



# **SINGLE MOTHERS WITHOUT LEGAL STATUS IN CANADA**

Caught in the Intersection  
Between Immigration Law  
and Family Law

Sheryl Burns  
March 2010

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This report is part of the YWCA Mothers Without Legal Status in Canada Project, funded by the Law Foundation of British Columbia and prepared by Sheryl Burns. The opinions expressed in this document are those of the author and not necessarily those of YWCA Vancouver's Board of Directors, advisors, or funders. A free electronic version of this document can be downloaded from the YWCA Vancouver website: [ywcavan.org](http://ywcavan.org).

*YWCA Vancouver gratefully acknowledges The Law Foundation of British Columbia for funding this publication.*



# CONTENTS

Acknowledgments .....	4
Executive Summary .....	5
Introduction .....	7
Methodology .....	8
PART I: UNDERSTANDING THE CHALLENGE	
<b>Mothers Without Legal Status in Canada: A Profile. ....</b>	<b>10</b>
Age. ....	10
Country of origin. ....	10
Socioeconomic status .....	11
Entry into Canada. ....	11
Abuse. ....	12
<b>The Experience of Intimate Partner Abuse. ....</b>	<b>13</b>
Factors affecting mothers without status .....	13
Experiences of abuse. ....	16
Resisting the abuse. ....	19
Leaving the abuser .....	19
Dealing with child protection workers .....	21
<b>The Intersection of the Immigration System and the Family Law System .....</b>	<b>22</b>
Navigating the family law system .....	22
Navigating the immigration system. ....	24
Navigating the legal system .....	25
Canada Border Services Agency .....	26
<b>The Practical Challenges of Living Without Status: Meeting Basic Needs .....</b>	<b>27</b>
Income. ....	27
Housing .....	30
Food. ....	31
Health care .....	31
Access to education .....	32
PART II: RECOMMENDATIONS	
<b>The Issues .....</b>	<b>34</b>
<b>Appendixes</b>	
A: Interview Questions. ....	47
B: Interview Consent Forms .....	50
<b>References .....</b>	<b>52</b>

# ACKNOWLEDGMENTS

The author would like to thank the following for their contributions to this report: the women who shared their stories, which are the core of this project; the volunteers who helped with the literature review, with interviewing the participants, and with translation at the interviews; the lawyers and community service providers who shared their knowledge about this subject; Lobat Sadrehashemi for legal supervision of the project; and Ruth Wilson for editing.

# EXECUTIVE SUMMARY

Recently, YWCA Vancouver front-line staff noticed a rise in the number of clients who are single mothers without legal status in Canada. Because of their concern about these clients, these front-line workers informally canvassed advocates to determine if their perception about the rising numbers was accurate. The results (more than 60 reports of single mothers without legal status living in British Columbia) prompted YWCA Vancouver to research this subject more fully, and so began the Single Mothers without Legal Status in Canada research project.

Mothers without status face the challenge of working with two incongruent systems: immigration and family law. As a result of trying to fulfill the requirements of both these systems, generally these women find themselves in the awkward and untenable situation of not being allowed to remove their children from Canada, but facing up to two years waiting for their permanent resident applications to be considered. Two years is a long time to live without status and without many of the basic rights, benefits and services that Canadians take for granted.

Lack of immigrant status and language barriers leave mothers without status isolated, dependent and vulnerable to abuse. In fact, all of the mothers without status interviewed for this project were abused, and their abusive partners used this lack of status to control them.

Despite this vulnerability, the mothers without status interviewed for this project left the abusive relationships. Unfortunately, their lack of status meant they remained vulnerable, living in constant fear of losing their children to abusive ex-partners and of being deported without their children. Meanwhile they were living without adequate housing, income and health care, and without opportunities for education for themselves or their children.

Citizenship and Immigration Canada rules do not allow mothers without status to provide for themselves during the time they wait for a ruling on their status. During this waiting time these women are not able to support themselves and their children because they are not allowed to work legally, nor are

they eligible for income assistance. To be eligible for income assistance and other social programs, they must remain with their abusive partners.

Therefore, in order to survive, mothers without status must rely entirely on the goodwill and generosity of others for basic needs, such as housing, food and clothing, or they must turn to illegal employment, including “survival sex.”

Recent changes to Canada’s Immigration and Refugee Protection Act include the “best interests of the children” principle. While this is a welcome and potentially beneficial change in the law for mothers without status, applying this principle in immigration determinations remains inconsistent and differs considerably from its application in a family law context.

Herein lies the primary challenge of mothers without status. While a mother without status lives in daily fear of deportation without her children, a family law judge may well order her to share custody of her Canadian-born children with her abusive ex-partner, or may determine that the mother is unable to properly provide for her children based on her inability to work and find stable housing. In addition,

For many mothers without status, the family law system is a bewildering and unfair system

due to fears she may be considered a flight risk, a judge may also make a non-removal order stating she is not permitted to remove the children from the jurisdiction.

For many mothers without status, the family law system is a bewildering and unfair system. Mothers anxious to protect their children from further harm

find it difficult to accept that judges will not consider their ex-partners' previous abuse as relevant to their cases. Moreover, mothers without status feel it is unfair to have their lack of status used against them in custody determinations.

In the course of this project, mothers without status reported that those who are there to protect the public interest did not always provide proper service. The police often did not provide assistance and child protection workers, with the best of intentions, sometimes insisted non-status mothers leave abusive relationships without having a clear understanding of the impact this would have.

Mothers without status and their children deserve the same protection and rights of others in our country. In cases where mothers have lost status as a result of abuse and broken sponsorship promises, they should be provided with access to income, a temporary social insurance number, housing and basic medical care. This would enable them to provide for themselves and their children while they wait for immigration decisions regarding their applications for status. This would also influence the outcome of family law cases so that children can live with stability and not lose their primary caregivers.

# INTRODUCTION

This report is about single mothers living in Canada who have no legal status, referred to as “mothers without status”. These are women who have come to Canada from other countries, but do not have permanent resident status and do not know whether they will be allowed to stay in the country. They are not able to leave the country with their children because of outstanding custody and access issues. Consequently, they have the double-barrelled challenge of having to deal with both the Canadian immigration system and the family law system, and generally they must face this challenge with little support and few resources.

For the sake of brevity, throughout this report these women are referred to as “mothers without status”.

For the purposes of this report, mothers without status are defined as women who:

- Were born in a country other than Canada and now reside in Canada
- Entered the country legally but have neither permanent resident status nor Canadian citizenship
- Had an intimate partner with whom they no longer reside and who is either a permanent resident or Canadian citizen and who had promised to sponsor them
- Have experienced abuse from their intimate partner
- Have one or more children who reside in Canada
- Have been court ordered or otherwise advised that they cannot remove their children from Canada

It is difficult to know how many mothers without status are living in British Columbia. At the outset of this project, there were reports of more than 60 women living in this situation across the province. These women often avoid attracting notice because of the precarious nature of their immigration status and because they fear they will lose custody of their children either to their ex-partners or to the Ministry of Children and Family Development. Consequently,

their plight is not well understood by the general public.

Mothers without status have three legal options:

1. They can return to their country of origin and abandon their children.
2. They can return to their abusive partner.
3. They can remain in Canada and try to obtain permanent resident status, living for up to two years without most of the financial and social resources that Canadians take for granted. During this time they may be unable to meet basic human needs, such as food, shelter and medical care for themselves and their children.

Mothers without status  
often avoid attracting notice  
because they fear they will  
lose custody of their children

The goal of this report is to inform Canadians, including policy makers, about this situation and identify ways to create meaningful change. It highlights the financial and emotional challenges of mothers living without status, and it addresses the disconnect between the policies of the Canadian immigration system and the family law system that exacerbates the situation. Finally, it makes recommendations for legislative change and best practices policies to remedy the problems and to help women and their children from being caught in this situation in the future.

# METHODOLOGY

YWCA Vancouver has many programs that serve women and their families. In recent years, front-line staff at these YWCA programs have noticed a rise in the number of clients who are single mothers without legal status in Canada. Because of their concern about these clients, the front-line workers informally canvassed advocates through listservs and transition houses to determine if their perception about the rising numbers was accurate. In two weeks, they received more than 60 reports of single mothers without legal status living in British Columbia.

YWCA Vancouver decided to research this subject, being uniquely positioned to have various perspectives on the issue. The project consisted of two parts: 1) writing and publishing an informational booklet for service providers who are in a position to help mothers without status and 2) preparing this report based on interviews with mothers without status, which recommends legislative and policy

In recent years, front-line staff have noticed a rise in the number of clients who are single mothers without legal status in Canada

changes. The Law Foundation of British Columbia generously provided the funding that made the project possible.

The project began with a literature review to gain an overview of the situation. Because of the differences in provincial laws and the limitations of travel for this project, the research was confined to the province of British Columbia.

Next, women without status were identified to interview for the project. This proved to be a significant challenge. Transition house workers,

immigrant serving organizations and immigration lawyers were able to provide names, but many of the women were reluctant to be interviewed for fear of jeopardizing their temporary status (usually a visitor's permit), or being found and deported because they were without legal status in Canada, and/or of being reported to child protection workers. Some of the women without status decided not to participate in the project out of discomfort or embarrassment about having the details of their personal situations published. Finally, many of the women were no longer in contact with the organizations that had been working with them. In total, 23 mothers without status were interviewed, plus one teenage daughter of a mother without status.

Volunteers were used for translation during the interviews as needed. The women interviewed are quoted extensively in this report to enable their voices to be heard. To protect their identities, they have all been given pseudonyms randomly chosen that are not typical of the country from which they came.

In an effort to learn more about those mothers without status who were not interviewed, 30 front-line workers and lawyers were also interviewed, both individually and as part of focus groups. They were asked questions designed to elicit information about the systems that single mothers without status must navigate to determine whether and how those systems support them. Questions were also designed to generate recommendations for change based on the observations and experiences of these front-line workers and lawyers.

All interview questions can be found in Appendix A of this report. All of those interviewed signed consent forms, which are shown in Appendix B. The consent forms were designed to inform participants of the intent of the YWCA Single Mothers without Legal Status in Canada research project and to assure them of confidentiality.





# **PART I: UNDERSTANDING THE CHALLENGE**

# MOTHERS WITHOUT STATUS: A PROFILE

The women interviewed for this project were, in most ways, very different from each other. They varied in age, country of origin, education level, employment history, the socioeconomic circumstances of their families of origin, and the number of children they have. They also differed in their feelings of whether they wanted to stay in Canada. But what they did share was the experience of being abused by their intimate partners, of having no permanent status in Canada, and of being legally unable to remove their children from Canada.

## Age

The participants ranged in age from 21 to 46 years and were all mothers of minor children. Sixty-five percent (15) had one child, 22 percent (5) had two children, and 13 percent (3) had three children. Of the 34 children, 65 percent (22) were born in Canada.

## Country of origin

Most of the women who were interviewed were from Japan (30 percent/7), which is not representative of general immigration trends as female Japanese immigrants account for only 2.3 percent of total female immigrants to British Columbia. Further research is needed to determine if the trends in this project reflect higher numbers of Japanese mothers without status across Canada, or simply a greater willingness of Japanese women to participate in the interviews.

The next highest representation was from the United States and Mexico (13 percent/3 each). These numbers can be attributed to the proximity of these countries to Canada, and the ease with which Americans and Mexicans have, until recently, been able to cross the Canadian border.

Women from Poland represented 9 percent (2) of the participants.

All other countries were represented by only one mother without status. The other countries of origin were Hungary, Indonesia, Malaysia, Lithuania, Paraguay, Spain, Taiwan, and Thailand.

There were no mothers without status interviewed from China, India, or the Philippines, even though more female immigrants to British Columbia come from these countries than any other. One woman from China was scheduled for an interview but cancelled it at the last minute out of fear. The reasons for the lack of participants from these countries were not obviously apparent and determining the reason was beyond the scope of this project.

Table 1 below summarizes the country of origin statistics.

**Table 1:**  
**Countries of Origin of Mothers without Status**

Country of origin	Proportion (actual number) of total number of women interviewed
Japan	30.0 percent (7)
Mexico	13.0 percent (3)
U.S.A.	13.0 percent (3)
Poland	9.0 percent (2)
Hungary	4.375 percent (1)
Indonesia	4.375 percent (1)
Malaysia	4.375 percent (1)
Lithuania	4.375 percent (1)
Paraguay	4.375 percent (1)
Spain	4.375 percent (1)
Taiwan	4.375 percent (1)
Thailand	4.375 percent (1)

# Socioeconomic status

There was no commonality in the socioeconomic backgrounds of the mothers without status. The women interviewed reported growing up in families ranging from working poor to upper middle class. The level of education achieved by the women ranged from Grade 9 to a partially completed master’s degree. The majority stated that they had not experienced abuse in their families of origin or in previous intimate relationships.

# Entry into Canada

The women interviewed entered Canada in a variety of ways, all legal (see Table 2). The majority of them came on a visitor’s visa, and typically, these visas were issued for six months. The women reported having to renew their visas several times while waiting for their partners to sponsor them and during the in-country sponsorship process.

**Table 2:**  
**Method of Entry to Canada of Mothers Without Status**

Method of entry	Proportion (actual number) of total number of women interviewed
Visitor’s permit	61 percent (14)
Student permit	13 percent (3)
No documents required	13 percent (3)
Temporary work permit	4 percent (1)
Working holiday program*	9 percent (2)

\* The working holiday program is administered by Foreign Affairs and International Trade Canada

Most women interviewed were already involved in an intimate relationship with a Canadian man prior to their arrival in Canada

The women who were interviewed had various reasons for wanting to come to Canada. Seventy-eight percent (18) of them were already involved in an intimate relationship with a Canadian man prior to their arrival in Canada. The duration of these relationships varied from several months to 12 years. Included in this figure are the 17 percent of women (4) who met their partners over the Internet. The rest of the women (22 percent/5) came to Canada for other reasons and met their partners here, including two of the American women who came to Canada as children but whose parents never obtained status for them. As adults, these women became involved with Canadian men and had children with them, but they were never sponsored by their partners.

*I met [my intimate partner] on the Internet. We talked for about a year and a half, and then I decided to come to Canada to meet him for a month. Then he came to [country of origin], and then I decided to come back [to Canada] to stay.*  
—Elizabeth

*The crime was getting really bad in [country of origin] and the pollution was making [my son’s] asthma really bad. [My husband] and I talked about it and decided we should move to Canada, where he is from. The children already had Canadian citizenship, so it was just me who needed to get it.*  
—Ava

*I had just finished high school and I wanted to travel before continuing my education.*  
—Hannah

*I won a scholarship to go to a language school in Vancouver.*  
—Grace

During their relationships with their intimate partners, most of the women interviewed for this project were in the process of being sponsored from within Canada by their intimate partners under the family class of immigration (78 percent/18). Nine percent (2) were promised sponsorship, but their partners never followed through. Thirteen percent (3) were never promised sponsorship, including the two American women who came as children and one woman who was involved with a married man, who was thus unable to sponsor her (see Table 3).

**Table 3:**  
**Sponsorship Status of Mothers without Status**

<b>Sponsorship status</b>	<b>Proportion (actual numbers) of total number of women interviewed</b>
Partner initiated in-country sponsorship under the family class visitor's visa	78 percent (18)
Sponsorship never promised or occurred	9 percent (2)
Partner promised sponsorship, but never followed through	13 percent (3)

## Abuse

The most important commonality of the women interviewed, other than their lack of status and inability to remove their children from Canada, was their experience of abuse. All of the women disclosed having been abused by their intimate partners.

At the outset of the project, it was anticipated that many of the women would have experienced abuse, as some of the referrals were from transition houses. However, those who were referred from other service providers also reported having been abused by their intimate partners. The women interviewed stressed that they would never have left their partners and ended up in the difficult position of being mothers without status if their partners had not been abusive.

This variation among the women interviewed demonstrates the importance of not stereotyping women without status. Any woman who is in Canada without permanent legal status, and who has children with a man who does have status, is vulnerable.

*What I would really like to say is that everybody who is involved with mothers like me should not be prejudiced. I would like them to look at me as an individual. It is important to have information about mothers without status, but every mother's situation is different.*

—Grace

# THE EXPERIENCE OF INTIMATE PARTNER ABUSE

According to Statistics Canada, an estimated 653,000 women experienced violence at the hands of their current or former intimate partner between 1999 and 2004. This is a serious problem in Canadian society, and women without status are particularly vulnerable.

## Factors affecting mothers without status

Several factors contribute to an increased risk of abuse for mothers without status. These factors are illustrated by the experiences of the women who were interviewed for this project:

### 1. Reliance on their intimate partner to obtain permanent resident status

87 percent (20) of the women interviewed required their partner's cooperation to obtain permanent resident status under the family class of sponsorship. All the men involved were aware of this power and used it to their advantage. Many of the women stayed in abusive relationships so that they did not jeopardize their sponsorship. This class of sponsorship generally takes about nine months to complete – as long as the paperwork is properly submitted and the correct process is followed. However, if a sponsor deliberately omits documents from the application in an attempt to control a woman, the process can take years. A sponsor can withdraw his sponsorship right up to the point that a permanent resident card is issued. Some of the women interviewed reported that their partners had cancelled their sponsorship, then sponsored them again, always holding the threat of cancellation over their heads.

*He sent in the application [for sponsorship] but didn't include my photo or other documents. I asked him about this, but he dismissed my concerns. I think he did it intentionally.*

—Megan

*He started to tell me that if I don't do things his way, then he won't do my papers.*

—Jessica

Some of the women said they believed that their former partners deliberately chose them for their increased vulnerability.

*The ladies from [my country of origin] belong to the man when we get married. If we get hit, we just keep going; we stay married. [My ex husband] knew that. Since I've been here, I've met other women from my country who are with Canadian men. These men know that about us. They use that. They use our culture to use us.*

—Olivia

Although the question wasn't asked in the interviews, 17 percent (4) of the women volunteered that their ex-partners had previous relationships with women without status, or had become involved with another woman without status when their relationships ended.

*Then I found out through the detective what he did to his previous wives. My husband didn't talk about his previous wives. I didn't know about this. I didn't know that I was the fourth woman he did this to.*

—Caitlyn

*He has already brought another woman from my country here. His family warned her about what he did to me, but she just had a baby, so maybe she has to stay with him.*

—Ava

## 2. Vulnerability to deportation

The 22 percent of women (5) who remained unsponsored, as well as the sponsored women whose temporary documents had expired, were constantly in fear of being deported without their children. Their intimate partners used this knowledge to control them.

*He would terrorize me with immigration status. He said, "I will notify the authorities that you are working without a permit." I said I have no problem telling people that I work under the table. He would show me articles and magazine clips about people who were deported in the past.*

—Caitlyn

## 3. Reliance on their intimate partners to meet basic needs

Because of their lack of status, the women interviewed were all dependent on their partners for basic needs such as food, shelter and clothing for themselves and their children. Again, their partners were aware of their power and used it to obtain what they wanted from the women.

*I thought if I leave I would have no status, no money, no nothing. I thought I would have to collect bottles from the garbage to feed my son.*

—Olivia

*I couldn't go live with my dad. There were six of them living in my dad's one-bedroom apartment and my sister was pregnant. There was just no room for three more. If I left, I would be on the street.*

—Hailey

## 4. Language barriers

Eighty-seven percent (20) of the women interviewed were not fluent in English when they arrived in Canada. The power of a sponsor over a woman without status is often heightened due to the isolation women face as a result of language barriers. Many of the women were dependent on their partners to translate for all social interactions and appointments. One mother without status said she was unable to report the abuse to her doctor as her husband was translating for her. The language barrier also makes women dependent on their partners to get information that would be readily available to someone whose first language is English, including

Many of the women were dependent on their partners to translate for all social interactions and appointments

information about the immigration process. Most of the mothers without status said that they couldn't read the mail that came from Citizenship and Immigration Canada, and they relied on their partner or his family to tell them what it said. Many of the women reported being given vague answers and sometimes being deliberately misled.

*My ex would sometimes call Immigration, but then would give up because of the teleprompts. So then I would try, but I couldn't because I found it difficult to understand.*

—Maya

*For me, language was always hard. My mother-in-law always dealt with Immigration, but she was dishonest. I felt like I couldn't challenge her because I needed a place to live and food for me and my son.*

—Chloe

## 5. Cultural differences

Some of the women interviewed reported they were unfamiliar with cultural expectations in Canada, including whether it is acceptable for men to abuse their intimate partners. Some of their partners took advantage of this lack of knowledge. In addition, some women reported feeling disadvantaged by cultural stereotyping about women from their countries of origin.

*I never knew what his work schedule was. If he was at home playing with our son and I asked him if he was off that day, he would get very mad at me. If I spent more than \$100 a week on groceries, he would get mad at me. It was getting so that I could not talk to him. I didn't know if this was the Canadian way.*

—Abigail

## 6. Lack of support systems

Eighty-seven percent (20) of the women interviewed did not have any extended family in Canada. Most of them did not know many people in Canada at all other than their intimate partners and their families. Often this was a result of language and cultural barriers, but it also occurred because their intimate partners deliberately isolated them. This isolation made it difficult for the women to find support when they experienced abuse.

*I'm a very social person. Every time he saw me being more independent, he got very upset, because he was losing control of me. He got very angry. It would have been much better if from the very beginning I knew other people. This way I am dependent on him.*

—Elizabeth

## 7. Lack of knowledge about rights in Canada

Several of the women stated that they were unaware of their rights in Canada, including the right to police protection from violence by their intimate partner. Several women indicated they had no idea organizations such as transition houses for abused women or non-profit immigration services existed.

*I was living with his family who were abusive to me, and the household was very unsanitary for me and my son, who was becoming ill. I called a nurse who suggested that I call Social Services, but [my husband's family] told me that they could take the baby away if I did this. I wanted to leave, but I didn't know where to go.*

—Chloe

## 8. Fear/distrust of authority

Some of the women had a fear of authority, such as government services, because of their experiences of abuse of authority in their countries of origin. Several of the women had developed a mistrust of strangers, for fear that a report to Citizenship and Immigration Canada could result in their being deported or that a report to the Ministry of Children and Family Development could result in them losing custody of their children. This fear extended to expressions of concern about disclosing information to the interviewer for this project.

*He told me not to call the police. He made me think they would [deport] me.*

—Ava



## Experiences of abuse

The women interviewed experienced various forms of abuse: emotional, financial, physical and sexual. They also reported abuse of their children. It is important to note how the women's vulnerability due to their immigration status was interwoven with these forms of abuse.

### 1. Emotional abuse

All of the women interviewed were emotionally abused by their intimate partners. This took many forms including verbal threats and name-calling. The verbal abuse was often specific to their lack of status, including insults about their country of origin and comments that questioned their worth as human beings because they did not have status.

*[My husband] said, "You are nothing. You are garbage. You wanna go back to [country of origin], you go, but you go by yourself. [My son] stays here." One day he killed the dog. He told me that it would be easy to shoot me like the dog. He said, "I would put you in the woodstove. Gone. Nobody would even know."*

—Olivia

Sometimes the emotional abuse was expressed physically and was intended to make the woman feel afraid for her physical safety without actually assaulting her. Examples are punching holes in the wall, breaking things and hurting other people or pets in front of the woman.

*He followed me. I attended ESL classes. I would walk with classmates who lived close by, including one who was a young man. When we stopped at the crosswalk, he hit the boy and all the books went flying around. He said to me, "You are not going to walk with other men."*

—Caitlyn

The women's lack of permanent status and fear of being deported without their children was exploited by their intimate partners through threats to call Child Protection Services and/or Citizenship and Immigration Canada. The women were continually reminded of their vulnerability. The emotional abuse often included deliberate isolation, as their partners discouraged or forbade them from having friends.

*He wouldn't let me have any friends. I was really lonely. The social worker talked to him about this and he said, "Okay, but no male friends."*

—Ella

### 2. Financial abuse

All of the women interviewed were financially abused by their intimate partners. Because the women without temporary work permits did not have a legal source of income, they were dependent on their partners and particularly vulnerable to this kind of abuse, which manifested in many ways and often resulted in anxiety and feelings of degradation. Many partners tried to make the women feel guilty for their financial dependence.

*He says he's the one who makes the money so everyone has to do what he says. He's the boss. He was holding his fist up, making a mean aggressive face. He wants to hit me. Then he stops in front of my nose. He calls me stupid. He's swearing a lot. He calls me incompetent, stupid, stupid b---h, stupid c--t.*

—Jessica

Many of the women were denied food, clothing and other essential items, despite their partner's financial ability to purchase these items.

*He got to me other ways too. For example, I didn't have any face cream. I didn't have any pads when I had my period so I had to use toilet paper. I didn't have any shampoo to wash my hair. When it came to his needs, he fulfilled those very well. He looked after himself very well; very expensively.*

—Victoria



***For two weeks [my husband and his extended family members] didn't allow me to interact with [my infant son], nor did they allow me to call my family. They told me that I couldn't eat their food anymore. I snuck food from the fridge in the mornings before they woke up.***  
—Kate

Several of the women were forced by their intimate partners to work illegally. They were afraid that this would jeopardize their status in Canada, but felt that they had no choice but to comply.

***He forced me to work even though he knew it was illegal and I was still breastfeeding my baby. I had to use my temporary tax number and work illegally as a waitress and as a cashier. He made me give him all my earnings and then spent them.***  
—Megan

***He kept telling me I had to work to pay the rent but I didn't have any papers that will let me work. We didn't have any money because he spent all the money on drugs and we had no food, so in the end, I helped him [with his roofing job].***  
—Ava

A recurring issue raised by the women was the costs associated with prenatal care and childbirth. For a woman in the midst of sponsorship, the cost of the birth of the child is her responsibility. In all areas of family law there is a presumption that the parents share equally in the child, but legally the medical cost of birthing the child rests solely on the mother's shoulders. Most of the women without status had no income at the time of their pregnancies and some of their partners did not want to contribute to these costs. This left the women in a physically dangerous position and contributed to unhealthy stress during their pregnancies. Although in the end, they all did receive medical assistance with their births, 26 percent (6) of the women were left with the debt for the hospital bill from when they gave birth. These bills are not forgiven once a mother is a permanent resident.

***They charged me \$2500 for one night in the hospital when I gave birth to my daughter. I haven't been able to pay it.***  
—Madison

***[My ex-husband] didn't want to pay for the birth. He told me he has helped lots of cows have their babies, so he could help me at home. I was scared. I had difficulty with my first two pregnancies in [country], and now that I am in my forties, there could be problems. It had to be at the hospital. He never paid the hospital, and now I owe a big debt***  
—Olivia

### **3. Physical abuse**

Sixty-five percent (15) of the women interviewed had been physically abused. Some didn't call the police out of fear that they would not be believed, while others feared being deported. The women who did call the police report that asking the abusers to leave the home for the night resulted in them returning angrier than ever, while charging them resulted in threats to cancel their sponsorships unless they recanted. They found they had to choose between staying with their abusive partners and providing for their own physical safety. None of the women felt any safer after calling the police.

***He was yelling at me. I got scared and I walked away from him to go hide in the washroom. He followed me shouting, "We have to finish this! We have to be clear!" I kept trying to get to the washroom. He hit me in the face, breaking my nose. The blood started pouring out.***  
—Olivia

***He broke my fingers. He punched my face. Too many times the police came to my house.***  
—Ashley

#### 4. Sexual abuse

Thirty percent (9) of the women interviewed reported being sexually abused by their intimate partner, although due to the reluctance of some women to discuss sexual matters, the actual percentage may be higher. Moreover, not all women recognize

Many women believe that engaging in sexual activities within a marriage or intimate relationship is an obligation

that unwanted sexual demands within an intimate relationship constitute sexual assault and/or rape in Canada. Many women believe that engaging in sexual activities within a marriage or intimate relationship is an obligation.

*I didn't want to get pregnant. He gave me birth control pills from his last girlfriend, but they made me sick so I stopped taking them. He refused to pay for the doctor and to pay for any prescriptions. I didn't want to do it, in case, you know, I got pregnant, but he made me have sex all the time.*

—Olivia

*He said, "I need to have sex with you." Five times he threatened me that he would kill me if I didn't. He was very angry and very irritated. His face became pale and then he grabbed me by the shoulders and then he raped me.*

—Caitlyn

#### 5. Child abuse

Thirty-five percent (8) of the women interviewed stated that their intimate partner physically abused their children. Many others identified their children as being abused emotionally and financially, particularly those children the women had from previous relationships. One mother stated that her daughter was abused sexually.

*He hit my brother with a pole.*

—Emma (teenage daughter of a mother without status)

*He doesn't like [my daughter from a previous relationship]. There were lots of problems. After [our daughter] was born it got worse. A lot of times he swore at her. Sometimes he slapped her.*

—Ashley

Most of the women interviewed were aware that their children were witnessing the abuse going on in the household and of the negative impact that this was having on them.

*[My daughter] picked up some of the names he called me, and she started using them too.*

—Megan

*One time my son saw my ex choking me and he was banging his dad on the back trying to stop him.*

—Chloe

However, the women also stated that if they left the relationship, they would be unable to provide basic needs for their children until they had permanent resident status. Some women strategically chose to remain, weighing the advantages and the disadvantages of leaving.

## Resisting the abuse

The mothers without status all struggled to resist the abuse and to find creative ways to cope. Open defiance was rarely used in case their partners retaliated by cancelling the sponsorship. The women weighed the dangers against the opportunities that existed in their specific situations, then came up with survival strategies to minimize and/or shield their children and themselves from the abuse while they waited for their status to be resolved. The women interviewed were all strong, intelligent, and resourceful.

*I stayed out all day at the mall to stay away from [my husband.]*

—Ashley

*He started to hit my son, so I told my kids that when he's home we'll go into the bedroom and stay away from him because he gets mad very easily. We would spend every evening in there, with nothing to do.*

—Ava

*I guess my husband knows that he has power and he puts me down all the time, but I try not to let him get to me. I am most worried about my child, for sure, even though I try to shield and protect him from this, and even though I organized his [kindergarten] schedule so he goes to school twice a day—in the morning and [afternoon] so he does not see this.*

—Victoria

## Leaving the abuser

Eventually, the women in this study were no longer able to stay with their intimate partners. None of them had status at the time they left. The relationships ended for one or more of the following reasons:

### 1. Safety

Seventy percent (16) of the women left for fear of being hurt or killed, and/or because they feared for the safety and well-being of their children.

*I left him because I saw the look in [my son's] eyes when he beat me, and I don't want to see that anymore.*

—Olivia

### 2. Partner ended the relationship

Thirteen percent (3) of the women had partners who left them or told them to leave.

*[My husband] would hurt me, and my son would cry. So one day I got so frustrated that I raised my fist at him. He took my son and the phone and went into the bedroom. He called the police. I couldn't tell what he was saying. The police came and he was telling them I hit him. I tried to tell them what really happened but they wouldn't listen to me because my English wasn't very good. They took me away and put me in jail. I told them I don't speak English but they didn't find anyone to help [translate for] me. When they let me out they told me I couldn't go home and that I couldn't see my son.*

—Abigail

### 3. Ministry directed them to leave

Seventeen percent (4) left because the Ministry of Children and Family Development (MCFD) became involved and insisted that they leave. (In cases where children witness their mothers being abused, child protection workers can intervene.) There were numerous anecdotes from service providers of cases of child protection workers telling mothers that they must leave the abuser or risk having their children removed from their care.

*We were at [my ex-husband's] friend's house. He bothered [my daughter from a previous relationship] and me. After we left, his friends called the police and [the ministry]. The MCFD showed up at our house. They told me I can't stay with him and I have to go to a shelter. My kids don't like the shelter. It's not good for kids. The last time I went there [my daughter] cried and cried. I said I didn't want to leave [and told them to] ask him to leave. The MCFD kept my kids for two nights, and then they let me take the kids as long as [my ex-husband] didn't come to the house.*

— Ashley

Eighty-seven percent (20) of the women interviewed took their children with them when they left their abuser. The exceptions were the women whose children were removed by the MCFD and the mother who was arrested based on her abuser's allegations.

Leaving their partners did not necessarily end the abuse, however. Many women experienced stalking, harassment, and assaults following their separation.

*There were some days that he left 15 messages. I recorded his messages and I gave the evidence to the police officers. On [date] he followed me to work and then he approached me. He was promising to buy me a computer if I [would have sex with him]. When I pressed the number of the apartment I was [going to clean] he started to yell at the people who answered that they could not hire me because I am illegal.*

—Caitlyn

*He came to my house at two or three in the morning, pounding the door, yelling for me to come out. I put my big couch in front of the door. I felt the fear in my whole body. One time when I was going out the door he pushed his way in and beat me up.*

—Ashley

Leaving the abuser also did not necessarily end the abuse of the children.

*There were [suspicions] that my [ex-husband] sexually abused my daughter, but she still has to see him. Lately my daughter says that she wants to kill herself.*

—Sophie

Several of the women continued to be harassed by their ex-partners through the family law system.

*He applied for custody because I wouldn't take him back, not because he was interested in our son. We fought for custody for about six months. I would go to court and he wouldn't show up.*

—Chloe

Seventeen percent (4) of the women left their partners more than once. They returned to their abusers as they were unable to financially support themselves and their children as mothers without status. They left again when the abuse became unbearable. At the time of the writing of this report, two of the women were currently back with their abusive partners. They are both skeptical that their respective partners will ever complete the in-country sponsorship program, but believe that they do not have any other choice.

17% of the women left their partners more than once, but returned as they were unable to financially support themselves and their children

## Dealing with child protection workers

The Ministry of Children and Family Development (MCFD) is responsible for advancing the safety of children and youth in British Columbia. The Ministry's publication *Best Practice Approaches: Child Protection and Violence Against Women* specifically states that "the presence of children in a situation where violence against their mother exists does not necessarily warrant an investigation. It may be an opportunity to provide support services using a culturally sensitive strength-based assessment or refer the mother and children to existing appropriate support and services."

The MCFD publication also has an appendix specifically for assisting immigrant and refugee women abused by their sponsors. It mentions that the abused woman may "have an inland sponsorship application in progress that is dependent upon establishing that her marriage is genuine" and that "in order to leave an abusive relationship, your client may need to apply to change her immigration status." This document identifies that if the woman does not have permanent resident status she will not be eligible for income assistance.

The suggestions in *Best Practice Approaches* are not always followed. Well-intentioned child protection workers often present mothers without status with the ultimatum of putting the children's need for emotional safety ahead of the mother's ability to provide financially for the children's basic needs. They do not take into account that mothers without status may have consciously chosen to remain in the abusive relationship until their permanent resident status is approved, and that choice might ultimately be in the children's best interests.

Despite the frustration of being forced to leave without having any financial supports to survive, or of being secure in their ability to remain in Canada with their children, the mothers without status who were interviewed did report some positive interactions with individual child protection workers, including one worker who, once the situation was fully explained to her, provided the woman with monthly bus passes, brought her a Christmas hamper, and partially assisted to pay for her medical exam and other fees for her immigration application.

# THE INTERSECTION OF THE IMMIGRATION SYSTEM AND THE FAMILY LAW SYSTEM

When a mother without status leaves her abusive partner, she typically must navigate both the Canadian immigration system and the provincial family law system. Although these two systems operate independently of each other, they both have oversight over some of the issues that mothers without status must address.

Both systems deal with the best interests of the children, but while this is the primary consideration under family law, it is only one of many considerations in immigration cases. The different priorities of the two systems typically result in the children being required to remain in Canada until custody and access issues are resolved (a family law decision), while the mother is left waiting for up to two years to learn if she is permitted to remain in Canada (an immigration decision). There is no infrastructure in place to ensure that mothers without status are able to meet basic needs for survival or to provide for the needs of their children in the interim.

## Navigating the family law system

With few exceptions, mothers without status have no child custody and access agreements in place when they leave their abusive partners. (In the group of women interviewed for this project, all were in this position except for one who had a previous custody order from another country; she had reconciled with her partner and then moved to Canada with him.) Without a custody order in place, mothers without status are placed in the difficult situation of not being allowed to take their children out of the country, but have no legal status while they stay.

Without a custody order, a woman without status who attempts to leave the country without a court order or a notarized letter from the children's father permitting them to go, risks being arrested for abduction. Further, even if she does succeed in leaving the country with them, she risks having her ex-partner apply in court for sole custody of them without any notice to her. She also risks having the children ordered back to Canada under international agreements.

Without a custody order in place, mothers without status are not allowed to take their children out of the country, but have no legal status while they stay

Six of the women interviewed for this project did not even attempt to go to family court, but instead relied on private arrangements with their ex-partners (which carried no legal weight). Some of those who did go to court were surprised to learn that even though their ex-partners had abused them and cancelled their sponsorships they were still not allowed to leave the country with their children or prevent their ex-partner from having unsupervised access to them.



Canadian family law works on the principle that children should have maximum contact with both parents. Canadian judges are not required to take spousal abuse into account when making a decision on custody and access. The abuse is seen as irrelevant if it is not directed at the children and abuse is not viewed as having an impact on the father's ability to parent. Even in cases where a child has been directly abused, lawyers and advocates often advise mothers without status not to disclose such abuse unless they can prove it through physical or third-party evidence because such allegations may be considered false and therefore harm the mother's case for custody.

Although each case is different, typically the parent who has looked after the children most of the time before the breakup of the relationship will have primary residence of the children, while the other parent is permitted access as often as the judge thinks will be good for the children. However, a mother's lack of status may be a disadvantage in obtaining custody of her children if the ex-partner suggests—and the judge believes—that she has capacity to abduct her children. An abusive man will not hesitate to use a woman's lack of status, lack of income, and inability to

A mother's lack of status may be a disadvantage in obtaining custody of her children if the ex-partner suggests—and the judge believes—that she has capacity to abduct her children

afford a stable home against her in court, even though his withdrawal of sponsorship or failure to even start the sponsorship is the cause of her situation.

This is exactly what happened to “Kate”, one of the women interviewed for this project. Her husband was financially and emotionally abusive to her and cancelled her sponsorship. She became a mother without status when her son was a few months old.

In court, it was acknowledged that Kate had been the primary caregiver to the child, but her lack of status became the deciding factor for the judge. Kate's husband was granted sole custody of the child. The reasons for the judgment centred on Kate's inability to provide stability for her child. The judge specifically mentioned Kate's lack of permanent, stable housing (she was living in a transition house), her unsettled immigration status, and her lack of assistance and support of extended family compared with her husband.

Mothers without status are also at a significant disadvantage even if they go through the legal process of seeking permission to move. These women are often viewed as flight risks, particularly if their country of origin is not a signatory to the Hague Convention on the Civil Aspects of International Child Abduction. Canadian judges must consider the best interests of the child in all cases of mobility requests, which require individualized assessment. There is no presumption in favour of the moving parent, even if she is the sole provider of care to the child and proves her need to move. The judge will always assess current custody and access arrangements to ensure maximum contact between the child and both parents, as well as minimum disruption to the child.

In fact, if a mother without status states that she needs to move because she is unable to care for her child in Canada, she risks losing custody of that child entirely. Even if she has been granted interim (short-term) custody, the courts are reluctant to grant a removal order to take the children out of the country. This is particularly true when the children are younger, making it more difficult for the non-custodial parent to form a relationship with the child from a distance.

The mothers interviewed indicated they were legally unable to remove their children from the jurisdiction in which custody and access deliberations had been heard. Some of the women spoke of the power this gave their abusive ex-partners long after the separation.

***At this point I don't have a choice to take the children back unless he legally signs a consent form allowing me to take the children back, but he won't do this either.***

—Victoria

## Navigating the immigration system

When a mother without status leaves an abusive relationship, it is very common for her partner to end the sponsorship process, leaving the woman in immigration limbo. Once the sponsorship is cancelled, the ex-partner no longer has any financial obligation related to the sponsorship.

This was the situation that all but one of the women interviewed for this project found themselves in. Further, many of the women were not even made aware of their lack of status for some time after leaving because Citizenship and Immigration Canada (CIC) has no official communication with women being sponsored.

*While we were still together [my ex-husband] wrote a letter to Immigration [cancelling the sponsorship] saying our marriage broke down. He said we couldn't get along. He didn't tell me that he was doing this.*

—Kate

The usual route for women in this situation is to apply for permanent residence on humanitarian and compassionate grounds. A few attempt to make refugee claims, but both options are difficult, with no guarantee of success. Applications on humanitarian and compassionate grounds can take up to two years.

*My lawyer told me that I only have a 5 percent chance of getting approval for permanent residency status but that this process will take about two to two-and-a half years. I was very sad when he told me this. I worry about my kids. I can only live day by day because I don't have papers.*

Ava

A further complication is that most women, including the women interviewed for this project, do not know how to start the process of applying for permanent resident status on their own – or even know that this option is available. Language barriers, dependence on abusers and their families, and lack of familiarity with the Canadian legal system make navigating

the immigration system extremely difficult. Most of the women interviewed did not know where to seek assistance and some reported that even their English-speaking partners found the immigration system to be inaccessible.

Most often, women learned where to go for help only once they were in transition houses

Most often, women learned where to go for help (e.g., apply for Legal Aid) only once they were in transition houses. As well, even when they did seek assistance, they were hindered by their need to provide identification documents. Some of them had no identification, sometimes because their partners either lost or stole it. One of the American women who came here as a child had only one worn and illegible piece of identification, which she couldn't afford to replace.

*I was brought here as a child. I wasn't supposed to be here, so I had no ID. It's hard as an adult to get ID when you don't already have something that proves who you are.*

—Hailey

*When [my husband] wanted to get the child tax credit he asked me for all the papers: the passport, the marriage certificate, my visa, everything. But then he lost all of these papers. I don't know if he really lost them because he once told me you can get money for the passports. Now I need to get that ID but I can't do anything because I don't have the money.*

—Ava



## Navigating the legal system

Mother without status need immediate legal advice and assistance, but most do not know where to begin to look for help. The experiences of the women interviewed for the project indicated that barriers need to be removed in the areas of obtaining Legal Aid, using the courts, and understanding options such as mediation.

### 1. Obtaining Legal Aid

For most mothers without status, applying for Legal Aid is the best way to get help with both immigration and family law issues. Legal Aid is provincially funded access to legal counsel for those who cannot afford to pay for legal assistance on their own, including mothers without status.

However, because Legal Aid is limited in its resources, applicants are screened based on case merit and their financial need. This makes applying for Legal Aid challenging for mothers without status, who may have limited English skills to articulate their cases.

Some mothers without status interviewed for this project were denied Legal Aid because they were unable to describe their situation adequately that they had experienced abuse and/or that they were in danger of being forced to leave the country without their children. In one case, Legal Aid was refused because the intake worker misinterpreted policies and thought that a woman without status was not eligible. Unfortunately, it was several weeks before an advocate helped this woman correct the situation.

***They told me that I have no status, so I can't get help. I thought [my ex-husband] was right. Nobody will help me because I am not a Canadian. He will get the children.***

—Ava

Currently, Legal Aid funds 14 hours for family law cases for emergency issues related to safety, which is generally less time than is needed for a lawyer to represent a woman in a complex situation. Document preparation alone can use up the entire allotment of time. As well, in cases of violence against women, many abusive ex-partners will use the family law court system to continue his abuse and control of her by repeatedly returning to the courts. This means women who initiate cases are often forced to represent themselves once the Legal Aid funds run out.

For immigration cases, if the client's case is approved both financially and on its merits, Legal Aid currently funds nine hours of lawyer's time for the preparation of applications for permanent resident status based on humanitarian and compassionate grounds. Immigration lawyers who were interviewed for this project expressed frustration at their inability to fully represent women under the existing Legal Aid tariffs.

***When I went to the second-stage transition house, they helped me to get Legal Aid. There were three [judicial case conferences]. At the first one, [my ex-husband] said he didn't have a lawyer anymore. At the second one, he said his lawyer had to go to a funeral. At the third one, we could not agree, so it has to go to [a hearing]. Nothing is solved, but my lawyer said I have run out of Legal Aid hours.***

—Ava

### 2. Language barriers in the court system

When mothers without status appear in court in an effort to resolve their legal issues, they often are frustrated because of their inability to follow the English-language proceedings. Even women who have improved their English since arriving in Canada can find it difficult to follow the proceedings and understand the legal language used. Translators are available to mothers without status, but they are not always available on the court dates assigned and there appears to be a range of skill level among the translators provided.

The women interviewed commented that they found court proceedings difficult to understand because the judges and lawyers spoke too quickly. One woman said that she was unable to get a translator for her language, and others reported that their translators provided inaccurate translations.

***In court I asked for a translator because I wanted to say everything in my own language. But he wasn't very good; I would think "no, that's not what I was trying to say."***

—Chloe

### 3. Mediation

Mediation is often considered to be an affordable, amicable approach to resolving custody and access disputes. The role of a mediator, who is supposed to be a neutral third party, is meant to help the former partners arrive at a mutually agreeable solution regarding custody, access, and guardianship; child and spousal support; division of assets; and divorce.

However, mediation is not always a sensible option for mothers without status, who may be very fearful of their ex-partners' anger and/or of their attempts to use intimidation tactics to elicit compliance in mediation sessions. For women without status, promises of sponsorship or money for basic needs may influence their decisions. To mediate a settlement under these conditions does not enable fair negotiations.

***The court ordered that I go to mediation with [my ex-husband]. I was very scared to be in a room with him.***

—Sophie

## Canada Border Services Agency

Some mothers without status have no immigration status whatsoever. Either their existing documents have expired or they never had them to begin with. Women in this situation are vulnerable to being reported to the Canada Border Services Agency (CBSA) and being ordered to leave the country.

Reports to the CBSA occur in a variety of ways, as was related by the women interviewed for this project. One woman was reported by the hospital when she went for emergency treatment. Another was reported by her abusive ex-partner in an attempt to have her deported so that he could have custody of the children. Community advocates spoke of clients who were reported after being caught for minor infractions such as not wearing a seatbelt, or using public transit without a valid ticket.

Organizations that assist immigrants in Canada are advocating for a “don’t ask, don’t tell” policy to be followed, where service providers, including the police and health care professionals, would neither ask a person’s status when he or she is seeking assistance nor report him or her if the lack of status was revealed. In the meantime, mothers without status

Mothers without status who were contacted by the CBSA report being terrified

sometimes live in pain, and in danger, because they cannot risk seeking help.

Mothers without status who were contacted by the CBSA report being terrified. Anecdotal evidence suggests that some women are reluctant to return calls to CBSA, and information about the process seems difficult for them to find.

***[Canada Border Services] called me because [ex-husband] made a report about me. They took my passport. My lawyer came with me to this appointment and told me not to worry, saying that I could apply for [a Pre-Removal Risk Assessment], but I did worry because this situation was about me, not him. I was especially worried for my kids.***

—Ava

In 2010, the CBSA was in the news for going to a women’s shelter in Toronto in an attempt to locate a reported woman. In an email to The Guardian, the agency’s communications manager Anna Pape said that, while uncommon, CBSA does hold the authority to access shelters “in order to enforce outstanding immigration warrants.” This situation could prevent mothers without status from accessing transition houses and shelters, for fear of being found by CBSA and deported without their children.

# THE PRACTICAL CHALLENGES OF LIVING WITHOUT STATUS: MEETING BASIC NEEDS

Besides the legal challenges they face, mothers without status must meet the day-to-day demands of securing an income source, finding appropriate housing, accessing health care when needed and getting their children into school. None of these tasks is simple for women with few support systems.

## Income

Finding a regular source of income is the main challenge for mothers without status. If this problem could be solved by changes in either the immigration or family law policies, many of the other problems these women face in meeting their basic needs would cease to exist.

*If I was allowed to get a job, I could get on with my life.*

—Hailey

A minority of the women interviewed reported having absolutely no income at all. Most of them relied on various sources, discussed below.

### 1. Legal employment

Some of the mothers without status in the study were able to work legally, but this option was limited to those women who kept renewing their temporary work permits and working holiday permits and women who applied for work permits after being approved in principle on their applications for permanent resident status. As well, one woman who was reported to Canada Border Services Agency was able to obtain a temporary work permit after applying for the Pre-Removal Risk Assessment.

### 2. Illegal employment

In the struggle to meet their basic needs, some mothers without status worked illegally despite the risk of jeopardizing their permanent resident applications if they were caught.

*I found a cleaning job, and I was paid under the table.*

—Hannah

These women were often exploited by employers, who knew they had no status, including being paid salaries below the legal minimum wage and being required to work long hours without being paid overtime.

### 3. Child support and/or spousal support

Mothers without status have the same rights regarding child support and spousal support as do permanent residents and citizens. However, few of the women interviewed had orders for child support or spousal support and some did not want to apply for fear that their partners would retaliate. Some women had applied for support but decisions hadn't been made yet. Other women commented that there was no point in applying because their ex-partners had no official sources of income.

***My ex-husband does not pay any child support. I don't go to court because so far he hasn't cancelled the sponsorship. I get \$300 a month child support from my ex-husband in the U.S. and that is all the money that my two daughters and I have to live on.***

—Ashley

#### **4. Income assistance**

The women who had applied for refugee status were eligible for income assistance, while the women who had no status with no immigration application pending or who applied for permanent resident status on humanitarian and compassionate grounds were generally not eligible for income assistance. Many of the women were repeatedly refused income assistance.

***I was turned down for welfare. My [MCFD] social worker told me to apply again. They turned me down two more times.***

—Megan

One of the American women was, however, given income assistance the second time she applied.

***I didn't want to apply for income assistance because it can be a reason for [Citizenship and Immigration Canada] to turn you down for [permanent resident status on humanitarian and compassionate grounds]. But I had no food for the kids. Anyway, I got it. I don't know why. Two other [mothers without status] live here at [the second-stage transition house] and they both got turned down.***

—Hailey

While mothers without status are often not eligible for income assistance, two of the women found out that their ex-partners had continued to collect income assistance for themselves and the children for months after the women left, while another woman knew that her ex-partner was collecting income assistance for their child, who was not in his care. These women were worried about how this would affect their applications for permanent resident status

on humanitarian and compassionate grounds, as Citizenship and Immigration Canada might think that they were collecting income assistance, which is a reason for the denial of the application, or they might think that they were still in a relationship with their ex-partner, which would undermine their claim. However, they were afraid to call the ministry and report the

Women without status are  
generally not eligible for  
income assistance

fraud for fear of repercussions from their ex-partners. Two of the women decided to proceed with reporting, and one of them subsequently heard from a friend that her husband was threatening to kill her for doing so.

MCFD is generally unable to help women secure an income. Two of the mothers without status were told to apply and reapply to the Ministry of Housing and Social Development (MHSD) for income assistance, even though they were told by their lawyers that being on income assistance could negatively impact their applications for permanent resident status on humanitarian and compassionate grounds, and even though each time they applied they were denied.

#### **5. Canada Child Tax Benefit and Universal Child Care Benefit**

If a woman's ex-partner is a permanent resident or a Canadian citizen and has filed an income tax return for the previous year, the family may have been eligible for the Canada Child Tax Benefit. If the children were under age six, they were also eligible for the Universal Child Care Benefit. Even if the mother had no status in Canada, if she was listed on the tax return, the Canada Child Tax Benefit and the Universal Child Care Benefit would normally be issued in her name.

Once the relationship ended, the Canada Child Tax Benefit and the Universal Child Care Benefit would continue to be issued to the mother without

status until one of the parents contacted the Canada Revenue Agency to report the change in circumstances or until one or both parents filed the next year's tax returns and recorded the changes (in which case the last cheque will usually be received in September).

If the mother has been in the country with legal temporary status, such as a temporary resident visa or work permit, she is eligible for the Child Tax Benefit and Universal Child Care Benefit in the nineteenth month that she has resided continuously in Canada.

However, mothers who have no legal status in Canada cease to be entitled to these benefits 90 days after their relationships end with the parent who has legal status in Canada, even if the children are Canadian citizens. If the Canada Revenue Agency becomes aware that they were receiving the benefits after the end of the relationship, they will be asked to pay back the money. Even in cases where the mother without status subsequently obtains permanent resident status and a legal entitlement to the benefits, she will still have to pay back any money that she received before becoming eligible.

***I was living on the \$500 from the Child Tax Benefit. Then the [transition house worker] told me that it would probably be cut off in September because I didn't have any legal status. I didn't know what I was going to do. It's not fair because this money is for the children and my kids are Canadians.***

—Ava

Four of the women reported that they knew their ex-partners were still collecting the Child Tax Benefit. They were resigned to this, as they would not be able to get it themselves, and their partners used at least some of the money on the children.

***My [ex-husband] is still getting the Child Tax Benefit, even though the kids don't live with him. I don't want to say anything [about this], because he hasn't cancelled my sponsorship yet. He doesn't give [the money] to me, but sometimes he uses it to buy them things.***

—Ashley

## **6. Family and friends**

Several women survived on money sent to them by their family, friends, churches and community groups. However, some of them said that it was a hardship for their families to help support them. Others reported that it was stressful to have to continually ask for help to meet basic needs.

***I have been living in Canada with the financial support of my very good friend in [country of origin].***

—Grace

***My parents were able to send me \$300 a month from [country of origin]. They are not rich people. That was a lot of money for them.***

—Kate

***When I have problems, I don't like to ask [for financial help]. When it is very necessary I do it, but it is very hard for me. Sometimes, my support worker called and asked my church for me, because I couldn't do it.***

—Ava

## **7. Survival sex**

"Survival sex" includes working in the sex trade or dating/living with a new partner who a woman would not have otherwise chosen to be with. The women who were interviewed did not directly discuss the subject of survival sex when asked about their sources of income, but many of the advocates stated that this was an issue for their clients. The women interviewed did make reference to having to be intimate with their abusive ex-partners or with other men who showed interest in them in order to get money to survive.

## Housing

It is very challenging for mothers without status to find housing for themselves and their children. They don't have the income to pay for market rental housing, but they don't qualify for many forms of subsidized housing. For instance, BC Housing, the provincial Crown agency that assists those in need with affordable housing options, cannot provide subsidized housing to mothers without status until they receive their permanent resident status. All of the mothers interviewed were homeless at one time or another.

*A few months ago I thought I would spend my life with him. Now I'm homeless.*

—Brooke

The women interviewed had accessed the following housing resources:

### 1. Shelters

Shelters offer temporary free accommodation and food in a communal living setting. However, many shelters receive no funding for clients who are not receiving income assistance, so some shelters impose limits of a few days for people without status. It can be difficult to transfer to another shelter, as shelters are frequently full, and some of them have policies stating that women cannot come to their shelter if they are leaving another one.

Some of the mothers who were interviewed mentioned that they did not want to stay in shelters as they did not feel that they were child-friendly or because they were expected to leave the shelter every day with their children to search for housing for which they did not qualify or could not afford.

### 2. First-stage transition houses

First-stage transition houses are intended specifically for women fleeing abuse in their intimate relationships, and women seeking shelter are not required to be on income assistance. These transition houses offer free shelter and food in a communal living setting for up to 30 days, but occasionally will give mothers without status extensions to stay longer.

*[The transition house worker] was great. I know that they let me stay longer than I was supposed to.*

—Hailey

Mothers without status who were able to stay at transition houses found the limited duration of the permitted stay a source of anxiety, as they struggled with the uncertainty of where they and their children would go next.

Many transition houses will not accept mothers who have teenage sons, fearful that the presence of older boys will cause anxiety among other women and children who have been abused by men.

*Transition houses are not an option for me because they don't take mothers with older boys. Luckily I have a friend who helps me out, but for some other women who have no one, they're stuck in the situation.*

—Elizabeth

### 3. Second-stage transition houses

Second-stage transition houses provide long-term housing and support to women who have experienced abuse from their intimate partners. While they typically have a housing charge, some offer partial or complete subsidies to women with low or no income. Typically, families live in their own self-contained apartments. These are sometimes furnished or partially furnished. However, most second-stage programs don't provide food and they are reluctant to take women who don't have any means of buying their own food.

The few women who stayed in second-stage housing identified it as extremely helpful as they were allowed to stay until their status was finalized, which provided stability to them and their children. However, those who had to pay a housing charge found that to be a significant hardship. In addition, mothers identified the challenge of getting food as an ongoing issue.

*Before I came here, I kept living in [the apartment I used to share with my ex]. I only had \$300 to live on, so I couldn't pay the rent. After five or six months, the landlord called the police to have me evicted. If I didn't have a place here [at second stage] I'd have no home. What would I do? Still, it's hard for food. It's a headache for food and transportation.*

—Ashley



#### 4. Housing co-operatives

Many housing co-operatives do not ask about status on their applications or in their interviews. However, housing co-operatives often have long waitlists and some do not accept applications from people needing subsidies, so some source of income is required. (The Opening Doors Program run by the Co-operative Housing Federation of BC offers interest-free loans to women who have experienced abuse to pay for the share purchase required when moving into a co-op).

Of the women interviewed for this project, only one obtained housing in a co-operative, but advocates comment that they were aware of other women getting into co-ops prior to being granted permanent resident status.

#### 5. Staying with friends

Some of the mothers interviewed stayed with friends, but these were usually short-term arrangements.

*The first time I left I was in a transition house for a month, then in a church. Then there was nowhere for me to go after that, so I went back to my husband. He said he would stop drinking and sponsor me. When things got bad again, I called a friend I met at the transition house. She has her own apartment now, and she is working. She said I could stay with her. She never asks for money. If I didn't have a friend like her, where would I go? How would I get food?*

—Ella

#### 6. Market rentals

While few of the women interviewed could afford to pay market rent, those who tried to find accommodation encountered difficulties with landlords who didn't want to rent to single mothers without permanent status.

*I tried to find an apartment, but people wouldn't rent to me and the baby because I didn't have any papers.*

—Hannah

## Food

Most of the mothers found it difficult to get enough food for themselves and their children. Food banks and hot meal programs do not provide enough food for a family to live on and finding transportation to these services can be a barrier to using them. Some women were unable to meet the food bank requirements for identification to access their services.

*They told me that I could only use the food bank for two months because I didn't have ID for myself or for my daughter. I only had ID for my son, so now I needed to get that ID, but I didn't have the money to replace it.*

—Ava

## Health care

Mothers without status and their non-Canadian children cannot apply for the Medical Services Plan (MSP) coverage, nor are they able to access any other assistance programs such as the Healthy Kids Programs. (Refugee claimants are eligible for the Federal Health Program.)

Lack of access to health care is a concern for mothers without status who fear that the health of their children and/or themselves may be compromised.

*Because I don't have status, I don't have medical or dental coverage. My teeth [are] sore and I can't get help.*

—Megan

Mothers without status cannot apply for MSP coverage, nor are they able to access any other assistance programs

Mothers without status who are unable to provide basic health and dental care for their children wrestle with guilt and concern, all the while hoping they will receive news regarding their applications for permanent resident status sooner rather than later.

Mothers with Canadian children have a different challenge. MSP can open a file in one of the children's names, and they can obtain medical coverage and access to dental care. However, the children cannot apply for premium assistance. Therefore, the mother is responsible for paying the MSP bills without premium assistance until one year after she obtains permanent resident status.

Some mothers without status never enroll their children for MSP coverage in this way either because they are unaware that they can do it, or because they can't afford the premiums. Those who do apply cannot opt out once they have done so.

***My children are Canadian, and so I tried to get them their own [MSP coverage]. An [MSP] bill came in the mail for my 12-year-old daughter. It was \$120 for one month. I have no money to pay it.***

—Ava

## **Access to education**

Children who are residents of BC attend school for free. Non-residents must pay the BC Ministry of Education international student fees of approximately \$12,000 per year, per child. Individual school boards have different criteria for interpreting who qualifies as a resident of BC, but typically they consider a child to be a resident if the parent or guardian with whom they reside is a resident. But because criteria of school boards vary, some mothers without status experience no problems sending their children to public school for free, while others are not able to do so, even though the child is Canadian-born and has a Canadian father.


***My sister and I are both single moms and we have the same problem – our dad brought us here when we were kids and never got us status and our children's fathers wouldn't sponsor us. But I can send my six year old to school, and my sister cannot.***

—Hailey

***The school informed me that once my work permit runs out, they will have to charge my daughter international student fees. These young children are the future of Canada. If you're going to force the children to live without medical services and education because of the mother's status, what is going to happen to them?***

—Natalie





## **PART II: RECOMMENDATIONS**

The following recommendations are presented as discussion points for various levels of governments and organizations to consider. It is hoped that implementing these recommendations will effect meaningful and positive policy change and improve the situations of mothers without status.

## **ISSUE #1:**

Mothers without status are not acknowledged to be at increased risk of abuse.

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### **CONTEXT:**

*Currently, many Canadians do not understand – or acknowledge – that mothers without status are at high risk for abuse. Historically, governments have helped bring attention to specific areas of concern by creating a policy that focuses public attention on the issue such as the 1995 Canadian Federal Action Plan for Gender Equality, which “mainstreams” gender equality.*

*Such a focus is needed now in Canada to alleviate the suffering of mothers without status. Naming factors that create disproportionate vulnerability to abuse draws attention to them so that effects can be mitigated. Status in Canada should be acknowledged through a variety of means so that a woman’s lack of permanent status cannot be used to prevent her from having equal status within an intimate relationship and within Canadian society.*

### **SUGGESTED RESPONSE:**

It is recommended that the 1995 Canadian Federal Action Plan for Gender Equality be amended to include mothers without status. This action would have an effect on mainstreaming the issue and highlighting the concern.

## **ISSUE #2:**

Mothers without status live with significant hardship for up to two and a half years while waiting to receive permanent status.

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### **CONTEXT:**

*When mothers without status experience abuse by their intimate partners, they have to decide between personal safety and meeting their basic needs. Women who leave their partners must wait for up to two and a half years to receive status through an application through humanitarian and compassionate grounds.*

### **SUGGESTED RESPONSE:**

#### **Part 1:**

It is recommended that Citizenship and Immigration Canada (CIC) implement a “women-at-risk” program. This program would allow women who have been abused to be issued work permits while they await the results of their applications based on humanitarian and compassionate grounds, providing them with a temporary form of status.

This proposed program is similar to the U.S. federal law, the Violence Against Women Act of 1994 (VAWA-I) and subsequently revised as the Violence Against Women Act of 2000 (VAWA-II).

The women-at-risk program would prevent CIC from denying permanent resident status on the grounds that a woman collected social assistance while her application was being considered. This would allow women without status to apply for income assistance to meet their basic needs without having to engage in illegal work or “survival sex”. It would also provide women with the support they need without having to return to their abusive spouses.

To qualify for the proposed women-at-risk program, abused mothers would have to provide evidence that either they or their children have been abused by their husbands or common-law partners. This evidence could include, but not be limited to, police reports,

Ministry of Children and Family Development reports, doctors' reports, and affidavits from friends, family and/or support workers.

Abused mothers without status enrolled in this program would automatically be granted temporary social insurance numbers in order to assist them in seeking income and to provide eligibility for benefits. They would also be provided free basic medical care through the Federal Health Program (as are refugees).

If a "women-at-risk" program is not implemented, or for immediate planning purposes, the provincial government should provide mothers without status and their families with income assistance, as is done with refugee families and others who cannot be removed from Canada.

## **Part 2:**

For immediate planning purposes, and/or if the women-at-risk program described above is not implemented, it is recommended that a change in the Employment and Income Assistance Regulation eligibility be made to include "applicants with a humanitarian and compassionate grounds application in process" to provide families with an ability to meet their basic needs. (Note: the Ontario Works Program, the equivalent program in Ontario to the Ministry for Housing and Social Development, provides income assistance to those waiting for approval of their permanent resident status from their humanitarian and compassionate grounds application.)

This change would have to be reflected in the Immigration and Refugee Protection Act so that reliance on income assistance for mothers without status would not be used as a reason to deny them their permanent resident status through humanitarian and compassionate grounds, particularly if no provision is made that allows mothers without status to join in the paid workforce.

## **ISSUE #3**

Mothers without status situations are judged by two different systems, family law and immigration law, in two different ways.

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### **CONTEXT:**

*Currently, while immigration officials must consider the "best interests of the children" in all immigration matters, this factor is not a primary consideration in their deliberations. In contrast, in family law decisions about custody, access and guardianship, the child's best interests are paramount. Factors that affect the mother – such as her immigration status – may or may not affect the family law decision.*

### **SUGGESTED RESPONSE:**

It is recommended the federal government amend the Immigration and Refugee Protection Act (IRPA) so that any decision affecting a child must take into account the best interests of the child as a primary consideration, particularly within the context of applications for permanent residence based on humanitarian and compassionate grounds.

Currently the best interests of the child is only a single consideration among many; however, the unique needs of children and Canada's commitment to children should take precedence. Amending the IRPA in this way is consistent with Canada's obligations under the UN Convention on the Rights of the Child.

## ISSUE #4

The connections between abuse, immigration and family law are not clear to the people who make decisions on matters of immigration and family law.

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### CONTEXT:

*Many officials in the immigration system, family law system and justice system do not fully understand or recognize the dynamics of abuse in intimate relationships and how this abuse manifests itself in cases of mothers without status (e.g., failing to see sponsorship application revocations being used to control or abuse a partner; perceiving a mother's desire to return to a country of origin as determinant of a flight risk).*

### SUGGESTED RESPONSE:

It is recommended that all Citizenship and Immigration (CIC) officials receive training on the dynamics of abuse in intimate relationships and, in particular, on how this abuse manifests in sponsorship situations. This training should include components on cultural and gender sensitivity and how the class of family sponsorship makes women more vulnerable to abuse in intimate relationships. This would ensure that more CIC officials would be mindful when they are reading an incomplete application, which could be an indication of an abusive situation rather than simple oversight.

Family justice system personnel should also be provided with training on the dynamics of abuse in intimate relationships and how that abuse can affect all women, but specifically mothers without status. In particular, judges should be informed of why many mothers without status would prefer to return to their country of origin, which does not equate with being a flight risk.

Criminal justice officials (Crown counsel and police) and others who work in justice-related fields should receive mandatory training on immigration procedures as well as family law processes, including sponsorship, to ensure that victims of abuse have their situations properly assessed and so there can be an appropriate response.

## ISSUE: #5

Abusive partners use delays in the process and intentionally misfile applications to ensure mothers without status remain dependent.

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### CONTEXT:

*Currently, Citizenship and Immigration Canada (CIC) treats incomplete applications as procedural mistakes made by the applicants. In many cases, the partners of women without status deliberately file incomplete applications to keep the women dependent on them while waiting for the approval.*

### SUGGESTED RESPONSE:

It is recommended that CIC flag for interview all sponsorship applications that are incomplete, fail to meet deadlines, or take an inordinate amount of time to complete. As well, risk criteria should be developed to flag applications of particular concern (e.g., failure to complete requirements after two notifications). All in-country sponsorships should be flagged if an application is not being properly completed as the sponsored spouse is particularly vulnerable and dependent in this situation.

For those applications that fit the risk criteria or that are in-country sponsorship applications, CIC should meet with the partners at risk of abuse without the applicants in the room. During this interview the spouse who is being sponsored would be informed of her rights to be free from abuse and be referred to organizations that provide services in other languages. She would be informed of the concern regarding the deadlines and incomplete applications (a risk assessment could even be conducted). As well, women could be informed about the issues regarding mothers without status and the risks associated with having children prior to completion of the sponsorship process.

## ISSUE: #6

Some mothers without status have been assaulted by their intimate partners and the police agencies have not pursued charges.

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### CONTEXT:

*Police agencies, both municipal and RCMP, have not always been following the provincial Violence Against Women In Relationships (VAWIR) policy, which is intended to guide all key players in the criminal justice system to ensure that those who are violent toward intimate partners are arrested and charged. This policy currently seems to be sometimes treated as discretionary by some police agencies. Furthermore, police are arresting victims of violence in some situations.*

### SUGGESTED RESPONSE:

It is recommended that police officers be trained and retrained on an ongoing basis to encourage them to follow the VAWIR policy and informed of any updates.

Alternatively, it is recommended that all officers be encouraged to attend learning events provided by community agencies, which would be a small budget commitment. In order to provide updates of training and to monitor trends it may be useful to have an advisory committee for police agencies on violence against women. Ideally, this advisory committee would include front-line anti-violence workers and those who work in advocacy.

## ISSUE: #7

Some abusers are serial abusers; they have sponsored a number of women into the country and assaulted them all.

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### CONTEXT:

*Some mothers without status who were interviewed reported that their partners had a history of abusing women they had previously sponsored. The interviewed women reported that if they had known that abuse was a possibility, they would have not come to Canada.*

### SUGGESTED RESPONSE:

Currently, sponsors are required to disclose current failure to pay child or spousal support; disclose if they have not upheld their undertaking with previous sponsored relationships; if they have been convicted of an offence relating to family or sexual violence in the previous five years; or if they have been charged with an offence that could be punished with 10 years of incarceration or more.

It is recommended that the federal government amend the Immigration and Refugee Protection Act (IRPA) to prevent serial abusers from continuing to abuse women. Potential sponsors should be assessed for history of abuse and those who repeatedly sponsor women should not be able to sponsor new wives.

The standard should be amended to include anyone who has ever been convicted of any family related or sexual violence and anyone with current charges being pursued. For those who have been in arrears, follow up should be made to see if the arrears were caught up only because of the sponsorship application.

Follow-up interviews should be made to assess applicants for sponsorship who have had peace bonds. Many spousal assault charges are reduced to a peace bond.

## ISSUE #8

Abusive partners use the family law system and access to their children to continue abuse and harassment.

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### CONTEXT:

*Currently, the Family Relations Act and Divorce Act do not consider violence against an intimate partner to be an indicator of the ability to properly parent children, despite extensive research that indicates abusive spouses are more likely to seek access to children and more likely to abuse those children. Other studies indicate that witnessing abuse has a detrimental effect on children.*

### SUGGESTED RESPONSE:

It is recommended that both the Family Relations Act and the Divorce Act be amended to include violence against women as a consideration in assessing the best interests of the child while making custody, access and guardianship determinations. Some judges are aware of the impact that the violence against the mother likely had on the child, but there is a presumption that the violence will end once the spouses are no longer sharing a home. We know, however, that on average seventy-five percent of women return to their abusers and that it takes a woman an average of seven times to finally leave her abuser permanently.

For many mothers leaving abuse, returning to the abusive partner is the only way they believe they can “protect” their children. By encouraging judges to consider this as a key factor in decisions, more women will be encouraged to leave abusive relationships and a significant number of children will be protected from witnessing abuse.

## ISSUE: #9

Mothers without status often arrive in Canada not understanding that abuse is unacceptable in Canadian law and culture, which prevents them from seeking appropriate help if abuse occurs.

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### CONTEXT:

*Mothers without status may come from countries where abuse of women is accepted or where there are no services available for abused women, such as transition houses. Providing them with information when they arrive in Canada that outlines their rights and where they can go for help, should they need it, may assist women at risk early in the process.*

### SUGGESTED RESPONSE:

It is recommended that Canada Border Services Agency prepare an information pamphlet to be made available in airports and embassies, and be included in all visitor, student and work permits. This pamphlet should include information for women on the right to live free from violence in Canada, as well as resources for victims of violence. This information should be translated into several languages.

## ISSUE: #10

Ministry of Children and Family Development (MCFD) child protection workers sometimes tell mothers without status that they must leave their abusive partners or their children will be removed.

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### CONTEXT:

*Child protection workers are given the task of ensuring children's safety. When they investigate concerns that the children of a mother without status are being abused, or witnessing their mother being abused, they sometimes tell the woman that she must leave the abuser or the children will be removed to foster care. However, women may be staying in the relationship because they do not have any way to meet their children's basic needs if they leave, and because their ability to remain in Canada to parent the children will be jeopardized if their partners cancel their sponsorships. In the absence of the ability to assist the women to resolve these concerns, it is not always best to force them to leave or to remove the children. Removing children from their primary caregiver is also a very traumatic experience for the children. This should be avoided at all costs.*

### SUGGESTED RESPONSE:

It is recommended that all child protection workers be educated about the family law and immigration systems, specifically how those systems affect mothers without status. Implementing this recommendation would give child protection workers more tools to be able to support the women and to keep their children safe.

MCFD should also update its publication Best Practice Approaches: Child Protection and Violence Against Women to include more information on mothers without status. MCFD should also ensure that all child protection workers read and be trained on the updated publication.

## ISSUE: #11

Information for navigating the family law and immigration systems fall short for mothers without status.

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### CONTEXT:

*Most mothers without status speak neither English nor French and therefore are unable to access the information they need about family law issues, how family law may affect them and their children and how it relates to immigration issues.*

### SUGGESTED RESPONSE:

It is recommended that the provincial government translates or provides funding for translation and distribution of information about key elements of family law and its impact on immigration into a variety of languages.

Translated information should be made widely available to all women including mothers without status and women who are awaiting the outcome of family class sponsorship applications.



## ISSUE: #12

Women who do not speak English often must rely on their abusive partners to provide translation. During times of crisis, these women have no translation resources.

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### CONTEXT:

*Abusers generally seek to isolate mothers without status. Consequently, these women have difficulty finding resources available in their own languages or to translate for them. For some women, having a support worker or friend who can provide informal translation is enough; however, in an emergency such as needing to access a transition house, call the police, find a lawyer or secure medical treatment, mothers without status often have no one to assist them.*

### SUGGESTED RESPONSE:

It is recommended that front-line and emergency services staff be more vigilant about providing translation to clients who have English as a second language. Access to translation services should be publicized by the governments to ensure that people are aware of translation resources available.

## ISSUE #13

Mothers without status currently have no sources of income, yet are required to pay high fees to complete the process of gaining permanent resident status.

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### CONTEXT:

*Mothers without status are ineligible to work in Canada and cannot collect income assistance. Consequently, they cannot pay application or associated fees for gaining permanent resident status.*

### SUGGESTED RESPONSE:

It is recommended that the Immigration and Refugee Protection Act be amended to give Citizenship and Immigration Canada (CIC) representatives the discretion, on a case-by-case basis, to waive or defer fees for permanent resident applications in cases of violence against mothers without status and their children. For associated fees (e.g. medical exams and criminal record checks), grants or loans could be provided as is done with CIC settlement loans.



## ISSUE #14

Eligibility for Legal Aid is assessed almost exclusively on whether there is a safety issue for those fleeing abuse or a denial of access to seeing their child; complexity of case and language barriers are often not considered.

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### CONTEXT:

*Mothers without status do not have access to reliable sources of income and many of them may not identify as being abused, particularly if they are hoping to maintain sponsorship after they have left their partners. However, being left to self-represent in court hearings is simply not acceptable for these women as they often have language barriers and lack a cultural understanding of the legal system and are always at risk of losing their children in the long term because of the precarious nature of their lives.*

### SUGGESTED RESPONSE:

It is recommended that the eligibility criteria for Legal Aid approval be amended to include the potential for conflict and the ability of the women to represent themselves given the barriers that exist for them. These amendments should have equal weight to currently considered issues of safety.

We also recommend that the Legal Aid Duty Counsel Project be amended to provide more coverage for immediate needs for representation in court. Currently representation can be provided, but relies heavily on caseload in the courthouse and is significantly limited by the ability for duty counsel to be able to meet with the client to provide representation. Duty counsel needs to be extended to assist more urgent applications to provide representation for those who are slipping through the cracks and to mitigate the harm to mothers without status and their children.

## ISSUE #15

Legal Aid has been unstable in services it provides over the past several years, which has made safety planning difficult and front-line workers have struggled to provide factual Legal Aid information.

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### CONTEXT:

*There have been cuts and changes to eligibility requirements to Legal Aid over the past several years. Because the Legal Services Society is legally required to operate within a balanced budget (no deficit or surplus), Legal Aid coverage fluctuates significantly from year to year. Women who are denied coverage do not realize that they can reapply in the future and coverage for similar situations at a later date may be vastly different.*

### SUGGESTED RESPONSE:

It is recommended that Legal Aid be provided to mothers leaving abuse, whether or not there is a direct safety issue present at the time (because some abusers use family court to abuse women).

Furthermore, funding for Legal Aid should be based on need and the Legal Services Society should have the flexibility to do long-term planning, including running deficits and surpluses, to meet the needs of the people who rely on Legal Aid.

## ISSUE #16

When a mother without status receives a letter from the Canadian Border Services Agency (CBSA), it creates fear and crisis because she is afraid she will be deported without her child.

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### CONTEXT:

There is little information available to mothers without status on the role of CBSA and it can be extremely intimidating to get a letter from them. The letter simply tells them to come to an appointment but gives no details about the process or their rights. This creates a serious level of concern for the women, who often have a very short time to consider their options. Women need more information – and more time – before they respond. With more information in hand, it is more likely that mothers without status will stay engaged in the process. Without the knowledge that they can consult a lawyer, some mothers without status choose to live “on the run” rather than face the issue.

### SUGGESTED RESPONSE:

It is recommended that CBSA be required to be more transparent about the reasons for contact and the process that will be followed when contacting mothers without status. Increased transparency would alleviate the concern they have and reduce the overall strain on the CBSA in enforcement processes.

Furthermore, CBSA should provide written information when contacting someone who is possibly a mother without status, explaining the process and informing her that she may have the right to Legal Aid. A woman should also be allowed at least three weeks from the time of first contact by CBSA to provide the time necessary to access Legal Aid and consult with a lawyer.

## ISSUE #17

Mothers without status often face delays in getting child and spousal support, therefore hindering their ability to care for their children and, in some cases, jeopardizing their custody of the children.

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### CONTEXT:

Mothers without status interviewed for this project were unaware of their partner’s abusive tendencies until they came to Canada. They then found themselves completely financially dependent on their partners and vulnerable to abuse. Many of these partners reneged on sponsorship promises once the woman was in Canada. These men were able to avoid the obligations of sponsorship because the women were afraid to access the courts to address the problem of incomplete paperwork, which was holding up the decision of child support. Furthermore, courts will often award custody to the abusive parent because the mother has no income, even if the child is living with the mother full-time.

### SUGGESTED RESPONSE:

It is recommended that in cases where an abusive father cancels sponsorship for the mother and a dependent child, he be required by law to immediately provide spousal and child support. All too often it can take up to a year for a spousal and/or child support determination to be made because a paying parent does not complete the required financial statements.

For a woman who has no ability to work or collect income assistance, it should be of paramount consideration for the best interests of the children to have immediate determinations for spousal and child support so that the children can be provided with a basic standard of living.

To provide for emergency situations, where there is no income for a spouse without status, it would be prudent for the courts to impute an income in the interim until financial statements can be completed, so that no child suffers because of financial instability.

Most importantly, such a change would ensure that a mother’s lack of income, and/or interim homelessness, would not be grounds for reducing custody and/or access to her children.

## ISSUE #18

If a mother without status lives with her abuser, she is eligible for the Canada Child Tax Benefit and related programs. When she leaves she is no longer eligible to receive those benefits.

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### CONTEXT:

These programs are intended to assist parents in meeting their children's basic needs. Currently, eligibility for the Canada Child Tax Benefit is limited to people who meet the following criteria: they live with the children, provide primary care for the children and they reside in Canada. As well, either they or their spouse must be a citizen, refugee, permanent resident, or have a temporary resident permit. These criteria mean that a mother without status who leaves her partner is not entitled to the Canada Child Tax Benefit and related programs to care for her Canadian children. Leaving the abuse means leaving this small benefit behind.

### SUGGESTED RESPONSE:

It is recommended that the Canada Child Tax Benefit be made available to all mothers without status, regardless of their immigration status. An amendment to the current regulations could state that women at risk be entitled to eligibility. If no women-at-risk program develops (see Issue #2 above), a women's entitlement as a spouse for purposes of collecting the Canada Child Tax Benefit should be maintained for up to 30 months after leaving her partner to allow sufficient time for her to get approval for permanent resident status based on humanitarian and compassionate grounds.

## ISSUE #19

In addition to difficulties in acquiring housing, mothers without status cannot meet their basic needs for food and clothing.

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### CONTEXT:

Because mothers without status are usually living without any significant source of income, they must rely on food banks and donations for virtually all their needs, not just as a supplement. Many mothers without status are considered ineligible for those very services because of their lack of status or because they cannot prove residency.

### SUGGESTED RESPONSE:

It is recommended that food banks lower their requirements for residency and provide more food to mothers without status. Food banks and other front-line donation providers should provide additional programs for mothers without status. In addition, social service providers and programs should augment their own policies on donations to help mothers without status meet their basic needs when possible.

## ISSUE #20

Some Canadian children who are being cared for by their non-status mother are being denied entry into public school.

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### CONTEXT:

Some mothers without status are told they will have to pay international student fees in order for their children, including Canadian-born children, to attend public school. Mothers without status cannot afford these fees, which are often around \$12,000 per year.

### SUGGESTED RESPONSE:

It is recommended that the British Columbia School Act be amended so that all children residing in BC are entitled to attend school, regardless of their own status or their mother's status. The Act should be amended to model the Ontario Education Act, which states that no child can be denied access to schools because they, or their parent(s), lack immigration status in Canada.

## ISSUE #21

Mothers without status and their children live shelter-to-couch-to-transition house-to-shelter for about two years while waiting for permanent status.

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### CONTEXT:

Most shelters and transition houses lack the funding to provide free, long-term housing for mothers without status. It is estimated that mothers without status spend about two years moving from home to home. Given that mothers without status are the victims of abuse and are not able to leave the country, it is unacceptable that they must live such transient lives while they await the outcome of applications for status and until they are able to legally work in Canada.

### SUGGESTED RESPONSE:

It is recommended that the provincial and federal governments provide ongoing funding for the implementation, maintenance and staffing of second-stage transition houses for mothers without status.

Homelessness programs and initiatives should include assistance to mothers without status and funding should not be limited to those women who have status in Canada.

BC Housing should also provide subsidies to third-party housing providers to mothers without status and allow them to be placed on waitlists for subsidized housing.

## ISSUE #22

Front-line advocacy and transition house workers assist women through their family law and immigration cases, often because they are the only ones available to do so and often with little training.

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### CONTEXT:

*Mothers without status have complex interconnections between family and immigration law and often rely on the support of front-line advocates and support workers to guide them through the process. Often these workers rely almost solely on past experience and/or what they can teach themselves.*

### SUGGESTED RESPONSE:

It is recommended that the BC/Yukon Society of Transition Houses provide support workers with workshops to be able to assist women through these legal processes and provide specific information and resources on how to secure Legal Aid assistance and representation for women.

The BC/Yukon Society of Transition Houses could update their training for front-line workers with sections on accessing Legal Aid, custody and access issues, sponsorship issues and cultural sensitivity, particularly around parenting issues. The Society could also provide a link on their website to YWCA Vancouver's brochures "Mothers Without Status: Practical information for service providers working with women who have no legal status" and "Leaving an Abusive Relationship: Information on Custody and Access for Women with Children."

The Ending Violence Association of British Columbia could provide counsellors with workshops and resources on assisting women through the legal processes and how to obtain Legal Aid assistance and pro bono representation. Advocacy supports may also be beneficial.

## ISSUE #23

Many mothers without status have sought information or assistance from medical practitioners, but those contacted did not have the information and/or ability to provide assistance.

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### CONTEXT:

*Many abusers who isolate mothers without status still allow them to get medical treatment. Many mothers without status—particularly the ones who were pregnant and gave birth in Canada had seen a Canadian doctor at least once. This is an area where some women can get assistance and information.*

### SUGGESTED RESPONSE:

The BC Medical Association could provide medical doctors with information about immigrant-serving organizations locally and help doctors to find ways to have translators accompany women who cannot speak English to medical appointments.

Medical Services Plan could make a billable line item to pay for phone translation services for use when working with a woman who needs assistance leaving violence.

## ISSUE #24

Mothers without status are being forced to pay medical fees of between \$3,000 and \$6,000 to give birth in Canada and they are unable to seek medical attention for themselves or their children.

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### CONTEXT:

*While mothers without status are waiting for their permanent resident application to be approved, they have no access to medical care. As well, mothers without status who remain with their abusive partners may be forced to give birth without medical intervention because the partners do not want to pay hospital costs.*

### SUGGESTED RESPONSE:

It is recommended that all women who are applying for in-country sponsorship be provided with services under the Medical Services Plan or the Federal Health Program as well as premium assistance if they meet the financial requirements. This would ensure that all Canadian children receive appropriate health care and potentially prevent catastrophic medical problems.

Issue #2 discusses the possibility of mothers without status being offered an at-risk designation that would include providing free medical care while they wait for a status decision.

# APPENDIX A:

# INTERVIEW QUESTIONS

## Questions for Mothers

Note: Always ask women to bring all of their documents with them to the interview.

Always begin the interview by discussing confidentiality with the woman being interviewed and by describing the project, including the scope of research and the anticipated outcomes of the project.

### Personal Questions

1. Full name:
2. Current address:
3. Telephone number:
4. Email address (if applicable):
5. Place of birth:
6. Current immigration status in Canada:
7. Number of children:
8. Number of children born in Canada:
9. Current employment and/or source of income:
10. Are you considered eligible for income assistance? If not, why?

### Other Questions (Immigration)

11. When did you decide to come to Canada?
12. What were the circumstances surrounding your decision to come to Canada?
13. What was your immigration status when you came to Canada (i.e., illegally, refugee, sponsored by someone else in Canada, business immigrant, live-in caregiver, a provincial nominee, as a student, a skilled worker, a temporary worker, a visitor, or under a temporary resident's permit)?
14. Have you ever applied for permanent residency status? If so, what happened to this application?
15. If you were sponsored by someone else to reside in Canada, who was your sponsor and what is/was your relationship to this person?
16. Have you ever experienced sponsorship breakdown? If so, what was/were the reason/s for this sponsorship breakdown?
17. How has Immigration responded to you?
18. Was their response helpful to you? Please explain further.



19. Have you been told that you need to leave Canada? If so, what are their reasons for saying this?
20. Has Immigration told you if there is anything that can be done in order to stay in Canada? If so, what have they said you need to do? If not, have you been told that you will be deported and if so, when is this supposed to happen?
21. Have you had a support worker or immigration lawyer helping you with your immigration case? If so, who is your worker, and may I have your permission to contact them?
22. Have you experienced abuse since arriving in Canada? Who was/were your abuser/s?
23. What type of abuse did you experience? Did your abuser/s ever threaten you with deportation if you were to report the abuse?
24. Did you ever report the abuse and to whom did you report the abuse?
25. What happened when you reported the abuse?
26. Are you allowed to bring your children with you when you leave Canada? If not, why?
27. Have you been to family law court? If so, do you have a custody and access order and what does it say?
28. Will you be going back to family law court? If so, when and why?
29. What do you hope to have happen when you go back to family law court?
30. Have child protection workers been involved in your case? In what way?
31. Have you ever been abused by your partner and/or husband? If so, have you had to go to criminal court? If so, what has happened in court? Is there a restraining order, no contact order or peace bond in place?
32. Do you have a family law lawyer? If so, what is their name and do I have your permission to contact your lawyer?
33. What is the most challenging aspect of your situation?
34. How has this situation impacted you and your children?
35. What effects has this situation had on your physical or mental health? (If applicable, do you or your children qualify for medical coverage?)
36. What has been helpful to you in your situation?
37. If you could suggest any changes related to either immigration and/or family law that would have made your situation easier, what would those changes be?
38. Is there anything else you would like to share with me?

# Questions for Front-Line Workers

## Personal Information

1. Full name:
2. Place of work:
3. Job title:
4. Job description:
5. Telephone number:
6. Email address (if applicable):

## Supporting Mothers Without Status:

7. What, in your view, is the biggest challenge and/or barrier confronting mothers who are without legal status in Canada?
8. What, in your opinion, are the areas of immigration law and family law that work well together when you are working with mothers without legal status in Canada?
9. What, in your view, are the areas of immigration and family law that conflict with one another when you are working with mothers without legal status in Canada?
10. If you could suggest recommended changes to immigration and family law that would support mothers without legal status in Canada, what would those changes be?
11. Are there other changes you believe are necessary in order to adequately support mothers without status in Canada?
12. What, if anything you haven't already articulated, is your biggest source of frustration in working with mothers without legal status in Canada?
13. Would you like to share a story or stories with me that you feel would describe some of the challenges mothers without status in Canada face? (Please note: it is recommended that pseudonyms and changes to identifying factors such as a woman's nationality always be used when describing a woman's particular situation..
14. What kind of support do you need as a worker in order to adequately support mothers without status in Canada?
15. If you could share insights or suggestions with new workers who are just beginning to work with mothers without status what would you say?
16. Part of this research project will be to produce a handbook for workers working with mothers without status. What do you think are critical pieces of information that should be included in this handbook?
17. Would you be willing to provide me with feedback regarding this handbook once a first draft has been produced?
18. Is there anything else that you need to share with me about working with mothers without status in Canada?

# APPENDIX B:

# INTERVIEW CONSENT

# FORMS

## Form for mothers without status

### Project title: Mothers Without Status

I understand that I will be presented with a number of questions regarding my immigration and family law situations and which may deal with issues of woman abuse. This information will be used to write a report detailing the experiences of mothers without status in BC in particular, and in Canada in general, in order to make recommendations for positive change with respect to the relationship between immigration and family law and other related systems that mothers without status may encounter.

I understand that the content of the interviews will be kept confidential, but quotes and the general story obtained from your interview may be used in the writing of the report and in a handbook for front-line workers.

The researcher will never mention my name in any of the reports.

I hereby give permission for the researcher to record all responses to the questions asked in the mothers without status interview. I understand that all typewritten responses to these questions will be destroyed at the conclusion of the Mothers Without Legal Status research project.

I understand that I am free to refuse to answer any questions posed to me during the course of the Mothers Without Legal Status interview and that I am free to withdraw my consent and terminate my participation in the project. I have been given the opportunity to ask any questions I desire, and all such questions have been answered to my satisfaction.

I can contact researcher, Sheryl Burns, if I have additional questions or concerns at [telephone number].

THIS IS TO CERTIFY THAT:

I, \_\_\_\_\_, hereby agree to participate in this project.

Date:\_\_\_\_\_ Address:\_\_\_\_\_

Phone Number:\_\_\_\_\_

Signature of Researcher:\_\_\_\_\_

(Sheryl Burns)

## Form for front-line workers

### Project title: Mothers Without Status:

I understand that I will be presented with a number of questions regarding immigration and family law situations which may deal with issues of woman abuse. This information will be used to write a report detailing the experiences of mothers without status in BC in particular, and in Canada in general, in order to make recommendations for positive change with respect to the relationship between immigration and family law and other related systems that mothers without status may encounter.

I understand that the content of the interviews will be kept confidential, but quotes and the general stories obtained from your interview may be used in the writing of the report and in a handbook for front-line workers.

The researcher will never mention my name in any of the reports without previously acquired permission.

I hereby give permission for the researcher to record all responses to the questions asked in the mothers without status interview. I understand that all typewritten responses to these questions will be destroyed at the conclusion of the Mothers Without Legal Status research project.

I understand that I am free to refuse to answer any questions posed to me during the course of the Mothers Without Legal Status interview and that I am free to withdraw my consent and terminate my participation in the project. I have been given the opportunity to ask any questions I desire, and all such questions have been answered to my satisfaction.

I can contact researcher, Sheryl Burns if I have additional questions or concerns at [telephone number].

THIS IS TO CERTIFY THAT:

I, \_\_\_\_\_, hereby agree to participate in this project.

Date:\_\_\_\_\_ Address:\_\_\_\_\_

Phone Number:\_\_\_\_\_

Signature of Researcher:\_\_\_\_\_

(Sheryl Burns)

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