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THE LIVED REALITIES OF LESS THAN FULL IMMIGRATION STATUS WOMEN
NAVIGATING 'THE SYSTEM'

by

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A Major Research Paper
presented to Ryerson University

in partial fulfillment of the requirements for the degree of

Master of Arts
in the Program of
Immigration and Settlement Studies

Toronto, Ontario, Canada, 2007

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ABSTRACT

This paper presents insights into the lived realities of less than full immigration status women (LTFIS) living in Canada. This exploratory project combines a review of existing literature and studies along with the research findings of 12 face-to-face interviews with key informants who work closely with the sample population. This study found that the varying degrees of immigration statuses these women possess, and the rights and the entitlements that are affixed are further complicated by legal, policy and structural barriers stemming from the implementation of the immigration and refugee determination system. This topic has been examined from a social exclusion framework and employs a race and gendered analysis in order to address the nuanced influences and outcomes of the extent to which LTFIS women understand their immigration status and able to navigate the immigration and refugee determination system.

Key words:

Immigration status; legality; racialized women; social exclusion violence

Acknowledgements

This research project has benefited tremendously from the guidance and input of many knowledgeable individuals. I would like to thank my supervisor Dr. Joseph Springer, whose support was evident throughout the duration of the project and whose guidance kept me focused along the way and Dr. Grace-Edward Galabuzi whose commitment to the project was integral. I would like to especially thank the twelve key informants who participated in this project, their insights, responses and opinions have greatly contributed to the foundation of this paper. Many thanks to Dr. Myer Siemiatycki whose continued enthusiasm and support were central to the development of the project. Thanks to the graduate gang with whom I spent many a late night writing and developing the project, all of your helpful suggestions do not go unrecognized. Finally, I am grateful to my family Marie, Frank and Jean-Pierre and partner Philip, for all of their love and support throughout the project.

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“Canada suffers from historical amnesia. Its citizens and institutions function in a state of denial. Canadians have obliterated from their collective memory the racist [and sexist] laws, policies and practices that have shaped their major social, cultural, political and economic institutions for 300 years”.

– Francis Henry et al. ‘The colour of Democracy: Racism in Canadian Society’

Introduction

Significance and scope of the study

It is estimated that 200,000 to 400,000 people are living and working in Canada with less than full immigration status (LTFIS),¹ with 50 percent of these believed to reside in Toronto, (Jiminez, 2003; Berinstein et al., 2004; Wright, 2003). These figures, while only an estimate, identify a significant population of people with varying degrees of immigration status, rights and entitlements, a condition that greatly influences their ability to make responsible choices in regard to obtaining full immigration status, or rather, citizenship in Canada. Racialized women in particular are most vulnerable to the pressures and challenges associated with having LTFIS, due to their unequal position in Canada (Arat-Koç, 1990; Calliste, 2000; Crenshaw, 1991; Macklin, 1995). It is also crucial to recognize that the varying degrees of immigration status and the privileges that are associated with it are not arbitrary as Canada, as a nation, is rooted in laws, policies and practices structured in power and dominance (Bannerji, 2000; Jackubowski, 1997; Jiwani, 2006; Razack, 1998; Thobani, 2007).

This study will draw upon the work of anti-racist and feminist scholars in order to provide a race and gendered perspective on the interconnections between Canada's immigration and refugee system and the lived realities of LTFIS women as a result of the implementation of the systems policies and practices. I also argue that the implementation of this system's existing policies and practices, as well as those policies and practices lacking in the system, constitute and perpetuate structural inequalities which adversely affect LTFIS women (Calliste, 2000; Crenshaw, 1991; Jiwani, 2006).

¹ Please see methodology section for a definition of the term hereafter referred to as LTFIS

Framing the system in this way informs the contemporary concerns facing LTFIS women navigating the Canadian immigration and refugee determination system.

This study examines how LTFIS women, as a category, are created by the system and the extent to which these women are able to navigate the system, understand it and make decisions. I first begin this project by briefly describing the immigration and refugee determination policy as it relates to LTFIS women in Canada. This provides a foundation from which to understand the qualitative components of this project. Using qualitative research methods, this study bridges the gaps between the conceptual understandings of violence and the lived realities of LTFIS women through a review of theoretical and applied research. Furthermore, findings based on interviews with twelve key informants working within Toronto in the areas of law and the provision of legal services has informed this topic. Incorporating empirical data alongside relevant literature is an attempt to articulate and make sense of the lived realities of LTFIS women with whom these informants work closely. As well, this research project incorporates a critical race and gendered perspective, whereby recognizing that race and gender are social constructions does not dismiss the fact that both shape the lived realities of LTFIS women. To conclude this project, I synthesize all of the qualitative components that disrupt the structure and implementation of Canada's immigration and refugee system in order to present alternatives that attempt to reduce the risks of violence imposed by the system on LTFIS women.

Canadian Immigration and refugee determination policy

The immigration and refugee determination system refers to the implementation of the Immigration and Refugee Protection Act² introduced in 2001 and implemented in 2002. It replaced the Immigration Act of 1976 as the principal federal legislation regulating Canadian immigration (Department of Justice Canada, 2007). The IRPA provides a legal framework that outlines the objectives and guidelines concerning immigration into Canada. The IRPA regulations consist of laws within the act that determine how it should be applied (Department of Justice Canada, 2007). In regard to LTFIS women, who mainly enter Canada on permanent visas or as refugee claimants there are only three options to regularize or rather obtain permanent immigration status within the country. The three avenues in which LTFIS women are able to apply for permanent residence status include refugee claim; in-Canada sponsorship and a Humanitarian and Compassionate (H& C) grounds application³. However, due to the bureaucratic structure, many LTFIS women fall through the cracks of this determination system.

In order to obtain refugee status a woman claiming refugee protection from within Canada must meet the eligibility criteria based on the Convention refugee definition⁴ (Ontario Women's Justice Network, 2006). Regardless of whether or not LTFIS women who apply through this route are accepted, all refugee claimants have the right to work, to acquire Interim Federal Health benefits and attend specific ESL classes. If her claim is accepted, she can attend post-secondary education (Ontario Women's

² Hereafter referred to as IRPA

³ Hereafter referred to as H & C application

⁴ A convention refugee is someone who is outside her country of nationality and fears persecution due to her race, religion, political opinion, nationality, or membership in a particular social group (Ontario Women's Justice Network)

Justice Network, 2006). In the event that she receives a negative decision, she has two options. She can apply for permanent status by submitting an H & C application and she can have a lawyer review her negative decision which can be appealed to the Refugee Appeal Division of the Immigration and Refugee Board (Waldman, 2004). If this fails there may be grounds to submit a judicial review of the decision. Prior to IRPA's implementation the women themselves could appeal through the Refugee Appeal Division.

LTFIS women applying through this avenue can be sponsored from within Canada by a permanent resident or a citizen, if she has temporary status as a student, visitor or worker thus requiring the women to possess legally recognized status at the time of the sponsorship (Waldman, 2004). Women claiming refugee protection in Canada cannot be sponsored, as they constitute someone in legal limbo wherein their legal immigration status is indeterminable (Waldman, 2004). However, this becomes one of the most oppressive pathways when combined with situations of domestic violence (Pacey, 2003).

The final option for LTFIS women to obtain permanent residence status is through the H & C application. LTFIS women can apply for permanent residence status through this route from within Canada only if they are not eligible through the Inland Sponsorship application, as a refugee claimant, or if they are part of the Live-In Caregiver program or hold a temporary visa (CIC, 2006). Furthermore, LTFIS women must also believe that they would experience undue hardship should they be removed from Canada (CIC, 2006).

These three categories provide the only pathways to apply to apply for permanent residence status prior to losing the status women have when they enter Canada. In instances where women have been trafficked or smuggled into Canada, they would be eligible to apply by submitting a refugee or H & C application (Berinstein et al., 2006). For women who have already lost their immigration status and are about to be removed there are limited options. The only way to obtain permanent residence status and remain in Canada legally is through a successful Pre Removal Risk Assessment, which considers the risk that a woman will face should she be returned to her country of origin. However, rates of acceptance are low (Ontario Women's Justice Network, 2006).

This brief review of the immigration and refugee determination system, practice, process and procedures provides a concise overview of the options that LTFIS women have while living in Canada. Criticism of the implementation of these practices will follow in the literature review and findings section.

Theoretical framework: Social exclusion

The following essay will use a social exclusion framework from which to analyze the contemporary issues pertaining to women with LTFIS in the Canadian context. Social exclusion discourse in Canada has borrowed from the use of the concept in Europe where it first was developed to replace discussions of poverty (Byrne, 1999). According to Byrne (1999), social exclusion describes the structures and processes of discrimination that lead to unequal outcomes for various groups in society. In the Canadian context, social exclusion refers to “the inability of certain groups to participate fully in Canadian life due to structural inequalities in access to social, economic, political and cultural resources arising out of intersecting experiences of oppression relating to race, class

gender...and immigration status” (Galabuzi, 2006, p.173). Furthermore, social exclusion is both a process whereby groups are disempowered by discriminatory practices and an outcome of unequal access to processes in society (Byrne, 1999; Galabuzi, 2006; Madanipour et al., 1998). Social exclusion has been explained as a dynamic process rooted in histories of discrimination. As such it continues to shape the lives of included individuals’ collectivities (Byrne, 1999; Galabuzi, 2006; Madanipour et al., 1998). The concept has been developed into a framework in order to highlight the many ways in which communities of people are affected by the process and outcomes of social exclusion. Furthermore, this framework of social exclusion is necessary to recognize how past historical structures have led to contemporary forms of exclusion lived by women with LTFIS. For the purpose of this paper, I will incorporate a social exclusion framework to analyze the processes and outcomes of various forms of oppressions on the lived realities of LTFS women through an examination of the implementation of Canada’s immigration and refugee determination policies, practices and regulations.

Methodology

Sample

This exploratory research project takes a qualitative approach to investigating the extent to which women with LTFIS are able to navigate the practices, procedures, and its respective laws and policies and this is achieved by examining the degree to which they understand the system and the status they possess. This population was selected as a subset category of all people living in Canada with LTFIS in order to consider the range

of issues faced by women at the various stages of interaction with the immigration and refugee system.

The initial motivation of this study began with an interest in the extent to which LTFIS women are able to access legal services in Toronto. As I began to delve deeper into critical race literature, which linked the relationship between the founding of Canada based on unequal relations to current legislation, policies, and practices as also informed and shaped by this history, my interests began to shift. My focus on issues of legality as they pertain to immigration status remained constant, as did my motivation to concentrate on LTFIS women; however, issues of access did not remain at the forefront. I realized that issues of access while an important component to understanding the impacts that system has on LTFIS women do not address the root causes inherent in the system. For this reason, my focus shifted along with the conceptual understanding of the foundations from which to analyze the lived realities of LTFIS women navigating the immigration and refugee determination system. I was then able to refine my topic of concentration to examining how the Canadian immigration and refugee system, which is informed and influenced by notions and constructions of law and legality, affects and impacts the lives of women living in Canada with LTFIS.

Another qualitative component of this research project includes a review of existing literature, which seeks to contextualize the contemporary concerns surrounding LTFIS women by locating them in a larger historical context. This has been done by reviewing critical race theory and literature that incorporates a gendered analysis. Furthermore, recent studies have also been reviewed highlighting concerns surrounding women with

LTFIS. Finally, twelve individual face-to-face interviews with service providers were incorporated as another qualitative component of this research in order to understand:

- *The extent to which LTFIS women are aware, understand, are impacted and able to make decisions about their immigration status based on the current structure of the immigration and refugee determination system.*

Recruitment process and ethical considerations

LTFIS women cannot avail themselves of the rights and entitlements afforded to those who have full citizenship status and without such status are not offered full protection from the state. Given that, LTFIS women are at risk living and working in Canada and constitute a vulnerable population. As a result, I chose to interview key informants in the areas of immigration and refugee law as well as settlement service providers who worked closely with this population I used purposive and snowball approaches to select the research sample, as both approaches allowed me to find key informants who work with a population.

Through my involvement as a placement student and volunteer at Faithful Companions of Jesus Refugee Centre, I became aware of individuals and organizations working with the sample population I had selected. By means of these connections, I was able to recruit key informants to participate in this study. All participants were contacted by phone or email using a prepared script, which included information regarding the purpose of this research project as well as the intended benefits. Using this script, potential participants were asked kindly if they would like to volunteer their time for a face-to-face interview with knowledge of the time it would take and of the fact that the information shared would remain confidential and their identities anonymous.

Many of the key informants were very busy with their work and often interviews had to be re-scheduled for a later date. Despite this fact, all of the key informants who dedicated their time to participate in the interview process did so because they saw the value of the research project. The recruitment process was not difficult, initial participants made helpful referrals of other individuals and organizations they felt would be worth contacting for this research project.

Data collection

Twelve interviews were conducted, each in a private location suggested by the key informants themselves in order to ensure that they felt comfortable and safe when disclosing information. The interviews were semi-structured and the format consisted of open-ended questions with probing questions selectively placed throughout the interview in order to allow the key informants the space to guide the direction of the conversation in areas they felt knowledgeable and comfortable discussing. Using a qualitative and exploratory approach granted me the latitude to respond to unforeseen issues related to the interviewing process that arose during the course of this research project.

The semi-structured interview guide which includes questions to be asked as well as an explanation of the project, helped facilitate the administering of the interview. I quickly learned that conducting interviews is an organic process; that the interview guide was continuously re-evaluated and fine-tuned after each interview in an attempt to avoid the exclusion of important insights made by key informants. As a result of this dynamic process, insights offered by key informants informed subsequent questions and interviews with other participants. This allowed the project to develop and be shaped by

their responses, ideas and important issues raised, as well as avoided the imposition of my research interests and assumptions on their responses and on the project itself.

The reason behind initially focusing on access to legal services in part stemmed from the social location of the researcher. As a national subject, as a woman and a member of the white collectivity (Lewis, 2004), my immigration status and in turn my level of access to services has never been questioned and as a result the degree to which I have faced social exclusion on account of structural inequalities arising from intersections of race, gender and immigration status is limited. This initial focus was also partly motivated by the absence of the issue of access to legal services in the 'Access Not Fear Report' (Berinstein et al., 2006). Based on the findings of a collaborative research project by university researchers, community organizations and community members based in Toronto, this report focuses on access to city services for people living in Toronto without immigration status, but neglects their access to legal services (Berinstein et al., 2006).

Earlier interviews focused more on access to legal services for women with LTFIS. These interviews dealt with the various barriers faced in accessing legal services and to what extent they knew about the limited services available to them in Toronto. All of these issues are worthwhile addressing and would be interesting to explore. However, what began to emerge through the interview process was the need to devote more attention to understanding how the immigration and refugee system - which has been shaped by the formation of law in Canada – affects LTFIS women both legally and socially. With a strong emphasis on the legal processes involved in the immigration and refugee system, in some ways, asking questions about how women with LTFIS are able

to access such legal services may be more useful to service providers, researchers and policy makers than they may be to these women themselves. In addition, focusing on access to legal services does not necessarily address the root causes as to why access can be difficult for these women; it does not unpack the systemic barriers and complexities connected with the immigration and refugee system; how it is set up and the practices and procedures used to maintain the system.

Terminology

The term LTFIS has been informed by the opinions of the twelve key informants I interviewed as well as by a review of the existing literature. This term refers to people who are living in Canada with varying levels of immigration status, including those who may be refused permission to remain in Canada. For example, women who have made a refugee claim while in Canada or have filed an In-Canada sponsorship application and may be refused permission to stay here if these applications are denied. In addition, this term refers to women who may lose their 'right' to stay in Canada for example, if they are here on a temporary worker visa and do not apply to renew their status they will lose their right to remain in Canada. Furthermore, this term represents women who have lost legally-recognized immigration status because they have overstayed their student or work visas or are living here after being denied refugee status or permanent residence status.

In the process of reviewing existing literature, I have not encountered the use of this terminology in reference to this broad population, but the terms 'less than full status (LTFS)' and 'precarious status' (Goldring and Berinstein, 2003; Lacroix, 2004; Young, 2005) have been used. Lacroix (2004) uses the term 'precarious status' to refer to numerous immigration categories that fall below the category of citizenship. Some key

informants drew attention to the fact that this term is rather vague and ambiguous and conflates their immigration status itself with the precarious situation they may be in because of their status. Moreover, women living with LTFIS may not consider themselves to be in a precarious situation depending on the extent to which they understand the meaning of their immigration status and the attached limitations and vulnerabilities of such status. Due to the problematic nature of the term precarious status, I have decided against its use in this study.

According to Goldring and Berinstein (2003), the legal framework of the Canadian immigration system creates a hierarchy of rights and entitlements on the basis of immigration status and as a result there are numerous ways in which people can be living with LTFIS. However, a few key informants I interviewed found the term LTFIS was not specific enough. According to one service provider “status is confusing because it can refer to civil, family, immigration, and aboriginal status”. It was suggested that inserting the word immigration into the term would help to clarify the population I am referring to.

Having chosen to use the term LTFIS, I recognize that it is not without its criticisms. As was brought to my attention by one lawyer, LTFIS is not a legal term nor is it a term that the key informants employ or a term their clients use to refer to themselves. However, after revisiting the literature and discussions with key informants the use of the term LTFIS seemed best suited to represent the population of women who fall within a range of immigration statuses. Rather than excluding the varying degrees of immigration status in public and academic discourse, highlighting their immigration status in a broad manner emerged as the most appropriate option.

Data analysis techniques

The data collected from the twelve interviews was analyzed to identify commonalities and differences among the responses and opinions expressed by key informants as well as to highlight major themes. The interpretations, which emerge from the data, highlight the extent to which the immigration and refugee system and its policies and processes affect and influence the lives of LTFS women living in Canada. The conclusions drawn from the analysis of the data will follow in the subsequent section. Selections of descriptive, concise vignettes have been incorporated into the findings. Using the words of the key informants within this research paper acknowledges their valuable contributions to the study.

Reflexivity

An important element of my research methodology is including reflexivity in the writing of this research paper. According to some scholars (Berg, 2001, p. 154) “reflexivity implies that the researcher understands that she/he is part of the social world she/he investigates...this requires the researcher to have an internal dialogue that examines what the researcher knows and how she/he came to know this” (Berg, 2001, p.154). Throughout the process of writing this paper I have questioned and re-questioned where and how I situate, position, and understand myself as part of the social world I am investigating.

Since researchers are recognized to be active participants in the research process and delivery, it is important to understand their location of self within existing power structures and in relation to concepts of gender, race, class and citizenship (DeVault, 1990; Hammersley and Atkinson, 1995). As well, I believe it is important to state clearly

the external and internal motivating factors that have influenced my decisions to engage in this research study in order that those reading this paper understand the lens through which this paper has been written. I have chosen to engage the reader in the ongoing dialogue in order to reveal my position and location as well as my motivations for engaging in this research topic

I position myself as a white settler living on land and using space appropriated from Aboriginal nations. Up to a few months ago, I would have situated myself as a Canadian citizen, however, after reading literature that helped contextualize the category of LTFIS, I came across numerous authors who assert that because Indigenous nations have been denied sovereignty, all those who occupy this land are implicated in a continued colonization project (Lawrence and Dua, 2005; Thobani, 2007). This exclusion of Aboriginal peoples has not been addressed to a large extent within the context of immigration and settlement. Therefore, I would like to begin by acknowledging that I am implicated within existing power structures. My membership as part of a white collectivity (Lewis, 2004) has meant that I have not faced the racial oppression, discrimination, and exclusion that many of these women face in navigating the immigration and refugee process and in trying to obtain full immigration status. I recognize that in relation to the population I am focusing on, the gender discrimination I have faced as a woman does not compare to the multiple and intersecting forms of oppression LTFIS women face. I also recognize that my ability to obtain a higher level of education has shaped my understandings of the social world and has provided with me with more opportunities to work and live and access information than many of the women living in Canada with LTFIS.

It is from this position that I have chosen to engage in this research project in an attempt to draw attention to and address the inequalities inherent in the immigration and refugee system and the gendered and racialized impacts, outcomes and responses that arise from navigating the system and its processes. The intention in doing so is not to categorize women with LTFIS as objects of oppression in need of being saved (Razack, 1999). Rather it is to expose the inequalities that the system perpetuates and identify ways that dominant groups or rather groups that hold power within society, can work together with other influential groups such as service providers, lawyers, paralegals, and academics to disrupt current power structures in order to eliminate systemic barriers that women with LTFIS face when navigating the immigration and refugee system and how it impacts their lives and the ways in which to respond to it. Motivational factors that influenced my decision to pursue this research project stem from my interests in comprehending the ways in which law and legality are superseded and challenged by people whom the law seeks to control the most.

Synthesizing the methodological approaches

A combination of qualitative data was used for this research project, and by situating this topic within a larger historical context, the review of existing literature and relevant theories has framed its boundaries. The data collected from the twelve interviews was analyzed in order to shed light on the ways in which LTFIS women are affected by the structure of the immigration and refugee system its laws, policies and practices; how they are able to understand, navigate and respond to this system and the outcomes that ensue. This study has been enriched by the opinions, responses and examples shared by key informants. Their contributions have shaped understandings of the nuanced

intersections of race and gender and their impacts on LTFIS women navigating the immigration and refugee determination system. They have also enriched and strengthened substantiated key findings and have informed policy recommendations. Combining the qualitative data with the reflexivity of the researcher has conveyed a clear idea of the perspective from which the research project was structured, studied and analyzed.

Literature review

Historical context

The varying degrees of immigration statuses that exist within Canada have been shaped and constructed largely on the basis of race and have been legitimized not only in law but through the process of racialization whereby groups are constructed and treated as unequal on the basis of racial categories (Bolaria and Li, 1988; Henry and Tator, 2000; Satzewhich, 1998; Simmons, 1998). The organization and maintenance of such differential degrees of immigration status have been legitimized by the abuse of power by dominant groups over those constructed as subordinate (Bannerji, 2000; Lawrence and Dua, 2005; Macklin, 2005; Thobani, 2007). According to Jiwani (2006), this manipulation of power constitutes a form violence which leads to unequal access to process in society thus resulting in social exclusion of certain groups (Galabuzi, 2006; Madanipour et al., 1998). Recognizing the historical context from which varying degrees of immigration status originate provides a framework from which to understand the contemporary concerns of women living with LTFIS in Canada as influenced by the implementation of Canada's newest immigration legislation, IRPA. Thus, the extent to which LTFIS women are able to navigate the immigration and refugee determination

system rests on their ability to understand the complexities of the system and well as those complexities attached to their immigration status.

Introduction to the literature

Questions of understanding must be central in an examination of the extent to which LTFIS women are able to navigate the immigration and refugee system. In order to conceptualize how LTFIS women understand the immigration and refugee system it is necessary to examine the extent to which the system allows for this. Recent studies have highlighted the ways in which the lives of LTFIS women have been impacted by addressing the legal and policy barriers which stem from the implementation of immigration and refugee policies, their regulations and practices. The following literature identifies the various ways in which the immigration and refugee system impedes or facilitates these women's understandings of the system, and how its policies and processes impact their immigration status and beyond that, their lived realities. Thus the literature focuses on a variety of factors which influence, shape, and inform women's ability to obtain permanent immigration status through the available avenues afforded by the immigration and refugee system

Legal and policy barriers

Emerging studies and reports on people living with LTFIS in Canada and have focused their research on past regularization initiatives, political mobilization and organizing by and with LTFIS people, barriers faced by people living with LTFIS, and their agency and sense of belonging in Canada (Berinstein et al., 2006; Lowry and Nyers, 2003; Wayland, 2006; Wright, 2006; 2003; Young 2005). While this body of literature is

limited, it addresses important themes related to the lived realities and experiences of people living in Canada with LTFIS and it is my intention to build upon this foundation.

One significant study by Wayland (2006) identified current legal and policy barriers impeding the settlement of people living with LTFIS in Canada. While her study did not focus specifically on LTFIS women, many of the legal and policy barriers identified apply and impact LTFIS women and help to articulate the ways in which such barriers influence their lived realities. Furthermore, the legal and policy barriers identified in Wayland's study (2006) as well as in other studies and reports (Berinstein et al., 2006; Ontario Women's Justice Network, 2006; Pacey, 2003; Saj and Silverman, 2002) constitute processes of structural discrimination or rather social exclusion, as do the outcomes.

In relation to the immigration and refugee determination system, Wayland's (2006) study found that the varying degrees of rights and privileges affixed to the immigration status of people with LTFIS possess, largely determine the degree of movement from one category to the next. Therefore, the legal implications surrounding people living in legal limbo renders them insecure to the immigration and refugee determination system. The study identified existing legal and policy barriers stemming from the implementation of the system's policies and practices that increase the number of refugees living in Canada in legal limbo. This category has been identified as among the most difficult to move out of due to the long processing delays resulting in long waiting periods to receive a decision thus affecting the settlement process (Wayland, 2006).

As Wayland's study (2006) did not clarify the details of who falls under this category others have stated that people living in legal limbo include: refugee claimants who are awaiting a decision from Immigration Canada, denied refugee claimants who are living in Canada and are unable to return to their country of origin due to unstable conditions, women who have been accepted as refugees but who have not been granted permanent residency and women who have entered the country on a temporary visas who met someone who sponsored them and in the process of awaiting their sponsorship decision lost their temporary status (Brouwer, 1998; Goodwin-Gill and Kumin, 2000; Omidvar and Richmond, 2003; Wayland, 2006). The system's inability to process applications in a timely manner leaves people living in legal limbo with few rights and entitlements. This in turn affects their access to social, legal, services, no access to language services often leading to increased poverty, isolation and depression (Wayland, 2006). People with LTFIS living in this situation are therefore prevented from fully participating in society arising from structural inequalities inherent in the system, which seeks to maintain unequal social relations to benefit those already in privileged positions (Galabuzi, 2006; Macklin, 1995; Razack 1998a; Thobani, 2007).

Unlike Wayland's study (2006), others have focused specifically on legal and policy barriers as they relate to women with LTFIS (Ontario Women's Justice Network, 2006; Pacey, 2003; Saj and Silverman, 2002). Such studies address the interconnections of gender and immigration status as they relate to the immigration and refugee determination processes. These studies and reports have identified that legal and policy barriers stemming from the implementation of policy regulations as they relate to the In-Canada sponsorship application perpetuate discrimination against LTFIS women thus

affecting their lived realities and ability to navigate the system. These studies and reports found that the In-Canada sponsorship application process maintains and often prolongs situations of violence due to long delays in processing wait times (Pacey, 2003; Saj and Silverman, 2002). During the period of time where the application is pending, LTFIS women who are in this process are considered dependents and have no entitlements to access social services (Ontario Women's Justice Network, 2006; Pacey, 2003; Saj and Silverman, 2002). It was identified that LTFIS women are more vulnerable to domestic violence because they have less access to information, counseling, social services and medical services; and they are at risk of being deported or detained (CLEO, 2006; Ontario Women's Justice Network, 2006; Pacey, 2003; Saj and Silverman, 2002). In the event that these women contact emergency or police services they may also place their family in danger of being detained or deported (CLEO, 2006; Ontario Women's Justice Network, 2006).

Unlike in the United States which grants women protection and a pathway to apply independently for permanent immigration status if they are living in abusive situations under the Violence Against Women Act of 1994, LTFIS women are forced to rely on their abusive partners until a decision has been made (Raj and Silverman, 2002). Depending on what stage LTFIS women are at in the sponsorship process can have varying impacts and outcomes for those living in abusive situations. The first stage of the application is where the applicant asks for a visa waiver. If her relationship breaks down during this first stage her application will be terminated and her only option is to convert her In-Land sponsorship into an H & C application. Due to the financial costs involved along with the fact that the H & C application has very low success rates this is not a

favorable option. In addition, unlike in the past, there is no special consideration for cases of domestic violence once they have been converted into an H & C application (Pacey 2003; Berinstein et al., 2006).

Structural barriers

Wayland's (2006) study found that legal and policy barriers which impede the settlement process for those living with LTFIS also produce structural inequities for people with LTFIS (Wayland, 2006). This study found that it is not so much the immigration and refugee laws and policies that exist which create legal and policy barriers but rather the implementation of such laws and practices which is problematic. Wayland (2006) found that the foundation from which to examine how the implementation of immigration and refugee policies and practices affect LTFIS women and their ability to navigate the system. Studies which examined the connection between LTFIS women and domestic abuse discovered that legal and policy barriers produce systemic forms of discrimination which in turn adversely affect the lives of LTFIS women (CLEO, 2006; Ontario Women's Justice Network, 2006; Pacey, 2003; Saj and Silverman, 2002). Their findings concluded that implementation of immigration regulations in relation to the In-Land Sponsorship application led to maintenance and perpetuation of violence against women resulting from a woman's economic dependency on the sponsor, their inability to access social and other basic services due to their limited rights and entitlements, long processing delays which maintain and increase instances of violence, and lack of policy offering protection to LTFIS women in abusive situations who are waiting on a sponsorship decision (CLEO, 2006; Ontario Women's Justice Network, 2006; Pacey, 2003; Saj and Silverman, 2002). This highlights how multiple

forms of oppression such as race, gender and immigration status are exacerbated by the implementation of discriminatory immigration practices and regulations.

While the above-mentioned studies have exposed the complexities of the system's policies and its shortcomings which complicate the ability of women with LTFIS to understand and navigate the system, such studies fall short in addressing the additional interconnections between race and gender. Unless the boundaries of race, gender, and immigration status intersect within an analysis of the immigration and refugee determination system the nuances of each become lost in a hierarchy of oppressions (Bannerji, 2000; Stasiulis and Bakan, 2005). Racism and sexism have been and continue to be a part of the lived realities of many women through out history and is therefore a part of the realities of LTFIS women in Canada. According to some scholars such racist sexism constitutes a form of violence against women (Calliste, 2000; Crenshaw, 1991; Jiwani, 2006).

Literature connecting race, gender and immigration status has been analyzed by critical race, anti-racist and feminist scholars writing on Canada's history of feminized and racialized labour (Calliste, 2000; Henry and Tator, 2000; Razack, 1998a; Thobani, 2007) and much of this is cantered on the history of domestic work and the Live-in Caregiver Program (Arat-Koç, 1999; 1990; Stasiulis and Bakan, 2005). A focus on the impacts of immigration status as it intersects with racialized women working in the domestic sphere is important. However, such literature fails to acknowledge the variety of ways that women are living in Canada with LTFIS and the racialized impacts that ensue. In spite of the fact that literature connecting non-immigration status, and women living in legal limbo who constitute the most vulnerable categories among LTFIS women.

Linkages can be made that many of these women are racialized through gendered racism, sexism in their workplaces, through the marginalized labour many LTFIS women perform. These intersections of oppression between race and gender are exacerbated by a lack of full immigration status. In combination with the structural inequalities inherent in the immigration and refugee system the process of racialization and sexism perpetually maintain LTFIS women as the most marginalized group.

Findings

The following section presents the findings of twelve semi-structured interviews conducted with key informants in the areas of law and the provision of legal services. The findings suggest that the extent to which LTFIS women are able to navigate the immigration and refugee process is dependent on their level of awareness and understanding of their immigration status and of the rights and privileges afforded to them by the immigration status they hold. Moreover, the research findings emphasize the ways in which Canadian immigration and refugee determination laws, policies and practices impact LTFIS women's lives, by adversely affecting their ability to understand their situations and make informed decisions in seeking permanent immigration status. These findings, along with the literature reviewed in the previous section, will provide evidence from which to analyze the nuances that stem from the literature and the findings.

Awareness of immigration status

What became evident through discussions with key informants is that the women they serve live in Canada with varying degrees of immigration status, and entered the country on tourist visas, student visas, work visas, through a migrant labourers program

such as the Live-In Caregiver Program, as refugee claimants, or through human trafficking. When their immigration status is made known to key informants, these women were either about to lose or had already lost their immigration status but still wished to remain in the country by whatever means possible, as the goal of obtaining permanent or full immigration status is their main priority. In the words of one lawyer, *'I think its [full immigration status] the most important goal. Without that they don't have anything else'*. In accordance with this statement, one service provider said, *'immigration status is very important, it's the main goal. It's like winning the lottery. If you have that status you are secure, you have freedom of mobility...'* Given the complex and bureaucratic nature of the immigration and refugee system, obtaining permanent immigration status remains a difficult task as the system does very little to prevent people from falling through the system's cracks through its bureaucratic nature and the delays in processing times which were noted in two significant studies by Berinstein et al. (2006) and Wayland (2006).

Understanding immigration status

While most LTFIS women are aware of their immigration status, going beyond its title and definition to understanding the rights and privileges afforded by the immigration status they hold becomes very difficult for these women. According to one legal placement student, *'for some clients it's really confusing as to what they are entitled to with the status that they have. But, they do understand their status and its vulnerabilities. That's what brings many of them in'*.

For women living in Canada without legally-recognized immigration status their vulnerabilities can also be exacerbated by domestic violence. These women, while they

have limited rights and entitlements through the Charter of Rights and freedoms, such privileges are basically meaningless as a result of the abusive situations they are living in. Their marginalized status and unequal positions make it extremely difficult for these women to remove themselves from this situation and access the help they require. As such this disrupts their ability to confidently navigate the immigration and refugee system. In discussing the intersectionality between LTFIS women experiencing domestic violence and their lack of protection by the state, one service provider said *'it's like your body is here but nothing else is... you don't exist and that is sad for a developed country'* (Service provider).

The sense that emerged from the interviews was that there is a 'disconnect' between LTFIS women's awareness of their immigration status and their understanding of what their status provides and the legal implications involved. Therefore, in situations of domestic abuse the extent to which women understand their immigration status is limited as a result so is their ability to make decisions regarding their status. Other important studies also discovered that LTFIS women are more vulnerable to situations of abuse which increases their difficulty in accessing the assistance they require (CLEO, 2006; Ontario Women's Justice Network, 2006; Pacey, 2003)

Sources and accuracy of immigration and refugee related information

Due to the nuanced and bureaucratic structure of the immigration and refugee system, many LTFIS women are forced to turn to sources other than those people who are connected to the administering of immigration policies and practices for information and advice regarding the details of their immigration status. In many instances, LTFIS women look to their partners, family, friends, and immigration consultants within their

own ethno-specific communities first for advice and information on their immigration status. However, these sources may not provide accurate or reliable information. For example, one immigration consultant/member of No One is Illegal Toronto mentioned that abusive partners often lie to their female partners about certain aspects of the immigration and refugee process, regarding the time it takes to process an application or the information that should be included or excluded in a refugee hearing. This has the effect of complicating the process for LTFIS women but it often leads to the continuation of abuse as these women are more inclined to stay with their abusive partners until they receive a decision.

Several service providers also mentioned that LTFIS women are often lied to and taken advantage of by the very immigration consultants or lawyers within their own communities from whom they seek assistance. As mentioned by several key informants, the degree to which service providers are knowledgeable in serving women claiming refugee protection or those possessing temporary or no immigration status is often questionable. These community members in positions of power, despite their lack of expertise in dealing with these kinds of cases, often charge astronomical fees and yet in the end do little to assist LTFIS women in securing permanent immigration status.

The degree to which LTFIS women understand their immigration status and what it affords is dependent on their knowledge of the immigration and refugee legal process itself. However, there is no dependable resource for these women to access this knowledge as it has come from not necessarily reliable sources, and complicating this issue is that fact that their sense of vulnerability constrains further, the few resources available to verify the validity of these sources.

The immigration and refugee application process

Many service providers noted that the various applications available to their LTFIS client's are complicated and confusing and, depending on the application, require a lot of personal information. Each application takes time to process during which LTFIS women remain in a state of legal limbo, while those awaiting a decision from an application are more often than not uncertain about their immigration status. Throughout this indeterminate state, LTFIS women are often under the impression that they have some form of legally recognized status because of the fact that they submitted an application to Immigration Canada, but in fact remain legally- unrecognizable.

On the other hand, nearly all of the key informants recognized that women who have lost their immigration status and have exhausted all of the available and relevant applications in an attempt to secure legal status or permanent residence status are the most clear in understanding the meaning of their immigration status. This understanding is often informed by the extent to which they know about their rights and entitlements. Due to the instability associated with not having immigration status, these women will often refer to their previous legal status instead of their current status when questioned as they are afraid of being here illegally.

...‘most fall into self-recognizing as non-status and they will refer to themselves as ‘I am here illegal’ or ‘I am underground’. Others however will refer to themselves as ‘I am a visitor’ even when they may have lost their status. So, they are still hanging on to an expired term and are hanging on to fact that they came here as a visitor, on a temporary work visa, student visa and still identify with a time when they had legal status despite no longer having status’.
(Lawyer)

Many of the service providers identified a sense of confusion specifically around periods of delay in the refugee process which often give them a false understanding of their immigration status and its privileges. According to one service provider:

'Many refugee claimants consider themselves to be protected persons in Canada because they receive a brown paper from immigration Canada upon filing their refugee claim... Because they may receive welfare and have housing they sometimes think this document... provides them with status, but it doesn't. While the actual document states that they do not have refugee status they think they do... but most of the population we deal with don't read this document or can't read it'.

A false sense of immigration status also stems from the fact that refugee claimants do have some rights and entitlements such as access to Interim Federal Healthcare (IFH), social assistance, social insurance number and work permit, and legal aid, but do not understand the reasons as to why they have this access if they may be denied refugee protection. Women refugee claimants believe they have a degree of legal immigration status in Canada because as they receive social assistance from the state and thus they interpret this as a sign that they will get status, when in fact it is not a guarantee. For many of these women, the applications they submit are indications and representation of their ambition to remain in Canada.

Many service providers mentioned that the In-Canada sponsorship application in particular is confusing to LTFIS in situations of domestic violence, due to this lack of access to reliable information concerning their application. During the time when their application is being processed LTFIS women are often unsure as to what their immigration status is. Therefore, the degree to which their application is delayed often determines their level of understanding regarding their immigration status, what they are entitled to and the rights they possess.

For many of these women, several service providers claimed that the applications they submit are indications and representation of their ambition to remain in Canada. When their application is denied after asserting certain rights and privileges with their previously held immigration status, this is devastating and confusing to have their rights revoked. How LTFIS women understand their immigration status depends on whether or not they have some type of legal status in Canada and the quality and accuracy of information they are able to access.

Decisions and their impacts: Responding to their immigration status

The abovementioned situations which LTFIS women experience while coming to understand their immigration status directly impacts their ability to navigate the immigration and refugee system and make informed decisions about their immigration status. The reactions LTFIS women have to the immigration system are thus shaped by the understanding of their immigration status and their affixed rights and privileges, as well as by the accuracy of information they receive regarding the system and the applications they submit. The decisions they make regarding their immigration status or their responses to the immigration and refugee system may have far-reaching effects on their lives within Canada, impacting their ability to settle, to reunite with family, and to access legal and social services.

Seeking advice from their ethno-specific community members

Because the immigration and refugee determination system is complex, many key informants shared that their LTFIS female clients are often overwhelmed and confused by the rights and entitlements of their immigration status, and as a result, do not actively seek to regularize their immigration status. Several service providers articulated that

their LTFIS women clients decide to seek out legal services or advice on how to navigate the immigration and refugee process their status from available service providers and immigration consultants first, within their ethno-specific communities prior to accessing legal services from community legal clinics and centres which often offer free services. Several service providers mentioned that LTFIS women feel comfortable accessing services in their language of origin, and from this starting point stem numerous impacts depending on the level of access and supportive services found within their ethno-specific communities. A few key informants stated that the ability of LTFIS women to access legal and other services is reliant on the level of institutional completeness. This refers to the degree to which ethno-specific communities provide services to their own community such that their members do not have to seek services from dominant society. For example, one lawyer made the observation that many LTFIS Spanish-speaking women have access to legal services in their first language due to the level of institutional completeness within this community. Unlike the Spanish-speaking community in Toronto however, the lawyer pointed out that there was little access to supportive legal services within the Caribbean community making it difficult for LTFIS Caribbean women to seek out community specific legal help to assist them through the immigration and refugee process.

Some key informants mentioned that LTFIS women often receive much of their support from their community members, while other service providers mentioned that LTFIS women can also be taken advantage of by their community members, which often occurs when they are nearly at the end of the immigration and refugee process and decide to seek help regarding their immigration status.

Seeking assistance in times of crisis

Nearly all of the key informants' interviewed observed that LTFIS women more often than not seek out legal services as a reaction to some kind of event that has prompted them to deal with their immigration status. According to one service provider, *'it's like a wakeup call'*. Thus, accessing legal services is often more of a reactive decision than it is proactive. As stated by one lawyer,

'Something has happened to them to trigger them into coming here, they may have received a deportation notice or a friend of theirs has been deported. Something wakes them up and makes them realize that 'I better do something about this'.

During this stage when LTFIS women are vulnerable to losing the immigration status they possess or are at risk of being removed from Canada, their decision-making processes are reactionary and highly influenced by a sense of panic, thus limiting their abilities to make informed decisions during such a critical time.

According to one service provider, the point at which many LTFIS women come for legal assistance is when women are desperate to regularize status, or, if regularization is not possible, to find a way to prolong their stay in Canada. Depending on what applications they have already submitted their options are very limited, and often the result of accessing legal services when in frantic situations involved uninformed and hasty decisions. According to one service provider,

'We deal with [LTFIS] woman who have their minds set on filling out a sponsorship application for example...however this may not be best suited to this women's case and we try to let her know all of the available options and perhaps let her know what might be best but as long as she understands the implications even though it may be hard to watch her make that decision we want her to make the choice even when we know it won't be successful...these women are in desperate situations...'

At the point at which LTFIS women decide to take action concerning their immigration status, many service providers mentioned that their options to regularize their status or prolong their stay in Canada are limited due to the structure of the immigration and refugee system. At such a vulnerable stage in the process, the legal implications of the immigration and refugee system prevail over the desires of LTFIS women to remain in Canada. As a result, one service provider suggested,

'it is very important for women to find a service provider who could assist them or legal representation or whatever. I have worked with clients who have gone through the process pretty much on their own but, I don't think I would have had the opportunity to work with a lot clients who had done it successfully or otherwise they wouldn't show up at my office only the ones who try to do it and at some point it doesn't quite work out, those are the ones who come to me for help'.

Submitting applications at an inappropriate time is often the result of desperate situations. LTFIS women will often file a refugee claim, In-Canada sponsorship application or as a last resort an H & C application in an attempt to secure legally-recognized status in Canada. However, their situations or timing may not be suitable for the application they submit. Some LTFIS women may choose to file a refugee claim based solely on the fact that they need access to health care. While health care is important and this is one of the limited ways to obtain health care access such a decision may be counterproductive if their refugee case is determined to be weak.

Many women refugee claimants who face difficulties in finding work because of their race, gender, because of the fact that they may be the primary caregivers of their children, or those awaiting a refugee hearing, will go on social assistance as part of surviving in a country without status. Without a strong knowledge of the particulars of the refugee determination system, however, LTFIS women may not realize that receiving

social assistance works to their disadvantage during their refugee hearing and weakens their case, as they appear to be a drain on the Canadian state as the inability to establish oneself in society can result in a negative decision. For example,

'there is one case of this woman from Pakistan, she got her refugee status and in between getting accepted and receiving notice to apply for landed status she was thinking everything was fine and nothing can happen and everything was written in stone, but because she was receiving social assistance she could not become landed ... So those gaps make them feel comfortable in their own minds but they are extremely vulnerable to the system.'

Proactive approaches to their immigration status

Several service providers mentioned that some of their LTFIS female clients, however, responded to their status in a proactive manner. One service provider shared *'I once represented an undocumented woman. She organized a union in her workplace. There was no stopping her and that is the thing that is the most shocking to me ...'*

The degree to which they actively pursue obtaining permanent residence status or actively fight injustices against them while in Canada varies depending on their immigration status. Regardless of whether women are proactive or inactive about their immigration status, procedures and guidelines set out by Immigration Canada are inflexible. Nevertheless, being proactive will improve a LTFIS woman's chances at obtaining permanent immigration status only if she sufficiently understands the immigration and refugee process and procedures, time frames and the rights and entitlements attached to her status.

When [LTFIS] women come to us for help, we try and explain that each application they fill out has certain repercussions...we encourage these women to take their case into their own hands. The problem lies in the fact that many [LTFIS] women are so desperate at the point where they come to see us they want to do anything to regularize their [immigration] status and sometimes the applications they want to do are not beneficial for their case...Its hard because

some of these women just want to be told what to do but we don't do that here'.
(Service provider)

Issues of disclosure

Many of the applications LTFIS women fill out at various stages of the immigration and refugee determination process require these women to disclose personal details about their lives. Merely providing required information on necessary applications becomes an extremely difficult process for LTFIS women as it often leads to a re-traumatization of past events and experiences. As a result, filling out various applications connected to the immigration and refugee process takes a large personal and emotional commitment. As such, disclosure can harm their present emotional state and mental health and this was also addressed in studies by Berinstein et al. (2006), Wayland (2006), Pacey (2003).

The extent to which LTFIS women are able and willing to disclosure personal details about their case can have far-reaching effects on their ability to remain in Canada especially if their case is denied. As such, the issue of disclosure can also harm their chances of being accepted through various applications. According to one key informant:

'it's hard to go through the paperwork with these [LTFIS] women because they have to re-live the trauma they have been through, they have to re-victimize themselves. We have been told by some of our clients that they avoid coming in to work on their H & C applications because they don't want to have to relive traumatizing moments all over again'.

Several key informants stated that disclosing information is a critical component to having successful applications or refugee hearing, though LTFIS do not always realize this and are thus not strategic during this process. Some service providers mentioned that many LTFIS women leave out important and relevant facts that could strengthen their case in a refugee hearing or H & C application, such as issues of domestic or sexual

abuse, and rape. One lawyer mentioned that information related to their cases is often disclosed only when it is too late, due to their hesitancy in sharing personal, and especially past information about themselves, and after decisions have already been made. Many applications are unsuccessful simply because the necessary information is not provided.

Accessing services outside of their ethno-specific community

Some LTFIS women turn outside their ethno-specific community to seek assistance in order to regularize their status. Berinstein et al., (2006) had similar findings and identified that people with LTFIS often rely on their own networks of people in similar situations rather than seeking assistance from official service providers. Service providers attributed this to a lack of necessary support from their ethno-specific community members or because they do not feel comfortable disclosing personal details of their life with people within their community, or simply because there are not many legal services provided in their community and they need to go elsewhere. In the words of one law placement student, *'[LTFIS] women receive support from their ethno-specific communities... [yet] when legal services are not provided by their community they turn outside their community in search of legal services.'* Without an understanding of who can provide safe, affordable and accessible legal services, many LTFIS women *'run the risk of falling into traps of immigration consultants or other individuals who are out there just looking to earn some money'* (Service provider). As a result, they may have to pay costly fees to immigration consultants without furthering the regularization process. In fact, several service providers were aware of cases where LTFIS women were charged

astronomical fees while no action was taken to secure their immigration status. One community legal worker recounted the following incident:

'I had a client who was charged \$1500 dollars by an immigration consultant to map-quest where Buffalo was so she could go to the Canadian office there and claim refugee protection... she was told she could go there and someone would be waiting there to help her out...when she arrived no one was there and she had wasted all this money'.

Another discouraging possibility that some LTFIS women encounter with certain service providers is that they are led to believe their application has been promptly and properly filed when in actuality it has not. Such occurrences can occur both within and outside of their community, and it costs LTFIS women a lot of money and their valuable time.

Whether LTFIS women seek legal services to help regularize their immigration status or to extend their stay in Canada, there is no guarantee that accessing services outside of their ethno-specific community will be more beneficial. One service provider mentioned that situations for LTFIS women could be made worse if service providers are not trained to serve clients with varying degrees of immigration status, rights and privileges. What surfaced from discussions with key informants was that the level of access and support both within and outside of ethno-specific communities is uneven and as such, so is the information provided to these women thus impacting the extent to which informed decisions are made about securing their immigration status. The Access Not Fear Report organized by Berinstein et al., (2006) also identified that uneven policies created additional barriers for people without LTFIS.

Processing delays when LTFIS women are in situations of legal limbo place them in extremely vulnerable situations. For example, several service providers mentioned that for an approved refugee claim it could take years to process their permanent

residence status, thus delaying family reunification, or in situations of domestic violence, prolonging it. In line with findings from Wayland's study (2006), application processing delays, combined with other immigration and refugee stipulations, significantly complicate the settlement process for LTFIS women. As mentioned by one key informant,

'I remember this case of three girls who came from Angola. They were seventeen, fifteen and seven when they came. They made up their case. Someone advised them that if they didn't lie they wouldn't have a strong refugee case. They were advised to destroy any evidence they had, and to lie about where they were from in Angola. When we got a hold of their case, we managed to prove to the IRB that their story was a lie...But how are you going to send these three girls back to Angola? The bottom line is that you have to take care of the best interest of the child. The IRB refused the case but we managed to win the case at the end with their Pre-Removal Risk Assessment. But you can imagine the situation from the day they arrived to the day that we won the case it was years and years. After we won the case they wanted to bring their mother over. This request was denied because their mother is not considered a dependent. The only way they could bring their mother over was through a sponsorship application which required one of them to be financially stable. So the options were to quit school and work in order to sponsor their mother...That happened five years ago and their mother is still not here. So, these girls have permanent status but it means very little when they cannot be with their mother...This is legal violence in my opinion and displays a total lack of gender analysis in the law'.

Counterproductive decisions

A lack of fully understanding the degree of legality afforded by their immigration status and its rights and entitlements, influences the ability for LTFIS women to be strategic when deciding what the necessary steps are to regularize their status and navigate the legal processes along the way. As one community legal worker said: *'some of the women are really clever. For example, one client she's a refugee claimant here and she is buying property here. They know how to use the system to their advantage, but this is not the case with all women'*. Other service providers mentioned that women are

instructed by immigration consultants to buy property here in Canada to demonstrate their establishment in Canada, however this is not a guarantee that permanent immigration status will be granted. For example,

'I have a client now who was undocumented. They lived in Canada for ten years and bought a house and one day this client and their family was picked up by Immigration and sent back home and they basically lost their house. It was sold for dirt cheap...the client thought, well, I bought a house, I thought I was secure, it was an indication I wanted to live here.'

Not fully comprehending the legal entitlements associated with a given status under Canadian law has far-reaching effects on women with LTFIS, as exemplified by those who have established themselves in Canada, feeling that their degree of establishment should protect them from removal, but it does prevent this from occurring.

Among the most vulnerable to the immigration system are women who have been denied by all possible applications they have filled out and remain without immigration status. Denied refugee claimants are among this group and as such are at a high risk of being detained and deported.

Choosing to remain in Canada

Some LTFIS women, who have exhausted all possible applications and have received removal orders, decide to remain in Canada without legally recognized immigration status. They are most at risk of being exploited and further marginalized among the women who fall under the category of LTFIS. Their situations are especially problematic due to a lack of legal rights and entitlements primarily because they no longer possess legally recognized immigration status. This situation is often exacerbated by domestic violence. For example, one community legal worker described a case where a woman dialed 911 to report the domestic violence she was experiencing. Because of

that one phone call, she was deported back to Pakistan, her husband went to jail and her child was given to Children's Aid. Due to the risks involved in reporting such abuse, many LTFIS women choose to remain silent, which can lead to personal risk as well as the destruction and disintegration of family and this is consistent with the findings by Berinstein et al., (2006) According to one service provider,

'Victims of domestic violence often won't say anything for fear that it will mess up the process of getting permanent residence status. I get calls from women who ask 'do you think my application will take a long time'... and I know it's because they are experiencing domestic violence and want to get their permanent status as quick as possible'

'There isn't a lot we can do; these women are between a rock and a hard place. Their choices are between living and leaving and it's not a good option either way. Even though we provide support to the women, the options are limited. We have had women murdered in the process, we provide as much protection as we can ...the counselors in the women's programs are very good at seeing the warning signs...but for some women, having full status means so much that they will just stay in the abusive situation until they are killed'. (Community legal worker)

Non immigration status women who have previously exhausted their options and have remained in Canada for many years often do not apply for an H& C application for fear they will be denied, which creates another instance of LTFIS women in very vulnerable positions. According to one service provider, *'it's better to have an application pending than to have none at all because at least then you have a chance of getting status, however ...if a woman does not fit the criteria she could be at risk of being detained or deported,[so] it may not be the best application at all.'* Therefore, with or without any pending applications the lifestyles led by LTFIS woman are drastically impacted. According to one service provider who mentioned that *'if [LTFIS women] knew they could stay here then they could do more things, take some courses and upgrade etc... But with all the uncertainty they don't want to do it'*. Unfortunately, the

degree to which LTFIS women establish themselves in Canada has no bearing on the legal implications of not having immigration status.

While non-immigration status women do not have legally-recognized immigration status they still have rights under the Canadian Charter of rights and freedoms. However, the extent to which they know this and are able to assert and exercise these rights is questionable, as argued by the several service providers interviewed.

Discussion

Our societal definition of violence must include the direct results of ...oppressive legislation...By broadening our definition of violence we combat the minimalization of women's experiences by dominant culture. We must name the violence, or we will not be able to address it. – Chezia G.Carraway, "Violence against Women of colour"

Questions of understanding have been an important focus of this exploratory research project. The process of examining how LTFIS women are able to navigate the immigration and refugee system is dependent on their ability to understand the significance of their immigration status. However, how these women come to understand their immigration status is constrained by the complexities of the immigration and refugee system itself. The lack of state protection and responsibility for would-be nationals is exemplified by the gradation of immigration statuses, rights, and privileges leading to the systematic production of unequal social relations which some refer to as social exclusion (Henrey et al., 2000; Madanipour et al., 1998; Galabuzi, 2006) while others consider this as constituting violence against women (Calliste, 2000; Crenshaw, 1991; Jiwani, 2006).

The literature reviewed in accordance with the research findings revealed that legal and policy barriers erected by the implementation of immigration policies, practices and

regulations socially exclude women from participation in society largely occurred through uneven and unequal access to services, processing delays, costs, fear, issues of trust and disclosure, and most significantly through domestic violence. These exclusionary outcomes thus impact the lived realities of LTFIS women and their ability to make informed decisions on how to obtain permanent immigration status.

Limitations of the study

Among the challenges faced in doing research on a population of which many are not legally-recognized in Canada is that the lack of available literature complicated the ability of the researcher to link processes and outcomes of racialization as an important factor in how these women understand their immigration status and are able to navigate the system. As this is a preliminary study which examines the numerous ways in which LTFIS women are impacted by the structures and processes of systems of power and how this affects their lived realities in Canada, further research is required to draw attention to how legally-unrecognized women and women in legal limbo are racialized. This is important because while issues of status can be addressed to some extent women do not stop being 'raced' upon loss of their 'official' status (Lawrence, 2004). In naming the racialized violence which intersects with legal violence against LTFIS women these structurally embedded processes in institutions of power such as the immigration and refugee determination system are disrupted, making room for ways in which to address this systemic discrimination.

Recognizing the efforts of LTFIS women

Despite the limited number of participants in this project, there seems to be an indication that women living with LTFIS are resourceful despite the complications and

limitations of the system. As several service providers mentioned LTFIS women manage to make a life for themselves and their families notwithstanding the structural barriers that prevent them from full participation in society. It was also pointed out by some of the key informants that women have been at the forefront of addressing such structural inequalities that work against them and this is exemplified by the labour laws which are now affixed to the Live-In Caregiver Program which has been addressed in certain bodies of literature (Arat-Koç1999; 1990; Razack, 1998; Stasiulis and Bakan, 2005). As well, LTFIS women have been integral to the introduction of a Don't Ask Don't Tell policy implemented at the Toronto School board and Police Services level (Berinstein et al., 2006). However, the effectiveness of such a policy to ensure the safety and protection of LTFIS women living in Canada remains to be seen.

Recommendations

While this project does not seek to redress the violence inherent in the immigration and refugee system, I do intend to highlight recommendations in order to minimize the negative affects on LTFIS women living in Canada which are largely provided by the key informants who work closely with this population and have also been identified by key studies and works of literature.

In order to reduce occasions of structural barriers against LTFIS women through the implementation of the system's policies, practices and regulations and to reduce the opportunities which put these women at risk and prevent them from protection a multifaceted approach is required to deal with the processes and outcomes of social as well as legal exclusion which constitutes violence against these women. What has been

suggested is largely informed by the responses of key informants and suggestions raised in the reviewed literature. Such suggestions include:

- Incorporate and ensure a race and gender analysis is applied to the policies, practices and regulations including the enforcement stream of the immigration (Key informants).
- Systematically apply the gender guidelines in all refugee hearings in order to ensure that sensitivity is applied to women who have been through traumatic experiences (Key informants; Razack, 1998)
- Reinstate the Refugee Appeal Division such that unjust decisions can be re-tried (Berinstein et al., 2006; Key informants).
- Implement a policy similar to the Violence Against Women Act enacted in the U.S in 1994 which grants LTFIS protection from abusive situations without jeopardizing her chance of obtaining permanent residence status. (Key informants).
- Reduce application fees, especially for the H and C application which costs 550 dollars and many of the woman who apply for this application cannot afford it (Berinstein et al., 2006; Key informants; Wayland, 2006).
- Eliminate the live-in requirement of the Live-In Caregiver program (Key informants)
- Redefine conceptualizations of family in immigration and refugee law so that LTFIS women can bring extended families member to Canada (Key informants; Stasiulis and Bakan, 2005).
- Recognize women's unpaid labour and volunteer experience as a way of assessing eligibility of establishment for LTFIS women filling out an H & C application (Berinstein et al., 2006; Key informants).

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