

Policies Matter When Women Experience Violence
Policy Intersections

	Income Security	Housing Security	Custody and Access	Access to Supports	Freedom from Discrimination/Criminalization
Income Security	<p>The Occupational Health and Safety Amendment Act may negatively impact a woman's employment security. The legislation states that if an employer is aware or ought to be aware that domestic violence is likely to expose a worker to physical injury that may occur in the workplace, the employer must take every reasonable precaution to protect the worker. It does not define domestic violence and does not specify what constitutes reasonable precautions on the part of the employer. The government has yet to launch a public awareness campaign regarding the law.</p> <p>The Family Responsibility Office only enforces child support by order. Without access to income a woman may not be able to afford to hire a lawyer to get an order. In many cases child</p>		<p>If a woman is on OW she may be pressured to go to family court and ask for support. In cases where there has been DV and in Toronto, this should not be the case; however, if a woman has not told her worker about the abuse, has not realized that she was/is being abused, or does not know that abuse is relevant to family law matters, she may not know that she does not have to request support.</p>		<p>Recent policy changes at OW indicate that when a woman goes to a VAW shelter she must apply for social assistance. Being in receipt of social assistance may deem her inadmissible on the grounds that she is non-self-supporting, thereby jeopardizing her immigration application. A woman without status who has only an H&C Application in process is not permitted to work in Canada, but can qualify for OW. In DV cases, the woman may need to access OW, making her financially inadmissible from the perspective of immigration; on the other hand, if she works illegally, she can be penalized for breaking an immigration rule, and she is also at risk of institutional violence.</p>

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	support may not be enforced for up to six months. This impacts a woman's ability to afford proper housing, daycare, etc.				
Housing Security	To qualify for affordable housing a woman needs to give up equity/savings.	A woman who does not charge her partner for behaviours that are in breach of contract risks eviction under the landlord and tenant act (tenancy breach of contract). In order to access affordable housing, a woman is required to get proof that her relationship is estranged and that she does not have access to her partner's income. In DV cases, the partner is not always willing to come forward with such proof.	A woman's access to appropriate housing is taken into consideration in custody and access decisions. For example, if a woman is the access parent, not having the appropriate number of rooms may be a consideration in the access outcome. If a woman leaves a DV situation and is in a shelter on and off for a long period of time with her children it may affect her custody outcome. If a woman leaves a DV situation and leaves her kids behind with her partner as the sole caregiver for a long period of time while she is in the shelter, it may affect her custody outcomes.		Non-status women with an outstanding immigration application are eligible for subsidized housing and for priority access due to DV. However, there is no definition of social assistance in the Immigration Act. Therefore, being in receipt of subsidized housing may be interpreted as social assistance for the purpose of immigration cases and may make a woman in subsidized housing financially inadmissible.
Custody and Access	Many women cannot afford legal representation or may not qualify for legal aid. As a result a woman		Under provincial legislation (Children's Law Reform Act) violence must be taken into consideration	Under the Child and Family Services Act, a woman who seeks help by calling the police triggers an	In the Family Court System most applications consider what is in the "best interest of the child".

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	<p>may end up using what income she has in family court/custody disputes that last for years.</p>		<p>regarding custody decisions in so far as it is relevant to the person's ability to parent as per the "best interest of the child" requirements. However, the law also states that the court must take into account the principle of maximum contact with parents as per the best interest of the child. This can lead to problematic judgments that may not fully take into account how DV impacts parenting by the abuser, and/or how it is unsafe for a woman to stay engaged with an abusive partner. Further, some advocates fear that the term "parental alienation" may be used to undermine child custody determination and sole custody results.</p>	<p>automatic review by child welfare. The threat of involvement of child welfare is enough to keep women from accessing services, including calling the police. Many women end up in family court without legal representation, which impacts her custody and access outcomes. Even if a woman successfully gets an order for sole custody, she may (and probably will) be exposed to further abuse through the access clauses. Sole custody does not solve all problems; the access plan must also be safe for the woman (mentally as well as physically safe).</p>	<p>When a mother has precarious status or faces imminent deportation, she or the Family Court Lawyer has to present a plan that is in the best interest of her child in Canada and in the other country. In the immigration system, the same woman needs to argue that it is not in the best interest of the child to go back home in order to defend against deportation, and this undermines the plan submitted to Family Court. The Department of Justice often monitors and follows these cases and may see information that is contradictory. If immigration officers think that a woman is delaying in Family Court to stay in Canada she may be punished with deportation before the Family Court decision is reached. If a woman is deported before custody is determined, she needs the consent of the other parent or a custody order in order to travel</p>

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					internationally with the child. If this is not forthcoming the children may be left with the woman's abusive partner, and the child is vulnerable to being taken by Children's Aid.
Access to Supports, including Legal Representation and Legal Aid	The financial eligibility criteria for Legal Aid are very low. To qualify for Legal Aid a woman must have an income of \$14,000 or less. Most women would need to give up their financial security/savings to gain access to a lawyer. While cases are in progress or in conference, judges will not issue a custody order unless it is on consent, which is seldom forthcoming. Without an order a woman may go without child support/income for months. Similarly, without access to a lawyer, a woman may not have access to spousal support.	Going to a shelter or affordable housing requires a woman to leave the support of community and to give up her matrimonial home. Without access to a lawyer a woman who is married to her partner may not be able to fight for her right to exclusive possession of the matrimonial home.	A woman who has been dependent on her spouse may not be able to afford a lawyer to represent her custody case. If there is joint custody and the woman is trying to access supports for her child (e.g., child counselling) she may need her partner's approval, which may not be forthcoming. While the child custody case is in progress the court may not issue an order for support, which may leave the woman without access to income to secure a lawyer to argue her case.	Drastic cuts in legal aid funding mean that merit analysis is being carried out more strictly. Therefore, if a woman does not have a good case she may not be funded or may have fewer hours for her case. Most women do not meet financial eligibility criteria for legal aid, and therefore increasingly women do not have access to legal representation in the family, criminal or immigration courts.	
Discrimination, Re-victimization and Criminalization	To apply for a claim under H&C grounds a woman needs to demonstrate economic stability, but she is not permitted to work in		There is pressure for a woman to use mediation to resolve custody/access issues, leaving her exposed to her abuser.	Many women do not qualify for legal aid or cannot afford legal representation to support them through	Under the Criminal Code, a breach of a restraining order is a criminal matter. Procedurally, judges are less likely to order a

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	<p>Canada without authorization. Many women cannot afford legal aid to support them through the immigration/H&C process. PAR programs do not provide childcare. A woman who is in a PAR and who cannot afford childcare may not be able to participate which may impact the outcomes of her case. Gender analysis suggests the program has not been set up to address women's participation needs. Mandatory charging in DV cases may result in a woman losing access to income if her partner goes to jail. Gender analysis suggests the policy has not given consideration to the implications for women resulting from its implementation.</p>		<p>Joint custody orders leave women exposed to abusers because it is rare that a woman can hide her address, etc. In addition, the woman is in a position where she is required to negotiate with a violent partner regarding all matters concerning her children.</p> <p>Women who end up in court for child protection matters are typically marginalized women, because child welfare typically does not find cause to investigate a woman who has the resources to look like she is providing for her children. A woman whose H&C claim is not approved and who is being deported may lose her children to her partner.</p>	<p>immigration/H&C processes. While waiting for an H&C decision, a woman from a designated country does not have access to health care under the Interim Federal Health Program, etc. This is problematic for a woman in a DV situation. Increasingly, women are being charged as a result of inconsistent application of the mandatory charging policy. However, the offence is not considered serious enough to qualify for Legal Aid and women end up without access to representation. To qualify for Legal Aid one needs to be at risk of incarceration. While this may be a sound policy, from a gender perspective, it discriminates against women who tend to be charged for less serious offences than men. Transgendered issues have not been considered in policy. In international human rights law there is beginning to be recognition of persecution; in Canada</p>	<p>restraining order because they know that a breach will result in criminal prosecution. This leaves a woman at risk of repeated violence from her abuser. Procedurally, mandatory charging is resulting in dual charging and, increasingly, sole charging of women by some police divisions. Women without permanent resident status who are charged risk deportation. If a woman commits a criminal act outside of Canada that carries a penalty of 10 years in Canada (e.g., International Child Abduction), she is excludable from making a refugee claim in Canada. A woman who is abused in her home country and comes to Canada with her children, without her partner's consent, to claim refugee status could be excluded from making a claim because she allegedly committed a criminal offence that carries of penalty of 10+ years. As of Oct. 25, 2012, a new</p>

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				<p>this is an emerging area of law and practice.</p>	<p>regulation imposes a two-year condition on all permanent residents who come to Canada as a sponsored spouse. The regulation applies to all sponsored spouses who at the time of the sponsorship application have resided for two years or less with their sponsors, and do not have any children in common. Once they arrive in Canada, the sponsored spouse must continue to cohabit with her sponsor in a conjugal relationship for at least two years, or risk losing her permanent resident status and ultimately be deported. Although the rule could endanger the lives of women in abusive relationships, women in violent relationships must “prove” that they are subject to abuse or neglect. Fear, shame, lack of income and lack of a place to go, as well as the risk of deportation, pose enormous barriers for abused sponsored immigrant women.</p>

