 2014, 1640 (Mr. Richard Kurland, Immigration Lawyer).

<sup>8</sup> Ibid





## Supplementary Opinion of the Liberal Party of Canada

The Liberal Party of Canada is deeply concerned that the Committee chose to ignore important evidence given by experienced and learned witnesses during our lengthy study into the protection of women in the immigration system.

The Standing Committee on Citizenship and Immigration undertook this important study on how “to strengthen the integrity of the Immigration Spousal Sponsorship Program.”<sup>1</sup> Its final report entitled, *Strengthening the protection of women in our immigration system*, makes a number of substantial recommendations with which the Liberal Party agrees. However, It ignores the large body of evidence that the recently introduced conditional permanent residence program for spousal sponsorships may, in fact, be increasing the risk some women face when they first arrive in Canada.

Domestic violence is a serious issue and it deserves treatment by this Committee and by our government. Liberals are concerned that the government is more concerned about symbolic acts rather than real policies that are designed to prevent the abuse of women in our immigration system.

Any proper analysis of the spousal sponsorship program requires the unpacking of a number of related, but different, issues. In writing this report, the Committee was forced to consider the issues arising from proxy marriage, arranged marriage, forced marriage and marriages of convenience.

Liberals believe that forced marriage should be considered a violent, coercive act against its victim. All members of the Committee, and all witnesses we heard from, share this view. Members of the Committee also expressed their concern that the spousal sponsorship program was being abused through marriages of convenience – whereby some people were immigrating to Canada fraudulently.

The challenge that the members of the Committee and the government face as policy makers is to find policies that will effectively combat the abuse of our system and the abuse of those within our system without unduly punishing those seeking to legitimately be reunited with their spouses. In fact, this contradiction was raised by Professor Audrey Macklin who had concerns that some policy measures may have the unintended consequence of preventing those with legitimate marriages from sponsoring their spouses.<sup>2</sup>

For anyone who watched the Committee’s hearings during this study they will notice that any concerns regarding conditional permanent residence are absent from the Committee’s report. Conditional Permanent Residence applies in some cases of spousal sponsorship. In effect, the sponsored spouse’s permanent status in Canada is conditional for 2 years. If the relationship breaks down during that time the spouse may be deported.<sup>3</sup>

The Committee’s report does explain some of the complications of this system. Many new immigrants are unaware of Canadian laws regarding domestic abuse. They may also be unaware of the support

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<sup>1</sup> CIMM, Minutes, 6 February 2014.

<sup>2</sup> CIMM, Evidence, 9 April 2014, 1630 (Audrey Macklin).

<sup>3</sup> <http://www.cic.gc.ca/english/department/media/backgrounders/2012/2012-10-26a.asp>

available to partners facing domestic violence. However, the Committee fails to address the perverse affect that the conditionality of a recent immigrants permanent residence can have. Numerous witnesses, many of whom have first-hand experience helping the victims of domestic violence, were opposed to the conditional permanent residence policy.

This was explained very pointedly by Alia Hogben at during our hearings:

“Those of us who have worked in the field of violence against women know that for many women, educated or not, independent or not, self-confident or not, it is extremely difficult to come forward to report abuse and violence. Imagine how much more difficult it is to speak out for a newcomer in the precarious situation of a conditional permanent residence.”<sup>4</sup>

Therefore the Liberal Party Recommends:

**That the Government eliminates the Permanent Condition Residence requirement for spousal sponsorships.**

In its report, the Committee refers to the Humanitarian and Compassionate (H&C) immigration category as a means for abused spouses to seek permanent residency. However, the Committee chose to ignore the evidence from witnesses the H&C program is plagued with long wait times and a very low success rate.

Heather Neufeld stated:

“I will also mention very quickly that another problem we're seeing is that when women are in the sponsorship process and the sponsorship is withdrawn while in process, the women who are experiencing domestic violence will find themselves without approved sponsorship and without a route to permanent residence. The humanitarian and compassionate process is ill-suited to deal with those cases.”<sup>5</sup>

Further, Avvy Yao-Yao Go, also added:

“Even though, in theory, officers are supposed to be sensitive to the issue of violence, we have seen cases where violence has been proven and yet the women are still being denied landing in those kinds of situations. I would recommend a special program be created to address these issues to allow these women to stay in Canada in those kinds of situations.”<sup>6</sup>

It is clear that the H&C program is not prepared to handle these incredibly sensitive cases in a timely and effective manner. As a result, the Liberal Party recommends:

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<sup>4</sup> CIMM, Evidence, 2 April 2014, 1725 (Alia Hogben)

<sup>5</sup> CIMM, Evidence, 5 March 2014, 1640 (Heather Neufeld)

<sup>6</sup> CIMM, Evidence, 1 April 2014, 1540 (Avvy Yao-Yao Go)

**That the Government create a route through which spouses who are the victim of domestic violence can apply for permanent residence in a timely and efficient manner.**

The Liberal Party takes these matters seriously. We are deeply concerned that the Committee chose to leave out important evidence that would help provide important context and information to those seeking to learn about how we can further protect women in our immigration system.

Finally, we would like to thank the witnesses who came forward to testify and to the House of Commons and Library of Parliament staff, for without whom, the Committee would not be able to function.

