



**HELPING
PEOPLE
NAVIGATE**
| AUSTRALIAN
IMMIGRATION LAW

RESPONSE TO DRAFT NATIONAL REPORT FOR AUSTRALIA'S FOURTH UNIVERSAL PERIODIC REVIEW

Immigration Advice & Rights Centre

August 2025

ACKNOWLEDGEMENT OF COUNTRY

We acknowledge the Traditional Owners of Country throughout New South Wales and the Gadigal people of the Eora Nation who are the Traditional Custodians of the land on which we work. We acknowledge this land holds structures of law which were practiced for thousands of generations and recognise First Nations peoples’ cultures, wisdom and connection to lands throughout Australia. We pay our respects to Elders past and present and acknowledge that sovereignty over this land was never ceded. It always was and always will be Aboriginal land.

CONTENTS

1. INTRODUCTION	2
2. DRAFT NATIONAL REPORT	3
2.1. Migrants, Refugees & People Seeking Asylum	3
2.2. Rights of Women	5
3. IMPLEMENTATION STATUS OF THE RECOMMENDATIONS AUSTRALIA RECEIVED IN 2021	7
4. POTENTIAL VOLUNTARY COMMITMENTS	8

1. INTRODUCTION

The Immigration Advice and Rights Centre (**IARC**) is a not-for-profit, specialist community legal centre providing free legal advice and assistance to people throughout New South Wales. Our vision is for a fair, just, and accessible Australian immigration system. We provide advice in relation to migrant worker exploitation, immigration and domestic violence, Family visas, Refugee and Humanitarian visas, visa cancellations, and Australian citizenship. IARC promotes a fairer immigration system through law reform, community development, and free legal education to workers and the broader community.

IARC has actively engaged in the Universal Periodic Review (**UPR**) process, including as a lead author on the Joint NGO Report on behalf of the Australian NGO Coalition. In this role, we led the sections on Refugees and Asylum Seekers, and on Culturally and Linguistically Diverse (**CALD**) communities, and made significant contributions to the sections on Women’s Rights and Workers’ Rights.

This submission:

- 1) Comments on Australia’s Draft National Report.
- 2) Provides feedback on the implementation status of recommendations Australia received at its UPR in 2021.
- 3) Suggests voluntary commitments Australia should make during its appearance before the UN in Geneva in January 2026.

2. DRAFT NATIONAL REPORT

The Draft National Report covers a wide range of areas where Australia has taken action since its third UPR cycle in 2021. This submission comments on the two issues most relevant to IARC's work:

- Boosting **protections for migrants, refugees and asylum seekers**, including through legislating protections against the exploitation of temporary migrant workers and continuing to provide significant support for refugees.
- Significant work and investment at all levels of government to **combat gender-based violence**, supported by the *National Plan to End Violence against Women and Children 2022-2032*.

We commend Australia on the steps it has already taken to advance human rights in these areas, while highlighting IARC's advocacy efforts – alongside likeminded stakeholders – that helped bring about these changes. We also emphasise the need for further reforms to support migrants, refugees, and people seeking asylum, including victim-survivors of Domestic, Family and Sexual Violence (**DFSV**) with a precarious visa status.

2.1. MIGRANTS, REFUGEES & PEOPLE SEEKING ASYLUM

The Draft National Report rightly highlights the *Migration Amendment (Strengthening Employer Compliance) Act 2024* and the Workplace Justice visa pilot as positive measures Australia has taken since the last UPR cycle to address the exploitation of temporary migrant workers.

IARC and Unions NSW co-wrote a submission on the *Migration Amendment (Strengthening Employer Compliance) Bill* that supported the planned introduction of criminal offences and civil penalties for employers who coerce temporary migrant workers.¹ However, our submission argued that this Bill would be ineffective on its own without the introduction of protections against visa cancellation for migrant workers who have breached a work-related visa condition as a result of exploitation, and a Workplace Justice visa to enable exploited migrant workers to stay in Australia to pursue legal action against their employer.

Alongside the Migrant Workers Centre (Victoria), Unions NSW, Human Rights Law Centre, and the Migrant Justice Institute, IARC co-authored the *Not Just Numbers* report, which expanded upon these recommendations.² The report analysed the issues with Canada's Workplace Justice visa whereby exploited migrant workers had to have their claims of exploitation certified by a Government body. We proposed an alternative model to increase accessibility where employment lawyers and trade unions could also certify claims of workplace exploitation.

In response to longstanding advocacy, the Federal Government introduced two pilots in July 2024: the Strengthening Reporting Protections (**SRP**) and Workplace Justice Visa (**WJV**) pilots.

¹ IARC-Unions NSW Submission to *Migration Amendment (Strengthening Employer Compliance) Bill 2023* (2023, July). Retrieved from: <https://iarc.org.au/wp-content/uploads/2023/08/Sub16.pdf>.

² Migrant Workers Centre, Unions NSW, Human Rights Law Centre, IARC, and Migrant Justice Institute. *Not Just Numbers: A Blueprint of Visa Protections for Temporary Migrant Workers* (2023, August). Retrieved from: <https://iarc.org.au/wp-content/uploads/2023/08/Not-Just-Numbers-A-Blueprint.pdf>.

For both pilots, the Government established a model whereby Accredited Third Parties (ATPs), including lawyers and unions, can certify claims of workplace exploitation.

The pilots are a significant step forward in combatting migrant worker exploitation and should be made permanent. There is also scope for the protections to be expanded to other migrant workers who do not qualify (see Table 1 below).

Table 1

IARC legal advice to clients who reported experiencing workplace exploitation (July 2024 to July 2025)

Category	Number of clients
Eligible for Strengthened Reporting Protections (SRP)	16
Eligible for Workplace Justice Visa (WJV)	44
Total number of clients that reported experiencing workplace exploitation	130

Over this thirteen-month reporting period, IARC only assessed 57 clients (44%) who reported workplace exploitation as eligible for the new pilots. 16 people were deemed eligible for the SRP, and 44 for the WJV, with 3 clients qualifying for both pilots. This leaves 73 clients (56%) who reported workplace exploitation as ineligible for either pilot.

In two recent policy submissions – one for the UN Special Rapporteur on Contemporary Forms of Slavery and the other for the NSW Parliament – IARC explained the reasons for the limited coverage of the pilots.³⁴ For example, there is a small 28-day window in which to apply for the WJV.⁵ This tight time frame places undue pressure on specialist immigration community legal centres such as IARC, as well as ATPs certifying claims of workplace exploitation. Consequently, meritorious applicants have unjustly missed out on accessing the WJV because they have been unable to obtain certification in time.

The eligibility criteria for the WJV are equally narrow. The visa is not available to people who hold Bridging visas (for more than 28 days) or substantive visas without work rights. Nor is it available to unlawful people whose visas expired more than 28 days ago.

³ IARC and Unions NSW. *Preventing Migrant Worker Exploitation in Australia: A Report for the United Nations Special Rapporteur on Contemporary Forms of Slavery*. (2024, November). Retrieved from: <https://iarc.org.au/wp-content/uploads/2024/11/IARC-Report-for-the-UN-Special-Rapporteur-on-contemporary-forms-of-slavery-November-2024.pdf>.

⁴ IARC and Unions NSW. *Inquiry into Modern Slavery Risks Faced By Temporary Migrant Workers in Rural and Regional New South Wales*. (2025, February). Retrieved from: iarc.org.au/wp-content/uploads/2025/04/0038-Immigration-Advice-and-Rights-Centre-IARC-and-Unions-NSW-1.pdf.

⁵ An applicant must either hold a substantive visa with work rights with no more than 28 days remaining, or have previously held a substantive visa with work rights that has expired no more than 28 days before the day of the visa application.

Regarding the SRP pilot, IARC has encountered PALM workers who disengaged from the Pacific Australia Labour Mobility (**PALM**) scheme due to workplace exploitation and had their visas cancelled under s 116(1)(g) of the *Migration Act 1958* (Cth). As a consequence, they could not access the SRP pilot because the cancellation protections only relate to s 116(1)(b) of the *Migration Act 1958* (Cth).

As a result of IARC's advocacy on the migrant worker pilots, the UN Special Rapporteur on Contemporary Forms of Slavery made the following three recommendations in his country report of Australia.⁶ We endorse each recommendation and advocate that Australia turns all of them into voluntary commitments during its appearance before the UN in 2026:

- Ensure equal access to the Workplace Justice Visa and the Strengthening Reporting Protections pilot scheme for all migrant workers, including undocumented workers and workers disengaged from the PALM scheme.
- Expand the eligibility window for the Workplace Justice Visa beyond the 28-day expiration requirement to allow exploited workers to seek remedy.
- Properly fund community legal centres and other accredited third parties to ensure that more exploited migrant workers receive free, confidential and credible legal advice, including timely and equitable access to the Workplace Justice Visa and Strengthening Reporting Protections pilot scheme certifications.

In addition, IARC also urges Australia to include the following recommendation as a voluntary commitment before the UN:

- Allow PALM workers to change employers without having to receive approval from the Department of Employment and Work Relations.⁷

2.2. RIGHTS OF WOMEN

Australia's Draft National Report rightly presents *The National Plan to End Violence against Women and Children 2022-2032* (hereafter, the National Plan) as a significant step forward in combatting gender-based violence.

Notably, the initial draft of the National Plan, published in January 2022, omitted temporary visa holders from the discussion. In response, IARC – alongside other likeminded stakeholders – authored a submission urging the National Plan to address the unique vulnerabilities faced by women and children with precarious visa statuses in the context of DFSV.⁸ Following these early consultations, the final National Plan rightly recognised these vulnerabilities, including how perpetrators exploit victim-survivors' visa status to exert control and abuse. The Plan also references the family violence provisions within the *Migration Regulations 1994* (Cth) as

⁶ UN Special Rapporteur on Contemporary Forms of Slavery. *Visit to Australia: Report of the Special Rapporteur on contemporary forms of slavery, including its causes and consequences, Tomoya Obokata*. (2025, July). (p. 18). Retrieved from <https://docs.un.org/en/A/HRC/60/28/Add.1>.

⁷ IARC and Unions NSW. *Inquiry into Modern Slavery Risks Faced By Temporary Migrant Workers in Rural and Regional New South Wales*. (2025, February). (p. 22). Retrieved from: iarc.org.au/wp-content/uploads/2025/04/0038-Immigration-Advice-and-Rights-Centre-IARC-and-Unions-NSW-1.pdf.

⁸ IARC Submission to *Draft National Plan to End Violence against Women and Children 2022-2032*. (2022, February). Retrieved from: <https://iarc.org.au/wp-content/uploads/2022/10/IARC-Response-to-Draft-National-Plan-submission-25.2.2022.pdf>.

a vital tool to “enable certain temporary visa holders and applicants, who experience family violence, the ability to access a permanent visa”.⁹

Building on the National Plan, the Federal Government has amended the *Migration Regulations 1994* (Cth) by expanding the family violence provisions to include secondary applicants on 18 visa subclasses.¹⁰ IARC commends these changes for giving more women and children with precarious visa statuses the opportunity to escape violence and stay in Australia. IARC has already advised and assisted clients to access permanent residency under these recent reforms.

We particularly applaud the Federal Government for holding consultations with specialist legal services and key stakeholders on how the expansion of the family violence provisions should operate. During these consultations, IARC strongly urged the Government to allow secondary applicants to obtain a permanent visa when their abusive partner’s visa application was refused due to family violence. This advice was based on our experience assisting clients who feared that reporting their partner’s abusive behaviour to the police would lead to the refusal of their partner’s visa application on character grounds, resulting in their own application being refused. We recognise the Government’s efforts to acknowledge this advice in the expansion of the family violence provisions, by allowing secondary applicants to remain eligible for the grant of their visa if the primary applicant’s visa is refused for reasons related to family violence.

Unfortunately, the family violence provisions do not protect all women and children with precarious visa statuses. The provisions only apply where the victim-survivor has already applied or been included in an application for a relevant permanent visa. As a result, the provisions do not protect many victim-survivors from immigration-related abuse, such as perpetrators using false promises of Partner visa sponsorship or inclusion on another permanent visa application in order to maintain control. Women holding temporary visas who share children with perpetrators and are not eligible to rely on the family violence provisions are put into an especially precarious situation, including risking separation from Australian citizen children, because they may have no visa pathway to remain in Australia. Additionally, eligibility to rely on the family violence provisions requires evidence of an intimate partner relationship, meaning the perpetrator must be a spouse or *de facto* partner. This excludes victim-survivors experiencing violence from other family members, such as in-laws, adult children, or carers.

⁹ Commonwealth of Australia. *National Plan to End Violence against Women and Children 2022-2032*. (2022). (p. 44). Retrieved from: <https://www.dss.gov.au/system/files/resources/national-plan-end-violence-against-women-and-children-2022-2032.pdf>.

¹⁰ Both the Explanatory Memoranda for these regulatory changes explicitly stated that they were consistent with the National Plan, as they reinforce the commitment to end violence against women and children; ensure migrants (including their children) are safe and free from violence; and ensure that victim-survivors of family violence do not feel compelled to remain in a violent relationship for fear of losing access to permanent residence via their visa application.

Given these limitations, we reiterate the recommendations set out in the *Blueprint for Reform (2022)*¹¹, including the key recommendation also supported in the Women’s Rights section of the Joint NGO Report on behalf of the Australian NGO Coalition¹²:

- Australia must introduce a substantive temporary visa with a permanent visa pathway to further support victim-survivors of family violence.

3. IMPLEMENTATION STATUS OF THE RECOMMENDATIONS AUSTRALIA RECEIVED IN 2021

Safeguarding migrants’ rights in compliance with international human rights standards

Implementation status: Partially implemented.

During the last UPR cycle in 2021, many member states recommended that Australia safeguard migrants’ rights and ensure Australia’s immigration laws comply with international human rights standards. Australia accepted these recommendations.

As discussed in Section 2.1, Australia has made some progress on migrant workers’ rights, but further reforms are needed.

We also wish to take this opportunity to highlight ongoing concerns regarding family reunion policies and the Migration Health Requirement, both of which fall short of international human rights standards.

The capping and queuing of certain Family visas has created backlogs, making reunification with certain family members virtually impossible. The most egregious example is the Parent visa, with processing times up to 31 years.¹³ Large backlogs can also have discriminatory consequences for people with disabilities. For example, the 8-year Carer visa backlog punishes Australian citizens and permanent residents with disabilities who cannot access the care they need from another relative or welfare, hospital, or community nursing service in Australia.¹⁴

Furthermore, the *Migration Act 1958* (Cth) is exempted from the *Disability Discrimination Act 1992* (Cth), allowing discrimination against visa applicants with disabilities and/or complex health conditions. IARC believes that this exemption should be removed. Australia’s immigration system must be fair, just, and accessible – free from discrimination based on disability or health status. For many visa applicants, the Migration Health Requirement is the final hurdle after navigating an already complex and often traumatic immigration process.

¹¹ National Advocacy Group on Women on Temporary Visas Experiencing Violence. (2022, July). *Blueprint for Reform: Removing barriers to safety for victims/survivors of domestic and family violence who are on temporary visas*. Retrieved from <https://iarc.org.au/wp-content/uploads/2023/01/Blueprint-for-reform-2022-v071222.pdf>.

¹² Joint NGO Report on behalf of the Australian NGO Coalition. (2025, July). (p. 10). Retrieved from <https://www.hrlc.org.au/app/uploads/2025/07/Report-UPR-2025-26-Joint-NGO-Australia-Submission.pdf>.

¹³ Department of Home Affairs. (2025, August 21). *Parent visas – queue release dates and processing times*. Retrieved August 27, 2025, from <https://immi.homeaffairs.gov.au/visas/getting-a-visa/visa-processing-times/family-visa-processing-priorities/parent-visas-queue-release-dates>.

¹⁴ Department of Home Affairs. (2025, August 21). *Other Family visas – queue release dates and processing times*. Retrieved August 27, 2025, from <https://immi.homeaffairs.gov.au/visas/getting-a-visa/visa-processing-times/family-visa-processing-priorities/other-family-visas-queue-release-dates>.

The Requirement can have devastating consequences for individuals who otherwise meet all visa criteria but are denied solely on health grounds.¹⁵

Combatting domestic, family and sexual violence

Implementation status: Partially implemented.

During the last UPR cycle, numerous member states recommended that Australia combats family, domestic and sexual violence against women and girls, especially among population groups that are disproportionately affected. Australia accepted this recommendation.

As discussed in Section 2.2, women and children with precarious visa statuses are disproportionately affected by DFSV. While there have been positive steps in this area, more must be done to ensure that all victim-survivors are adequately protected and supported. The most important step in this regard would be to introduce a substantive temporary visa with a permanent visa pathway (see Section 4).

Ending the practice of detaining children in immigration detention centres

Implementation status: Unimplemented.

During the last UPR cycle, numerous member states recommended that Australia review its approach to immigration detention. Many specifically called for an end to the detention of children. Australia noted but did not accept any of these recommendations. Unsurprisingly, they remain unimplemented. We urge a reconsideration of Australia's policy on child detention, which breaches Australia's international obligations under the Convention on the Rights of the Child.¹⁶

4. POTENTIAL VOLUNTARY COMMITMENTS

We recommend that Australia makes the following voluntary commitments during its appearance before the UN in Geneva in January 2026.

Australia should:

- 1) Make permanent the two migrant worker pilots: the Strengthening Reporting Protections and Workplace Justice Visa pilots.
- 2) Ensure equal access to these two pilot schemes for all migrant workers, including undocumented workers and workers disengaged from the PALM scheme.
- 3) Expand the eligibility window for the Workplace Justice Visa beyond the 28-day expiration requirement to allow exploited workers to seek remedy.
- 4) Properly fund community legal centres and other accredited third parties to ensure that more exploited migrant workers receive free, confidential, and credible legal advice, including timely and equitable access to the Workplace Justice Visa and Strengthening Reporting Protections pilot scheme certifications.

¹⁵ IARC Submission to *Review of the Migration Health Requirement and Australia's visa Significant Cost Threshold (SCT)*. (2023, November). Retrieved from <https://iarc.org.au/wp-content/uploads/2024/10/2023-11.17-IARC-Submission-to-DHA-Review-on-Significant-Cost-Threshold.pdf>.

¹⁶ The Australian Human Rights Commission. *Immigration detention and human rights*. (2023, April). <https://humanrights.gov.au/our-work/asylum-seekers-and-refugees/projects/immigrationdetention-and-human-rights>.

- 5) Allow PALM workers to change employers without having to receive approval from the Department of Employment and Work Relations.
- 6) Introduce a substantive temporary visa with a permanent visa pathway to further support victim-survivors of family violence.

IMMIGRATION ADVICE AND RIGHTS CENTRE Inc

Dr. Jake Davies
Senior Policy Officer

Joshua Strutt
CEO and Principal Solicitor

Ann Emmanuel
Principal Solicitor

Sarah Sinclair
Communications Manager

Kate Bookey
Senior Solicitor