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# UNDERSERVED COMMUNITIES RESEARCH

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## ***VICTIMS AND SURVIVORS OF HUMAN TRAFFICKING***

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## **Introduction**

The purpose of this tool-kit is to identify the impacts and relevance of the recent refugee system changes to victims and survivors of human trafficking. This tool-kit addresses problems that are expected to result from the changes, and problems that have already been identified with the recent changes. The research below is based on community research initiatives and tangible data collected at the FCJ Refugee Centre.

Please note that this tool-kit does not aim to explain all the recent changes to the refugee system.

For a clarification of the all the changes in the refugee system please see <http://www.fcjrefugeecentre.org/canadas-refugee-process/>

### **Changes that impact Most Victims and Survivors of Human Trafficking**

- **No exceptions for victims/survivors of human trafficking**

It is important to remember that the recent changes to the refugee system were made with the specific purpose of reducing human trafficking and human smuggling.<sup>1</sup> However, as shown here, the new refugee policies impose many restrictions on the victims and survivors of human trafficking themselves. In particular, there are no guidelines or policies that differentiate victims of human trafficking from smugglers and human traffickers. The new laws were broadly created and their purview includes smugglers and victims of human traffickers alike.

- **Problems reopening claims**

One of the changes made to the refugee system is that a person may have problems opening a claim and change important aspects of it. This is problematic for the victims and survivors of human trafficking as it overlooks the fact that persons can be force to make a claim during trafficked situations.<sup>2</sup> The unimpeded ability to go back and change aspects of a refugee claim may be vital to those who have been forced to make a claim under duress.

- **Temporary Resident Permits**

Temporary Resident Permits (TRPs) were first introduced in May 2006. Persons are entitled to legally remain within Canada for 180 days, without having to testify against their trafficker. They are also entitled to Interim Federal Health (IFH) and entitled to a

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<sup>1</sup> <http://www.cic.gc.ca/english/department/media/releases/2012/2012-05-09.asp>

<sup>2</sup> FCJ powerpoint

work permit.<sup>3</sup> The downside of the TRP system is that those affected must establish that they are victims of trafficking, and the TRP is issued at the discretion of the CIC Officer. Access to TRP is overall limited in practice and in law. The main barriers are: 1) discretion and inconsistency of immigration officers issuing TRPs; 2) involvement of law enforcement (RCMP needs to be consulted before a TRP is issued); 3) following the end of the 180-day period, trafficked persons need to apply for a longer-term TRP, initiating another process; 4) priority is given to trafficked persons who cooperate (although this is inconsistent with government policy).<sup>4</sup> Under the Immigration and Refugee Protection Act (IRPA), effective 2012, those people whose refugee claims were rejected, withdrawn, or abandoned are barred from applying for a TRP for 12 months. This is an issue for those claimants who are coerced and threatened by their traffickers. There are additional limitations under the TRP regimes. Trafficked persons have no right to family reunification and often have to return to their country of origin and face retribution from their traffickers. This entails emotional and possibly physical consequences for the victims/survivors who are forced to choose between their own ability to remain in Canada and caring for their families in their country of origin. The \$200 fee for the renewal of TRP is also highly unreasonable given the financial conditions of trafficked persons.

- **Humanitarian and Compassionate (H&C) Application Limitations**

One of the changes in the refugee system is that claimants cannot make an H&C application for one year after a negative decision on the claim is made. This forces victims and survivors of human trafficking to wait to make this application. This knowledge empowers smugglers and human traffickers as it may allow the victims of human trafficking to think that they must endure trafficking conditions to stay in the country. A longer wait for H&C applications will mean a longer wait for victims of human trafficking to leave trafficking situations. Cost of H&C is \$550 which is a heavy burden for victims who do not have a good financial background and are often forced to live in poverty.

### **Sources**

FCJ Human Trafficking Presentation May 24

<http://ccrweb.ca/en/trafficking/temporary-resident-permit-report>

<http://www.cic.gc.ca/english/department/media/releases/2012/2012-05-09.asp>

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<sup>3</sup> FCJ Human Trafficking Presentation May 24

<sup>4</sup> <http://ccrweb.ca/en/trafficking/temporary-resident-permit-report>