

Immigrant Women's Support Service

Assisting Temporary Visa Holders Who Have Experienced Domestic Violence in Australia

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Information for the Department of Immigration and Citizenship

Immigrant Women's Support Service

The Immigrant Women's Support Service (IWSS) is a specialist domestic violence and sexual assault service that provides free and confidential support services to women and their children from non-English speaking backgrounds (NESB). IWSS provides information, crisis support, advocacy, counselling, Court support, referral, and ongoing case management services to women from NESB and their children. IWSS is the only service of its kind in the state of Queensland that works specifically with women from NESB and their children who have been victims of violent crime.

IWSS provides direct assistance to women from NESB who may have entered Australia as:

- Refugee and Humanitarian entrants;
- Asylum Seekers/Refugee Claimants;
- Migrants (including Skilled, Business, Family streams);
- Temporary residents (including holders of Prospective and Provisional Partner Visas, Student Visas, and more recently the Temporary Skilled Visa Subclass 457); and
- Second generation born in Australia.

The Domestic Violence Program (DV Program) at IWSS provides a timely and culturally appropriate response to women and their children from NESB who are experiencing domestic violence perpetrated by a partner or spouse. The DV Program recognises that women and children have the right to live in safety and security and can access services that will assist them to live independently, free from violence. The DV Program receives both federal and state funding through the Supported Accommodation and Assistance Program (SAAP), Department of Communities.

Our service has operated in Queensland for twenty four years and is a lead agency in providing specialist knowledge and advice in relation to culturally inclusive practice when responding to issues of violence against women from NESB. IWSS supports sector development to ensure culturally sensitive and responsive service provision to women from NESB through the provision of information, resources, community education and professional development activities to community groups and service providers in Queensland.

Introduction

In the past two years our organisation has identified a dramatic increase in temporary Partner Visa, Skilled Visa and Student Visa holders accessing IWSS services having experienced domestic violence in Queensland. Some women confronted by this situation may be eligible to apply for permanent residency under the *Family Violence Provisions within the Migration Regulations* however IWSS has observed an increasing number of women whose visa class falls outside of the scope of these provisions. We believe it is essential that appropriate strategies are developed to ensure equitable access to service systems and protection for people from CaLD backgrounds irrespective of whether they are temporary or permanent residents of Australia.

Nationally, women from NESB account for 17.9 per cent of people who experience violence by their current partner (ABS 2006). IWSS believes this to be an extremely conservative approximate figure when we consider the known barriers faced by women from NESB in reporting experiences of domestic violence. IWSS estimate a far greater number of women from NESB are experiencing domestic and family violence but are either choosing not to report their experiences for multiple reasons or are unaware of available options in accessing support or protection.

Research also indicates:

- Women from NESB are less likely to receive appropriate assistance when they are trying to leave a violent relationship (Dimopoulos and Assafiri 2004);
- Immigrant and refugee women are more likely to be murdered as a result of domestic violence exposing a heightened need for responsive service provision and effective legal protection (FaHCSIA 2009a); and
- Without appropriate action to 2021-22, violence perpetrated against immigrant and refugee women will cost the economy over \$4 billion (FaHCSIA 2009b, cited in QCOSS Policy Position Violence Prevention 2010).

IWSS recognise that domestic and family violence occurs in all communities and primarily affects women and children. Domestic and family violence has serious social, financial, legal and health implications for victims and their families, and requires a coordinated Commonwealth, State, and Territory Government strategy to respond and reduce violence against women and children. IWSS believes a key role within this strategy is to address issues of disadvantage and improve access to legal justice and coordinated service responses.

Barriers in Reporting Violence and Accessing Information, Legal, and Support Services

Domestic and family violence in CaLD communities is significantly under-reported. Women from NESB experience significantly more barriers in reporting domestic and family violence and in accessing relevant information, legal, and support services. Appropriate, timely and accessible support services and legal protection is therefore critical when women from NESB seek to break patterns of violence.

➤ *Knowledge of Rights*

For many newly arrived migrants and refugees information pertaining to the laws in Australia; definitions of domestic and family violence; and available support services are not widely known. Women from NESB are often unaware of their rights, relevant support services, and legislation in relation to domestic and family violence, child protection and family law. This information is not always accessible or available in diverse community languages. Translated information may not always meet the needs of women from NESB as they may not be literate in their first language. Broader strategies are required to disseminate translated information and resources to ensure understanding of concepts that may be unfamiliar to women from NESB.

Women who are on Provisional Partner Visas (Subclass 309 and 820) are often intentionally misinformed by their sponsoring partner or spouse. We frequently hear women report that they have been told by a violent or abusive partner that if they choose to leave the relationship they will be deported and forced to return to their country of origin, or that they will lose residency of their children in Australia. These threats/lies serve to instil fear, anxiety and confusion in women and may lead women to believe they have no choice but to stay in a violent relationship where their personal safety is at continued risk.

➤ *Recognising Domestic and Family Violence*

Women from NESB may also lack an understanding of what constitutes domestic and family violence in Australia especially sexual violence within an intimate partner or spousal relationship. In some traditional cultures there may not be a concept of sexual violence occurring in marriage and no

definitions of consenting sexual activity. Anecdotal evidence suggests that sexual violence is often experienced by women where other forms of domestic violence are present as women's capacity to negotiate intimacy is diminished within a relationship where there is unequal power and use of violence by an intimate partner or spouse.

➤ ***Isolation***

Women from NESB often experience significant isolation as there may be an absence of immediate and/or extended family and community support in Australia. Social and cultural abuse may also be a feature of the domestic and family violence experienced within intimate partner or spousal relationships effectively isolating women from accessing support. Women may also be geographically isolated, living in rural or remote areas throughout Queensland. This is particularly observed for women and children who are secondary visa applicants on temporary Skilled Visas (Subclass 457). Additionally women from NESB may also face social marginalisation and discrimination in Australia and/or exclusion from family and community as a result of domestic and family violence or following separation.

➤ ***Cultural Barriers***

There may also be cultural barriers for women from NESB in reporting their experiences of domestic and family violence. Many communities minimise or deny the incidence of violence against women and children, and women may experience significant pressure from their family or community to not disclose domestic and family violence. Stigma associated with domestic and family violence in CaLD communities creates further difficulties for women from NESB in reporting violence and accessing support services. Women may also have a strong internal sense of responsibility to protect their family/community identity and reputation.

There may also be cultural values and traditions that foster violence against women and children that remain unchallenged in CaLD communities, and gender related roles that may result in restrictive behaviours, beliefs and institutional arrangements. In some cultures women may not have shared rights nor have life experience and skills in many areas (e.g. finance, employment, and independent living) which may present additional challenges for women from NESB in being able to live independently in Australia following separation.

➤ ***Systemic Barriers***

Additionally, women from NESB often experience systemic barriers when accessing information, legal and support services. These barriers include:

- Unwelcoming or intimidating presentation of service, or service image not reflecting cultural diversity;
- Lack of cross-cultural awareness and training of service providers;
- Experiences of discrimination and racism when accessing services;
- A failure to engage professional interpreters, and/or inappropriate or inconsistent use of professional interpreters; and
- Service providers failing to provide relevant information in appropriate community languages, and not assisting women with relevant referrals to necessary services.

Temporary Visa Holders and Domestic Violence

IWSS regularly assists women who are temporary residents in Australia who have experienced domestic and/or sexual violence. Some women confronted by this situation may be eligible to apply for permanent residency under the *Family Violence Provisions within the Migration Regulations*. This applies to women entering Australia on a Prospective Partner (Fiancé) visa (Subclass 300) or Provisional Partner (Spouse) visa (Subclass 309 or 820) who have married an Australian citizen or permanent resident.

IWSS has recently observed a significant increase in the number of women whose visa class falls outside of the scope of these provisions. This includes women arriving in Australia on a temporary Skilled Visa (Subclass 457); New Zealand Citizen Family Relationship Temporary Visa (Subclass 461); Student Visa; Tourist Visa; or those applying for a Protection Visa (refugee claimants).

Many women in this situation face the choice of remaining in a violent or abusive relationship or returning to their country of origin. The prospect of returning to their country of origin after separation is unfathomable to some women and is often accompanied by significant challenges and hardship. Some women face serious discrimination, rejection and even human rights abuses in returning to their country of origin where they may be blamed for the breakdown of the relationship and/or for causing shame to their families.

Women who make the decision to leave a violent or abusive partner often experience significant challenges in surviving independently in Australia due to *reduced or no* access to services such as:

- Emergency accommodation and long-term housing;
- Limited or no income support;
- Limited access to health care (not eligible for Medicare);
- Adult education (not eligible for Adult Migrant English Programs); and
- Employment.

We are regularly seeing women forced to remain in violent situations due to their having no options to lawfully reside in Australia following separation and/or due to a lack of support services available to make their independent survival possible.

Access to Income Support

IWSS provides regular financial assistance to women with limited or no access to income support. Women may wait months or years to have their visa applications finalised without access to Centrelink income support and in some circumstances without eligibility to work. This often involves significant resources and an increased role of advocacy from IWSS workers to negotiate for the provision of basic services such as housing, education, and health care in addition to providing assistance with complex legal and migration proceedings.

In response to the Palmer and Comrie Report Recommendations, DIAC have recognised the hardships experienced by certain visa categories, in particular those applying for a Protection visa (refugee claimant) and/or those holding a Bridging visa who are awaiting determination of their residency status in Australia. DIAC have funded programs such as the Asylum Seekers Assistance Scheme (ASAS) and the Community Assistance Program (CAS) formerly known as the Community Care Pilot Program (CCP) that provide regular income support and access to health care services through a community partnership with the Australian Red Cross.

The CCP was successfully piloted in Victoria, NSW and Queensland from 2006 and is currently being rolled out to all states and territories as the CAS. The CAS provides case management within DIAC and facilitates access to income support (equivalent to a Special Benefit), medical/health services, migration assistance and other practical support from the Australian Red Cross and the International Organisation for Migration (IOM).

Whilst IWSS applauds these initiatives, the CAS does not currently include eligibility for some temporary visa holders (e.g. temporary Skilled Visa, New Zealand Citizen Family Relationship Temporary Visa, and Student Visa). We strongly urge DIAC to consider broadening the scope of the CAS to include all temporary visa holders who have been victims of violent crime in Australia and are subsequently facing an uncertain residency status in Australia and significant financial hardship. It is essential that settlement support and early intervention service responses are appropriately funded to respond to temporary visa holders who have been victims of violent crime in Australia.

Many temporary Skilled visa and Student visa holders go on to apply for permanent residency and may later become citizens of Australia. The level of support available will often determine the outcomes of settlement and the degree to which active participation as a new resident in Australia is possible.

Access to Migration Assistance and Representation

IWSS has held a continuing close collaborative relationship with the Refugee and Immigration Legal Service (RAILS) formerly known as the South Brisbane Immigration and Community Legal Service over many years. RAILS provide free specialist migration legal advice and in many instances legal representation to women applying for permanent residence involving domestic violence.

The caseloads for IWSS and RAILS are increasing without appropriate levels of remuneration/increased funding for these essential services. Both agencies are stretched and we predict that there will be more clients who are not able to be represented by RAILS. These clients are likely to have migration proceedings that have merit and involve life/death determinations.

Private migration advice and representation is expensive and women seldom have access to income/savings to cover the costs involved. Women are also not eligible for interest free or low interest loans schemes due to their temporary residency status and no income or low income status. IWSS emergency relief sources are extremely limited. We further recognise that changing trends in migration is leading to greater complexity in the work undertaken by IWSS. IWSS does not currently receive any funding from DIAC for this complex support work with temporary visa holders.

IWSS Recommendations

1. Introduce changes in Commonwealth legislation to ensure that temporary Skilled Visa holders (Subclass 457) and holders of a New Zealand Citizen Family Relationship Temporary Visa (Subclass 461) who are experiencing domestic and family violence are eligible to apply for permanent residency under the *Family Violence Provisions within the Migration Regulations* and are able to access financial assistance from Centrelink such as the Special Benefit, and have access to Medicare.
2. Introduce changes in DIAC policy to expand the scope of the current Community Assistance Program to include other temporary visa holders (including the Skilled Visa Subclass 457 and Student visa) who have been victims of violent crime and are subsequently facing an uncertain residency status in Australia and significant financial hardship.
3. Provide funding to specialist migrant women's support services such as IWSS to provide crisis support and counselling services to temporary visa holders who have been victims of violent crime in Queensland, Australia.
4. Introduce information sessions for all temporary visa holders on arrival and at regular intervals throughout the first two years of residence in Australia in relation to domestic and family violence legislation, their rights in Australia and support services available. This strategy should be developed by DIAC in consultation with specialist migrant women's support services, multicultural services, and CaLD communities to ensure that the information resources are culturally appropriate and able to address cultural values and traditions that foster violence against women and children that may remain unchallenged within CaLD communities.

References

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