1-1-2012

Between A Rock And A Hard Place: Access To The Justice System By Abused Refugee Women In Canada

Harmy E.J. Mendoza
Ryerson University

Follow this and additional works at: <http://digitalcommons.ryerson.ca/dissertations>

Part of the [Race and Ethnicity Commons](#)

Recommended Citation

Mendoza, Harmy E.J., "Between A Rock And A Hard Place: Access To The Justice System By Abused Refugee Women In Canada" (2012). *Theses and dissertations*. Paper 1511.

This Major Research Paper is brought to you for free and open access by Digital Commons @ Ryerson. It has been accepted for inclusion in Theses and dissertations by an authorized administrator of Digital Commons @ Ryerson. For more information, please contact bcameron@ryerson.ca.

BETWEEN A ROCK AND A HARD PLACE: ACCESS TO THE JUSTICE SYSTEM BY ABUSED REFUGEE
WOMEN IN CANADA

by

Harmy Elevi Javier Mendoza BA, Teacher's College, 1999

A Major Research Paper
presented to Ryerson University

in partial fulfillment of the requirements for the degree of

Masters of Arts
in the Program of
Immigration and Settlement Studies

Toronto, Ontario, Canada, 2012

© Harmy Elevi Javier Mendoza 2012

AUTHOR'S DECLARATION FOR ELECTRONIC SUBMISSION OF A MAJOR RESEARCH PAPER (MRP)

I hereby declare that I am the sole author of this Major Research Paper. This is the true copy of the MRP, including any required final revisions, as accepted by my examiners.

I authorize Ryerson University to lend this MRP to other institutions or individuals for the purpose of scholarly research.

I further authorize Ryerson University to reproduce this MRP by photocopying or by other means, in total or in part, at the request of other institutions or individuals for the purpose of scholarly research.

I understand that my MRP may be made electronically available to the public.

Harmy Elevi Javier Mendoza

BETWEEN A ROCK AND A HARD PLACE: ACCESSING THE JUSTICE SYSTEM BY ABUSED REFUGEE
WOMEN IN CANADA.

Harmy Elevi Javier Mendoza
Masters of Arts, 2012
Immigration and Settlement Studies
Ryerson University

ABSTRACT

This paper reviews literature about the Canadian justice system's responses to woman abuse in general, with a particular focus on abused refugee women. Due to the complexity of the issue of woman abuse, this topic is examined using the following theoretical frameworks: Systemic Racism Theory, Cultural Racism Theory, Social Ecological model and the hindrance put forward by the Neo Liberalism ideology. A general overview of the Canadian immigration and refugee system is necessary, in order to systematically contextualize current and former policies and practices. The impact such policies have on refugee women when accessing the justice system can be severe, firstly due to current justice systems' intersectionalities, secondly due to the lack of coordination between the criminal, family and immigration justice systems, and thirdly due to barriers in services. Furthermore, alarming recent changes in Canadian immigration legislation, will create further difficulties in access to justice by refugee women experiencing violence.

Key words: Woman abuse, refugee women, justice systems, intersectionalities, policies.

Acknowledgements

I would like to Thank Dr. Vappu Tyyskä, firstly for her outstanding academic supervision, direction and support during the development of this paper, and secondly for her exceptional and unsurpassed teaching and leadership skills during class.

Special thanks to my grandparents Antonio, Nilda, Severa and Jose Maria, because their lessons from childhood taught me to value perseverance, diligence and hard work, and to my parents Antonio and Lucy, for always encouraging me towards excellence.

To my little brother, Diego Armando, for always considering me a role model, when in reality I am constantly inspired by his courage, honesty and loving attitude in life. To him I extend my deepest appreciation.

Finally, I would like to thank Narciso Romero, my partner in life and best friend, who was always there by my side, whispering words of encouragement and providing unconditional support. He was the driving force that allowed me to finish this journey; he already has my heart so I will just give him a heartfelt “thanks”.

They all supported me, loved me, and encouraged me. To them I dedicate this Major Research Paper.

TABLE OF CONTENTS

Title page	i
Author's Declaration	ii
Abstract	iii
Acknowledgments	iv
Table of Contents	v
Introduction	1
Theoretical Frameworks	4
Canadian Immigration and Refugee System	9
Refugees in Canada	15
Immigration and Women in Canada	18
Woman Abuse	22
Canadian Justice System Responses to Woman Abuse	25
Woman Abuse, Refugee Woman and Barriers to Services	32
New Policy Directions	43
Conclusion and Recommendations	49
References	53

INTRODUCTION

The reasons individuals migrate from one place to another vary and are complex; some are forced to move while others may do so voluntarily. Each year, many women, men and children arrive in Canada, contributing to the multifarious composition of the modern Canadian population. These women, men and children have contributed and continue contributing to shape our diverse population and identity.

As Canada's population changes, due to immigration, the various policy frameworks currently in place are tested against new residents, resulting in identifying additional issues about how these current systems are or are not responding to the needs of the Canadian population.

This paper will review literature related to the Canadian justice system's response to violence against refugee claimant women. At the very beginning of this paper, there will be an exploration of the following theoretical frameworks: Systemic Racism Theory, Cultural Racism Theory, Anti Racist Feminism, Neo liberalism and Social Ecological model. The main goal is to ensure there is a particular perspective through which this paper's topic will be examined. In addition, these theoretical frameworks will be referenced throughout this paper.

I will continue by providing a general overview of the Canadian immigration and refugee system, to understand the several components and key bodies that administer our Canadian immigration system.

The next section will review more specific data about refugees in Canada, capturing historic information that will help us contextualize current policies and practices, in response to our international obligations. I will discuss gaps in current official policies and definitions, which may or may not take into consideration several types of hardships during pre and post migration periods, including major trauma, torture, imprisonment, execution, disappearance and harassment.

Information about specific challenges dealt by immigrant and refugee women in Canada will be described next. It is relatively new to recognize that immigrant and refugee women's experiences as migrants are different from those of men, as women face different opportunities and deal with different risks and challenges. The traditional view of the asylum seeker as male, together with very static interpretations of what constitutes persecution, has had the effect of denying women their rights to international protection. Women's political involvement is often misinterpreted as a personal behaviour, because women engage in non-conventional political activities, resulting in a lack of official recognition that they need protection. Furthermore, the narrow interpretation of persecution ignores the private space, which can result in directly impacting women's opportunity to seeking asylum (Valji, De La Hunt, & Moffet, 2003). Some other heightened risks for refugee women include but are not limited to vulnerability to human rights abuses, exploitation, discrimination, poverty, hunger, armed conflicts, and specific health risks (Caritas Internationalis, 2010). Women's exposure to these human rights violations may very well force them to move and seek refuge and international protection either by themselves or with their families. According to UNHCR, less than half of the refugees are women (United Nations High Commissioner for Refugees, 2012).

Refugee women experience significant changes in gender relations during settlement; some women become more aware of their legal rights and may also become main financial providers leading to gender role reversals and challenging some of the entrenched patriarchal gender ideologies (Edwards, 2007). This struggle can have lasting impacts on refugee families in terms of mental health, and they may also experience abuse in their relationships, in addition to dealing with the intricacies of unknown legal and educational systems.

The gender based analysis of the latter section will be an important component in the discussion of woman abuse described in the following section; special attention was paid to the woman abuse definition, ensuring the presence of a strong anti racist feminist framework component.

I will then analyze and critique current responses to woman abuse in the Canadian justice system. This will provide a basic framework for a discussion of specific challenges faced by refugee women who are victims of violence.

One of the last sections of this paper will address the recent multiple and alarming changes in Canadian immigration policies. These new policies will indeed shape our future as a society, and will have a significant impact on refugee women fleeing from their countries and hoping to find refuge. The conclusions segment will summarize the main contents of this discussion and provide some suggestions for policy directions.

THEORETICAL FRAMEWORKS

Many feminist analysts claim that in order to speak about woman abuse we must analyze gender using an integrative approach; this is, to include a historical and political practice analysis (Mohanty, 2000). This is because gender is constituted and represented differently according to our location within the global relations of power. Our insertion into these global relations of power is realized through a myriad of economic, political and ideological processes (Brah, 2000). Women experience oppression differently and the systems respond differently based on the geographical location they live in, and the geographical location they migrated from.

We need to start by looking at the nature and origin of current economic, political and ideological trends and processes related to woman abuse issues, and there needs to be a historical context, addressing the following questions: “At whose expense have nations been built? What have been (and continue to be) the conditions of entry for some groups and the conditions of groups indigenous to the conquered lands? In whose interests have our institutions and social policies been structured? Whose interest have these institutions served?” (Calliste & Sefa Dei, 2000, p. 165). In Canada, just like in any other nation, our collective past has set norms and values that have been fundamental in the making of the nation.

Trebilcock & Kelly (1998) provide a historic overview of the Canadian immigration policy, following the first thirty years after Confederation; immigration policy was regarded as one of the important pillars on which the new nation would develop. For Canada to survive as an independent, prosperous nation, economic growth was essential and dependent upon a larger

population and an expanding market. Immigrants were relatively free to enter Canada but were viewed as a cheap source of labour with severely limited rights of citizenship. Employers, trade unions and nationalists debated constantly and consistently about immigration policies. While employers called for an open policy and aggressive labour recruitment campaigns, trade unions wanted the opposite stating that the massive importation of labourers depressed local wages and displaced indigenous workers. The Anglo Canadian nationalists also demanded for a selective immigration policy, but in this case they were more concerned about a homogeneous society based on British values, traditions and institutions. Their demands were to favour British immigrants over all others.

In the end, as Trebilcock and Kelly (1998) demonstrate, economic interests were followed by the government for the next half century: there were 3 million people who immigrated to Canada, and dramatic growth was experienced in agricultural, manufacturing and service industries. Nevertheless, the debate continued between employers, trade unions and nationalists. However, there was a new participant in the immigration debates: law enforcement officials who blamed the high criminality rates on the admission of those who did not share the values of their host country and transferred their violent ways to the Canadian community.

Economic progress has been and continues to be the overriding objective for immigration; the government amended the Immigration Act in 1906 and 1910 to provide for a greater selectivity in the admission process, and to enable the flexibility to economic conditions at any given time, Cabinet was given enhanced powers to exclude any class of immigrant where this exclusion is in the best interest of the country. Restrictive regulations on the admission of

Chinese (head taxes), East Indians (continuous journal requirements) and Japanese (a voluntary emigration quota) reduced the volume of Asian immigration, reflecting nationalists' sentiments (Trebilcock & Kelly, 1998). Current and modern governmental immigration control and selection tactics include, for example, the imposing visas on specific countries or the development of the designated country of origin as will be explained later.

To explain these developments, Feagin's (2006) argument in his Systemic Racism Theory is that racism was one of the principal foundations of modern economies resulting in a system of white privilege that has been sustained to this day and that manifests itself in every major societal institution. From a comparative and historical perspective, groups came to be racialized in the notions of hierarchies of inferiority and superiority on the basis of social organization and cultural and technological accomplishments. A powerful ideology of racism emerged from a combination of social, cultural, economic, biological and religious factors (Feagin, 2006).

A more recently debated theory, Cultural Racism, explains a contemporary form of racism manifested in definitions of citizenship, nationhood and nationalism without an overt or necessary recourse to biological inferiority (Castagna & Sefa Dei, 2000). Given that this discourse of biological inferiority is not longer an overt discourse, a new form of racism has emerged: Cultural Racism ascribes group differences to differences in culture. Cultural Racism uses paternalistic and competitive approaches; the roles of dominated groups are defined by the dominant group's perception of the dominated groups.

The discussion of race is complicated by considerations of gender (and other intersectionalities). As mentioned before, gender is constituted and represented differently according to our differential location within the global relations of power. Our insertion into

these global relations of power is realized through a myriad of economic, political and ideological processes (Brah, 2000). The primary objective of feminism has been to change the social relations of power embedded within gender, since gender inequalities pervade all spheres of life. Feminist strategies have posed a challenge to women's subordinated position within both state institutions and civil society (Brah, 2000).

Anti-racist feminism challenges colonial and imperial practices, statism and the permanence of racial and gender boundaries (Calliste & Sefa Dei, 2000). Modern feminists are engaged in this line of analysis in an era of globalization, characterized by a neo-liberalist regressive climate which favours privatization, marketisation, and the enterprising individual while militating against institutional and systemic anti-racist feminist change (Apple, 2001). Neo-liberalism is an ideology behind the most recent stage in the development of capitalist society where power and wealth are, to an ever increasing degree, concentrated within transnational corporations and elite groups, increasing the power of business classes and lowering that of working classes (Thorsen & Lie, n.d.). These socio-political and economic neo liberal trends have led to increased income inequality, poverty and unequal access to resources (Coburn, 2009).

It is my argument here that woman abuse issues are not only diverse but complex but must include an intersectional and integrative approach. Bronfenbrenner's (1979) Ecological Model provides a useful framework for understanding how policy intersections and contradictions can impact women and work to promote or diminish safety. Along the lines of anti-racist feminism and the related theories discussed above, the Ecological Model recognizes the interwoven relationship that exists between the individual and her environment. While

individuals are responsible for instituting and maintaining the lifestyle changes necessary to reduce risk, increase safety and improve health, individual behavior is determined to a large extent by the social environment, e.g. community norms and values, regulations, and policies.

The ecological model is referenced by the Ontario Domestic Violence Advisory Council (2009) as the model which best reflects the paradigm shift it is calling for. It has two central starting points: all people and systems are interconnected and each can influence and impact the other. Individual behaviours, including how a woman will respond to violence are determined in part by external factors: the family dynamics, the response from public services, government policies and available community services.

The Social Ecological model's ultimate goal is to stop violence before it starts, and that prevention requires attention to all the factors that influence violence: individual, relationship, community and societal factors (Centres for Disease Control and Prevention, 2009). Since each of these areas are interconnected, everyone has a specific role to play in both addressing the immediate issue and in being a part of the transformation to healthy non-violent relationships. When individuals or systems do not work in a collaborative way that responds to a woman's needs, the risk of the violence escalating or remaining present in her life is increased (Bronfenbrenner, 1994). In order to help explain this paper's topic, the theories described here will be integrated in more detail into the upcoming sections.

CANADIAN IMMIGRATION AND REFUGEE SYSTEM

Today, Canada is one of the countries receiving large numbers of immigrants; it ranks second only after Australia. Statistics Canada reported a total of 204,243 of permanent residents accepted in 2008, which is 0.7% of the total population, and another over 280,000 immigrants came to Canada in 2010 (Statistics Canada, 2011).

Canada's Immigration and Refugee System has three main government bodies that interact in the entry determination process: Citizenship and Immigration Canada (CIC), Canada Border Services Agency (CBSA) and the Immigration and Refugee Board (IRB). The government body that will determine whether or not the claim for refuge is eligible will depend on the location where the claim was filed. Usually the first government body to be in contact with the refugee claimant is Citizenship and Immigration Canada (CIC), this is for claims filed by refugees who a) are accepted under the Resettlement from Outside Canada program and b) refugees already living in Canada.

The Resettlement from Outside Canada program relies on the United Nations High Commissioner for Refugees (UNHCR), other referral organizations and private sponsorship groups to identify and refer refugees for resettlement in Canada. This program divides refugees in two classes: a) Convention Refugees Abroad Class and b) Country of Asylum Class. For both classes CIC decides the eligibility and finally approves a claim if it meets the refugee definition. A successful claim will result into CIC issuing a permanent visa and a confirmation of permanent resident for the new convention refugee (Citizenship and Immigration Canada, 2012).

CIC will also be the first government body to be contacted by refugee claimants who are already living in Canada. In this particular case, the first step is for CIC to decide whether or not the claim is eligible; the second step involves the IRB to decide if the claim meets the refugee definition. Therefore, the most important task for CIC is to decide who should be referred to the IRB to seek refugee protection. CIC will deny eligibility to seek refugee protection if the refugee claimant has a) already been granted refugee protection in Canada or in other country, b) have previously been refused protection in Canada, or c) came to Canada from, or through, a designated safe third country, more specifically described under section 159.3 of the Immigration and Refugee Protection Regulations (Department of Justice, 2012). This latter limitation is directly related to the Safe Third Country Agreement, which came into effect on December 29, 2004, an agreement under which the US and Canada each declared the other country safe for refugees and established the general principle that refugee claimants should make their claims in the first of these countries that they reach. The Canadian Council for Refugees (CCR) vigorously opposed this Agreement, stating that the Canadian government is wrong to designate the US a safe country, in view of the fact that the US is not a safe place for all refugees (Canadian Council for Refugees, 2007). The CCR raised concerns about the risk of detention and abuses of detainees in US immigration jails, and the more restrictive rules and interpretations of the refugee definition in the US. Unlike Canada, the United States' refugee definition, under subsection 101 (1) (a) of the Immigration and Nationality Act, does not offer protection to people who face a risk to their life or of cruel and unusual treatment (U.S. Citizenship and Immigration Services, 2010). There are a few exceptions to the Designated Safe Third Country Regulations in Canada, e.g., if the refugee has a family member who is a Canadian

citizen, permanent resident or holds a valid work or study permit; or if the refugee is under the age of 18. Refugees are allowed to continue their refugee process even if they arrive from a safe third country. Refugee claimants who meet any of the above exemptions, are allowed to continue their refugee determination process at the Immigration and Refugee Board even if they arrived from a safe third country.

The second government body that may take part in the refugee determination process is Canada Border Services Agency (CBSA), which refers refugee claims made to the IRB at ports of entry (airport, seaport or a Canada-US border crossing). CBSA also has the responsibility to remove people who are inadmissible to Canada.

The third government body is the Immigration and Refugee Board of Canada (IRB) which has the responsibility to decide who needs refugee protection based on the 1951 refugee definition. The IRB is an independent administrative tribunal responsible for “making well reasoned decisions on immigration and refugee matters” (Immigration and Refugee Board of Canada, 2012). Apart from deciding who needs refugee protection, the IRB also hears appeals on certain immigration matters and conducts admissibility hearings and detention reviews. The Immigration and Refugee Protection Act (IRPA) governs matters concerning immigration and refugee protection of Canada, including much of the work of the IRB.

The IRB is Canada’s largest administrative tribunal. Although it reports to Parliament through the Minister of Citizenship and Immigration, the IRB is independent of both the CIC and the CBSA. The IRB is made up of three divisions. Firstly, the Refugee Protection Division (RPD) decides claims for refugee protection made by people already in Canada. Secondly, the

Immigration Division (ID) hears two types of cases: (i) the immigration admissibility hearings for foreign nationals or permanent residents who are believed to have contravened the IRPA and (ii) the cases of foreign nationals or permanent residents held in detention for immigration reasons. Thirdly, the Immigration Appeal Division (IAD) hears appeals of removal orders made against permanent residents, refugees and other protected persons, as well as foreign nationals with permanent resident visas.

In 2012, the Human Rights Research and Education Centre undertook a comprehensive overview of the IRB-RPD decisions during the past 20 years. A total of 365,040 refugee claims were referred to the IRB in 1989-2011 calendar years, and of those 162,891 were accepted, amounting to 44.62% of the total referred claims. The Centre concluded that acceptance rates have generally remained consistent at 40-50% for most years; however, the current acceptance rates of 38% in 2010 and 31% in 2011 are the lowest in the history of the IRB (University of Ottawa, 2012). This worrisome data could be very well related to a neo-liberal ideology (as described above) of making corporate profit by attracting skilled immigrants instead of meeting international human rights obligations.

An interesting neo-liberal ideology translated into policy relates to the Canadian government procedures to control refugee claims from a specific country. This is clearly a Neo-liberal practice, because it stops refugee claimants from arriving to Canada. Refugee claimants do not have to meet the criteria established in the points system for the professional class immigrants, or the financial assets for the business class immigrants. For example, there was a sudden drop in referred claims from Mexico as a result of Canadian visa requirements which

began in 2009 (Citizenship and Immigration Canada, 2009). Mexican refugee claims dropped from 9,322 in 2009 to 763 in 2011. These types of impositions are not new; back in 1996 the re-imposition of visa requirements ensured Chile was no longer amongst the top 10 leading countries in 1997 (University of Ottawa, 2012).

The top 10 source countries of refugee claims vary every year; however, there are countries that have consistently remained in this list. China, for instance, has been one of the top ten source countries except for 1995, with an acceptance rate of 44.2%, which is very similar to Mexican refugee claims, whose acceptance rate has been of 43%. Another top source country has been Sri Lanka which remained number one from 1990-1999 with an acceptance rate of 89.5% (University of Ottawa, 2012).

The following table provides more specific information about trends on acceptance rates for the top 10 countries in 2010 and 2011.

IRB REFUGEE STATUS DETERMINATIONS																	
Source: Immigration and Refugee Board of Canada - Refugee Protection Division																	
YR= Year REF= Referred to IRB A= Accepted R= Rejected AB=Abandoned W=Withdrawn P=Pending F=Finalized																	
YR	REF	A	A(%)	R	AB	W/D	P	F	TOP 10 SOURCE COUNTRY	REF	A	A(%)	R	AB	W/D	P	F
2010	22,543	12305	38	13642	1637	4873	51031	32457	Hungary	2300	22	2	72	117	967	3534	1178
									China	1644	881	53	579	95	96	2959	1651
									Colombia	1384	1266	52	1019	32	95	2692	2412
									Mexico	1299	563	11	3437	331	1406	9322	5827
									Sri Lanka	1200	513	76	138	10	11	1284	672
									Haiti	1062	2490	55	1778	151	144	3937	4563
									Nigeria	846	593	64	251	47	40	552	931
									St Vincent	710	136	32	409	41	49	1047	735
									India	532	124	30	206	33	55	1144	418
									Pakistan	526	255	58	119	32	36	821	442
									TOTAL	11503	7033	37	8008	889	2899	28292	18829
2011	24981	12983	38	16122	1756	3396	41852	34257	Hungary	4423	165	8	738	249	838	5975	1990
									China	1913	957	53	666	80	96	3080	1799
									Colombia	904	639	37	972	18	103	1882	1732
									Pakistan	882	433	67	138	27	46	1069	644
									Namibia	859	65	47	48	12	14	1055	139
									Mexico	763	1042	17	4184	284	600	3997	6110
									Nigeria	696	840	63	422	41	33	913	1336
									St Vincent	682	288	35	457	45	34	905	824
									Sri Lanka	635	281	57	183	14	14	1432	492
									India	632	111	18	381	37	76	1173	605
									TOTAL	12389	4821	31	8189	807	1854	21481	15671

Source: University of Ottawa. (2012). By the Numbers: Refugee Statistics. Retrieved 05 09, 2012 from Human Rights Research and Education Centre. Refugee Forum: <http://www.cdp-hrc.uttawa.ca/projects/refugee-forum/projects/statistics.php>

REFUGEES IN CANADA

In the particular case of refugees, it was in 1969 that Canada signed the United Nations Convention Relating to the Status of Refugees and its Protocol, agreeing not to return a person to their country of origin if that person had grounds for the fear of persecution (Citizenship and Immigration Canada, 2011). However, this important endorsement happened 18 years after it was adopted by the United Nations, 15 years after it entered into force (Canadian Council for Refugees, 2009) and most importantly 193 years since the first refugees in record, thousands of Loyalists among the freemen and slaves, fled the United States and came to Canada (Citizenship and Immigration Canada, 2011).

Since then, Canada has gained an enviable reputation for protecting refugees. Important changes have included the recognition of the requirement of an oral hearing in the refugee status determination process in 1985 by the Supreme Court of Canada, the creation of a new determination process and the establishment of the Immigration and Refugee Board in 1989. Further, and most significantly, the establishment of the Guidelines on Women Refugee Claimants fearing Gender-related Persecution in 1993 made Canada one of the first countries to address an important limitation of the 1951 United Nations' definition, which is the lack of explicit protection for women. The UN convention didn't say anything about societies that regulate and control women's lives or fail to protect them from abusive situations, whereas Canada recognizes the unique forms of gender based persecution experienced by women. Furthermore, the Immigration and Refugee Protection Act for the first time in Canadian history recognized refugees in its title in 2002 (Canadian Council for Refugees, 2009). Nevertheless, one

key problem seems to be the actual definition from the 1951 Geneva Convention related to the status of refugees:

A refugee is a person who "owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group, or political opinion, is outside the country of his nationality, and is unable to or, owing to such fear, is unwilling to avail himself of the protection of that country or who, not having a nationality being outside the country of his former habitual residence as a result of such events, is unable, owing to such fear, is unwilling to return to it ..." (United Nations High Commissioner for Refugees, 2001-2012).

This definition focuses on persecution aimed at the individual, not at groups of vulnerable people. According to this definition, a person fleeing from war or civil unrest is not a true refugee even if their life is in danger, unless they are persecuted because of race, religion, nationality, membership of a particular social group or political opinion (Amnesty International, 2012). In terms of Canadian definitions, a Convention Refugee is a person who meets the definition of a refugee contained in the 1951 United Nations Convention relating to the Status of Refugees. These are people who have left their home country and have a well- founded fear of persecution based on race, religion, nationality, political opinion, or membership in a particular social group (Immigration and Refugee Board of Canada, 2012).

A Refugee Claimant is a person in Canada who requests protection by the Government of Canada as a Convention Refugee or as a person in need of protection. A Person in Need of Protection is someone who, if removed to his or her home country, would be subjected to a

danger of torture, or to a risk to his or her life, or to a risk of cruel and unusual treatment or punishment. However, the IRB states a few limitations with respect to the risk of cruel and unusual treatment or punishment: The risk must exist throughout the country; the risk must be personal and not faced generally by other people in or from the country; the risk must not come from a lawful punishment; and the risk must not be caused by the country's inability to provide adequate health or medical care (Immigration and Refugee Board of Canada, 2012). This is distinct from Permanent Residents (see discussion below), who have been granted permission by Citizenship and Immigration Canada to settle in Canada permanently, and who may later apply to become a Canadian citizen. Regardless of the actual grounds for which a person was granted refugee protection, once a refugee claimant is granted protection, she or he can become a Permanent Resident, or in other words, will have the right to live in Canada permanently without being a citizen. The Permanent Residence eligibility requires a minimum of 730 days of being physically present in Canada within a period of 5 years (Citizenship and Immigration Canada, 2012). Refugee claimants must be able to prove they have resided in Canada during 730 days, before applying to become Permanent Residents.

This paper will use the term Refugee Women for those women who have made a claim for protection to the Immigration and Refugee Board of Canada, but who have not been either granted or denied protection in Canada. CIC provided information that it takes approximately 1,038 days to process completely a refugee claim (Citizenship and Immigration Canada, 2012).

IMMIGRATION AND WOMEN IN CANADA

Canada's female population increased by 840,000 from 2001 to 2006; during that period, about 579,000 women migrated to Canada; this is roughly 69% of the total growth of the female population (Chui, 2011). The 2006 Census enumerated 3,222,795 immigrant women in Canada, who made up 20.3% of the country's female population. The proportion of immigrant women had not been at this level since 1931, when 20.2% of the female population was made up of immigrants (Statistics Canada, 2012). In the particular case of refugees, there were a total of 179,974 refugee women who entered Canada during the same time frame; this is 31% of the total number of immigrant women who came to Canada (Citizenship and Immigration Canada, 2010).

The immigration legislation in Canada has undergone several changes throughout the years since it was first officially adopted in 1869, only two years after Canada officially became a country on July 1st, 1867 when the federal government passed the first Immigration Act, establishing the basic framework of Canadian immigration policy. The Immigration Act of 1910 amended in 1919 prohibited settlement of immigrants whose race was considered unsuitable to the Canadian climate. This racist practice was embedded into immigration policies, as explained by Feagin's Systemic Racism Theory. Feagin (2006) clearly explains how this type of racism was one of the main key basis of modern economies resulting in a system of white privilege.

Women were also subject to sexist legislative provisions at the end of the 19th century. Considered incapable, they were not recognized as "persons" under Canadian law, and did not enjoy the same rights as men (Trebilcock & Kelly, 1998).

It was not until April 1978 when the Immigration Act gave more power to the provinces to set their own immigration laws, defined “prohibited persons” in a broader way and created new classes of immigrants who could come to Canada: refugees, families, assisted relatives and independent immigrants. This latter type of immigrants had to take part in the Points Systems whereas the other didn’t as long as they passed basic criminal, security and health checks (Ian, Zachary, & Robert, 2004). It has been argued that there is a strong neo-liberal strategy embedded into the immigration system, to ensure that only highly qualified immigrants are allowed to immigrate, allowing for a constant supply of workers providing services, working in unregulated environments and wherever services are needed (Lee & McBride, 2007).

Nevertheless, due to these policy changes, there was a significant migration of professionals and business people. The current Immigration Act was passed in November 2001, and among the most important changes were the greater than ever powers to arrest, detain and deport permanent residents; tightened requirements needed to immigrate to Canada; a tightened point system; broader skill and training requirements; limitations on the type of people who could apply in the business class immigrants; and recognition of same sex relationships or common law relationships for sponsorship of family members. The Family Class includes foreign nationals sponsored by close relatives of family members in Canada and includes spouses, partners, dependent children, parents and grandparents (Citizenship and Immigration Canada, 2012).

Even though this paper's main focus is not the issue of women sponsored by their husbands, it is important to integrate an Anti Racist Feminist analysis into this particular topic. Anti Racist Feminism is a key theory in addressing the special areas of vulnerability of immigrant

and refugee women including abuse. This can be illustrated through a discussion of the sponsorship process. It is standard policy that a woman who is willing to immigrate to Canada to join her spouse must obtain prior permission from immigration authorities, and she must be sponsored by her spouse. Sponsorship is a process by which the sponsor agrees to provide essential needs and to reimburse any social assistance benefits that the sponsored may receive during a three years period (Citizenship and Immigration Canada, 2012).

However, there are differences in the ways that the sponsorship process operates in practice, in relation to immigrants from different source countries. Two studies conducted in the year 2001 across three different provinces (Alberta, Ontario, and Quebec) found that some South Asian women entering Canada through cross-country arranged marriages misunderstood their rights as sponsored persons and the powers their husbands have over them as their sponsors. Misunderstandings seemed to make the women vulnerable to domestic violence, as well as other unique forms of immigration abuse, like sponsor imposed barriers to integration in the form of prohibitions against seeking ESL training and employment, forced social isolation, threats to terminate financial support, and threats of deportation (Côté, Kérisit, & Côté, 2001).

In 2002, Citizenship and Immigration Canada took a number of steps to protect vulnerable women. These steps included reducing the duration of sponsored individuals' dependency on their sponsors from 10 years to 3 years; barring men with abuse histories from sponsoring foreign brides; and making changes to sponsorship documents to inform sponsored persons of their rights, protections that exist for them, and their sponsors' limitations (Merali, 2006). A study published in 2009 aimed to assess how these latter steps by Citizenship and Immigration Canada are working. The findings showed that South Asian women who had

limited English proficiency were more vulnerable because they were dependent on their husbands to communicate the conditions of sponsorship. In contrast, South Asian women who had English proficiency were knowledgeable about their rights and were able to access information about community and support services (Merali, 2009).

Another important finding in Merali's (2009) research is the very limited quantity of information on the rights of sponsors and the sponsored, in sponsorship documents, and there seems to be more emphasis in the content of sponsorship documents on the duration of the sponsorship commitment, and less emphasis on their responsibilities as sponsors. In addition, South Asian men reportedly have a very superficial understanding of sponsorship and their wives' rights which is then communicated to their sponsored wives. Thus, as the Anti-Racist Feminist theory would suggest, the treatment of immigrant women is reflective of a policy process that perpetuates power relations based on race and gender. The difficulties faced by sponsored wives are further compounded in the case of refugee women, as will be seen in the discussions to follow.

WOMAN ABUSE

For the purpose of this paper, the term “woman abuse” will be used rather than “domestic violence”, “family violence” or “intimate partner violence (IPV)”. Abuse is a more inclusive term than “violence”, and using the term “woman abuse” acknowledges that women’s experience of violence is rooted in the social, economic and political inequality of women. Using the term “woman abuse” captures a wide spectrum of behaviours, including physical and sexual violence, but does not dilute the existence of other seriously abusive acts including control, intimidation, threats and isolation (Neighbours, Friends and Families, n.d.)

Woman abuse refers to various forms of violence, abuse, mistreatment and neglect that women experience in their intimate, kin or dependent relationships. These include current, dissolving or past relationships with husbands, common-law partners, lovers, dating partners, family members and caregivers. The term clearly acknowledges women are often the victims of abuse and men are most often the perpetrators of abuse (Public Health Agency of Canada, 2001). According to police reported data, about 99,000 Canadians were victims of family violence in 2010. Of these, almost 50% were committed by their spouse. Women aged 15 and older accounted for 81% of all victims (Statistics Canada, 2012).

It is important to recognize that any woman, regardless of her age, race, ethnicity, education, cultural identity, socioeconomic status, occupation, religion, sexual orientation, physical or mental abilities or personality may experience abuse and may be at risk at virtually any point in her life. There may also be more than one type of aggression; the pattern of abuse may be of a single episode of abuse, or she may endure a pattern of abuse over many years

(Public Health Agency of Canada, 2009). This is because woman abuse is rooted in an unequal power relationship between men and women which is the core tenet in the Anti Racist Feminist theoretical framework. However, researchers have identified certain socio-demographic risk factors that can increase a woman's vulnerability to being abused in her relationship. As initially argued in the theoretical frameworks section, woman abuse issues are not only diverse but complex, and should include an integrative approach recognized by the Ecological Model which highlights the link between individuals and their environment.

Young women under 25 years old are the highest group at risk and in general alcohol related assaults are experienced more frequently among young adults (World Health Organization, 2006). Furthermore, the type of relationship seems to have a correlation with woman abuse, as the rates are higher for women living in common-law relationships. This may be related to the fact that couples in legal marriages are older than common law couples, and married couples also have lower rates of unemployment which is a known contributing factor. Socio economic status has also been linked to higher rates of woman abuse but is not clear if low income is a risk factor or a consequence or a combination of both (Statistics Canada, 2006). Poverty increases the threat of victimization, and violence and the associated ill mental and physical effects isolate women (Public Health Agency of Canada, 2008). Alcohol is another highly correlated factor with woman abuse but it cannot be said to be a direct cause of abuse. In some societies, both heavy drinking and violent behaviours toward female partners are associated with masculinity, and alcohol can be a facilitator that allows men to carry out violence that is perceived to be socially expected (World Health Organization, 2006), i.e. alcohol is used as preparation for involvement in violence, or as a way of excusing violent acts. The

World Health Organization (2006) also identifies that having experienced violence in childhood and adulthood can result in greater risk of alcohol dependence later in life. Alaggia et al. (2007) further suggest that children exposed to woman abuse are more likely to perpetrate violence against others which suggest that exposure to woman abuse in childhood may condition a new generation of abusers and victims, continuing the cycle of abuse.

The cost of operating shelters for abused women in Canada is more than \$135 million a year, and factoring other costs like support services and loss wages, abuse still costs \$4 billion a year, while the human cost on women, girls and boys cannot be calculated (YWCA Canada, 2009). In Ontario, the Domestic Violence Death Review Committee (DVODRC) assists in the investigation and review of deaths of persons that occur as a result of Domestic Violence, and makes recommendations to help prevent such deaths. Since its inception in 2003 the DVODRC has reviewed 111 cases that involved a total of 178 deaths. Particularly in the 2010 reviews, the vast majority (22 out of 24) homicide victims were female. Two victims were males and both of these were the children of the perpetrator (Ontario Domestic Violence Death Review Committee, 2010).

CANADIAN JUSTICE SYSTEM RESPONSES TO WOMAN ABUSE

Violence against women in Canada continues to be a critical issue; however, it has not been on the Canadian public policy agenda for a long time. Women are still murdered by their partners in Canada, with an average of one woman killed every six days (Canadian Women Foundation, n.d.). As a response, Women's organizations are still lobbying for a more coordinated, well resourced system response to violence against women issues.

In May 1982 the House of Commons' Standing Committee on Health, Welfare and Social Affairs tabled a *Report on Violence in the Family—Wife Battering*. This report states that police officers were trained not to arrest the offender, unless he had physically assaulted his partner or unless his partner had been injured, to the point that she was hurt "severe enough to require a certain number of stitches" (Department of Justice Canada, 2002, p.9) On July 8, 1982, the House of Commons unanimously adopted a motion that "Parliament encourages all Canadian police forces to establish a practice of having the police regularly lay charges in instances of wife beating, as they are inclined to do with any other case of common assault." On July 15, 1982, the Solicitor General of Canada wrote a letter to the Canadian Association of Chiefs of Police requesting their support and co-operation in addressing spousal abuse and strongly encouraged them to lay charges in wife assault cases (Department of Justice Canada, 2002).

Woman abuse policies have changed in different ways, but these policies vary among jurisdictions in Canada. Since 1983 every province has taken measures to establish policy directives which require police and Crown prosecutors to "charge and prosecute all incidents of spousal abuse where there were reasonable and probable grounds to believe that an offence

had been committed” (Department of justice Canada, 2002, p.1) regardless of the wishes of the victim.

Mandatory charging policies take discretion away from the police and the victims of the abuse. This is meant to force police to take woman abuse cases seriously. In addition, if they follow the provisions, police can avoid civil liability for failing to arrest (Drumbl, 1994). Ontario has a “mandatory charging” policy rather than a “mandatory arrest” policy – a charge must formally be made, but an arrest does not need to accompany that charge. While this allows police to charge parties at the scene despite police concerns that the situation did not involve an “arrestable offence”, the lack of an arrest fails to give a woman a short period of safety in which she can make decisions regarding her domestic situation. Other jurisdictions, such as British Columbia and Quebec, feature mandatory arrest provisions while vesting the decision to charge in the Crown (Department of Justice Canada, 2002). Often, the police also attach conditions to the charges; very often, the accused needs a responsible person known as a surety who will supervise them and provide them with a place to live, and in order to get out of jail this person is going to have to agree to the established conditions. Other examples of the conditions include: “no contact” orders which prohibit the offender and the victim from having contact with each other for an established period of time; and the offender is not to attend within a certain distance of any place of residence, education, or employment of the complainant or any potential witnesses; and he can not possess any weapons or firearms and surrender authorizations, licenses, registration, certificates to acquire or posses firearms. Further, he is to deposit his passport; he is to notify police of any change in address of employment; he is to report to the police at specified times; he is to abstain from consuming

alcohol or other intoxicating substances; and/or he is to abstain from taking drugs except in accordance with a medical prescription (Ministry of Justice, 2010).

The goals of pro-charging policies are to: remove responsibility for the decision to lay charges from the victim; increase the number of charges laid in domestic violence cases; increase reporting of domestic violence incidents; and deter abusers from re-offending.

The decision of whether or not to prosecute is one of the most essential steps in the prosecution process. These determinations will reflect a strong knowledge of the law and detailed consideration of the interest of the victims, the accused and the public at large. Pro-prosecution policies encourage prosecution in situations where the Crown has a fair chance at a conviction, there is sufficient evidence, and it is not against the public interest to prosecute. If, for example, there is a system for dealing with the alleged offender such as a compliance program, Crown counsel should consider whether an alternative such as this might better serve the public interest than prosecution. The schema for prosecutions not against the public interest is that resources available for prosecution are not unlimited and should not be used to pursue inappropriate cases (Department of Justice, 2012).

That being said, Crowns consider the interest of the victim but they prosecute cases on behalf of the public at large and not just based on the interest of any particular individual. This discretion is left up to the Crown (Department of Justice Canada, 2002). Pro-prosecution policies also have the goals of increasing prosecution and deterring re-offending along with promoting victim cooperation in the court process. This is because it was understood that this type of approach to woman abuse offenses could lead to increased conviction rates, reports

from victims, probation supervision, jail sentences and court mandated treatment for violent partners.

Academics have concluded that evidence regarding the effectiveness of pro-charge and pro-arrest policies on deterrence is “inconclusive and warranting further research” (Brown, 2000, p.2). The studies which have emerged have shown mixed reviews of the policies. There has been a series of unintended consequences, and specific groups of women have been negatively affected by these policies as will be discussed in more detail below.

The impact of the mandatory charging policy on decreasing violence has been questioned as it may not respond to the need of victims. The effectiveness of the policy may be compromised by several factors, including the fact that this policy is heavily dependent on police officers’ discretion and is potentially influenced by their attitudes toward abused women; some women have reported experiences in which the police officers did not believe them, or judged them and blamed them for their own victimization, especially after calling and reporting to the police several times. This patterns may be discouraging for the police officers and it could be that these officers become cynical. There needs to be an understanding and appreciation of the repetitive and escalating nature of woman abuse, sufficient to separate attitude from action (Ursel, 2002).

Further, mandatory charging policies have led to an increase in dual arrests in which police find reasonable grounds to charge both the abuser and the victim. Chewter (2003) calls the increase in the arrests of both the male batterer and female victim a “perverse and unintended” effect of pro-charge and pro-arrest policies. This situation is called a dual arrest or

dual charge, depending on the action taken by police. It is a direct result of the lack of discretion given to police. Police must charge when a party to the dispute exhibits any injury, therefore, if both the male and the female have evident injuries both parties will be charged. Police also often face conflicting accounts of what happened and a fear of being held civilly liable or liable to their superiors leads them to arrest or charge everyone involved (Drumbl, 1994). Therefore, even if the female's violence was defensive or otherwise explainable – for example, to avoid more severe violence from her partner – she is charged along with her abuser. In several jurisdictions in Canada, it is now common for police, when responding to women's requests to intervene in cases where they are experiencing abuse by their intimate partners, to charge both the man and the woman. This practice is triggered by the assertion that what was engaged in was less a case of the man's violence against his partner than mutual violence (Department of Justice, 2011).

The problems with this approach are seen in police data. The numbers of women charged in domestic violence cases increased since 1987, in fact, the number of charges laid against women for level 1 assault has almost doubled from 7,669 in 1987 to 15,670 in 2005 (Kong & AuCoin, 2008). The police practice of "counter-charging" or "double-charging" is responsible for this. For clarity, incidents of assault are classified by police into one of three categories: Level 1 assaults are the most common and refer to assaults that cause little to no physical harm to victims. Level 2 assaults, or assault with a weapon or causing bodily harm, are those that involve carrying, using or threatening to use a real or imitation weapon and assaults that involve hurt or injury to a person. Level 3 assaults, which are also known as aggravated

assaults, constitute those in which a victim is wounded, maimed, disfigured or whose life is endangered (Dauvergne, 2009).

However, many researchers have concluded that women are less likely to be violent against their partners (Tjaden & Thoennes, 2000; Swan, 2002) and that when women use violence against their partners it was almost always in response to a need to defend themselves from their partner's assaults, or are retaliating for previous assaults (Hamberger & Potente, 1994; Miller, 2001). In other words, because a woman may have finally counter-attacked after repeated abuse, there is the possibility that only the female partner will be arrested, leaving the male partner to be treated as the only victim. Some jurisprudence signifies that the courts do not believe that women in this situation should be convicted of crimes against their abusive partners. The most prominent case regarding domestic violence is *R. v. Lavallee*, [1990] S.C.J. No. 36. In which the Supreme Court of Canada allowed a victim of domestic abuse who murdered her abuser to exculpate herself through the self-defence provisions of the Criminal Code. In doing so, the court recognizes “battered wife syndrome” as a valid defence in Canadian Law. This case shows that even though pro-charge and pro-prosecution or “no-drop” policies bring these cases before the court, the charges are not always accepted as being valid (Supreme Court of Canada, 1990).

Being arrested for domestic violence has a severely detrimental effect on battered women, and undermines the goal of protecting women espoused by Canadian domestic dispute provisions. For one, a victim who is arrested is far less likely to use the criminal justice system when faced with future partner abuse (Chewter, 2003). The humiliating experience of being

arrested and charged, being forced to stay away from her partner and therefore also from her family due to no contact provisions, and potentially being convicted are not only traumatic for all women (Women Justice Centre, 2010).

WOMAN ABUSE, REFUGEE WOMEN AND BARRIERS TO SERVICES

Woman abuse is one of the pressing issues having to deal with immigrants and more specifically refugee women. Though there are no accurate statistics about this, in an attempt to shed some light on this issue, the Canadian Council on Social Development (CCSD) analyzed results from the 2009 Statistics Canada's General Survey (GSS) on victimization data. CCSD analyzed a sample of 13,341 women surveyed, of whom 4,120 were immigrant and racialized women. From this sample group, 1,980 women reported some form of abuse; in addition 1,476 women who were neither immigrant nor members of a visible minority reported some form of partner violence (Smith, 2004). Thus, woman abuse is a serious policy issue, for both immigrant and non-immigrant women as it affects all populations.

Prevalence of woman abuse in immigrant and refugee populations has been difficult to measure, and is not consistent across studies, in part due to the underrepresentation in data collection, context of the survey administration, survey methodology and counting methods (Cho, 2011). This underrepresentation may be due to immigrants' low rates of reporting, at least partly attributed to traditional values that discourage victims from seeking help. One Canadian study examined help seeking rates for woman abuse among immigrant women, to determine whether these rates vary according to length of stay. The study built on an earlier study related to help seeking rates in the general Canadian population. Some of the important findings include that recent immigrant women who experienced abuse were less likely than longer-term immigrant women to disclose abuse to family, friends or neighbours. This study provided new evidence that help seeking rates for abuse vary with length of stay in the

receiving country. Furthermore, compared with non recent immigrant women, recent immigrant women were significantly more likely to report abuse to the police (50.8% vs 26.0%) (Hyman, Forte, Janice, Romans, & Cohen, 2006) which is surprising given several other findings that recent immigrant women are among those least likely to report abuse to the police because of fear of retaliation or jeopardizing immigration status, all of which is used by abusers to maintain control over immigrant women (Raj & Silverman, 2002).

Cultural values and immigrant status augment the complexities normally involved in woman abuse cases, as well as language barriers which impede immigrants from navigating the legal, health and social services systems (Yick, 2001). Raj and Silverman's (2002) study clearly indicates that a broad range of factors related to culture, migration context and legal immigration status increase immigrant women's vulnerability to abuse.

Anti Racist Theory is helpful in understanding how the issue of woman abuse is rooted in the exercise of power and control of women by men. The definition of abuse also seems to be cross cultural, as illustrated in another compelling study with Tamil women, aimed to examine to what extent definitions of woman abuse are universal and cross culturally relevant. This study's findings suggest that definitions of woman abuse are not culturally specific but rather rooted in power and control, where coercive control is expressed in different forms, including physically, sexually, psychologically, verbally and financially. It is important to highlight that immigrant women are "often triply victimized by their race, gender, and immigration status" (Mason, Hyman, Guruge, Knagaratnam, & Manuel, 2008, p.1408), in keeping with intersectionality theories such as Anti-Racist Feminism.

There are some additional findings. For the first time, in 2009 the Domestic Violence Ontario Death Review Committee made several recommendations focused on the prevention of future Domestic Violence related deaths by addressing issues involving the immigration status of perpetrators. Immigrant status appeared to impact the risk for lethality, specifically when the perpetrator's immigration status in Canada was in jeopardy. The Committee reviewed two cases where homicide resulted when it appeared that the perpetrator felt that his immigration status was being threatened (Ontario Domestic Violence Death Review Committee Reports, 2009).

Refugee women in Canada are at high risk of experiencing violence because of the vulnerable position they live in; they experience abuse in unique ways, and have specific and multiple needs resulting directly from their status as refugees. For example, the issue of women charged during a violent incident is serious in the case of refugee women. If a refugee woman is charged with a crime in Canada, she is automatically placed at further risk. Even though she has the right to a trial in criminal court, what the court decides may affect her status. It may lead to immigration authorities to take steps to get a "removal order" against the woman (Community Legal Education Ontario, 2008). Furthermore; for refugee women it may carry a risk of being deported without their children even if they are at risk of facing torture or death in their country of origin (Community Legal Education Ontario, 2008).

Limited access to information, counselling and other social services due to language barriers is another serious impediment putting women at further risk. Language barriers, and therefore lack of information and familiarity about Canadian laws and rights, social

infrastructure and available services impact significantly in the ability to leave an abusive relationship and on the ability to keep themselves safe (Justice Institute of British Columbia, 2007).

A substantial number of women do not intend to prosecute their partners when they call the police. Additional concerns have been mentioned about how these policies have been implemented without considering the effect of race, ethnicity, colonization, immigrant and refugee status, class, sexual orientation, and level of physical and mental ability which affect the experience of woman abuse, the decision women make when seeking outside help, and the response of service providers (Johnson & Fraser, 2011).

A substantial number of women do not intend to prosecute their partners when they call the police. Additional concerns have been mentioned about how these policies have been implemented with a systemic racism component, this is without considering the effect of race, ethnicity, colonization, immigrant and refugee status, class, sexual orientation, and level of physical and mental ability which affect the experience of woman abuse, the decision women make when seeking outside help, and the response of service providers (Johnson & Fraser, 2011).

A recent study in Toronto looked at interpersonal violence and immigration laws in Canada. The study included women who had both immigrated voluntarily and who had been forced to flee from their country. It didn't include, however, women with no immigration status in Canada. Using the focus group methodology with service providers and immigrant women, researchers documented several areas that are particularly challenging for immigrant women: cultural practices prohibiting disclosure/reporting; reluctance of police intervention; isolation;

staying in a violent relationship for the children; economic barriers; and fear of immigration status repercussions. Virtually all the women spoke of experiencing significant levels of isolation and feelings of loss (Alaggia, Regehr, & Ryschchynsky, 2009).

Many of the women in the aforementioned study emphasized how intertwined their abuse was with the other forms of disrespect, discrimination and exploitation they were experiencing in their lives. As immigrant women who often faced discrimination in the wider Canadian society and, in turn, were oppressed in their private, familial relationships, leaving their husband or calling the police was not a viable option, given the multiple levels of oppression. A significant number expressed a fear that such interventions would increase their isolation and economic insecurity, and would also bring shame to their families and community (Alaggia, et al. 2009).

This study suggests that it is the fear of reprisal or encounters with systemic racism within the criminal justice system or a justice-related service which may also inhibit abused immigrant women from accessing the justice system. Many immigrant women worry that they or their husband may be, for example, subjected to discriminatory practices or even be hurt by the police if they contact them. It is a fear driven by a complex host of variables such as past experience with repressive police forces in the country of origin and experiences with systemic racism in Canada (MacLeod, Shin, Hum, Samra-Jawanda, & Wasilewska, 1993).

Another negative effect is that male abusers are taking advantage of mandatory charging policies and the arrests of women to manipulate both the legal system and their partners. In a report, Miller (2001) revealed that, according to many counselors and service providers who are in close contact with abused women, men are more willing to call the police

and report violence against them, even faking their injuries to assert power over their female partners. The police are forced to arrest and/or charge the women in these cases. In addition, batterers use arrest, or the possibility of arrest, as another way to threaten their partners into submission. Avalon (1999) contends that female victims are not equipped to manipulate the criminal justice system's procedures the way men so readily are, in part because women are more inclined to end the lengthy court process. Women also deal with social reprobation and personal shame, and often plead guilty at their first court appearance.

A final result of this legal process is often that women end up in court-mandated batterer treatment programs, for example the Partner Assault Response program in Toronto (Ministry of the Attorney General, 2008).

While the motivation behind pro-charge and pro-prosecution policies is admirable and understandable, the actual outcomes are not in keeping with the goals. The lack of discretion given to both police officers and often prosecutors in incidents of domestic violence lead to the arrest or charging of women whose behaviour is justifiable given the context. The effects of women being arrested inappropriately are long-term, and further negatively affect their relationship with their abusive partner, their willingness to use the criminal justice system in future incidents of abuse, and their personal criminal record.

Some important data about the racial or socio-economic backgrounds of women arrested for violent behaviour in a domestic dispute come from American studies, so the following section must be read with that in mind. However, something that the studies point out is that despite any racial differences, women's violence is motivated by reactive and protective reasons. Still, recent research suggests that there may be racial or cultural

differences in how women respond to their battering partners. For instance, African-American women, compared to Caucasian women, may more often use violence against their male partners “in response to experiencing physical and sexual aggression and psychological abuse” (Miller, 2001, p. 1346). In analyzing this data, Miller hypothesizes that this tendency could be based on African American women’s marginalized socioeconomic status, and the history of physical abuse and oppression within their personal space and in the wider society. Further, it could indicate that African American women have an overall greater risk of victimization under pro-arrest policies (Miller, 2001). Miller notes that women, who the police believe to be the primary aggressors, have received harsher sentences than male batterers, “particularly women of colour and poor women, due to fewer resources, language barriers and racism” (Miller, 2001, p. 1368). Other studies comparing Caucasian and African American women also concluded that African American women are more likely to fight back when physically assaulted (Miller, 2001). The African American experience could potentially be applicable to the experiences of Canadian women of African descent, Aboriginal women or other racialized immigrant and/or refugee women. Miller’s reasoning – the history of abuse by men in those societies and oppression by larger society – fits with both of these minority groups. Likewise, in Canada, Aboriginal men and women are more likely to be charged and incarcerated for violent offences than non-Aboriginals (Correctional Service Canada, 2012).

In this systemic racist practice, the context of the domestic dispute, the types of injuries inflicted, and the previous records of the parties involved become irrelevant and the victim is perceived as an equal offender. In the case of sponsored women whose status is not full citizenship, because it will take 1,095 days in the four years immediately before the application

for citizenship (Citizenship and Immigration Canada, 2012), the fact that their partners may be Canadian citizens establishes a clear disadvantage on the women in cases where domestic violence exists, even if their spouses have a history of domestic violence. In the case of partners who are also refugee claimants, the fact that the primary claimant is their partner can disadvantage women as they are not able to bring the history of abuse forward due to fear of jeopardizing the family's claim for refuge. Confusion, threats of being reported to immigration authorities, lack of knowledge about their rights is another unique form of abuse faced by refugee women. Refugee processes may put one partner in position of power over the other (Canadian Council for Refugees., n.d.)

Refugee women may be reluctant to call the police in an emergency because they may fear being deported, as the police have authority to arrest or detain someone on behalf of the Canadian Borders Services Agency. If her partner is charged with assault this could lead to devastating consequences for her. Refugee women deal with the added risk of being deported without their children even if they are at risk of facing torture or death in their country of origin, in the case of refugees (Community Legal Education Ontario, 2008). Unfortunately there is no existing and/or available data about this population.

The Immigration and Refugee Protection Act can have a devastating impact on refugee claimant women who are victims of violence, due to the fact that they are also migrants without permanent resident status. The Act protects any permanent resident who chooses to leave an abusive home, even if their abuser is also their sponsor. Permanent residents cannot be removed from Canada on these grounds. However, victims of abuse who do not have permanent resident status in Canada and who leave an abuser who is also their sponsor may be

at risk of being removed from Canada if they are applying under the Spouse/partner or Common-Law Partner in Canada class. In other words: “The sponsorship application process puts at a huge disadvantage women whose relationship breaks down while they are in Canada awaiting a decision. They will no longer be able to become permanent residents and will be deported, even if domestic violence was the cause of the sponsorship breakdown” (Campbell, 2009). Under the Immigration and Refugee Protection Act (IRPA), it is possible for these victims to reapply for residency under humanitarian and compassionate (H&C) grounds but there is a slim chance that the application will be accepted and there are no opportunities for appeal once a decision is handed down.

Applicants under the H&C program have to prove economic stability, usually in the form of employment, in order to be approved. Making the application will not necessarily stop the government from removing someone from the country. “While waiting for their application to be processed they will have no access to provincial health insurance, social services, post-secondary education, or employment, unless they apply separately for a work or study permit” (Campbell, 2009). Further, if the woman has a child in Canada and is deported to her home country, the father of the child is likely to be granted custody to keep the child in Canada. “Women whose refugee claims have failed, or are not likely to succeed, face additional despair related to the potential loss of custody of their children when abusers claim custody based on the perception that it is in the children’s best interests to remain in Canada with their father rather than be deported to another country with their mothers” (Barbra Schlifer Commemorative Clinic, 2011). Therefore, immigrant women who do not have permanent

resident status may be forced to stay with their abuser, regardless of how traumatizing the experience is, in order to remain in Canada with their children.

Other important barrier experienced by refugee women is in access to health care, an important consideration given the serious physical and mental health impacts of abuse. The barriers in this area have been identified as socio-cultural barriers and policy context barriers. Socio-cultural barriers include: lack of familiarity with the health care system, lack of awareness of their rights to services, roles of providers and the expectation of users (Oxman-Martinez, Hanley, Lach, Khanlou, Weerasinghe, & Agnew, 2005). Policy context barriers frame refugee's official eligibility and access to public health services. The main policy barrier for refugee women is that they may be denied eligibility for health care due primarily to their immigration status. Canada has implemented the Interim Federal Health Program (IFHP) as a response to certain needs for access to care for refugees. However, there are serious difficulties including: limitation of coverage to essential services only, difficulty in accessing IFHP-covered services, and administrative and processing difficulties at the IFHP office (Gagnon, 2002). In 2012, a series of changes were introduced to the IFHP in Canada, and these changes will be discussed in the following section as new directions in policies.

In summary, there are a large number of special considerations when addressing the issue of abused refugee women, in comparison with women in general, and even in comparison with immigrant women.

The risk of being criminally charged with assault, even if this is done within the context of self defence, is very real for any woman. For a refugee woman, in particular, this risk

becomes a potential enforceable deportation order that will put her and her children at further risk. In this situation, the likely case scenario is that children will be left to live with an abusive father and will likely not see their mother again.

While women in general and immigrant women in particular face disadvantages that include arrest, charges and lengthy court processes, refugee women also face more acutely the issue of their precarious immigration status and barriers to services.

Woman abuse is perpetuated by current oppressive policies that allow for the use of power and control by abusers who may have a more secure immigration status. In the case of refugee women whose partners share the same immigration status, power and control is still relevant, given that most of the times men fit better the traditional view of a refugee, and they are usually main applicants, leaving refugee women as dependants.

Isolation, limited access to information and health services, language barriers, economic insecurity and discriminatory practices, speak of the multiple layers of oppression refugee women experience, in addition to living in an abusive situation and perpetual trauma.

NEW POLICY DIRECTIONS

There are new pieces of legislation that will potentially have a negative impact on refugee women and those among them who are subjected to abuse: Bill C-11, Bill C-31 and Bill C-4 (formerly Bill C-49).

On June 2011, the Ministry of Public Safety reintroduced Bill C-4, An Act to Amend the Immigration and Refugee Protection Act, the Balanced Reform Act and the Maritime Transportation Security Act, under the short title of Preventing Human Smugglers from Abusing Canada's Immigration System Act (Parliament of Canada, 2011), Bill C-4 would change significantly the way refugees are treated in Canada, one of the most significant changes is the fact that refugees, including children, will be incarcerated for a year (Canadian Council for Refugees, 2011).

On August 19th, 2011, Jason Kenney, Minister of Citizenship, Immigration and Multiculturalism announced that Bill C-11, now the Balanced Refugee Reform Act (BRRA) would come into force on June 29th, 2012. By law, the new determination system comes into force 24 months after royal assent, which was received on June 29th, 2010. Furthermore, on February 16th, 2012 a new bill was introduced: Bill C-31 Protecting Canada Immigration System Act, which build on reforms to the asylum system passed in June 29th, 2010 (Citizenship and Immigration Canada, 2012).

The Balanced Refugee Reform Act proposes faster decisions made by public servants at the Refugee Protection Division (Citizenship and Immigration Canada, 2012), however, this will make difficult to ensure the claimant has proper access to counsel and time to properly

advance their case within this time frame, given the importance of any initial statement and the potential adverse affects of incomplete or inaccurate statements (The Canadian Bar Association, 2010). Nevertheless, the timelines will be accelerated; CIC's hope is to finalize a refugee claim from 1,038 days to 45 days for claimants from designated countries of origin or 216 days for all other claimants (Citizenship and Immigration Canada, 2012).

Under the Balanced Refugee Act, the government has the authority to identify designated countries of origin. The main goal is to speed up the process for claimants who are arriving from countries that, as per the Canadian government view, do not normally produce refugees and offer state protection to their citizens.

The Canadian Bar Association, in an effort to address several flaws of the Balanced Refugee Reform Act, pointed to serious problems with empowering the government to designate a list of countries considered "safe" but from which a significant number of unfounded refugee claims are made, for the purpose of eliminating procedural rights for these countries' refugees: "Refugee determination is an individualized assessment. Of even greater concern is the likelihood that the list will become politicized" (The Canadian Bar Association, 2010, p.1).

One other important change under the Balanced Reform Act is the newly created Refugee Appeal division (RAD), this could be interpreted as a positive change, given that it would provide claimants with an opportunity to establish that the RPD decision was wrong, in fact or law or both. It will also allow for the introduction of new evidence by claimants that was not reasonable available when their claim was rejected, and in exceptional cases it will allow for

an oral hearing. Decisions at the RAD will also reduce the time lines for a decision from 120 to 90 days in those cases when no hearing is held. However, access to have a claim assessed by the RAD is limited, for instance, it is not available for claimants from Designated Country of Origin; those determined to have a manifestly unfounded claim or a claim with no credible basis; those subject to an exception in the Safe Third Country Agreement; and those with a refugee claim referred to the IRB before the new system comes into effect.

Under the justification of being effective, CIC has established that the faster decisions must be complemented with faster removals, and this has been the basis for a few other changes in the current system and under the Balanced Refugee Reform Act (BRRA). Amongst these changes is the fact that there will not be access to the Pre-Removal risk Assessment (PRRA) for one year following a final negative decision from the IRB to facilitate timely removals. Furthermore, to avoid any other avenues of recourse CIC has implemented that there will not be access to H&C considerations for one year, in addition to no longer be able to submit an H&C application while their refugee claim is pending (Citizenship and Immigration Canada, 2012). This particular set of changes seems to be more problematic than the rest given that the H&C and the PRRA provide a “vital safeguard to ensure a remedy in circumstances of rights violations that do not meet the strict test for refugee claims” (The Canadian Bar Association, 2010, p.1). Women fleeing violence will potentially be particularly affected by this change, as they will no longer be able to initiate, on their own, an H&C or PRRA application, should they need to leave an abusive sponsor or refugee claimant partner, who is the main applicant. Refugee women are particularly at risk given that most women in the refugee system are declared dependents of their husbands (Ending Violence Association of British Columbia, 2009)

Bill C-31 introduced in February 2012 builds upon the BRRRA, with additional proposed changes. First, a permanent resident who was accepted as a refugee in Canada could lose their permanent resident status if it is determined that they no longer need refugee protection even if they have lived in Canada for many years. Second, some refugee claimants who are detained on arrival could remain in detention with no right to a review for up to a year. If these claimants are recognized as refugees, they will be forced to wait for five more years before they can apply for permanent resident status, and during this time, they will not be able to sponsor family members to come to Canada (Community Legal Education Ontario, 2012). This could potentially impact abused refugee women, in that they will be hesitant to report any incident of abuse, due to fear of losing their already precarious immigration status, or if they are criminally charged during a domestic violence incident, should they need to defend themselves.

Many changes proposed to the IRPA, Bill C-4 and Bill C-11 will impact women fleeing violence negatively. Even though Bill C-4 is not yet enacted, if it is enacted, the bill will target 'human smugglers', a term that is broadly defined and includes those who are helping people who require a means of escape from persecution. The bill grants discretion to the Minister of Citizenship and Immigration to designate certain migrants as "irregular", based solely on the circumstances of their arrival in Canada, and curtails the rights of those migrants. It is the opinion of some critics that the Bill will have disproportionate negative consequences for women attempting to flee violence, given that women are often exploited and trafficked into Canada. This Bill confuses people being smuggled with the criminals who are oppressing them (Canadian Council for Refugees, 2012) .

Bill C-11, on the other hand, introduced changes that are intended to increase the efficiency of the immigration and refugee process, but which may negatively impact women experiencing violence. The Bill requires refugee claims to be substantiated during a 4-hour “interview” within 15 days of the claim being made. The interview replaces the Personal Information Form that was typically prepared with great care by a legal representative experienced in the solicitation of violence related information that would form the foundation of a viable refugee claim. Without proper legal assistance in preparing a claim, women may omit information they are fearful to disclose or which they do not understand the importance of disclosing. In addition, claims based on humanitarian and compassionate grounds also present new challenges for abused women as their fear of violence or persecution will no longer be considered relevant to these determinations (Barbra Schlifer Commemorative Clinic, 2011).

One additional pressing change in immigration policies relates to access to health care by refugees in Canada. On April 25th, 2012 CIC released new information about the reform of the Interim Federal Health Program. In an effort to save costs, Canada will end the coverage for supplemental health care benefits for refugees. These benefits include pharmaceutical care, dentistry, and vision care and mobility assistive devices. There will be medication and immunization provided only in cases where there is a risk to public health or public safety. According to the Public Health Agency of Canada, women are six times more likely to be sexually assaulted, five times more likely to be choked and five times more likely to require medical attention as a result of an assault (Public Health Agency of Canada, 2009). Given this data, we can infer that abused refugee women will experience a greater degree of risk should

they be injured due to an assault. The implementation of these policies supports notions of inferiority and superiority on the basis of social organization, manifested in major institutions like the health care system in Canada, challenged very often by the Systemic Racism Theory (Feagin, 2006), and by Anti-Racist Feminism.

In conclusion, most of the new measures under the BRAA prove that essential impartiality and individual human rights are compromised. First, the acceleration of timelines in the Immigration and Refugee determination legislation will limit the time to find proper legal counsel, increasing the inability to identify woman abuse components, which should be taken into consideration when assessing a refugee claim filed by women particularly. Second, the inability to file an H&C or PRRA application on their own, should their abusive partner be the principal applicants, put women in additional and potentially lethal risk. Third, the lack of health care services for refugee women, even if they are physically assaulted speaks of real unfairness and ultimately risks to the lives of refugee women who need the Canadian justice system to protect them.

CONCLUSION AND RECOMMENDATIONS

A general exploration was done in this paper, to understand Canadian justice responses to all women in general and toward refugee women specifically. The findings suggest that the criminal justice response is overall consistently deficient for all women in Canada, with many improvements needed.

Refugee women face added barriers which may result in risks and systemic pressures stemmed directly from their immigration status. Furthermore, additional barriers may impede access to justice: language barriers, access to services and information, lack of knowledge about their rights, social isolation, lack of proper legal advice, lack of knowledge of the legal system, and new and ongoing changes in the immigration system.

Current ongoing changes and new directions in immigration are also likely to further negatively impact abused women. This is in part due to, shorter timelines to prepare refugee applications, inability to identify violence-base information during interviews by government officials, inability to apply for other legal proceedings (notably the H&C and PRRA applications) on their own, and lack of adequate legal representation.

The absence of clear guidelines to deal with immigrant and refugee women who experience abuse in Canada is critical, and needs to be urgently addressed, in light of the recent changes in immigration policies. Some guidelines already exist to address specific cases, and these guidelines can be found in the Immigration and Refugee Board of Canada website (Immigration and Refugee Board of Canada, 2012). Clear guidelines, with the main goal to

protect immigrant and refugee women from abuse, should address specific gaps and barriers faced by refugee women. Such guidelines ought to address:

1. Adequate links and communication between family, criminal and immigration systems, to ensure that local, provincial and national intersecting policies do not place refugee women experiencing abuse at further risk (Ending Violence Association of British Columbia, 2009) ;
2. Interpreter services and information about refugee women's rights and the process they need to follow in order to access those rights, are important to their safety. Information about their rights has proven to be central to the empowerment of refugee women (Justice Institute of British Columbia, 2007);
3. Cross-sectoral integrated case management approaches, which will improve responsiveness of services for refugee women and increase better collaboration, networking and information sharing among service providers (Ending Violence Association of British Columbia, 2009);
4. Refugee claims and sponsorship breakdowns where the abuser is the main applicant must be treated differently. The application process creates a reliance on their husbands and takes away women's independence. The current systems provide plenty of opportunity for the abusive partner to control and impose their authority on women, contributing to inequalities in social relationships between women and men in Canada (Côté, Kérisit, & Côté, 2001) ;

5. Coordination between IRB, CBSA and CIC in cases of woman abuse is key to prevent women and their children being caught between a threat of deportation and enduring abuse (Ending Violence Association of British Columbia, 2009);
6. A strong evaluative component built into the implementation of such guidelines and any other policy changes will ensure results are effective, and whether or not any changes or amendments need to be implemented (Bamberger, Rugh, & Mabry, 2006). Effectiveness needs to be analysed with a gender based analytical framework to ensure that differential impacts on women are considered (Aboriginal Affairs and Northern Development Canada, 2010). Woman abuse has been and continues to be a critical problem in all the societies in the world. The Canadian justice system responses to woman abuse are examples of changes implemented in an effort to ensure proactive responses. Unfortunately, the implementation of such policies has not regularly had an evaluative component integrated, resulting in unintended consequences, like the issue of “dual charging” for example, which is a consequence of mandatory charging policies.

Refugee women are at a clear disadvantage when accessing the Canadian justice system as victims of violence, due to the multiple and complex web of justice and legislative systems they have to navigate to ensure they keep themselves and their children safe. This path is often walked in isolation and without secure income or resources due to the limited benefits refugee women are eligible to access.

In a neo-liberal and systematically racist and sexist political climate, the situation for refugee women seems to be only worsening as new legislation is approved to keep refugees outside of Canadian territory, instead of providing help and much needed support.

To date, this is an area that needs much more research, including a comprehensive review of the impact of policy decisions, and in particular the impact of policy intersectionalities and contradictions that impact refugee women's safety.

References

- Aboriginal Affairs and Northern Development Canada (2010). *Working Guide on Gender-Based Analysis*. Retrieved on July 28, 2012, <http://www.aadnc-aandc.gc.ca/eng/1100100028541>
- Alaggia, R., Jenney, A., Mazzuca, J., & Redmond, J. (2007). In Whose Best Interest? A Canadian Case Study of the Impact of child Welfare Policies in Cases of Domestic Violence. *Oxford Journals* , pp. 275-290.
- Alaggia, R., Regehr, C., Rishchynsky, G. (2009). Intimate Partner Violence and Immigration Laws in Canada: How far have we come? *International Journal of Law and Psychiatry*, pp.335-341.
- Amnesty International. (2012). *Refugees in Canada*. Retrieved August 5, 2012, from Amnesty <http://www.amnesty.ca/Refugee/who.php>
- Apple, M. W. (2001). Comparing Neo-liberal Projects and Inequality in Education. *Comparative Education* , pp. 409-423.
- Bamberger, M., Rugh, J., & Mabry, L. (2006). *Real World Evaluation*. California: SAGE Publications Inc.
- Barbra Schlifer Commemorative Clinic. (2011). *Justice Done: Crafting Opportunity from Adversity*. Toronto. Barbara Schlifer Commemorative Clinic.

- Brah, A. (2000). Difference, Diversity, Differentiation. In L. Back, & J. Salomos, *Theories of Race and Racism. A reader*. pp. 431-446. London and New York: Routledge.
- Bronfenbrenner, U. (1994). *Ecological Models of Human Development*. Retrieved February 02, 2012, from <http://www.psy.cmu.edu/~siegler/35bronfenbrenner94.pdf>
- Calliste, A., & Sefa Dei, G. J. (2000). Anti-Racist Feminist. A Conclusion to a Beginning. In A. Calliste, & G. J. Sefa Dei, *Anti Racist Feminist. Critical Race and Gender Studies* (1st ed.). Halifax, Nova Scotia, Canada: Fernwood Publishing.
- Campbell, A. (2009). *Theses and Disertations*. Retrieved March 21, 2011, from Ryerson University: <<http://digitalcommons.ryerson.ca/dissertations/501>>
- Canadian Council for Refugees. (2007). *Safe Third Country. Brief to the Standing Committee on Citizenship and Imigration*. Retrieved May 09, 2012, from <http://ccrweb.ca/SafethirdbriefSC.pdf>
- Canadian Council for Refugees. (2009). *History of Canada responses to Refugees*. Retrieved August 05, 2012, from <http://ccrweb.ca/en/brief-history-canadas-responses-refugees>
- Canadian Council for Refugees. (2011). *Bill C-4: Frequently Asked Questions*. Retrieved August 11, 2012, from <http://ccrweb.ca/en/bill-c4-faq>
- Canadian Council for Refugees. (2012). *Some comments on Bill C-49*. Retrieved July 28, 2012, from <http://ccrweb.ca/en/comment-c49>

- Canadian Council for Refugees. (n.d.). *Violence against Non-Status, Refugee and Immigrant Women*. Retrieved July 16, 2012, from <http://ccrweb.ca/en/violence-against-women>
- Canadian Women Foundation. (n.d.). *The Fact About Violence*. Retrieved July 21, 2012, from <http://www.canadianwomen.org/facts-about-violence/>
- Caritas Internationalis. (2010). *The Female Face of Migration. Background Paper*. Retrieved May 28, 2012, from <http://www.caritas.org/includes/pdf/backgroundmigration.pdf>
- Castagna, M., & Sefa Dei, G. (2000). An Historical Overview of the Application of the Race Concept in Social Practice. In A. Calliste, & G. J. Sefa Dei, *Anti-Racist Feminism. Critical Race and Gender Studies*. pp. 19-36. Halifax, Nova Scotia: Fernwood Publishing.
- Centers for Disease Control and Prevention. (2009). *The Social-ecological Model: A Framework for Prevention*. Retrieved May 23, 2012, from <http://www.cdc.gov/ViolencePrevention/overview/social-ecologicalmodel.html>
- Chewter, C. L. (2003). *Violence Against Women and Children: Some Legal Issues*. Retrieved February 15, 2010, from <http://heinonline.org/HOL/LandingPage?collection=journals&handle=hein.journals/cajfl20&div=7&id=&page=>
- Cho, H. (2011). Racial Differences in the Prevalence of Intimate Partner Violence Against Women and Associated Factors. *Journal of Interpersonal Violence* , pp. 344-363.
- Chui, T. (2012). *Immigrant Women*. Retrieved May 28, 2012 , from Statistics Canada: <http://www.statcan.gc.ca/pub/89-503-x/2010001/artucle/11528-eng.htm>.

Citizenship and Immigration Canada. (2011). *Canada: A History of Refuge*. Retrieved May 08, 2012, from <http://www.cic.gc.ca/english/refugees/timeline.asp>

Citizenship and Immigration Canada. (2012a). *Application to Sponsor, Sponsorship Agreement and Undertaking*. Retrieved May 08, 2012, from Application for Permanent Residence from within Canada – Spouse or Common-law Partner in Canada class (IMM 5289): <http://www.cic.gc.ca/english/pdf/kits/forms/IMM1344E.PDF>

Citizenship and Immigration Canada. (2012b). *Application for Canadian Citizenship under subsection 5(1)- Adults 18 years of age and older*. Retrieved February 21, 2012, from <http://www.cic.gc.ca/english/information/applications/guides/CIT0002ETOC.asp>

Citizenship and Immigration Canada. (2012c). *Applying for a Permanent resident Card (PR card) Initial application, replacement or renewal. (IMM 5445)*. Retrieved July 11, 2012, from <http://www.cic.gc.ca/english/information/applications/guides/5445ETOC.asp#appendix>
A

Citizenship and Immigration Canada. (2012d). *Backgrounder - Overview of Reforms to Canada's Refugee System*. Retrieved May 09, 2012, from <http://www.cic.gc.ca/english/departement/media/backgrounders/2012/2012-02-16.asp>

Citizenship and Immigration Canada. (2012e). *Backgrounder - Overview of Reforms to Canada's Refugee System*. Retrieved May 10th, 2012, from <http://www.cic.gc.ca/english/departement/media/backgrounders/2012/2012-02-16.asp>

Citizenship and Immigration Canada. (2012f). *Protecting Canada's Immigration System Act*.

Retrieved May 10, 2012, from

<http://www.cic.gc.ca/english/departement/media/releases/2012/2012-02-16.asp>

Citizenship and Immigration Canada. (2012g). *Sponsoring your Family. Guide and Application*.

Retrieved May 08, 2012, from

<http://www.cic.gc.ca/english/information/applications/family.asp>

Citizenship and Immigration Canada. (2012h). *The Refugee System: Resettlement from Outside*

Canada. Retrieved May 09, 2012, from

<http://www.cic.gc.ca/english/refugees/outside/index.asp>

Coburn, D. (2009). Beyond the Income Inequality Hypothesis: Class, Neo-liberalism, and Health

Inequalities. *Social Science and Medicine* , pp. 41-56.

Community Legal Education Ontario. (2008). *Community Legal Education Ontario*. Retrieved

February 27, 2010, from Criminal Charges in Canada and your Immigration Status:

<http://www.cleo.on.ca/english/six/English/stat-en.pdf>.

Community Legal Education Ontario. (2012). *New changes proposed in Bill C-31*. Retrieved May

11, 2012, from <http://www.cleo.on.ca/english/projects/refugeelaw.htm>

Correctional Service Canada. (2012). *Understanding Violence By Women: A Review of the*

Literature. Retrieved May 28, 2012, from Women Offender Programs and Issues:

<http://www.csc-scc.gc.ca/text/prgrm/fsw/fsw23/fsw23e01-eng.shtml#the>

- Côté, A., Kérisit, M., & Côté, M.-L. (2001). *Sponsorship for better and for worse: The impact of sponsorship on the equality rights of immigrant women*. Ottawa: Status of Women Canada.
- Dauvergne, M. (2009). *Trends in Police-Reported Serious Assaults*. Retrieved May 26, 2012, from Statistics Canada: <http://www.statcan.gc.ca/pub/85-002-x/2009004/article/10930-eng.htm>
- Department of Justice Canada. (2002). *Spousal Abuse Policies and Legislation*. Retrieved February 12, 2012, from http://www.justice.gc.ca/eng/pi/fv-vf/rep-rap/spo_e-con_a.pdf
- Department of Justice. (2011). *Six Degrees from Liberation: Legal Needs of Women in Criminal and Other Matters*. Retrieved February 10, 2012, from http://www.justice.gc.ca/eng/pi/rs/rep-rap/2003/rr03_la20-rr03_aj20/p7.html
- Department of Justice. (2012a). *Immigration and Refugee protection Regulations (SOR/2002-227)*. Retrieved May 09, 2012, from <http://laws-lois.justice.gc.ca/eng/regulations/SOR-2002-227/page-60.html#docCont>
- Department of Justice. (2012b). *Public Prosecutions guide Book*. Retrieved July 22, 2012, from http://www.justice.gov.nl.ca/just/prosecutions/pp_guide_book.pdf
- Drumbl, M. A. (1994). *Civil, Constitutional and Criminal Justice Responses to Female Partner Abuse: Proposal for Response*. HeinOnline. Retrieved February 27, 2010, from <http://heinonline.org/HOL/LandingPage?collection=journals&handle=hein.journals/cajfl12&div=10&id=&page=>

Edwards, J. (2007). *Sudanese Women Refugees: Transformations and Future Imaginings*. New York: Palgrave MacMillan.

Ending Violence Association of British Columbia. (2009). *The Role of Canadian Immigration Laws and Policies in Relation to Women's Safety: A Lawyer's Compendium*. British Columbia, Vancouver, Canada.

Feagin, J. R. (2006). *Systemic Racism: A Theory of Oppression*. Routledge.

Gagnon, A. J. (2002). *Responsiveness of the Canadian Health Care System Towards Newcomers*. Canada: Commission on the Future of Health Care in Canada.

Hyman, I., Forte, T., Janice, D. M., Romans, S., & Cohen, M. M. (2006). Help Seeking Rates for Intimate Partner Violence (IPV) Among Canadian Immigrant Women. *Health Care for Women International* , pp. 682-694.

Ian, B., Zachary, H., & Robert, J.-C. (2004). *Constitutional History*. Retrieved June 20, 2011, from http://www.canadiana.ca/citm/themes/constitution1_e.html

Immigration and Refugee Board of Canada. (2012a). *About the Board*. Retrieved May 09, 2012, from <http://www.irb-cisr.gc.ca/Eng/brdcom/abau/Pages/Index.aspx>

Immigration and Refugee Board of Canada. (2012 b). *Chairperson Guidelines*. Retrieved July 21, 2012, from <http://www.irb-cisr.gc.ca/eng/brdcom/references/pol/guidir/Pages/index.aspx>

- Immigration and Refugee Board of Canada. (2012c). *Immigration and Refugee Board of Canada: An Overview*. Retrieved May 09, 2012, from <http://www.irb-cisr.gc.ca/eng/brdcom/publications/oveape/Pages/index.aspx>
- Johnson, H., & Fraser, J. (2011). *Specialized Domestic Violence Courts: Do They Make Women Safer*. Community Report, University of Ottawa, Department of Criminology, Ottawa.
- Justice Institute of British Columbia. (2007). *Empowerment of Immigrant and Refugee Women Who are Victims of Violence in Their Intimate Relationships*. New Westminster, British Columbia, Canada.
- Kelly, N. and Trebilcock, M. (1998). *The Making of the Mosaic. A History of Canadian Immigration*. Toronto: University of Toronto Press.
- Kong, R., & AuCoin, K. (2008). *Female Offenders in Canada*. Retrieved February 11, 2012, from Statistics Canada. <http://www.statcan.gc.ca/pub/85-002-x/85-002-x2008001-eng.pdf>
- Lee, S., & McBride, S. (2007). *Neo-liberalism, State Power and Global Governance*. Palo Alto, California: Dordrecht, Springer.
- MacLeod, L., Shin, Q., Hum, J., Samra-Jawanda, S., & Wasilewska, E. (1993). *Like a Wingless Bird: A tribute to the Survival and Courage of Women Who Are Abused and Who Speak Neither English Nor French*. Ottawa: Department of Canadian Heritage.
- Miller, S. (2001). The Paradox of Women Arrested for Domestic Violence: Criminal Justice Professionals and Service Providers Respond. *Violence against Women*, pp. 1339-1376.

Ministry of Justice. (2010). Police Release guidelines. *Police Release on a Promise to Appear with an Undertaking In Violence against Women in Relationships Cases*. Retrieved November 15, 2011, from:
http://www.pssg.gov.bc.ca/police_services/publications/docs/domestic-violence-police-guideline.pdf

Ministry of the Attorney General. (2008, 12). *Partner Assault Response Programs (PAR)*. Retrieved 08 11, 2012, from
<http://www.attorneygeneral.jus.gov.on.ca/english/about/vw/par.asp>

Mohanty, C. T. (2000). Under Western Eyes. In L. Back, & J. Salomos, *Theories of Race and Racism. A reader*. pp. 302-323. London and New York: Rotledge.

Neighbours, Friends and Families. (n.d.). *Community Action Kit to Prevent Woman Abuse*. Ontario: Ontario Women's Directorate, Government of Ontario.

Ontario Domestic Violence Death Review Committee Reports. (2009). *Centre for Research & Education on Violence against Women and Children*. Retrieved February 27, 2011, from
<http://www.crvawc.ca/documents/DVDRC2010.pdf>

Ontario Domestic Violence Death Review Committee Reports. (2010). *Centre for Research & Education on Violence against Women and Children*. Retrieved February 27, 2011, from
http://www.crvawc.ca/section-research/domestic_death_review_committee.html

Ontario Domestic Violence Advisory Council (2009) . Transforming our Communities. Report from the Domestic Violence Advisory Council for the Minister responsible for Women's

Issues. Retrieved May 09,2012, from

http://www.women.gov.on.ca/owd_new/english/publications/dvac_report.pdf

Oxman-Martinez, J., Hanley, J., Lach, L., Khanlou, N., Weerasinghe, S., & Agnew, V. (2005).

Intersection of Canadian Policy Parameters Affecting Women with Precarious Immigration Status: A Baseline for Understanding Barriers to Health. Journal of Immigrant Health , pp. 247-258.

Parliament of Canada. (2011). *House Government Bill C-4*. Retrieved 08 11, 2012, from

<http://www.parl.gc.ca/LegisInfo/BillDetails.aspx?Language=E&Mode=1&billId=5089199>

Public Health Agency of Canada. (2001). *Woman Abuse - Overview Paper*. Retrieved February

02, 2012, from <http://www.phac-aspc.gc.ca/ncfv-cnivf/publications/femviof-eng.php>

Public Health Agency of Canada. (2008). *Breaking The Links*. Ottawa, Ontario, Canada.

Public Health Agency of Canada. (2009a). *Woman Abuse - Overview Paper*. Retrieved May 15,

2012, from <http://www.phac-aspc.gc.ca/ncfv-cnivf/publications/femviof-eng.php>

Public Health Agency of Canada. (2009b). *What is Woman Abuse?* Retrieved July 28, 2012, from

<http://www.phac-aspc.gc.ca/ncfv-cnivf/publications/femviof-eng.php>

Raj, A., & Silverman, J. (2002). Violence Against Immigrant Women: The Roles of Culture,

Context, and Legal Immigrant Status on Intimate Partner Violence. *Violence Against Women* , pp. 367-398.

- Rousseau, C., Rufagari, M. C., Bagilishya, D., & Meashman, T. (2003). Remaking Family Life: Strategies for Re-establishing Continuity Among Congolese Refugees During the Family Reunification Process. *Social Science and Medicine* , pp. 1059-1108.
- Smith, E. (2004). *Nowhere to turn? Responding to Partner violence against immigrant and visible minority women*. Ottawa: Canadian Council on Social Development.
- Statistics Canada. (2006). Measuring Violence Against Women, Statistical Trends 2006. Ottawa, Canada.
- Statistics Canada. (2011). *Quarterly Demographic Estimates. October to December 2010*. Retrieved July 2011, from <http://www.statcan.gc.ca/pub/91-002-x/91-002-x2010004-eng.pdf>
- Statistics Canada. (2012). *Family Violence in Canada: A statistical profile, 2010*. Retrieved July 12, 2012, from <http://www.statcan.gc.ca/daily-quotidien/120522/dq120522a-eng.htm>
- Statistics Canada. (2012). *Women in Canada: A Gender-based Statistical Report*. Retrieved March 2, 2012, from <http://www.statcan.gc.ca/bsolc/olc-cel/olc-cel?catno=89-503-XIE&lang=eng#formatdisp>
- Supreme Court of Canada. (1990). *Judgments*. Retrieved February 23, 2010, from <http://scc.lexum.org/en/1990/1990scr1-852/1990scr1-852.html>.
- The Canadian Bar Association. (2010). *Bill C-11, Balanced Refugee Reform Act*. Retrieved May 10, 2012, from <http://www.cba.org/CBA/submissions/pdf/10-33-eng.pdf>

Thorsen, D. E., & Lie, A. (n.d.). What is Neoliberalism? University of Oslo.

U.S Citizenship and Immigration Services. (2010). *Definitions*. Retrieved May 09, 2012, from U.S

<http://www.uscis.gov/portal/site/uscis/menuitem.f6da51a2342135be7e9d7a10e0dc91a0/?vgnextoid=fa7e539dc4bed010VgnVCM1000000ecd190aRCRD&vgnnextchannel=fa7e539dc4bed010VgnVCM1000000ecd190aRCRD&CH=act>

United Nations High Commissioner for Refugees. (2001). *Convention and Protocol Relating to the Status of Refugees*. Retrieved May 08, 2012, from

<http://www.unhcr.org/3b66c2aa10.html>

United Nations High Commissioner for Refugees. (2012). *U.S. Committee for Refugees World Refugee Survey 1997 - Canada*. Retrieved May 10, 2012, from

<http://www.unhcr.org/refworld/country,,USCRI,,CAN,,3ae6a8b818,0.html>

University of Ottawa. (2012). *By the Numbers: Refugee Statistics*. Retrieved May 09, 2012, from

Human Rights Research and Education Centre. Refugee Forum. <http://www.cdp-hrc.uottawa.ca/projects/refugee-forum/projects/Statistics.php>

Ursel, J. (2002). "His Sentence is My Freedom" Processing Domestic Violence Cases in the

Winnipeg Family Violence Court. In L. M. Tutty, & C. Goard, *Reclaiming Self. Issues and Resources for Women Abused by Intimate Partners*, pp. 43-63. Winnipeg, MB: Fernwood Publishing and RESOLVE (Research and Education for Solutions to Violence and Abuse).

Valji, N., De La Hunt, L. A., & Moffet, H. (2003). Where are the women? Gender discrimination in refugee policies and practices. *Southern African Migration Project*, pp.61-72.

Women Justice Centre. (2010). *Advocating for Domestic Violence Victims Who Have Been Arrested for Domestic Violence*. Retrieved February 24, 2012, from http://justicewomen.com/tips_dv_victims.html

World Health Organization. (2006). *Alcohol and Violence*. Geneva, Switzerland.

Yick, A. G. (2001). Feminist Theory and Status Inconsistency Theory: Domestic Violence in Chinese Immigrant Families. *Violence Against Women* , pp. 545-562.

YWCA Canada. (2009). *Life Beyond Shelter: Toward Coordinated Public Policies for Women's Safety and Violence Prevention*. Ottawa: YWCA Canada.