

Briefing Note

re: Alliance for Gender Justice in Migration (01/29/24)

Issue:

Gender-Based Violence for Women and Gender-diverse people with precarious immigration status.

Background:

The Vancouver-based **Migrant Workers Centre (MWC)** and the coalition it leads, **Alliance for Gender Justice in Migration** (<https://mwcbc.ca/alliance-for-gender-justice-in-migration/>), is playing an active role in the current debate about migrant worker policy reform at the federal level.

The Alliance for Gender Justice in Migration is concerned with the often-neglected concerns facing women and gender-diverse individuals. We are a network of people with lived experience, academics, advocates, and service providers from across Canada formed to identify trends and promote policy solutions aimed at ending discrimination against women and gender-diverse migrants in Canada.

Gender-Based Violence (GBV), which is harm directed against a person's gender, gender identity, gender expression, or perceived gender, can take physical, sexual, emotional, and economic forms. GBV can occur post-arrival in Canada for women and gender-diverse individuals with precarious immigration status (such as within the family and/or employment context) and barriers are exacerbated by difficulties in accessing GBV legislations and policies due to systemic discrimination and unequal power relations. Canadian policy framework needs to be expanded to encompass an intersectional lens of GBV by acknowledging social, legal, and economic inequities and respond with a national strategy to address the state/institutional violence affecting women and gender-diverse migrants' realities and needs.

Key Considerations

- Women and gender-diverse individuals with precarious or no status who have experienced GBV often do not seek help due to fear of legal repercussions that can result in detention, deportation, family separation, and loss of financial and other resources. The lack of protection leaves them vulnerable to GBV at the hands of sponsors, employers, and others. Thus, the laws that affect their lives produce and/or allow instances of various forms of GBV to continue.
- Women and gender-diverse individuals whose residency status is dependent on their partners are at high risk of Intimate Partner Violence (IPV). They may face manipulations tied to their immigration status and are often unable to leave their abusers due to the fear of jeopardising their immigration claim if they were to separate from their sponsor and become undocumented. Barriers include deportation threats and fear of being unable to secure work and getting access to services and resources, including those that are free from cultural bias and discrimination.
- Sectors, such as care work and farm work, are generally excluded from provincial Employment Standards and lack sufficient protection against exploitation and abuse. As many (racialized) women and gender-diverse migrant workers are involved in such excluded sectors, they experience various forms of GBV and sexual abuse by their employers and coworkers, heightened surveillance and restrictions with regards to their social and sexual activities and barriers to accessing reproductive health services. Added recruitment abuse and debt can add to their inability to leave such conditions, together with the need to accumulate Canadian work experience for permanent residency.

- The definition of what constitutes a ‘genuine’ victim of GBV needs to be further defined to prevent Westernized and biased notions that obstruct access to justice. For example, significant flaws have been found to exist with the Vulnerable Worker Open Work Permit Program (VWOWP) related to interpretations of what constitutes abuse by immigration officers, a lack of or incorrect consideration of evidence. Thus, women and gender-diverse individuals with precarious status and suffering GBV actions may experience various barriers in accessing help.

Recommendations:

1. **Create new pathways to permanent residency for all**, including for undocumented women and gender-diverse people. Immediate access to permanent residence for those experiencing Gender-Based Violence and abuse is needed.
2. **Establish legislative reform of immigration policies** to scrutinise withdrawals of sponsorship. Empower survivors of violence to take charge of their own immigration process.
3. **Empower women and gender-diverse migrants in precarious employment** situations with protections. End the use of restricted work permits in favour of open work permits to increase labour market mobility and reduce power imbalance. In addition, exemptions under Employment Standards could be discontinued for sectors such as agriculture and care work which concentrate high numbers of racialized migrant workers. Alongside a more proactive and less compliant-driven enforcement system, increase repercussions for recruiters and employers involved in GBV actions, including larger fines and more serious sentences.
4. **Provide resources to investigate and prosecute perpetrators and offer support** to migrants experiencing GBV, including accessible legal and support services, health care, housing, as well as financial support in the form of government assistance. It is also essential to provide education resources on support available and improve current programs (such as VWOWP) and ensure adequate separation between public service provision and immigration enforcement activities to mitigate fear of immigration status consequences.
5. **Implement an anti-oppressive approach** that centres anti-racism, anti-sexisms, anti-trans and anti-homophobia when shaping reforms and policies through consultation with GBV survivors, provision of cultural sensitivity and trauma-informed approach training to immigration officers and service providers, and inclusion of migrant lived experiences in discourses around GBV.

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