

inTouch Multicultural Centre Against Family Violence (inTouch) provides integrated, culturally appropriate services to migrant and refugee communities experiencing family violence. Over the past 35 years, we have addressed the specific needs of communities and helped over 18,000 women. In the 2018–19 financial year, inTouch provided services to over 1400 women from 101 different countries, and over 1350 of their children.

The Australian government offers a number of different visa streams for visitors and temporary residents to Australia as part of its migration program.<sup>1</sup> In 2018–19, just over 8.8 million temporary visas were granted to eligible people to come to Australia. These include visas for visitors, students, crew and transit workers, working holiday makers, temporary residents for skilled work and their dependents, and others.<sup>2</sup>

A significant portion of inTouch clients are women who are temporary visa holders and have experienced family violence in Australia. This document outlines the various issues that many of these women face and makes recommendations for the implementation of changes to Australia’s migration policies and procedures to better assist victim-survivors of family violence.

We believe that all women who experience family violence in Australia should have access to safety and support services, regardless of what type of visa they are on and without having to live in destitution.

inTouch provides assistance to women who are victim-survivors of family violence. The overwhelming majority of our clients have experienced family violence perpetrated by their male partner and/or other family members. The issues that we have identified and the recommendations that we make in this document are based on the experiences of these women and their children.

## Family violence and temporary visas

inTouch has extensive experience working with women on temporary visas, with temporary visa holders making up almost half of inTouch clients in 2018–19. We work with and provide assistance to women on a range of different visa types, including:

- spousal/partner visas
- skilled workers or dependents of those on skilled worker visas
- student visas or dependents of those on student visas
- tourist/visitor visas.

# WOMEN ON TEMPORARY VISAS EXPERIENCING FAMILY VIOLENCE

## Position Paper March 2020

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### Women on partner visas who have experienced family violence in Australia

This particular cohort includes women who have applied for or been granted temporary partner visas either onshore or offshore. It also includes those who are on Prospective Marriage visas,<sup>3</sup> have married their sponsor within the required time period, and are eligible to apply for temporary partner visas.

Upon submission of a temporary partner visa application, these clients are granted bridging visas with specific conditions in relation to work and study rights. If approved, the client is then granted a temporary partner visa (subclass 820) for two years, after which they may be able to apply for permanent residency.

#### Case study

John and Maria are in a relationship and have a 10-month old baby together. The baby was born in Australia. John is an Australian citizen and Maria is from a European country. John has offered to sponsor Maria and the two have submitted a partner application so that Maria can remain in Australia with him and their child.

John has been abusive towards Maria, using physical, emotional and other forms of family violence. He threatens to withdraw his sponsorship if she reports or discloses the family violence to anyone. He threatens to have her deported and keep their child in Australia.

Maria is terrified of being separated from her child and does not disclose the violence to anyone.

inTouch works with a significant number of women who are in the process of this partner visa application. These clients have experienced family violence perpetrated by the sponsor and/or other family members whilst they are in Australia.

### Women on student visas or working visas who have experienced family violence in Australia

inTouch provides services to a considerable number of clients who are on student visas<sup>4</sup> or working visas<sup>5</sup>. These clients are experiencing family violence perpetrated by a partner or family member whilst in Australia, and face significant barriers to accessing support services.

### Case study

Arun is an engineer from overseas who has secured employment in a regional Victorian town. His new company has sponsored him on a temporary skilled visa along with his wife Priya and their two children. The two children attend the local primary school. They depend on Arun's income for day-to-day living.

Arun has been increasingly abusive and violent towards Priya. He is physically, sexually, financially and emotionally abusing her. Priya has considered leaving Arun but has no financial independence while in Australia. She is ineligible for public housing and doesn't have access to free public health. Priya considers leaving the country with her children, but knows that Arun would not allow it. She stays in the relationship with Arun, as she feels she has no way of leaving and no other options.

### Women who are on tourists visas who have experienced family violence in Australia

A large cohort of women we provide services to are on tourist or visitor visas when they experience family violence in Australia. This also includes women who have applied for partner visas from overseas, and have entered Australia as a visitor in order to be with their partner. Many of our clients in this particular cohort have Australian-born children.

### Case study

Dilara has travelled to Australia multiple times as a visitor. She met Abraham – an Australian citizen – many years ago and they have two children together who were born in Australia. Dilara and Abraham submitted a partner visa application whilst Dilara was in her home country, with Abraham sponsoring her so that she can move to Australia permanently. Whilst waiting for the outcome of her visa, Dilara travelled to Australia on a visitor visa.

Abraham has been having violent outbursts towards Dilara which are getting more severe. Dilara is worried for her safety and would like to leave the relationship. Abraham is threatening to withdraw his sponsorship and cancel the partner visa application if she leaves him or reports the violence. He threatens to keep their children in Australia and have her deported.

### What are the issues?

Women on temporary visas who experience family violence face multiple and varying layers of disadvantage. Temporary migration status can be used as an additional tool for coercion and control by perpetrators of family violence. There are significant barriers many of these women face when they are seeking support from health and family violence services. Furthermore, many of these women are in Australia without other family or friendship networks, and are dependent on the perpetrator of violence for social and community connections.

### Visa status as 'leverage and control'<sup>6</sup>

Migration status “creates additional leverage for violence and control” alongside the “acknowledged levers of financial, emotional, technological, physical and sexual abuse that occur across situations of family violence.”<sup>7</sup> An inherent power imbalance exists when a woman is being sponsored by her partner in Australia or is in a relationship with an Australian citizen/resident. This power imbalance is being used by men as a form of family violence. For example, her Australian citizen or permanent resident partner can threaten to retract their sponsorship or any offer to sponsor the woman if she discloses or reports the violence in the relationship. In situations where a woman is migrating with her partner who is being sponsored for employment or educational purposes, the woman’s migration and financial status depends entirely on her partner.

### Temporary visa status and barriers to accessing support services

An individual’s visa status determines what health services, welfare services, working rights, and social security they are eligible for. Many women who are on temporary visas that are experiencing family violence are restricted to what support services they can access. For example, due to the limited space, refugees may be reluctant to accept referrals for a woman on a temporary visa knowing she may have an extended stay there due to the lack of other stable housing options for her to go to. There are many women on temporary visas who are ineligible for Centrelink payments and have to pay for hospital and other medical costs.

Although some women may be able to fund these supports privately, a considerable number of our clients face extreme economic disadvantage and poverty. In 2018–19, 35 percent of our clients had zero income. Anecdotal information provided by our case managers indicate that the vast majority of those who present to our service with zero income are women on temporary visas.

The women’s precarious financial situation and restricted access to support services is a major barrier to leaving an abusive relationship. Further problems and complexities arise when there are children involved. When a woman is on little or no income, she often feels compelled to stay with her abusive partner in order to meet the financial and day-to-day needs of her children, including public school tuition fees that may not be subsidised due to her visa status.<sup>8</sup>

### Additional risks and barriers faced by women in regional and rural areas

Research shows that women who are living in regional and rural areas are more likely to experience family violence than women who live in urban areas.<sup>9</sup> Furthermore, women who live in regional and rural areas experience additional barriers when disclosing family violence and seeking support. These barriers include social isolation, existing interpersonal relationships within small communities (eg. people knowing one another), and lack of cultural and language support.

inTouch clients who are on temporary visas and are living in regional and rural areas face significant hardship. As a result of government migration policies, migrants are being directed to settle in regional and rural areas through various visa streams. Women who

move to Australia on these visa streams either as employees or as partners of employees, are restricted in terms of where they can live, study and work. Based on the conditions of their visa they must remain within a particular region. Being in a regional and rural area makes support services difficult to reach. These barriers together with the lack of cultural and language support, cause immense social isolation and is exposing women and their children to significant risks to their safety.

### Barriers to accessing the special provisions relating to family violence<sup>10</sup>

The family violence provisions in the **Migration Regulations 1994** (Cth) provide some women on temporary visas with the opportunity to continue their lives in Australia away from the abuse of their sponsor. These special provisions are only available to those who have applied for a temporary partner visa, those who have been granted temporary partner visas, and those who are eligible to apply for a partner visa (prospective marriage visa holders who have married their sponsor within the required time frame). The family violence provisions allow victim-survivors of family violence to apply to remain in Australia even if their relationship with their sponsor has ended.

In order to be eligible for residency through the provisions, a victim-survivor must prove all three of the following elements when they apply:

- that a genuine relationship with the sponsor existed
- that there was family violence perpetrated by the sponsor
- that the family violence occurred during the relationship.

Many women on partner visas who have experienced family violence do not have the option to return to their home country due to the stigma of having had her relationship break down. In many communities, this stigma can put the woman in further danger – she may be ostracised by her own community, there may be conflict regarding the dowry, and there may be threats of retaliation towards her and her family from the perpetrator and his family.

These special provisions have provided many of our clients with a pathway to safety by being able to leave the abusive relationship and continue their lives in Australia.

However, these provisions cannot be accessed by most of our clients. As the provisions are only available to particular partner visa holders, it means that many women who are on other forms of temporary visas do not have the same pathway to safety. Furthermore, the application process of the family violence provisions can be difficult to navigate without guidance from a migration agent. Many people are not even aware that this option exists to leave the abusive relationship. Finally, the processing times can be drawn out, causing women to live in precarious and unstable conditions.

### Challenges of navigating the complex migration and legal systems

Australia's migration and legal systems are complex to navigate for many of our clients at inTouch. This complexity is an additional barrier to accessing services and is being used by partners to further disadvantage women.

These systems can be daunting, can generate fear, and be traumatic for people to navigate. For example, many migrant and refugee communities are fearful of police and child protection services due to previous experiences in their home countries. Many people who are new to Australia are unaware of their entitlements and what services they can access for support.

Lack of knowledge of Australian systems makes women more vulnerable to having negative experiences with support services and migration and legal systems. For example, women are often misidentified as the perpetrator or primary aggressor in situations of family violence.<sup>11</sup> That is, police mistakenly identify the woman as the respondent in a family violence intervention order and the man as the victim. This occurs when police are unable to identify the primary aggressor in “situationally ambiguous circumstances, for example when both parties tell police they are the victim of the other”.<sup>12</sup> The risk of being misidentified is even greater amongst migrant and refugee women, as well as Aboriginal and Torres Strait Islander women.<sup>13</sup> Our work also reflects this to be a frequent issue among our clients and can lead to criminalisation of victim-survivors of family violence. Further, some women have been coerced or deceived into undertaking criminal activity by their partner, as part of the cycle of power and control.

## Our position and recommendations<sup>14</sup>

As outlined above, women on temporary visas who are experiencing family violence face additional and unique barriers when accessing support services. As a specialist service that works with women on temporary visas, we recommend the implementation of a number of changes to existing laws, policies and processes to address these issues. Everybody has a right to safety, and access to support services should be available to all those experiencing family violence in Australia, regardless of their visa type.

### 1. Bridging visas for all temporary visa recipients who are experiencing family violence

The family violence provisions provide victim-survivors who have experienced family violence in Australia with a pathway safety, to leave the abusive relationship and remain in the country. As discussed earlier, in their current form, the family violence provisions are only available to people who are on particular spousal visas. We believe that similar opportunities should be provided to recipients of other visa streams. Women on temporary visas experiencing family violence should have access to a bridging visa of up to three years to provide them with the opportunity to leave the dangerous situation they are in and move on.<sup>15</sup> As part of the visa, the women should have access to support services they need including health, working rights, and housing. At the conclusion of the three-year period, the woman should have the right to apply for a different visa type in Australia in accordance with her needs and eligibility.

## **2. Expansion of family violence provisions to include offshore temporary partner applicants**

As discussed earlier, we have a number of clients who have lodged their partner visa application offshore. Often they are visiting Australia to be with their partner and in many instances, their Australian-born children, whilst awaiting the outcome of their application. When these women experience family violence, they are extremely restricted in terms of the support services that are available to them. We believe these women should also be eligible to apply for the family violence provisions and support services to safety.

## **3. Expansion of the family violence provisions to include extended family members as perpetrators**

The family violence provisions are currently only available if the family violence has been perpetrated by the sponsor (ie. the partner). A significant number of our clients experience family violence that is not perpetrated by the woman's partner. As per some cultural traditions, many of our clients live with extended family members including their partner's family. Family violence can be perpetrated by multiple people including members of the woman's own family and her husband's family.

The family violence provisions should be expanded to include violence perpetrated by extended family members.

## **4. Changes to the requirements/elements of proof for the family violence provisions**

The elements of proof that are required to satisfy the family violence provisions need to be broadened to suit the spectrum of cultural practices and traditions of those who are migrating to Australia. This can be done through consultations with community groups and stakeholders. More flexibility and culturally appropriate guidelines would make it easier for women from different cultural backgrounds to prove their experiences of family violence if they have a better understanding of what family violence is.

Community consultation and flexibility around family violence provisions should also take into consideration the complex forms of family violence that women from migrant and refugee communities can face, such as forced marriage, dowry abuse, servitude, and trafficking. These can be difficult to prove for victim-survivors and may not easily work within the guidelines of the family violence provisions.

## **5. Shortening of visa and residency processing times**

Awaiting the outcome of applications through the family violence provisions cause insecurity and fear for many women as they are living in precarious situations in the community. Faster processing of visa and residency applications will provide stability and will help the victim-survivor move on and make plans for their future, which is a crucial part of recovering from family violence.

## **6. Access to health and support services for all who are experiencing family violence**

As discussed in the **Blueprint for Reform** - a document by the National Advocacy Group on Women on Temporary Visas, we believe that women on temporary visas who are experiencing family violence need to have better access to social security rights, housing options and services, free legal assistance, and other urgent supports such as counselling and health care.<sup>16</sup> Waiting periods for Centrelink payments, for example, should be revised based on need. Expanding these services to all women and children who are experiencing family violence, regardless of their migration or visa status, will provide safety and security to families. It will also help them to avoid the poverty that many women face when they leave an abusive relationship.

## **7. Expand and tailor services for regional and rural communities**

The government must expand family violence support services in regional and rural communities. This is particularly important as government visa programs continue to encourage people to move to certain regions. Women who experience family violence in regional and rural communities need to be able to access support services in the ways that women in cities do. Whilst these services are supported and resourced by the government, they must be community driven so that they are tailored to suit the needs of that specific regional or rural community.

Visa streams that require migrants to live and work in particular regional and rural areas must also allow for exemptions if there is family violence. These women must have the opportunity to leave the abusive relationship and find safety outside of the region they have been designated to live in by their visa.

## **8. Expansion of language and cultural support in family violence service provision**

Support and information that is offered in different languages can make an incredible difference to outcomes for women who are seeking support. The impacts of family violence experienced by women from migrant and refugee backgrounds, including recent arrivals, are compounded by a range of factors. These include the experience of migration and resettlement and systemic barriers to seeking and obtaining help. As such, it is critical to ensure that systems and processes are robust to be able to identify and respond to the often-multifaceted presentations of family violence.

inTouch's **inCulture, inLanguage** model means that we provide a culturally tailored approach to case management and advocacy for women from migrant and refugee backgrounds experiencing family violence. Our case managers have specialised understandings of the issues related to the intersection of family violence, culture, temporary migration, family law and the legal system. Our case managers speak more than 25 languages and understand potential cultural impacts on women experiencing family violence and the barriers faced when trying to seek help. Most are migrants or refugees themselves and have a first-hand understanding of the migration journey. They provide a bridge between countries and assist clients build their understanding and navigate Australian systems and laws. Offering and expanding programs that are culturally safe and responsive, and offered in different languages would increase the reach and effectiveness of support services.

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<sup>1</sup> For a full list of visas discussed in this position paper, please refer to the Appendix.

<sup>2</sup> Department of Home Affairs, *Australian Migration Statistics 2018-2019* (Canberra: Commonwealth of Australia 2019).

<sup>3</sup> Prospective Marriage visa (subclass 300).

<sup>4</sup> Student visa (subclass 500), Training visa (subclass 407), Temporary Skill Shortage visa (subclass 482), Temporary Graduate visa (subclass 485), Skilled – Recognised Graduate visa (subclass 476),

<sup>5</sup> Skilled regional (Provisional) visa (subclass 489), Business Innovation and Investment (Provisional) visa (subclass 188), Skilled Work Regional (Provisional) visa (subclass 491), Skilled Employer Sponsored Regional (Provisional) visa (subclass 494).

<sup>6</sup> Marie Segrave, *Temporary Migration and Family Violence: An Analysis of Victimisation, Vulnerability and Support* (Melbourne, VIC: School of Social Sciences, Monash University, 2017) 1.

<sup>7</sup> Marie Segrave, *Temporary Migration and Family Violence: An Analysis of Victimisation, Vulnerability and Support* (Melbourne, VIC: School of Social Sciences, Monash University, 2017) 1.

<sup>8</sup> National Advocacy Group on Women on Temporary Visas Experiencing Violence (2019), 'Blueprint for Reform: Removing barriers to safety for victim/survivors of domestic and family violence who are on temporary visas.'

<sup>9</sup> Monica Campo and Sarah Tayton, 'Domestic and family violence in regional, rural and remote communities: An overview of key issues', Australian Institute of Family Studies (2015).

<sup>10</sup> Migration Regulations 1994 (Cth) Division 1.5

<sup>11</sup> Madeleine Ulbrick and Marianne Jago, 'Policy Paper 1 'Officer she's psychotic and I need protection': Police misidentification of the 'primary aggressor' in family violence incidents in Victoria, *Women's Legal Service* (2018).

<sup>12</sup> No To Violence, *NTV Discussion Paper: Predominant Aggressor Misidentification and Victim Misidentification* (2019), p6.

<sup>13</sup> No To Violence, *NTV Discussion Paper: Predominant Aggressor Misidentification and Victim Misidentification* (2019), p8.

<sup>14</sup> inTouch endorses the National Advocacy Group on Women on Temporary Visas Experiencing Violence publication 'Blueprint for Reform: Removing barriers to safety for victim/survivors of domestic and family violence who are on temporary visas.' This document outlines a number of specific initiatives that can help to improve government policy and assistance for women on temporary visas who experience family violence.

<sup>15</sup> The National Advocacy Group on Women on Temporary Visas Experiencing Violence also holds that women experiencing family violence should be provided with a new temporary visa for a three year period. For more information, please refer to the National Advocacy Group on Women on Temporary Visas Experiencing Violence (2019), *Blueprint for Reform: Removing barriers to safety for victim/survivors of domestic and family violence who are on temporary visas.*

<sup>16</sup> National Advocacy Group on Women on Temporary Visas Experiencing Violence (2019), *Blueprint for Reform: Removing barriers to safety for victim/survivors of domestic and family violence who are on temporary visas.*

## APPENDIX: VISAS

This appendix accompanies the position paper **Women on Temporary Visas Experiencing Family Violence March 2020**. The position paper outlines and discusses a number of issues that women on temporary visas face when they are experiencing family violence in Australia.

This appendix lists the types of visas that the position paper refers to when discussing women who are on temporary partner, student, working, and visitor visas. These visa subclasses and streams were correct as per the Australian Government website for the Department of Home Affairs on 1 February 2020.<sup>1</sup>

### Partner visas

- Partner visas (subclasses 820 and 801) (onshore)
- Prospective Marriage visa (subclass 300)
- Partner visa (apply overseas) (subclasses 309 and 100)
- Partner (Migrant) visa (subclass 100)

### Student visas

- Student visa (subclass 500)
- Postgraduate research sector visa (subclass 574)

### Working visas

- Working Holiday visa (subclass 417)
- Skilled – Recognised Graduate visa (subclass 476)
- Temporary Skill Shortage visa (subclass 482)
- Temporary Graduate visa (subclass 485)
- Skilled regional (Provisional) visa (subclass 489)
- Skilled Work Regional (Provisional) visa (subclass 491)
- Skilled Employer Sponsored Regional (Provisional) visa (subclass 494)

### Visitor visas

- Visitor visa (subclass 600)

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<sup>1</sup> Commonwealth of Australia, Visa List, Department of Home Affairs, < <https://immi.homeaffairs.gov.au/visas/getting-a-visa/visa-listing> > accessed 31 January 2020.