



**HELPING
PEOPLE
NAVIGATE**
| AUSTRALIAN
| IMMIGRATION LAW

DRAFT NATIONAL PLAN TO END VIOLENCE AGAINST WOMEN AND CHILDREN 2022-2032

Submission by the Immigration Advice and Rights Centre
25 February 2022

INTRODUCTION

Immigration Advice and Rights Centre (**IARC**), established in 1986, is a community legal centre in New South Wales specialising in the provision of advice, assistance, education, training and law and policy reform in Australian immigration and citizenship law.

IARC provides free and independent immigration advice and assistance to vulnerable people in New South Wales. We also produce legal resources such as information sheets and conduct legal education and information seminars for members of the public. Our clients are low- or nil-income earners and frequently experience other disadvantages including low level English language skills, disability, past experience of torture, trauma and domestic and family violence (DFV).

IARC's work has a special focus on the intersection between family violence and immigration law. Nearly 50% of the work we do at our centre is related to DFV. In 2020/2021 IARC provided over 1100 individual legal services to more than 350 temporary visa holders experiencing family violence. 89% of our DFV clients identify as women.

We provide the following feedback in addition to our responses to the questionnaire. Our response is predominately focused on the experience of DFV from the perspective of our clients who identify as culturally and linguistically diverse (CALD), migrant and refugee, and temporary visa holders.

We hold concerns the National Plan does not provide the focus or action required to meet its target of ending all forms of gender-based violence.

Please do not hesitate to get in touch with Jessica Schulman, Senior Solicitor (DFV) at IARC should you require further information in respect of this submission.

NATIONAL PLAN SHOULD INCLUDE ALL WOMEN IN AUSTRALIA

The National Plan states that it is “a plan for all Australians”. However, not all women in Australia are represented or recognised in the National Plan. The National Plan is lacking in data, statistics, and detail about the experience of DFV for migrant and refugee women, including those on temporary visas in Australia. Rather than active language, much of the language used to describe the intention of the National Plan in respect of migrant and refugee women is passive. It does not refer at all to women on temporary visas. This is concerning because research shows that women on temporary visas experience proportionately higher levels of DFV than Australian women¹.

The language used in the National Plan assumes it is for people who are citizens of Australia. The reality is that many DFV victim-survivors are women and children who are not Australian citizens or even permanent residents. Many women experience DFV soon after arriving to Australia for the first time.

These women and children experiencing DFV are further marginalised and vulnerable due to their temporary visa status in Australia. It is unclear whether the targets and goals in the National Plan include, or exclude, women and children holding temporary visas.

¹ Segrave, M. Wickes, R, and Keel, C. (2021) *Migrant and Refugee Women in Australia: The Safety and Security Survey*. Monash University.

It is fundamental to the success of the National Plan that its goals, as well as its language, include all women in Australia. The previous Plan (2010 – 2022) fell considerably short of representing all groups of women and consequently, many marginalised groups of women, such as migrant and refugee women, in particular women on temporary visas, continue to face not only high levels of DFV but also significant barriers to access to safety and justice. We are lacking high level/whole-of-government change that will positively impact migrant and refugee women, and particularly women on temporary visas. In order to develop strategies and targets that decrease the prevalence of DFV, as well as improve access to reporting, safety and justice the National Plan must commit to better understanding the unique experience of diverse groups of women and the intersectional forms of discrimination they face which create complex barriers to safety and justice.

BARRIERS TO ACCESS TO SAFETY AND JUSTICE FOR MIGRANT AND REFUGEE WOMEN, PARTICULARLY WOMEN ON TEMPORARY VISAS

Migrant and refugee women, in particular women on temporary visas, face often insurmountable barriers to accessing safety and justice. Many of these barriers are unique to this cohort of women, and many of these barriers are directly related to state and Commonwealth legislation and policy that either prevents or limits access to support that Australian women experiencing DFV have access to.

The barriers faced by, and the needs of, marginalised groups such as migrant and refugee women, particularly women on temporary visas are not adequately understood or explained in the National Plan. This is concerning because we know that these women are at a higher risk of experiencing DFV, and face significant barriers to access services and justice for a variety of reasons that are often outside their control. Migrant and refugee women, particularly women on temporary visas, like many other marginalised groups of people who experience DFV, require tailored responses to DFV across the four National Pillars. For example, they often face:

- Unique forms of DFV that threaten their residency, visa status and family stability
- Language, cultural and technological barriers to information and safety
- Social stigma for disclosing or reporting DFV
- Limited or no family support
- Fears returning to their home country
- Prejudicial attitudes from services including police because of their migrant/visa status
- Systems abuse
- Limited to no access to crisis accommodation, social services, public health services, housing and other services available to Australian women.

Since the commencement of the National Plan in 2010, ongoing collaborative work amongst migrant and DFV specialist services and relevant peak bodies across Australia, as well as limited but significant research into the experience of migrant women in Australia has resulted in a better understanding and awareness of the experience of DFV for migrant and refugee women, including women on temporary visas.

The research available has already told us that:

- 33% of migrant and refugee women have experienced DFV in Australia²
- Women on temporary visas experience higher levels of DFV than Australian women³
- CALD women are less likely to report and may find it more difficult to address or escape, domestic and family violence⁴
- COVID-19 pandemic and its associated lockdowns and restrictions had a serious negative impact on the prevalence of DFV experienced by migrant and refugee women⁵
- CALD women face additional barriers to the justice/legal system including accessing and going through the justice and support systems, as a result they are less likely to report violence, quickly discouraged from progressing complaints and disengage prematurely from support⁶
- Migrant and refugee women experience issues in policing including prejudicial attitudes when reporting DFV, failing to use a professional interpreter, doubting or minimising the experience of DFV, and making culturally insensitive comments. These issues can result in police misidentifying the primary aggressor.⁷

As a result of the needs and experiences of the women we support, many organisations have significantly adapted their services in order to accommodate for the needs of migrant and refugee women, and women on temporary visas. Irrespective of how much work is done to change the way we support these women, the barriers to safety and justice are systemic and require change from the very top – both state and Commonwealth legislative change – before any real improvements can be made to the experience of these women.

In 2018, over 50 state and national peak bodies, service providers and other organisations across Australia endorsed the Blueprint for Reform⁸, which called for improvement in women and children on temporary visa's access to safety and justice, by implementing three major reforms:

² Segrave, M. Wickes, R, and Keel, C. (2021) *Migrant and Refugee Women in Australia: The Safety and Security Survey*. Monash University.

³ Segrave, M. Wickes, R, and Keel, C. (2021) *Migrant and Refugee Women in Australia: The Safety and Security Survey*. Monash University.

⁴ Department of Social Services - *Hearing her voice: kitchen table conversations on violence against culturally and linguistically diverse women and their children*, 2015, page 8.

⁵ *Impact of COVID-19 on Migrant and Refugee women and children experiencing DFV – Womens Safety NSW* (https://www.womenssafety.nsw.org.au/wp-content/uploads/2020/07/31.07.20_Impact-of-COVID-on-Migrant-and-Refugee-women-experiencing-DFV_FINAL.pdf)

⁶ "I lived in fear because I knew nothing" - *Barriers to the justice system faced by CALD Women experiencing family violence* – InTouch Inc. Multicultural Centre Against Family Violence, 2010.

⁷ NSW Domestic Violence Death Review Team Report, 2017-2019 (https://www.coroners.nsw.gov.au/content/dam/dcj/ctsd/coronerscourt/documents/reports/2017-2019_DVDRT_Report.pdf; pages 96-103; Maturi J, Munro J, 2020, *Should Australia Criminalise Coercive Control?*, Asia & The Pacific Policy Society (available at <https://www.policyforum.net/should-australia-criminalise-coercive-control/>)

⁸ National Advocacy Group on Women on Temporary Visas Experiencing Violence (2019) *Blueprint for Reform: Removing Barriers to Safety for Victims/Survivors of Domestic and Family Violence who are on Temporary Visas*: https://awava.org.au/wp-content/uploads/2019/10/Blueprint-for-Reform_web_version.pdf

- a) Improve the migration system so that all women on temporary visas who experience sexual, domestic and family violence and their dependents can access protections, services and justice;
- b) Ensure eligibility and access to services and government support are based on women's needs for safety and recovery, regardless of their migration status; and
- c) Ensure that women on temporary visas who have experienced SDFV and their dependents have immediate and full access to safety, protection, justice and fully funded specialist support with demonstrated gender expertise and cultural competency⁹.

While we welcome the focus areas included in the Response Pillar which include ensuring a resourced service system with an appropriately skilled and qualified workforce, we need recognition of specialisation in DFV service provision, and a genuine commitment to invest in a long term and sustainable manner in specialist DFV services who are critically underfunded. In addition to this we need major reforms to the immigration system, and access to government services that provide the support to leave abusive relationships.

MIGRATION-RELATED ABUSE

Migration related abuse is a sub-category of coercive and controlling behaviour. It is often perpetrated by their partner to whom they are often bound to due to their partner either being the visa sponsor, or main visa holder. Migration related abuse includes threats to cancel their visas, or have them deported, or separate them from their children. Women on temporary visas are placed in a uniquely vulnerable position to be controlled and manipulated, because of their visa status.

Reporting DFV brings the real risk of visa cancellation, social and cultural stigma and fear of harm from family and community at home.

Women are often threatened by the perpetrator that their children would be returned to their country of origin (COO) without them, or the woman would be forced to return to their COO without their children. This fear is further exacerbated in situations where mum and children have different visa statuses in Australia – for example, where the kids are Australian citizens. As a result of these kinds of threats many women often have to choose between remaining in an abusive relationship or becoming homeless and risking losing their children. Many victim-survivors live in constant fear of being separated from their children, a very real reality for temporary visa holders with limited to no visa options available for them to remain in Australia.

Almost every woman we assist at IARC who has experienced DFV, discloses experiencing immigration related abuse. We would like to see migration-related abuse become a nationally defined term because it is so prevalent to a large percentage of migrant and refugee women, including women on temporary visas.

⁹ National Advocacy Group on Women on Temporary Visas Experiencing Violence (2019) Blueprint for Reform: Removing Barriers to Safety for Victims/Survivors of Domestic and Family Violence who are on Temporary Visas: https://awava.org.au/wp-content/uploads/2019/10/Blueprint-for-Reform_web_version.pdf

DATA AND EVIDENCE

Research and data on the experience of migrant and refugee women in Australia is still very recent and limited. We agree with the *Parliamentary Inquiry into family, domestic and sexual violence* that research programs are needed that focus on CALD communities and the increased prevalence of DFV in Australia¹⁰.

We would like to see a national strategy which specifically addresses the experience of migrant and refugee women, including women on temporary visas, in their own right. The Broader Reforms snapshot on page 55 of the National Plan does not appear to reflect or represent the experience of this cohort of women in their own right. Due to the prevalence of DFV in the migrant/refugee and women on temporary visa cohort, as well as the unique barriers to access to services, safety and justice that these women experience, it is imperative that the Commonwealth invest in a national strategy that focuses explicitly on this particular group of women. IARC welcomes further consultation on the creation and implementation of a national strategy on safety for migrant and refugee women, including women on temporary visas.

We welcome the National Plan's intention to include demographics such as visa and residency status and language barriers in future data collection. All future research, surveys and data reporting systems should include the experience of migrant/women on temporary visas in a way that is meaningful and not tokenistic, and recognises the complexity and intersectionality of the experience of DFV.

We recommend funding research that investigates and considers issues specific to migrant and refugee women, including women on temporary visas. Specifically, research into:

- Why men perpetrate DFV, and specifically migration-related abuse towards migrant/refugee/temporary visa holder women at a higher rate than other groups of women
- Why women on temporary visas, migrant and refugee women don't report DFV
- Why migrant/refugee/temporary visa holder women are misidentified as the primary aggressor by police
- Why migrant/refugee/temporary visa holder women disengage with DFV services, including police and the legal/justice system
- Why migrant/refugee/temporary visa holder women return to abusive relationships

Targets

Targets should reflect the difference in experience of access to safety and justice for marginalised and vulnerable women. For example, including measures that demonstrate positive changes to access to safety and justice for migrant and refugee women/women on temporary visas. We welcome the opportunity to elaborate further with stakeholders on improved targets for migrant and refugee women, including women on temporary visas.

¹⁰https://parlinfo.aph.gov.au/parllInfo/download/committees/reportrep/024577/toc_pdf/Inquiryintofamily,domesticandsexualviolence.pdf;fileType=application%2Fpdf; at para 5.173