

# ENSURING EQUITY

**Advancing immigration  
pathways for women with  
lived experiences of  
gender-based violence  
and human trafficking**



# Ensuring Equity

## **Advancing immigration pathways for women with lived experience of gender-based violence and human trafficking**

*This paper discusses the multifaceted issue of Gender-Based Violence (GBV), which encompasses various forms of violence perpetrated against individuals based on their gender identity, expression, or perceived gender. It highlights the prevalence of GBV globally and its severe infringement upon human rights, focusing on the unique challenges faced by migrant women in Canada.*

*Drawing from the work of the Migrant Women's Alliance at FCJ Refugee Centre, the paper outlines structural barriers faced by migrant women on account of their precarious immigration status, including spousal sponsorship dependence and limited pathways to permanent residence for migrant workers and caregivers. Then, it analyzes existing immigration recourses to GBV, as well as human trafficking, noting the uncertainty of remedies such as Temporary Resident Permits (TRPs) for victims, lengthy processing times, and inconsistent outcomes.*

*In conclusion, this paper calls for a broad, gender-responsive, and rights-based regularization scheme to ensure that women with precarious immigration status are not left behind. It emphasizes the importance of comprehensive immigration policies that address the intersecting oppressions faced by migrant women experiencing GBV and human trafficking, and provide pathways to safety, stability, and justice.*

*April 2024*

## Table of contents

What Is Gender-Based Violence? .....	4
How Migrant Women Are Impacted by Gender-Based Violence .....	7
The Uncertainty of Precarious Immigration Status: Systemic Barriers .....	8
Immigration Responses to Gender-Based Violence .....	13
Recommendations .....	17
Acknowledgments .....	20

*“In the moment of highest need, at FCJ Refugee Centre I found a family –  
a family that cares about me”*

*Survivor*

## **What Is Gender-Based Violence?**

Gender-based violence (GBV) refers to violence against individuals due to their gender identity, gender expression or perceived gender.<sup>1</sup> GBV is a multifaceted issue that encompasses various forms of violence, including physical, sexual, emotional and financial abuse. GBV is not limited to physical violence and can include any word, action, or attempt to degrade, control, humiliate, intimidate, coerce, deprive, threaten or harm another person, as recognized by Women and Gender Equality Canada.<sup>2</sup> One of the most prevalent forms of GBV is Intimate Partner Violence (IPV), which refers to any behaviours from a current or former intimate partner resulting in physical or psychological harm, including aggression, verbal or emotional abuse, controlling behaviors, sexual or financial coercion, and neglect. When the partners live together, it is known as Domestic Violence (DV). Family Violence (FV) is any form of abuse, mistreatment or neglect that a child or adult experiences from a family member.

GBV constitutes a severe infringement upon human rights and a persistent issue globally, with profound consequences for individuals, families and communities. It results in significant threats to health and safety, particularly for persons forced to flee their homes, who are at increased risk of experiencing further violence.<sup>3</sup>

Understanding the scope, barriers and obstacles faced by persons with lived experiences of GBV is crucial for developing effective interventions and support mechanisms. Nevertheless, the accuracy of quantifying and comprehending the extent of this phenomenon is significantly impeded by data limitations and underreporting. Regrettably, crimes involving violence against women are among the most underreported and the least likely to end in conviction. This is

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<sup>1</sup> Kerr, Gretchen, *What Is Gender-Based Violence?*, 2022, online:

<[https://www.researchgate.net/publication/364400919\\_What\\_Is\\_Gender-Based\\_Violence](https://www.researchgate.net/publication/364400919_What_Is_Gender-Based_Violence)>.

<sup>2</sup> Government of Canada, *What is Gender-Based Violence?*, last modified: 28 November 2023, online: <<https://women-gender-equality.canada.ca/en/gender-based-violence/about-gender-based-violence.html>>.

<sup>3</sup> UNHCR, *The Facts about Gender-Based Violence*, undated, online: <<https://www.unhcr.org/what-we-do/protect-human-rights/protection/gender-based-violence>>.

compounded by the barriers faced by migrant women on account of their precarious immigration status, which further diminishes the probability of identifying and reporting instances of GBV.

Despite data limitations and underreporting, existing research and statistics confirm the prevalence and severity of the issue. They reveal that in Canada, women are disproportionately more susceptible to experience GBV compared to men. Moreover, women are prone to reporting the most severe forms of violence and more adverse consequences.<sup>4</sup> Police-reported data indicates that, “[i]n Canada in 2019, of the 107,810 people aged 15 and over who experienced IPV (intimate partner violence), 79% were women.”<sup>5</sup> Similarly, the Canadian Women’s Foundation reports that two-thirds (65%) of people in Canada know a woman who has experienced physical, sexual or emotional abuse.<sup>6</sup>

The Canadian Femicide Observatory for Justice and Accountability (CFOJA) has been documenting the known cases of gender-related killings of women and girls since 2018. In 2018, 169 women and girls; in 2019, 148 women and girls; in 2020, 172 women and girls; in 2021, 177 women and girls; and in 2022, 184 women and girls were killed by violence. The number of victims has increased yearly as ongoing investigations are completed and new deaths are recorded and, according to the CFOJA, the number is projected to rise.<sup>7</sup> The same CFOJA stresses the importance of calling it femicide, a term that hasn’t been officially acknowledged by the Government of Canada, to recognize the gender-related aspects of killings of women and girls and highlight the stark differences in their characteristics and contexts compared to the killings of men and boys.<sup>8</sup>

In collaboration with the CFOJA and the Native Women’s Resource Centre of Toronto, Aura Freedom recently launched a campaign - *The Body Bag, For Her* - to call attention to the prevalence of femicide in Canada:

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<sup>4</sup> Government of Canada, *What is Gender-Based Violence?*, last modified: 28 November 2023, online: <<https://women-gender-equality.canada.ca/en/gender-based-violence/about-gender-based-violence.html>>.

<sup>5</sup> Government of Canada, *What is Gender-Based Violence? - Key statistics on gender-based violence in Canada: by populations*, last modified: 28 November 2023, online: <<https://women-gender-equality.canada.ca/en/gender-based-violence/about-gender-based-violence.html>>.

<sup>6</sup> *Ibidem*

<sup>7</sup> Canadian Femicide Observatory for Justice and Accountability – CFOJA, *CFOJA Reports*, (undated), online: <<https://femicideincanada.ca/cfoja-research/cfoja-reports/>>.

<sup>8</sup> Canadian Femicide Observatory for Justice and Accountability – CFOJA, *#Callitfemicide: Understanding gender related killings of women and girls in Canada*, 2019 online: <<https://femicideincanada.ca/callitfemicide2019.pdf>>.

*This is an emergency. Every two days in Canada a woman or girl is killed violently, most often by a man, because she is a woman. Femicide is the most violent manifestation of misogyny against women and girls – it is the ultimate control of women and girls to dictate their fate and, ultimately, their death.<sup>9</sup>*

The depth and complexity of GBV repercussions on individuals and communities are profound, with their ramifications extending far beyond immediate harm. Recognizing the urgency of addressing this pervasive issue, in 2022, Canada launched its first National Action Plan to End GBV. This 10-year plan establishes a comprehensive framework for action within and across jurisdictions with the goal of supporting survivors and their families in Canada. The plan outlines opportunities for action to address all forms of GBV, which include physical, sexual, psychological, emotional and financial abuse. The United Nations Special Rapporteur on Violence against Women recognized that Canadian legislation provides for norms that criminalize violence and protect victims of violence.<sup>10</sup> However, reports have highlighted the victimization of women who requested state protection from violence, including an increase in the laying of charges against women who denounced perpetrators whom they knew.<sup>11</sup> Additionally, rights organizations documented cases in which the requirements of child custody forced women to have continued contact with their abusers.<sup>12</sup> As a result, the same Special Rapporteur recommended that

*Canada consider enacting a federal law on combating and preventing violence against women and domestic violence based on the Convention on the Elimination of All Forms of Discrimination against Women and harmonize legislation on violence against women and domestic violence in all federal, provincial and territorial jurisdictions in line with that Convention.<sup>13</sup>*

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<sup>9</sup> Aura Freedom International, *The Body Bag, For Her*, 2023, online: <<https://aurafreedom.org/forher/>>.

<sup>10</sup> United Nations General Assembly, *Compilation of information prepared by the Office of the United Nations High Commissioner for Human Rights, Human Rights Council Working Group on the Universal Periodic Review, Forty-fourth session, Canada*, 6–17 November 2023, UN Doc. A/HRC/WG.6/44/CAN/2, at para. 56, online: <<https://www.ohchr.org/en/hr-bodies/upr/ca-index>>.

<sup>11</sup> United Nations General Assembly, *Compilation of information prepared by the Office of the United Nations High Commissioner for Human Rights, Human Rights Council Working Group on the Universal Periodic Review, Forty-fourth session, Canada*, 6–17 November 2023, UN Doc. A/HRC/WG.6/44/CAN/2, at para. 56, online: <<https://www.ohchr.org/en/hr-bodies/upr/ca-index>>.

<sup>12</sup> United Nations General Assembly, *Visit to Canada Report of the Special Rapporteur on violence against women, its causes and consequences, Human Rights Council, Forty-first session, Canada*, 24 June–12 July 2019, UN Doc. A/HRC/41/42/Add.1, at paras. 21-25, online:

<<https://documents.un.org/doc/undoc/gen/g19/317/19/pdf/g1931719.pdf?token=y6B8ki6HbUHRV7uEVI&fe=true>>.

<sup>13</sup> United Nations General Assembly, *Compilation of information prepared by the Office of the United Nations High Commissioner for Human Rights, Human Rights Council Working Group on the Universal Periodic Review, Forty-fourth session, Canada*, 6–17 November 2023, UN Doc. A/HRC/WG.6/44/CAN/2, at para. 57, online: <<https://www.ohchr.org/en/hr-bodies/upr/ca-index>>.

## How Migrant Women Are Impacted by Gender-Based Violence

Migrant women in Canada face unique obstacles that intersect with their gender and immigration status, making them particularly susceptible to GBV. Among these are the precarious immigration status, language barriers, limited knowledge of rights or available resources which results in limited access to those rights, limited access to information about those rights and resources, physical and social isolation, diversity in cultural backgrounds, distrust of authorities, inadequate integration of gender perspective and analysis in relevant law enforcement services, racism, racial discrimination and other forms of discrimination, and the impacts of trauma.

Recognizing and addressing intersecting dynamics of oppression is essential in order to enact meaningful change. With this understanding, the Migrant Women's Counter Human Trafficking Alliance [herein after, the Migrant Women's Alliance] was developed by FCJ Refugee Centre to enhance knowledge regarding the challenges faced by migrant women, offer empowerment supports for survivors with complex and intersecting forms of trauma, increase capacity in the provision of services, and support prevention initiatives for at-risk women/youth. Throughout, the Migrant Women's Alliance provides comprehensive information and access to holistic care with a peer-led, survivor-centred and trauma-informed approach.

The Migrant Women's Alliance team states,

*In our work, we challenge the construction of the 'ideal victim' who is viewed as weak, passive and without agency. We meet women who have adopted a range of strategies to resist violence, and we honour them. We sit together. We talk. We develop safety plans and solutions that respond to the unique needs of each of us. We respect our diverse experiences and identities, and we acknowledge the several forms of oppression that impact on how survivors (and us all) live, work and recover from trauma. In this context, we work to recognize and understand conflicting dynamics of oppression and bring these often-hidden factors forward in order to transform them in ways that are meaningful for the women we support.*

This approach underscores the importance of acknowledging and addressing the complex experiences of survivors, challenging victim narratives, and fostering empowerment through collaborative, individualized strategies that respect and integrate diverse identities.

## The Uncertainty of Precarious Immigration Status: Systemic Barriers

Migrant women with precarious status, as a group, face additional barriers to disclosing or leaving abusive situations compared to those with Canadian citizenship or permanent residence.

### Spousal Sponsorship Dependence

Migrant women already in Canada who are sponsored by a spouse may be threatened that their spouse will withdraw the sponsorship if they don't "behave". When migrant women experience abuse from their sponsoring partner, they may fear jeopardizing their immigration process if they are to separate from their sponsor, as well as deportation. This occurs because Canadian immigration policies concerning family sponsorships force immigrant women into positions of dependence on their sponsoring spouses.<sup>14</sup>

In particular, the sponsoring spouse has the right to withdraw a sponsorship in process up to the moment that the woman is granted permanent residence. As a result, the sponsorship process facilitates a power imbalance used by abusers to keep survivors compliant; threats are made to withdraw from the process if they seek help, and survivors therefore remain silent for fear of legal repercussions.

UN Women, as a global champion for gender equality, confirms that

*“Migrant women whose residency status is dependent on their partners are at high risk of intimate partner violence and domestic violence, and do not report such incidences for fear of deportation”.*<sup>15</sup>

In some cases, if there are children involved and the children are foreign nationals, abusers even manipulate or threaten the potential sponsorship of those children as a means of further pressuring the survivor into compliance and silence.

Another layer that can exacerbate and prolong these abusive situations is the undue delay of processing times for permanent residence applications, as well as refugee claims.

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<sup>14</sup> Fonteyne H, Podritske K, Park T, Hegadoren K. Immigrant Women's Experiences of Domestic Violence in Canada: A Qualitative File Audit.

<sup>15</sup> UN Women, *Tackling Gender-Based Violence Against Migrant Women and Girls*, online: <<https://www.unwomen.org/sites/default/files/Headquarters/Attachments/Sections/Library/Publications/2021/Policy-brief-From-evidence-to-action-Tackling-GBV-against-migrant-women-and-girls-en.pdf>>.



## **Structures of economic immigration programs leading to precarity**

The structures of some economic immigration programs also render migrant women (and men) susceptible to gender-based violence and exploitation. Migrant women are heavily concentrated within certain sectors in Canada and often face greater precarity than their male counterparts due to the nature of their work. Women, for instance, are overrepresented in low-paid occupations such as care work or cleaning that provide limited or no access to permanent residence.

### **— Migrant agricultural workers**

Canada heavily relies on migrant workers, specifically in the agricultural sector. Yet, the combination of limited labour protections and dependence on the employer named in their work permit places all seasonal agricultural workers in an extremely precarious position.

Agricultural workers have limited protections in the workplace due to legislative exceptions to minimum labour standards, which are determined at the provincial level. In Ontario, for instance, farm employees are generally not entitled to minimum wage, daily and weekly limits on hours of work, daily rest periods, time off between shifts, weekly/bi-weekly rest periods, eating periods and overtime pay.

In addition, even though anti-violence and anti-discrimination rules are in place, migrant workers often do not report the abuse they face. This is because most migrant workers are granted a work permit tied to their employer, meaning that they cannot work for anyone else in Canada. There is an extreme power imbalance between an employer and a migrant worker who relies on their employer for status. With threats of deportation and repercussions for speaking out becoming the norm, many migrant workers feel helpless.

As a result, employers exploit migrant workers through wage theft, long hours and excessive work demands, but also abuse associated with their gender. Some women face chronic sexual harassment at work. However, they often remain silent due to fears of being deported and losing their work opportunities in Canada.

### **— Migrant caregivers**

Migrant caregivers in Canada often experience exploitation and harassment related to their employment, especially when it includes a live-in component. Although caregivers can now

choose to ‘live out’, it is difficult for them to exercise this choice due to their dependence on employers for immigration status, as well as their low wages. In turn, living in an employer’s home reinforces unequal power dynamics that heighten the risk of exploitation, including wage theft, loss of privacy, and psychological, emotional and sexual abuse. At the same time, it blurs the lines between work and personal time, forcing many to work past their work hours and remaining on-call all the time, increasing stress and diminishing overall wellbeing. Thus, while migrant caregivers make an essential contribution to Canadian society due to the nature of their work, they themselves are confronted with exploitation and barriers to accessing rights.

To open permanent residence pathways to foreign national caregivers, in 2019 the Government of Canada launched two economic pilot programs, namely the Home Child Care Provider Pilot and Home Support Worker Pilot.<sup>16</sup> However, the intake and processing caps (up to 2,750 applications each calendar year) mean that many migrant care workers waiting to apply for permanent residence are unable to do so because of a lack of space in the program, and they must keep waiting. In the meantime, migrant caregivers remain dependent on their employers to obtain permanent residence, making them susceptible to further abuse and prolonging these abusive situations.

Although migrant agricultural workers and caregivers are distinct groups of workers facing exploitation on a regular basis, there are many other migrant women with temporary work permits in a range of other occupations, often low wage, who are experiencing similar workplace abuse. In addition, women sex workers with precarious immigration status may also experience stigmatization from society and criminalization, exposing them to a heightened risk of violence and isolating them from support networks that could offer protection from this violence.

### **Deportations and threats of deportation**

Often, we see that migrant women (and men) are threatened with deportation as a means of control. Survivors are manipulated to believe that they cannot seek help because they would be arrested, detained and deported by Canadian authorities due to their immigration status, and for the same reasons they fear approaching authorities. Many survivors feel helpless as a result.

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<sup>16</sup> New, enhanced pilot programs are set to launch in 2024, following the closure of the existing Home Child Care Provider and the Home Support Worker Pilot programs in June 2024.

Some survivors may also believe that their abuser has networks and connections with immigration authorities, claims sometimes used to reinforce manipulation and control. Others may lack trust in state authorities due to their experiences in their home country. It is widely recognized that a person who lived in fear of the authorities in their own country may still feel apprehensive vis-à-vis any authority.<sup>17</sup>

In domestic violence cases, we see that immigrant mothers facing deportations or threats of deportation fear, often above all else, separation from their Canadian-born children. In fact, child custody rights are used in tandem with the immigrant mother's lack of status to control them. For instance, we see abusive fathers refusing to allow their children out of Canada, making it virtually impossible for their immigrant mother to leave and forcing her into continuing to take the abuse to avoid separation from her children. In some extreme cases, we also see the criminalization of the migrant mother herself. In fact, as also reported by the United Nations Special Rapporteur on Violence against Women,<sup>18</sup> we see an increase of the victimization of women seeking protection from domestic violence, reflected in an increase in the laying of criminal charges against the women themselves.

### **Lack of access to resources, as well as risks connected to such access**

Holding precarious immigration status often prevents migrant women from accessing services and resources generally available to other survivors. This is due to both service limitations and potential detrimental outcomes of accessing such services. As a result, foreign nationals who are undocumented face a lack of access to social services. Additionally, they face conditions of scarcity and coercion that can lead to the marginalization of migrant women and expose them to violence, as recently recognized by the United Nations Special Rapporteur on Violence against Women.<sup>19</sup>

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<sup>17</sup> United Nations High Commissioner for Refugees (UNHCR), *Beyond Proof*, 2013, at 65-66, online: <<https://www.unhcr.org/fr-fr/en/media/full-report-beyond-proof-credibility-assessment-eu-asylum-systems>>.

<sup>18</sup> United Nations General Assembly, *Compilation of information prepared by the Office of the United Nations High Commissioner for Human Rights, Human Rights Council Working Group on the Universal Periodic Review, Forty-fourth session, Canada*, 6–17 November 2023, UN Doc. A/HRC/WG.6/44/CAN/2, at para. 57, online: <<https://www.ohchr.org/en/hrbodies/upr/ca-index>>.

<sup>19</sup> United Nations General Assembly, *Compilation of information prepared by the Office of the United Nations High Commissioner for Human Rights, Human Rights Council Working Group on the Universal Periodic Review, Forty-fourth session, Canada*, 6–17 November 2023, UN Doc. A/HRC/WG.6/44/CAN/2, at para. 73, online: <<https://www.ohchr.org/en/hrbodies/upr/ca-index>>.

A barrier that migrant women often encounter is the restricted eligibility of services on account of their immigration status. In our daily practice and lives, we see that most services are simply not available to migrant women with precarious status, inclusive of Temporary Resident Permit (TRP) holders and those who are out of status. This includes migrant women's inability to access housing subsidies available to domestic survivors of GBV and trafficking and other vulnerable women, as well as provincial financial assistance.

Furthermore, many women are afraid to access any social services because they fear that their lack of status could become known. In fact, there can be risks involved with accessing services. This includes consequences such as the issuance of removal orders against out-of-status migrants or the criminalization of women working in the sex trade. As a result, migrant women are less likely to speak out.

It is therefore essential that eligibility criteria, as well as potential outcomes, are thoroughly investigated before referring survivors for services. In instances where limitations exist, adopting a forthright approach and clearly articulating them to survivors constitutes the most humane course of action. This helps to avoid re-victimizing survivors by exposing them to marginalization and a denial of services.

## **Immigration Responses to Gender-Based Violence**

Despite the impact of trauma, survivors with precarious immigration status must choose between alternative, often incompatible immigration pathways from the very beginning. Many of them must choose between claiming refugee protection or applying for a Temporary Resident Permit (TRP) for Victims of either Trafficking in Person (VTIP)<sup>20</sup> or Family Violence (FV). As one option generally excludes the other one, these early decisions may have strong implications in the long term.

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<sup>20</sup> According to the Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, "trafficking in persons shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability, or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs." See; Office of the High Commissioner for Human Rights (OHCHR), *Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime*, at Article 3 (a), online: <<https://www.ohchr.org/EN/ProfessionalInterest/Pages/ProtocolTraffickingInPersons.aspx>>.

In practice, we see GBV and trafficking survivors who don't meet the refugee definition, refugee claimants with valid GBV or trafficking claims and women with other refugee claims who have experienced GBV or trafficking. For instance, some women may migrate to escape forced marriage or may be forcibly married *en route* or upon arrival at destination after feeling persecution on other grounds. Other women might face violence at the hands of their Canadian sponsoring spouse and be unable to escape their violence to protect their Canadian-born children. Yet other women might endure it all in the hope of a better future for their children back home.

According to IRCC and UNHCR, refugees are people who have been forced to leave their country and who are afraid to return because of persecution based on race, religion, nationality, political opinion or 'membership in a particular social group'. Gender-based claims are based on the Convention refugee ground of 'membership in a particular social group', but a claimant's allegations of persecution may be linked to more than one of the Convention grounds. And a claimant's gender may impact other aspects of their claim as well. For eligible claims, women may receive study and work permits, federal healthcare and provincial financial assistance. Women who meet the refugee definition or are otherwise recognized as protected persons may apply for permanent residence.

For women with precarious immigration status who don't meet the refugee definition, there are limited remedies to secure stability. One of the key immigration remedies is the Temporary Resident Permit (TRP) for Victims of Trafficking in Persons (VTIP), whose purpose is to "respond to the vulnerable situation of victims of trafficking in persons by providing these individuals with a means of legalizing their temporary resident status in Canada, when appropriate."<sup>21</sup> Another key immigration remedy is the Temporary Resident Permit (TRP) for Victims of Family Violence, which is intended for cases of out-of-status foreign nationals experiencing 'family violence from a spouse or common-law partner' and 'seeking permanent residence that is contingent on remaining in a genuine relationship in which there is abuse.'

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<sup>21</sup> Immigration, Refugee and Citizenship Canada, "*Temporary resident permits (TRPs): Considerations specific to victims of trafficking in persons - Issuing a VTIP TRP*", 2023, online: <<https://www.canada.ca/en/immigration-refugees-citizenship/corporate/publications-manuals/operational-bulletins-manuals/temporary-residents/permits/considerations-specific-victims-human-trafficking.html>>.

However, these remedies are inadequate and uncertain. Even though IRCC's policy does not require survivors to collaborate with law enforcement agencies or testify against their traffickers in order to receive a Temporary Resident Permit for Victims of Trafficking in Persons (VTIP-TRP),<sup>22</sup> in our daily practice we observe that many such TRP applications are denied when a case against the trafficker is not pending - whether this is because no investigation was initiated by law enforcement or it has been concluded in court. This is particularly true for both initial and subsequent TRPs for victims of labour trafficking, which are refused at a higher rate than sex trafficking victims. As a result, if there is no criminal investigation ongoing or the case has been concluded, survivors are left with no status, no justice and very few options to safely remain in Canada.

Relying on the existence of a criminal proceeding to determine who is a victim of trafficking in persons is limiting, which further exemplifies the uncertainties as to what constitutes trafficking in persons for immigration purposes. In fact, IRCC's policy include the international definition of trafficking in persons established by the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, which was ratified by Canada in 2002, as well as the Criminal Code trafficking in persons offences and the Immigration and Refugee Protection Act (IRPA) trafficking in persons offence. While these definitions generally correspond to a trafficking in persons situation, some of their elements are approached differently, making it difficult for stakeholders to determine what constitutes trafficking in persons for immigration purposes.

As to the Temporary Resident Permit for Victims of Family Violence (FV-TRP), we see stringent policy requirements that leave out many women, including those who have lived with their abuser for less than one year without being married to them. Furthermore, the first TRP is generally granted for 180 days, which doesn't provide enough time for survivors to work on their healing and rebuild themselves, let alone learn how to navigate the immigration system in the aftermath of violence. Then, subsequent TRPs are rarely granted and depend on the officer's discretion, "where

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<sup>22</sup> Immigration, Refugee and Citizenship Canada, *Temporary resident permits (TRPs): Considerations specific to victims of trafficking in persons - Issuing a VTIP TRP*, 2023, online: <<https://www.canada.ca/en/immigration-refugees-citizenship/corporate/publications-manuals/operational-bulletins-manuals/temporary-residents/permits/considerations-specific-victims-human-trafficking.html>>.

there may be a benefit to the individual remaining in Canada for a longer period.”<sup>23</sup> Should the FV-TRP be refused, women find themselves out of status with very limited access to other immigration measures.

In regard to both TRPs, each renewal carries the risk of further uncertainty and disruption. Not only are subsequent TRPs left to the broad discretion of the officer deciding them, but their processing can be slow – up to 18 months – and IRCC policy establishes that survivors do not maintain their temporary resident status during the processing period. This means that, when the processing time extends past the expiry date of their previous TRP, women face disrupting consequences such as loss of status and income, denied access to services, and even exclusion from receiving EI benefits that they paid and would otherwise qualify for.

Furthermore, while some survivors may be granted a TRP, there are almost no permanent immigration remedies. Women can apply to remain in Canada on humanitarian and compassionate grounds. But these recourses are exceptional in nature, their processing time is slow, and they don't generally allow applicants to work while they wait for the results of their application, exposing survivors to further risks of exploitation and making it difficult for them to be successful in obtaining permanent residence. In turn, this creates uncertainty in the lives of survivors and their families whose future depends on the unpredictable outcomes of their immigration and criminal proceedings, as well as further risks of exploitation.

Finally, if granted a TRP, the survivor will have barriers in accessing essential services such as housing and financial assistance available to domestic survivors of trafficking, GBV and other vulnerable women, and most importantly, she will have no right to family reunification. As a result, mothers are unable to reunite with their children in Canada and have difficulties visiting them in their countries of origin without losing their status.

Other issues surrounding the TRP processes that we identified through our work include long processing times, inconsistent outcomes due to different interpretation and application of relevant policy by decision makers, lack of trauma-informed training displayed by some of the IRCC

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<sup>23</sup> Immigration, Refugee and Citizenship Canada, *Temporary resident permit (TRP) for victims of family violence*, last modified on 6 December 2022, online: < <https://www.canada.ca/en/immigration-refugees-citizenship/corporate/publications-manuals/operational-bulletins-manuals/temporary-residents/permits/family-violence.html>>.

officers interviewing victims, short validity of the TRPs (generally, 180 days for the first TRP and about one year for each renewal, if granted), and high fees to be paid for each renewal.

Finally, we note that the numbers of Temporary Resident Permit requested by survivors of domestic violence or trafficking are not publicly available, nor are the percent of approvals or refusals of such applications. Statistics cover police reports and incidents leading to criminal charges under the IRPA, but they do not quantify access to immigration recourses on this basis.



## Recommendations

In light of these observations and our practice, we recommend a broad, gender-responsive and rights-based regularization scheme that includes both temporary programs and permanent pathways to ensure women with precarious or no immigration status are not left behind.

### Temporary regularization programs

First, the Government of Canada should implement temporary regularization programs that respond to the needs of migrant women with lived experiences of gender-based violence and trafficking. These programs should be based on clear and simple criteria, comprehensive, and they should not be discretionary in nature. The recommendations for these programs are as follows:

- Temporary Resident Permits for Victims of Trafficking in Persons (VTIP) should be granted regardless of the existence of an investigation or criminal proceedings against their traffickers, as established in the relevant IRCC policies.
- Temporary Resident Permits for Victims of Family Violence (FV) should be granted regardless of the spouse's eligibility to sponsor, and they should ensure that all women facing abuse can access this remedy.
- Temporary Resident Permits for Victims of either Trafficking in Persons or Family Violence, should be granted for at least 2 years to give survivors adequate time to rebuild themselves in the aftermath of the violence and assess their needs and options in meaningful ways.
- When applying for a Subsequent TRP before the expiry date of their previous TRP, survivors should be granted maintained status during the processing period to avoid dangerous disruptions in their lives.
- If a FV or VTIP TRP is going to be refused, the issuance of a regular TRP should be swiftly considered, without placing the application in the general TRP queue.
- Procedural safeguards must be put in place to ensure that migrant women are not at risk of deportation if they apply for these remedies.

### Pathways to permanent residence

In addition to temporary regularization programs, the Government of Canada should ensure migrant women can access pathways to permanent residence and address the root causes that lead to precarious immigration status in Canada. The recommendations are as follows:

- Clear and consistent options for permanent residency must be developed to respond to the needs of survivors, and immediate access to permanent residence for those experiencing gender-based violence or exploitation should be prioritized.
- Regularization programs should include those who have been through the refugee determination system, whether their claims are pending or were refused. Claiming refugee status should not serve as a barrier to accessing regularizations programs.
- For permanent resident applications based on humanitarian and compassionate (H&C) grounds, we recommend that undue hardship requirements are removed or eased to enable migrant women to remain in Canada in the aftermath of the violence or trafficking experience. Overall, a human rights approach and gender lens to decision-making should be implemented. Furthermore, there should be a consistent application of a policy to stay removals for persons with a pending H&C application.

### Systemic changes to immigration structures that lead to precarious status

At the same time, we propose that the Government of Canada dismantles the structures of immigration policies that negatively affect migrant women, and particularly those aspects that lead to precarity and loss of immigration status. The recommendations are as follows:

- Work permit restrictions should be eased for all temporary foreign workers, employer-specific and sectorial work permits should be abolished, and open work permits should be issued to all migrant workers.
- We recommend repealing immigration regulations (e.g., ss. 183 (1) (b.1) and 196.1(a) of the Immigration and Refugee Protection Regulations) and Ministerial Orders pertaining to migrants without permanent status working in the sex industry.

- Comprehensive immigration-related data on gender-based violence and human trafficking should be collected and made public. This is essential to help identify unmet needs, support informed decision-making, and promote transparency and equity for all members of society.

#### Safer access to supports and services

- A gendered perspective should be better integrated into law enforcement services, so that migrant women facing violence and exploitation feel empowered to report the abuse.
- Adequate trauma-informed and victim-centered services should be offered to all survivors regardless of their immigration status.
- Social services such as housing, financial assistance, scholarships, professional training or education credential recognition should be offered to survivors of violence regardless of immigration status to help them re-establish themselves in Canada.
- Procedural and policy safeguards must be implemented to ensure that migrant women accessing supports and services don't face deportation.

In conclusion, adopting a comprehensive, gender-responsive and rights-based regularization scheme is essential to addressing the unique challenges faced by migrant women with lived experiences of Gender-Based Violence and human trafficking. By implementing both temporary and permanent pathways, dismantling systemic barriers, and ensuring safer access to supports and services, the Government of Canada can significantly enhance the protection and empowerment of these women. Such measures not only provide immediate relief and security but also contribute to long-term stability and integration, fostering a more inclusive and just society.

## Acknowledgments

We extend our deepest appreciation to the migrant women who participated in this project. Their courage, resilience and willingness to share their experiences have provided invaluable insights that made this work possible. We honor their stories.

We thank our funder, Women and Gender Equality Canada, and our partner organizations. We are profoundly grateful for their solidarity and engagement throughout this project.

### With the support of:



Women and Gender  
Equality Canada

Femmes et Égalité  
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