

Joint Submission to the Senate Standing Committee on Social Policy and Legal Affairs Inquiry into family, domestic and sexual violence



August 2020

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Introduction

Jesuit Refugee Service (JRS) is an international Catholic organisation founded in 1980 as a social ministry of the Society of Jesus (“the Jesuits”). JRS’ mission is to accompany, serve, and advocate for the rights of refugees and other forcibly displaced people worldwide. JRS has offices in 57 countries around the world.

JRS Australia provides refugees, people seeking asylum and migrants in vulnerable situations with emergency relief assistance, access to food through a foodbank delivery program, professional casework, community activities, employment support, school engagement, English classes, targeted advocacy, and a project to support the empowerment of women seeking asylum and women on temporary visas who are experiencing or at-risk of violence.

Advocacy is a central pillar of JRS’ work. JRS’ advocacy stems directly from our close engagement with refugees and others forcibly displaced and is built on solid research.

In 2018, JRS Australia secured funding from Women NSW for a project titled ‘Finding Safety.’ The project focuses on supporting women seeking asylum, refugee women and migrant women in vulnerable situations who are at risk of, or who have experienced, sexual or gender-based violence. The ‘Finding Safety’ project focuses on a human rights based, gender responsive and person-led approach; working with women and communities to identify needs and priorities. The project supports the empowerment of women to enable action. JRS hosts a women only safe space in Parramatta and does prevention work, community activities, dedicated casework and support for women survivors or at risk of SGBV.

The Refugee Advice and Casework Service (RACS) is a dedicated refugee community legal centre that has been assisting people to seek protection in Australia on a not-for-profit basis since 1988.

RACS provides critical free legal advice, assistance and representation for financially disadvantaged and vulnerable people seeking asylum in Australia, including women who have experienced or fear domestic, family or gender-based violence.

RACS advocates for systemic law reform and policy that treats refugees with justice, dignity and respect.

In 2019, RACS established their ‘Women at Risk’ service, which provides free legal advice and representation to women and their children seeking protection in Australia, who have experienced or fear they will experience sexual or gender-based violence, or domestic and family violence. The Women at Risk project partners with JRS and pro-bono legal partners to deliver a specialised service, placing the safety and dignity of women and children at its centre.

RACS and JRS Australia are active members of National Advocacy Group on Women on Temporary Visas Experiencing Violence.

Executive Summary

RACS and JRS Australia are grateful for the opportunity to make this public submission to the inquiry and draw on our expertise in working with women and children who are seeking safety in Australia. We would be willing to appear to give further expert evidence at a public hearing.

This submission focuses on the significant reform necessary to better protect the rights of women and children on temporary visas to live free from violence. RACS and JRS recommend that the government prioritise:

- recognising the specific issues that face women and children on temporary visas and those seeking asylum, and acknowledge this specific group when conducting studies and developing policy;
- providing access to essential support services including financial and housing support, Medicare, NDIS, child care, free immigration legal advice and language interpretation services; and
- focusing on and funding education as a form of empowerment for women; and providing education and training to governmental departments to ensure best practise.

This submission has been endorsed by the female community leaders and members of the JRS Finding Safety Advisory Committee:

- Hava Rezaie - Hazara Community Leader
- Viji Dhayanathan - Tamil Women's Development Group/Community Leader

a) Immediate and long-term measures to prevent violence against women and their children, and improve gender equality

Domestic, family and sexual violence stems from deeply rooted discriminatory beliefs and attitudes that perpetuate inequality and the powerlessness, in particular, of women and girls. Other factors, such as poverty, lack of education and livelihood opportunities, and impunity for crime and abuse, also contribute to and reinforce a culture of violence and discrimination based on gender. Multiple layers of discrimination based on race, gender and sexual orientation amongst other grounds also enhance the effects of sexual and gender based violence and also access to support and justice.

JRS and RACS call for ongoing support for national primary prevention programs, such as OurWatch, to enable social change. OurWatch recognises that gender inequality can never be considered in isolation from other intersecting forms of systemic social, political and economic discrimination and disadvantage that characterises our society, such as racism, ableism, homophobia and transphobia. This is considerably significant for women seeking asylum as they live within these intersecting forms of discrimination and disadvantage on a daily basis.

To address violence against women in an intersectional way, RACS and JRS submits that the government should prioritise access to justice and service provision for all women regardless of visa status, including the provision of public awareness and education programs, and inclusive consultation. This submission makes specific recommendations on each of these key areas.

In Australia, women and girls seeking asylum and other women on temporary visa, have limited opportunities to participate in consultative processes. As a result, they often have little agency or a sense of ownership around decisions that affect their own lives. The Commonwealth Government should promote culturally diverse leadership to ensure transformative change. Refugee women, women seeking asylum and other women on temporary visas must be included in decision making processes, including in leadership, advisory and employment roles, to support women's empowerment.

Participatory design methods should be employed to highlight the expertise of women with lived-experience in the design and implementation of programs addressing violence against women. For women seeking asylum and other women on temporary visas, this should ensure

inclusive representation of different nationality, religious, language and ethnic groups in Australia, including support to build the capacity of women leaders in areas where they are often under-represented.

Recommendations:

- Provide inclusive services for all women, including those on temporary visas
- Ensure access to justice and services and safe reporting for all women regardless of status
- Recognise the importance of an intersectional approach in addressing violence against women
- Continue to provide Governmental support to primary prevention organisations, such as OurWatch, to prevent violence against women and children
- Focus on education and public awareness
- Promote diversity in leadership and specifically the leadership of women affected by multiple discrimination
- Establish and consult women-led networks, particularly migrant and refugee women-led networks to increase their voices in policies and programs that affect them
- Employ participatory design methods when developing policy

b) Best practice and lessons learnt from international experience, ranging from prevention to early intervention and response, which could be considered in an Australian context.

The United Nations Population Fund (UNFPA) identifies that safe spaces have emerged as a key strategy for the protection and empowerment of women and girls affected by refugee crises.¹ Since the end of 2018 JRS opened its Women's Space providing a safe space for women seeking asylum and other women on temporary visa in Western Sydney to receive assistance on a range of protection issues, emergency relief, case management, prevention workshops, and social activities. RACS has provided legal advice and assistance at the Women's Space since 2019.

Early evidence suggests that the establishment of women only spaces helps to reduce risks by providing a safe entry point to access information and connect with one another. The Women's Space offers an opportunity to engage with others in similar situations, as well as a place to rebuild community networks and support. In 2020 we conducted an annual project survey where 100% of women surveyed reported feeling safer since attending the space. A client who was experiencing technology facilitated abuse, identified that she initially came to receive material help, but then realised that the space could provide her with much more holistic support:

"I was in a bad situation. I had no one to help me. I was isolated and had nowhere to go and...service helped me...it made me feel that there is hope..."

¹ UNFPA (2015), 'Women and Girls Safe Spaces Guidance' <<https://www.unfpa.org/sites/default/files/resource-pdf/UNFPA%20UNFPA%20Women%20and%20Girls%20Safe%20Spaces%20Guidance%20%5B1%5D.pdf>>

UN Women also emphasises that women who are unaware of their rights cannot claim them, and it is our submission that education, knowledge provision and awareness building are crucial in preventing violence against women. Education programs must target all demographics, particularly women of all cultural backgrounds regardless of immigration status, and be available in multiple languages and specially developed to suit both younger and older populations. Funding should be made available to develop resources such as factsheets and to hold community education sessions. Public awareness raising in educational institutions, community groups and places of worship is also key to challenging concepts and stereotypes of gender and power.

The Finding Safety project provides information on women's rights to prevent violence against women and children, and to assist them to live safely in Australia. It has supported over 300 women seeking asylum to gain knowledge on various topics, such as immigration law, sexual and reproductive health, family law, victim support and sexual discrimination. As a result of specialised case management that employs a complementary intervention model, 86% participants² reported increased knowledge about women's rights, and 100% of participants felt more confident in claiming their rights in sexual and reproductive health. A significant learning has been the importance of working in collaboration with women community leaders to ensure messages are clear, culturally sensitive, and responsive.

Recommendations:

- Specific multi-year funding for women only safe spaces, such as JRS' Finding Safety Project and RACS' Women At Risk project, so that families can safely seek assistance
- Establish new relationships to improve community engagement, including with schools, community groups and places of worship; to raise awareness on gender equality and intersectionality
- Provide trauma-informed specialised case management to support women seeking asylum and their children experiencing domestic, family and sexual violence, to ensure tailored support services

c) The level and impact of coordination, accountability for, and access to services and policy responses across the Commonwealth, state and territory governments, local governments, non-government and community organisations, and business.

UN Women emphasises that to prevent violence against women, services must be made available to all women.³ In an Australian context, this requires the Government to address the fact that many women on temporary visas including women seeking asylum do not qualify for federal services, including social support, Medicare, or child care support or state based services such as housing or education. In practice, many women on temporary visas in Australia struggle to access justice, services and safety.

The vacuum left by the Federal Government in this area has motivated state and territory governments to intervene in limited ways, although this varies from state to state. An example of this is the differences in state approaches to providing emergency financial relief for people on temporary visas during the COVID-19 pandemic. Some state governments have chosen to

² A sample size of 63 participants surveyed who attended workshops or the Women's Space from July 2019- June 2020.

³ UN Women, 'Ending violence against women', < <https://www.unwomen.org/en/what-we-do/ending-violence-against-women>>.

waive certain healthcare fees for those without Medicare affected by COVID-19; additionally most state and territory governments have announced at least some form of economic support to temporary visa holders during the pandemic.⁴ While this assistance is welcome and represents a common sense approach to a shared concern, given that violence against women has been widely recognised as requiring a Federal response in dealing with the COVID-19 crisis and its effects, it is concerning that more is not being done to enable women and children who have experienced sexual and gender based violence to access federal services and support. There is an evident lack of coordination between state, local and federal government in providing support to women seeking asylum and temporary visa holders experiencing gender based violence. RACS and JRS call for extensive mapping of current service gaps, through the adoption of a participatory and consultative framework working with civil society groups (including refugee, migrant and women organisations) who often attempt to bridge the gap, to better prevent violence against women and children on temporary visas.

JRS and RACS welcome the Government's acknowledgement that, despite the abolition of COAG, the Women's Safety Council will continue to function as a crucial part of Australia's national response to preventing violence against women. As signatories to letters sent to the Women's Safety Council on 3 April 2020, RACS and JRS call on the Women's Safety Council to consider women on temporary visas as a highly vulnerable-at-risk population requiring specialist and targeted services.

JRS and RACS submit that all levels of government should undertake gender and diversity mainstreaming to ensure discrimination against women and children of all backgrounds is addressed. Where possible, governments should apply gender analysis tools when drafting frameworks, policies and programs - in particular for social services and migration policy - to assess and analyse gender inequalities and needs. This will ensure strategies to prevent violence against women are included at the design stage rather than added as an after-thought.

Recommendations:

- Ensure uniform access to services for women seeking asylum, women on temporary visas and all women regardless of immigration status across Australia
- Work collaboratively with all key stakeholders to map the existing resources, identify the gaps, and develop integrated referral pathways to ensure women can exercise their rights to safety and justice
- Ensure ongoing commitments to Women's Safety Council meetings and an agenda that recognises the importance of preventing violence against women and children on temporary visas
- Apply a gender, diversity and intersectional lens in the development of policy and when determining the eligibility for services

d) The way that health, housing, access to services, including legal services, and women's economic independence impact the ability of women to escape domestic violence.

Women and children seeking asylum and temporary visa holders face multiple barriers to accessing services that enable women to escape domestic and family violence. One woman

⁴ Ben Doherty, 'Victoria latest state to help temporary migrants excluded from federal coronavirus support', *The Guardian*, (30 April 2020), <<https://www.theguardian.com/australia-news/2020/apr/30/victoria-latest-state-to-help-temporary-migrants-excluded-from-federal-coronavirus-support>>.

explained to JRS how she felt that her temporary visa status impacted upon her ability to access support services in Australia:

Most places I remember, you cannot just walk in and you say ah this is me, they will ask you which visa are you under? And if you tell them I'm on Bridging Visa E for example, at what stage they'll look at and then they'll say, you can't get service from here, you'll have to try somewhere else.

The lack of services makes women seeking asylum and other women on temporary visas particularly vulnerable to violence, as they often do not have the same support available to Australian permanent residents, citizens or people on other substantive visas to leave violent environments. Many times women in these circumstances are forced to stay with the perpetrator because they can't access services or justice. In 2019, JRS Australia and SSI held the first women seeking asylum roundtable in Australia, which highlighted aspirations and struggles faced by women seeking asylum. The dialogue highlighted the importance of basic needs to ensure safety:

Participation won't be meaningful if our basic needs such as food and shelter are not met.

As practitioners, we have found the safety of families, especially children, is jeopardised due to limited services available to refer families on temporary visas experiencing violence. Children's exclusion from early education, housing, health and social services denies them protection and the ability to fulfil their rights. Many community organisations have sought to bridge that gap, but remain underfunded and under resourced.

Housing

Access to housing is one of the most significant issues faced by women seeking asylum and other women on temporary visas with around 55% of all emergency relief payments for women at risk of or experiencing domestic, family and sexual violence going towards rental assistance.

A general lack of affordable housing, and a lack of access to social and public housing push women to stay with violent partners or family members. In most states of Australia, only citizens and permanent residents are able to access social and public housing, further excluding women who are on temporary visas and are experiencing domestic and family violence. Refuges are highly under-resourced and women on temporary visas are often not accepted due to their ineligibility for social security, which assists services to support women in transitioning onto longer term accommodation. As crisis housing is usually the only option, women and their children are forced to utilise this as a long-term option, often for years at a time, or are forced by the circumstances to return to their abusive partner.

Health

Women seeking asylum and other women on temporary visas may have chronic health or mental health issues resulting from trauma experienced during their migration journey, including injuries (psychosocial and physical) sustained from sexual or gender-based violence. Furthermore, health is a significant barrier in obtaining and maintaining employment. JRS and RACS believe that the health sector would benefit from training and further research focused on issues faced by women seeking asylum and other migrant women in vulnerable situations, including on complex forms of violence like female genital mutilation, other harmful practices, as well as cultural considerations in the provision of primary healthcare.

Women without Medicare or access to affordable healthcare face heightened risks of harm due to their inability to seek medical assistance, noting that domestic violence disclosures are often made to doctors and GPs prior to police.⁵ For this reason, while RACS and JRS welcome the NSW government's recent announcement that women without Medicare will not have to pay hospital fees for seeking assistance in Emergency departments, we submit that the Government must extend Medicare to women in order to better address the problem.⁶

It is common for women seeking asylum not to have access to basic healthcare. Further, women seeking asylum and temporary visa holders, including people recognised as refugees who hold temporary protection visas, are ineligible for NDIS, which can have a detrimental impact on their health, well-being, and ability to seek appropriate services to ensure their basic needs are met.

Legal services

UN Women specifically refers to the need for victims/survivors of domestic and family violence to be able to obtain free legal advice.⁷ It is crucial for women who have experienced domestic and family violence to be able to access family law and domestic violence legal advice, as well as immigration advice. The lack of federal funding for immigration legal services compounds rather than prevents violence against women. The availability of free and specialist immigration legal services assists in the prevention of violence against women, because legal advice and assistance can empower women to know their rights and leave violent situations.

Women on temporary visas may be reluctant to report family violence and seek legal assistance due to the uncertainty of their visa status in Australia, and a fear that they may, as a result of reporting the violence, be detained or be forced to return to their home country. Many women stay in abusive relationships due to uncertainty about their immigration situation, believing that if they leave their partner, this will jeopardise their visa status. Other women on temporary visas avoid reporting violence because they are concerned that they would be targeted or punished for this if they were forced to return to their home country. In RACS' experience, often women who have been subjected to domestic violence do not have access to immigration documents and may be unaware of what information and evidence was put forward on their behalf in visa applications. They may also be unaware that they can make their own application for a visa and put forward their own claims for protection. Through RACS' Women at Risk legal service, dedicated female lawyers assist women in these circumstances by giving advice on their visa eligibility, assisting them to obtain copies of documents, assisting with visa applications including to regularise their immigration status, and by working with women to articulate their experience of domestic violence and giving advice about how that may intersect with their claims for protection.

It is important that women and children can access legal support and services, including interpreting, to assist them navigate immigration processes, particularly during this period of uncertainty during COVID-19. Translation and Interpreting Services (TIS) should be available for all people seeking asylum and migrants in vulnerable situations, regardless of visa status when seeking legal advice or assistance from other services. Similarly, immigration legal assistance should be funded and available to empower women and children who have experienced family violence and enable them to understand their rights.

⁵ Aus Doc Plus, 'The GP's role in assisting family violence victims' <<https://www.ausdoc.com.au/therapy-update/gps-role-assisting-family-violence-victims>>.

⁶ Sydney Morning Herald, 'Easier hospital access for victims of family violence' <https://www.smh.com.au/national/nsw/easier-hospital-access-for-victims-of-family-violence-20200812-p55kx9.html?fbclid=IwAR0lyrcfTGZZBxz9Rohh47jQFXoAfUYN31vXh_Av3e387esMyqhZevWUSwg>.

⁷ UN Women, 'Ending violence against women', <<https://www.unwomen.org/en/what-we-do/ending-violence-against-women>>.

Economic independence

Women on temporary visas, and in particular women who are seeking asylum, are ineligible for many essential services that Australian citizens or permanent residents have access to, such as Centrelink domestic violence payments, subsidised housing, women's refuges, and even permission to work or access Medicare.

For women seeking asylum, access to Government payments through the Status Resolution Support Service (SRSS), which is approximately 89% of the Jobseeker allowance (formerly known as Newstart), has become increasingly difficult to attain due to the tightening of the eligibility criteria. Further, we are concerned that the payment of victim's compensation for victims of domestic violence has meant that women are ineligible for SRSS. If women seeking asylum are granted work rights they often face additional barriers to employment than their male counterparts, including a lack of access to affordable childcare, social or family support, deprivation of opportunities of previous work experience, discrimination and language barriers.

A woman community leader from the JRS' co-hosted Round Table on women seeking asylum commented that:

Finding a job is still difficult even if you have experience from back home, they still request for local experience. I am an IT worker back home and how does computer system experience differ from local experience...

Furthermore, JRS has worked with clients who are in the process of applying for SRSS who have infant children and have been advised that children are not considered a barrier to employment. These women are not eligible for childcare subsidies and therefore have to pay the full rate for childcare and/or early education. They are often advised by the SRSS provider that they should be asking 'family and friends' to care for their children in order to obtain employment, however their support networks are often limited as they are usually overseas or facing the same barriers in Australia.

Lived Experience - Case Study 1

In her country of origin Priscilla* faced significant risks as a woman, including forced/early marriage and female genital mutilation. From an early age she lived in armed conflict, which resulted in traumatic experiences, such as the death of a close family member.

As a result of the arranged marriage, Priscilla moved to NZ with her husband and his family. In the household she was mistreated and experienced domestic servitude; forced to clean and cook for the family while being the sole carer for her new born baby.

They arrived in Australia where she continued to experience severe physical, psychological and financial abuse, which resulted in separation. However, due to her visa status Priscilla was unable to access vital crisis support services, such as housing, health and income support, to ensure their safety.

During the first months of their separation she lived in a women's refuge with her children, however with limited exit pathways, she was forced to take accommodation paid for by her ex-husband to ensure her children were safe. This resulted in further abuse and control when he stopped paying the rent without her knowledge, and the family was evicted rendering them homeless again.

Due to the nature of the control and her visa status, Priscilla had minimal identity documents in Australia, was ineligible for Medicare and had great difficulty obtaining a proof of identity card, which she needed in order to find employment in her desired field of community services.

As a result of her situation, Priscilla is battling anxiety and depression, for which she has bravely sought treatment; however with no Medicare card and unable to afford private health insurance, she has accrued a large medical debt. Furthermore, she was wrongly referred to social housing and Centrelink by health providers who were unaware of her ineligibility based on visa status. This further compounded her existing trauma and failed to provide wrap-around services to enable her recovery.

Recommendations:

- Immediate eligibility to access SRSS financial assistance for all women seeking asylum and women on temporary visas who have experienced domestic violence and other forms of sexual and gender based violence
- Specific funding for crisis and shelter accommodation to enable services to accept women seeking asylum or temporary visa holders, to minimise the impact of women and their children's ability to access housing to escape situations of domestic and family violence
- Eligibility to Commonwealth health and social services, including Medicare, for all people seeking asylum and women who have experienced domestic violence regardless of visa status, particularly in the context of a global pandemic
- Support for women on temporary visas with disability and mental health issues by immediate eligibility for NDIS
- Free access to funded legal services, including immigration advice, for people seeking asylum and women on temporary visas who have experienced domestic and family violence
- Free and immediate access to translation and interpreting services for immigration advice for people seeking asylum and women on temporary visas who have experienced domestic and family violence
- Training for services working in housing, health etc. to embed culturally safe and responsive work practices to reduce re-traumatisation

e) All forms of violence against women, including, but not limited to, coercive control and technology-facilitated abuse.

The precarity of a woman's migration status is often used as a form of coercive control by her partner. All of the women interviewed through the Free from Violence Against Women and Girls report⁸ discussed the significant impacts that their temporary visa status had on their experience of violence. One participant interviewed for the report explained:

You know he had that arrogance about it and he used that a lot on me. Make me feel like I can't leave him you know. I need him in order to survive here.

One woman explained that her husband had been completely in control of the visa application process. She had no idea where they were at in this process or how to separate her visa from his:

⁸ Jesuit Refugee Service 2018, 'Free from Violence Against Women and Girls', <<https://www.jrs.org.au/wp-content/uploads/2018/11/Free-from-Violence-Against-Women-and-Girls-VAWG-Report-8.pdf>>

I didn't know about it, the visa. He did it all, I know nothing about it.

For a number of the women, their uncertain visa status was perceived as a much greater threat than the sexual and gender-based violence they experienced and resolving their visa status was seen to be a much higher priority than seeking help for domestic and family violence, particularly where they held a fear of harm in their home countries:

Sometimes you have this big problem, you're confused and think am I gonna be able to solve it? Is it gonna come to an end? And then you have another problem, like sexual violence or maybe ah like maybe you're beaten by your partner or your husband, so your mind becomes so much occupied by this asylum seeker thing, you end up thinking these other ones are just too, they're not as serious as what you have. Because like seeking asylum, it's about like, that's your life. So, it occupies your mind and it's like a very big mountain you know, you're trying to climb, so these other ones, you tend to... so you're sexually abused or molested there, so you're like ok, it's not as serious as what you have at the moment.

Another increasingly common form of violence includes technology-facilitated abuse, in which social media, computers and phones are used as a means to threaten and/or control. JRS and RACS have worked with a number of women who have experienced violence online, including threats to expose personal photos online and to family members overseas, which is extremely disempowering and threatening. As a result, women were either trapped in the cycle of abuse, or were ostracised by family members overseas, resulting in anxiety, depression and suicidal ideation. It is important to provide multilingual community awareness, such as an E-Safety website, and fund immediate strategies, such as access to free mobile phones (WestNet) for women who have left abusive relationships.

Women are also highly vulnerable to financial abuse and control when they do not have their own income through employment or social security. There is a need to create more pathways for employment, including access to childcare and early education services. A lack of economic independence and safety nets makes women disproportionately vulnerable to exploitation not only by partners, but by other community members, and employers. It is essential for all risk assessments to include canvassing control over and access to finances, sharing of household and other financial responsibilities, limitations or control related to accessing employment and the type or nature of that employment.

One other littler considered form of abuse faced by women seeking asylum and other women on temporary visas is spiritual abuse. Spiritual abuse is when a faith leader, partner, family or community member uses religion as a form of control over someone's decision making or choices. Signs of spiritual abuse between intimate partners and family may include:

- ridicule or insults of the other person's religious or spiritual beliefs
- preventing the other partner from practicing their religious or spiritual beliefs
- uses their partner's religious or spiritual beliefs to manipulate or shame them
- forces children to be raised in a faith that the other partner has not agreed to
- using religious texts or beliefs to minimize or rationalize abusive behaviours (such as physical, financial, emotional or sexual abuse/marital rape)

Domestic violence can be perpetuated in faith-based communities in overt and covert ways.⁹ Spiritual abuse may be linked to other forms of violence, including sexual, psychological, and physical. Highly vulnerable women, such as women seeking asylum, are at greater risk of spiritual abuse as they may seek spirituality and religion as a coping mechanism. It is important

⁹ Bent-Goodley & Fowler (2006) *Spiritual and Religious Abuse Expanding What is Known About Domestic Violence*, pp 284.

to assist communities to understand these unique protection risks, as well as promote safeguarding practices within faith based organisations.

Honour Based Violence (HBV) is another form of gender based violence, which often carries higher rates of homicide, multiple perpetrators and may be culturally accepted. In Australia there is no current data on the extent of HBV, however the United Nations Population Fund (2000) estimates that at least 5,000 women and girls worldwide are murdered each year in the name of so-called 'honour'; which is the most extreme form of HBV. Women's organisations and advocates working in the field believe that this figure is underestimated, putting the number at least four times higher.¹⁰

There is no international definition for HBV, but women rights organisation Iranian and Kurdish Women's Rights Organisation IKRWO offers a comprehensive definition: "honour based violence is normally a collective and planned crime or incident, mainly perpetrated against women and girls, by their family or their community, who act to defend their perceived honour, because they believe that the victim (s) have done something to bring shame to the family or the community"¹¹. Forms of 'honour' based violence can include:

- physical abuse, including death threats
- sexual abuse
- psychological abuse
- forced marriage
- forced abortion
- dowry abuse
- female genital mutilation (FGM)
- blackmail
- held against someone's will, including not allowed to attend school

HBV is disproportionately experienced by women and girls, however LGBTIQ people and people with a disability face similar protection risks. There are different ethnic groups with higher prevalence rates from across the Middle East, Asia and Africa, and a higher number of women seeking protection in Australia originate from here.

Other forms of sexual and gender-based violence, including slavery, trafficking and forced labour, are experienced particularly by women seeking asylum and on temporary visas. These forms of violence are driven by a lack of protection, poverty, lack of access to employment and education, discrimination, and cultural practices and can be categorised into slavery, domestic servitude, forms of modern trafficking and forced labour. Statistics by the International Labor Organisation (ILO) finds that women and girls are disproportionately affected by forced labour, accounting for 99% of victims in the commercial sex industry, and 58% in other sectors. This form of sexual and gender based violence is often linked to other crimes and unlawful acts, which require further specialised legal assistance, case management, accommodation, and health to support victims to receive justice and psychosocial support, including long term trauma recovery.

Lived experience - Case Study 2

¹⁰ Fisk, R (2010) "The crime wave that shames the world", The independent, 8 September, pp 1-3, available at <<http://www.independent.co.uk/opinion/commentators/fisk/.html>>

¹¹ IKRWO (2014) Postcode lottery: police recording of reported 'honour' based violence, Iranian and Kurdish Women's Rights Organisation, London, available at <<http://ikwro.org.uk/wp-content/uploads/2014/02/HBV-FOI-report-Post-code-lottery-04.02.2014-Final.pdf>>

In her country of origin Fatimah faced considerable risks as a woman, including violent protracted armed conflict and gender discrimination. Fatimah was forced to marry at a young age; experiencing domestic, family and sexual violence. She bravely sought divorce, which resulted in stigmatisation and threats from within her family and community.

Once again she was forced into a second marriage, and she arrived in Australia with her now ex-husband on temporary marriage visa, without her three children from her previous relationship. She experienced severe forms of psychological, physical, sexual, emotional and financial abuse by her ex-husband and his family including mother-in law and sister in law.

Back home and in Australia she experienced a form of gender based violence called 'honour based violence'. She received multiple threats against her life from her own family, her ex-husband's relatives, and local groups. They threatened to kill her because of the 'shame' and 'dishonour' she had put on the family and community after two separations.

As a result of the compounded trauma experienced in her home country and severe family violence, she was diagnosed with post-traumatic stress disorder and depression. Her emotional state is greatly affected when she thinks that her three daughters are having the same experience that she had, including forced marriage at an early age and experiencing similar abuse.

Due to her visa status Fatimah was unable to access any immediate DFV (domestic and family violence) crisis services, such as income or housing, and she became homeless. She faced numerous barriers to accessing services, due to coercive control, her limited understanding of English and her rights and due to her experiences relating to forced marriage and family violence. Her ex-husband denied her rights in accessing free English classes, which she was entitled to.

Recommendations:

- Nation-wide reform to recognise and broaden the definition of sexual and gender based violence, including complex forms of violence such as honour based violence and other harmful practices. This should be accompanied with trauma informed training and practical tools, such as integrated risk assessments, safety planning and referral pathways that consider unique risks
- Conduct longitudinal studies on complex forms of violence in Australia, including coercive control (migration status), forced labour, modern slavery, and spiritual abuse, including examples of best practice using culturally sensitive responses
- When violence against women and culture intersects, hold dialogues with male and female community leaders to identify specific issues and opportunities for partnership to implement changes that can be made to protect women from abuse
- Improve linkages with faith based organisations to support community based education on violence against women and children
- Continue to fund specialised services, particularly those working at the intersection of asylum/migration and gender for anti-slavery, early and forced marriage and other forms of complex violence

f) The adequacy of the qualitative and quantitative evidence base around the prevalence of domestic and family violence and how to overcome limitations in the collection of

nationally consistent and timely qualitative and quantitative data including, but not limited to, court, police, hospitalisation and housing.

Overall there is a lack of national data on women seeking asylum, refugee women, other women on temporary visas and their children experiencing violence. The 'Path to Nowhere' Report produced by the *National Advocacy Group on Women on Temporary Visas Experiencing Violence*¹² developed an online survey for service providers to submit data on women on temporary visas holders experiencing violence who sought assistance. The survey found that the 387 women surveyed who had accessed support services during the month of August 2018, were supporting more than 351 children and dependents. Of these women, around a quarter were living in crisis accommodation and around one in ten were living in temporary accommodation. One in ten women were still living with their partner, and the most needed service reported by women that organisations were unable to provide was crisis and long-term housing, followed by financial assistance.

There is a substantial lack of quantitative and qualitative research on the experiences and figures of women and children seeking asylum or temporary visas holders experiencing violence, including long term impacts on their wellbeing. Existing national data is solely obtained from service providers, which provides limited understanding on the overall prevalence of violence experienced by women seeking asylum. It would be beneficial to review the annual ABS Personal Safety survey to streamline with international obligations towards eliminating violence against women. This should also include, but not be limited to, identifying visa status to improve consistency of data on a national scale.

The sector depends on statistics from the Department of Home Affairs for an up-to-date profile on women seeking asylum and temporary visas in Australia. The data released often lacks an application of gender, age, diversity, sexual orientation and protection claims lens, which hinders opportunities to support women and other populations groups who are experiencing disproportionate rates of violence, such as people with a disability and LGBTIQIA communities. This data set would allow services to provide an improved tailored range of activities, including social inclusion and humanitarian relief.

Recommendations:

- Federal support for further studies and reporting for women and children who have applied for protection or who are on temporary visas and who have experienced domestic or other other forms of sexual and gender-based violence
- Greater participation from government departments and agencies in collating appropriately de-identified data to address violence against women on temporary visas, including women who have sought Australia's protection

g) The experiences of all women, including Aboriginal and Torres Strait Islander women, rural women, culturally and linguistically diverse women, LGBTQIA women, women with a disability, and women on temporary visas.

Culturally and linguistically diverse women, and in particular women seeking asylum and refugee women are less likely to report violence, experience more barriers in accessing support services, and are less likely to leave a domestic or family violence situation than other Australian women. The barriers to accessing support and justice and addressing the violence

¹² AWAVA (2018), *Pathway to Nowhere Report*, <https://awava.org.au/2018/12/11/research-and-reports/path-to-nowhere-report-women-on-temporary-visas-experiencing-violence-and-their-children>

they face, intersect with culture and traditional attitudes to domestic or family violence. For example, culturally and linguistically diverse women are also more likely than other Australian women to live with their husband's or partner's extended family, making them more susceptible to family violence, due to family pressure, social stigma and lack of autonomy over their income and housing.

Women seeking asylum and refugee women can also be more susceptible to violence due to experiences of sexual or gender-based violence prior to their arrival in Australia. These experiences can be from prior to their departure and also during the migration journey in which they have often spent time in Internally Displaced Persons (IDP) camps and refugee camps, where rates of violence against women are very high. Many women have spent time in urban settlements with little protection during their refugee journey. Due to these experiences of trauma, asylum seeking and refugee women may have a higher tendency to normalise violence and underreport instances of harassment and violence. Additionally asylum seeking and refugee women are often reluctant to report violence as they have concerns about their migration status and the possibilities of detention or removal, losing their children, etc. This is illustrated in JRS' report 'Free from Violence Against Women and Girls (VAWG)'¹³.

Women seeking asylum and refugee women often have a fear of authoritative figures, such as the Government and Police, due to experiences in their country of origin or during the migration journey to Australia. This accompanied with a fear of a negative impact on their insecure visa status or on losing their children also contributes to under-reporting of violence. One of the women interviewed for this report explained the impact that experiences of sexual violence within a refugee camp can have on a woman's ability to trust or seek out help in the future;

... actually, it's very worse... there's a lot of like sexual harassment in the camps... Like you find men, ah most of the toilets in the camp they are outside, so mostly you find women are scared to go to the toilet at night, because they get raped. There's a lot of raping. People who are working there, meant to be the security there, they do that.

She went on to explain how these experiences and the uncertainty of temporary visa status can impact upon a woman's confidence in approaching police;

Sometimes you're even scared, because you don't know if the person you're going to seek help from is the same as, is going to treat you the same as what you've gone through. So um, you, like you don't have enough confidence to even seek support... You're scared, you have fear in yourself because you don't know what's gonna happen next.

Once in Australia, there is a continued risk of asylum seeker and refugee women experiencing violence, which is compounded by a lack of access to support services and justice as referred to above in this submission. For women who have experienced violence, there may be additional factors such as reduced self-esteem, a sense of worthlessness, family pressures, fear and compounded trauma which can reinforce their own sense of vulnerability.

Women on temporary visas face specific barriers to seeking support when experiencing violence. These can include the lack of economic, housing or health services, fear of detention or deportation, fear of loss of custody of their children, lack of social networks, lack of understanding of their rights and English language skills and difficulties in navigating the system. Perpetrators of violence against women seeking asylum and other women on

¹³ Jesuit Refugee Service (2018), 'Free from Violence Against Women and Girls', <https://www.jrs.org.au/wp-content/uploads/2018/11/Free-from-Violence-Against-Women-and-Girls-VAWG-Report-8.pdf>.

temporary visas use these barriers to maintain power and control and to continue the cycle of violence. Currently, there are significant gaps in Australia's migration legislation that create serious risks for harm to survivors of domestic, family and sexual violence who hold temporary visas. This is not only extremely challenging for service providers, but for women themselves who are constantly living in fear due to the uncertainty of their visa. RACS and JRS recommends that the existing family violence provisions of the *Migration Regulation 1994* be expanded to include women on temporary visas other than partner visas.

Women seeking asylum on the basis of gender-based violence face considerable barriers relating to protection visa processes. RACS and JRS have concerns about the assessment of women who are victims/survivors of violence and their ability to provide evidence. Domestic, family, and sexual violence is often assessed arbitrarily and in a way that fails to recognise the complex dynamics of domestic, family, and sexual violence. Decision makers frequently fail to follow their own policy guidance on assessment of gender based and domestic, family and sexual violence claims. In RACS' experience, decision makers have engaged in victim-blaming and have not recognised the cyclical nature of domestic violence, nor the nuances of control, and have used this stance to discredit women claimants. For example, RACS is aware of decision makers who have concluded that a woman's evidence is not to be believed if she did not leave the violence immediately, or seek assistance from the police. Other decision makers have dismissed accounts of sexual violence without extending the benefit of the doubt to women recounting extremely traumatic experiences, and without putting weight on psychological evidence that supports positive credit findings. RACS recommends extensive, mandatory training for all decision makers on domestic violence; including with an intersectional lens.

RACS and JRS recommend that interviews or hearings with women who have experienced gender-based violence always be conducted by female decision makers, with female interpreters, in person; even where the woman is a co-claimant with other family members. This is clearly difficult during the pandemic. Telephone interviews can be inappropriate where visa applicants are vulnerable, or are self-isolating, sometimes in households that lack access to confidential or safe spaces. To address the inevitable delays, RACS and JRS recommend decision makers continue to assess applications on the papers, and where possible, move to grant visas without holding an interview, particularly for women who have experienced gender-based violence. It is open to the Department of Home Affairs to grant visas on the papers in protection visa applications. This is consistent with the Department's Protection Visa Processing Guidelines.¹⁴ We welcome the Administrative Appeals Tribunal's COVID-19 Special Measures Practice Direction¹⁵ section that provides guidance during the pandemic and reminding Members that decisions can and should be made on the papers in certain circumstances.¹⁶ RACS recommends that decision makers extend the benefit of the doubt where appropriate and liberally triage, identify and remit matters to continue processing and alleviate stress where possible. This is consistent with international practice, and the UNHCR has indicated:

*In cases where an interview has not yet been carried out, an omission of the interview – while not advisable as a general measure – may be considered in light of the prevailing [pandemic] situation where the intention is to recognize claims, i.e. in manifestly well-founded cases.*¹⁷

¹⁴ Protection Visa Processing Guidelines, 3.22.1.

¹⁵ Administrative Appeals Tribunal, *COVID-19 Special Measures Practice Direction – Migration and Refugee Division* (27 April 2020).

¹⁶ Administrative Appeals Tribunal, *COVID-19 Special Measures Practice Direction – Migration and Refugee Division* (27 April 2020), para 4.1(e).

¹⁷ UNHCR, *Practical Recommendations and Good Practice to Address Protection Concerns in the Context of the COVID-19 Pandemic* (Guidance, 9 April 2020) 12 <<https://data2.unhcr.org/en/documents/download/75453>>.

Many women and children who have been forced from their usual residence due to violence and who may experience disruptions to services including the internet will be adversely impacted by missing important correspondence from the Department of Home Affairs. RACS and JRS recommend that the law relating to deadlines be amended to enable women who have experienced domestic violence be able to make out-of-time applications (including for review).

To mitigate the risks associated with missing correspondence, notification from the Department should include telephone calls with interpreters to recipients to confirm notification details and ensure applicants are aware of forthcoming correspondence and the significance of it when the Department is aware of violence in specific cases. Where a person cannot be contacted, notification should be put on hold, to ensure that legal rights are not impacted. Time-frames to respond to requests for information should also be increased. RACS is also concerned that administrative staff within the Department have failed to centre the safety of women who have separated their applications from abusive partners. RACS is aware of occasions where notification of correspondence has been sent to the wrong partner, or has included the address of a former partner. RACS and JRS recommend training for all departmental officers to ensure the safety of women is ensured. RACS and JRS also recommend that the Department put in place a policy to separate protection visa applications where the parties are no longer members of the same family unit, particularly due to family violence. This separation should also protect the privacy of women, and ensure that documents cannot be considered for release under Freedom of Information (FOI) to abusive partners. RACS and JRS also recommend that the Department provide the release of documents to women who have left situations of family violence administratively, so that women can gain control over their own migration matters quickly. Currently, the FOI process is too slow and requires the consent of third parties (such as the abusive partner) which prejudices women who are seeking to understand what has been submitted on their behalf in visa applications.

Lived Experience - Case Study 3

Josephine* arrived in Australia seeking protection from a country where sex segregation is heavily pursued, and many extreme forms of legal and practical discrimination against women are practiced. She faced considerable human rights violations exercised by the local authorities against her rights to safety and personal freedom.

In Australia, she experienced intimate partner violence, including verbal, sexual, psychological and financial abuse. Due to issues of trust with authorities it took her a long time to leave her husband. She arrived at JRS with all her suitcases and her child in the car, however, despite JRS' best efforts to find her last minute emergency assistance, none was available, largely due to discriminatory eligibility criteria. As a result, she felt that she had no option other than to go back to her husband, as she and her children faced the risk of homelessness due to no income or shelter.

Due to significant risk of harm to her children, Josephine managed to find alternative accommodation to leave the perpetrator, however she now faces additional barriers with no access to income support, and the inability to work as she cannot afford child care or early education. Josephine's ineligibility for SRSS payments is based on the circumstances of her ex-husband as he is the primary applicant. The family continue to fear for their safety as any updates in circumstances must be reported to the Immigration Department, and they are worried this could lead to information shared directly with the perpetrator (who is listed as Immigration's primary contact).

Recommendations:

- Training for all agencies, including decision makers and administrative staff, working with women and children experiencing violence on the unique risk factors for people seeking asylum and temporary visa holders
- The family violence provisions to be expanded to include women on temporary visas
- People seeking asylum affected by domestic, family and sexual violence to be given visa processing priority, including visa grants without interviews
- Revised notification processes and release of applications to possible family violence victims so that women have access to documents made on their behalf and are able to participate in immigration processes
- Monitor the application of Departmental guidelines on assessing family violence claims and ensure they are applied

i) The impact of natural disasters and other significant events such as COVID-19, including health requirements such as staying at home, on the prevalence of domestic violence and provision of support services.

Many women and children seeking asylum and on temporary visas have heightened anxiety and visa stress within the COVID-19 environment. There is evidence that perpetrators are using COVID-19 as a means of coercive control, which significantly isolates women and children. Trends include an increase of domestic and family violence reporting, including sadly the death of a woman on a student visa who was a student in Australia due to intimate partner violence. Restrictions on movement outside the home mean that women are not able to leave abusive relationships as easily, which raises concerns about immediate safety and wellbeing. This crisis is limiting women's ability to escape harm or abuse, and places victims/survivors in an environment without appropriate access to services, such as safe shelters.

Women seeking asylum and temporary visa holders have increased risk of falling through the cracks due to the discriminatory provision of support services. While the Commonwealth Government's COVID-19 support package has helped many Australian permanent residents and citizens, it excludes people seeking asylum and temporary visa holders (including temporary protection visa holders) from receiving vital assistance safety nets, such as JobKeeper and JobSeeker. This in turn increases the dependency of women on income-earning partners for support, providing a deterrent to leave households where they face abuse. Women seeking asylum are often ineligible for other essential support services such as health care, legal advice, childcare, access to housing and translating and interpreting services. Additionally women on temporary visas are at increased risk of violence as a result of the effects of the COVID 19 crisis often trapped with the perpetrator 24/7.

Worldwide, women and girls represent the majority of the informal employment sector where there is no job security and no safety net and women seeking asylum and temporary visa holders are overrepresented in this sector. Initial figures in Australia show that women face higher rates of unemployment and have lower rates of employment re-engagement due to the burden of care for children and other dependents. Additionally, women on temporary visas are facing food security issues often struggling to be able to put food on the table and unable to make ends meet. The new social environment created by the pandemic means women seeking asylum also have greater legal needs. It is important that women and children can access legal support and services, including interpreting, to assist them navigate the immigration law system, particularly during this period of uncertainty.

Recommendations:

- Immediate eligibility to social security benefits, such as Special Benefit and JobKeeper or JobSeeker, for people on temporary visas, including inclusion after the September 2020 review
- Ensure accessible and free health care is provided to all women and children regardless of immigration status
- Immediate disbursement of additional funds towards frontline services, including specific funds to meet the unique needs for women seeking asylum and temporary visa holders experiencing violence

j) The views and experiences of frontline services, advocacy groups and others throughout this unprecedented time.

In Australia many women seeking asylum and other temporary visa holders are reliant on uninterrupted community services and support, including emergency relief payments. Many of these vital services have been interrupted due to COVID-19, which is increasing the poverty divide between citizens and 'non citizens' in this country, as well as making it difficult for women to reach out to ask for assistance or to secure safety.

Frontline services have limited resourcing and capacity to respond to the high need of assistance, in particular, access to housing, income and education. During COVID-19 JRS and RACS have experienced increased referrals for legal advice, case work, food assistance, transport payments, and material aid. For instance, JRS has witnessed an increase in demand of 224% and is currently distributing food to 800 people on a weekly basis.

Recommendations:

- Increased funding to specialised asylum seeker, refugee and migrant organisations to be able to upscale support to women and children experiencing domestic, family and sexual violence
- Longer term funding to domestic and family violence services to support women and families to address the long standing impacts of trauma and abuse