

**Submission to Joint Select Committee on Australia's Family Law System on  
behalf of the Jesuit Refugee Service (JRS) Australia and the Refugee Advice  
and Casework Service (RACS)**





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### 1. Introduction

#### About the Jesuit Refugee Service (JRS)

**An international organisation:** The Jesuit Refugee Service (JRS) is an international Catholic organisation, founded in 1980 as a social ministry of the Society of Jesus (“the Jesuits”).

**Seeking social justice for refugees worldwide:** JRS’ mission is to accompany, serve, and advocate for the rights of refugees and other forcibly displaced people worldwide.

**Programs offering global support:** JRS works in 57 countries, assisting refugees, people seeking asylum and other displaced people in camps, detention centres, war zones and urban settings. JRS’ programs focus on access to education, emergency assistance, healthcare, livelihood activities, psychosocial support and social services.

In 2018, JRS served, accompanied and advocated for 677,408 forcibly displaced individuals worldwide.

**JRS in Australia:** In 2018 - 2019, JRS Australia served more than 3,000 refugees, people seeking asylum, and migrants in vulnerable situations with emergency assistance, temporary shelter, a foodbank, professional casework, community activities, employment support, school engagement, legal advice, targeted advocacy, and a project to empower women seeking asylum and migrant women in vulnerable situations. .

**Strong local alliances:** JRS Australia has strong links with parishes, communities and schools across Australia, religious orders, local and state governments, refugee organisations, campaigns and coalitions, and other organisations in the community in the not for profit and education sectors.

**A global presence:** JRS Australia maintains an active presence on policy development and advisory forums in the Asia-Pacific region, and at the global level, participating in international campaigns and coalitions and contributing to UN forums.

**A stronger voice for refugees:** Advocacy is a central pillar of JRS' work. JRS' advocacy is characterised by the following principles:

- It stems directly from our close engagement with refugees and forcibly displaced people;
- It flows from accompaniment and service and is linked to JRS projects on the ground;
- It is based on Jesuit values, inspired by Ignatian spirituality;
- It is built on solid research.

JRS Australia's advocacy takes a number of forms including research and commentary, policy development, lobbying, and grassroots engagement with community members.

### **About the Refugee Advice and Casework Service (RACS)**

RACS is a dedicated refugee legal centre that has been assisting people seeking protection in Australia on a not-for-profit basis since 1988.

RACS provides critical free legal advice, assistance and representation for disadvantaged and vulnerable people seeking asylum or family reunion 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.

## **2. Background**

In 2018, JRS Australia secured funding from Women NSW for a project titled 'Finding Safety.' The project focuses on supporting asylum seeking and refugee women who are at risk of or 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, and support the empowerment of women to enable action.

In 2019, RACS established their 'Women at Risk' service, which provides free legal advice and representation to women 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.

This joint submission to the Joint Select Committee on Australia's Family Law System highlights discrimination against asylum seeker and refugee women and children who are at greater risk of experiencing violence, abuse, maltreatment or exploitation; the barriers to seeking support and the impact that this has on their access to and experience of the Australian family law system. We would be happy to provide further information, consult with the Joint Select Committee or appear as a witness at a public hearing, where required.

## **3. Inquiry**

RACS and JRS share the concerns of other organisations as to the appropriateness and necessity of the current Inquiry. Particularly, we are concerned that the genesis and terms of reference of the Inquiry do little to seek to address the needs and safety of victims/survivors of family violence, including women and children who are often the most affected populations.

It is our submission that ample evidence and recommendations are contained in existing reports that propose much-needed changes to the family law system. Since 2009, 12 major reports on the operation and improvements of the family law system have been released. RACS and JRS echo other submissions that draw the Committee's attention to the comprehensive report by the Australian Law Reform Commission entitled 'Family Law for the Future: An Inquiry into the Family Law System' and the 60 recommendations therein. The 2017 House of Representatives Standing Committee on Social Policy and Legal Affairs' report 'A better family law system to support and protect those affected by family violence' is also essential reading for this Committee. We urge the Government to take action without further delay.

RACS and JRS recommend members of the Committee and all Parliamentarians to undertake family violence awareness training and ensure that the Inquiry and Parliamentarians address matters of family law and family violence in a way that ensures the safety of and respect for all parties, particularly victims/survivors and children.

Despite our concerns about the Inquiry, we make this submission in order to counter misinformation and support victims/survivors in trying to build lives free of violence, and particularly to advocate for women and children from diverse backgrounds who may be particularly vulnerable given their visa status. We note the absence of Terms of Reference recognising that experiences of family violence and experiences within the family law system will differ for diverse groups of women, and we submit that additional issues need to be considered for asylum seeking and refugee women.

#### 4. Executive Summary

This submission recommends that a more nuanced gender, human rights and culture analysis must be applied to ensure the safety and fulfillment of women and children's rights. We reiterate that **women and children's safety** needs to be a central priority, as well as the core human rights principles of participation, accountability, non-discrimination, equality, and empowerment.

Urgent reforms need to be immediately implemented to make the family law system safe for victims/survivors of domestic and family violence and address some of the structural inequalities particularly faced by women and girls seeking asylum. These include;

1. **Ensuring that asylum seeker and refugee women are recognised as a distinct group that require additional and specialised support to navigate the complex legal system.**
2. **Resourcing the judicial system and courts to address significant delays.**
3. **Resourcing legal aid and community legal centres to provide specialised legal assistance much needed by survivors.**

- 4. Empowering victims/survivors of domestic and family violence by ensuring they are fully supported to navigate court processes.**
- 5. Recognising and alleviating the particular difficulties that face asylum seeking and refugee women and children due to the intersection of family law, domestic violence, and immigration law.**
- 6. Ensuring that all those that work within the family law and domestic violence systems, including the judiciary, have adequate training to equip them to assist women and children from asylum seeking and refugee backgrounds to report abuse and access justice.**
- 7. Funding quality interpreting for legal advice and court processes.**

## **5. Asylum seeking and refugee women**

Gender-based assumptions, stereotypes and expectations place women and girls seeking asylum at a disadvantage with respect to the enjoyment of their rights, such as freedom to act and self determination, to participate fully in economic, social, and cultural spheres, and to make decisions, including legal decisions, concerning their lives.

Culturally and linguistically diverse women, and in particular asylum seeking 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.<sup>1</sup> They face multiple intersections with their culture and traditions when experiencing domestic or family violence. A number of these specific types of family violence have recognised definitions, which include but are not limited to honour killings, dowry abuse, early and forced marriage and bride-price. Culturally and linguistically diverse women are also more likely than other Australian women to live in extended family households, making them more susceptible to family violence.<sup>2</sup>

Asylum seeking 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, including during the migration journey in which they have often spent time in Internally Displaced Persons (IDP) camps and refugee camps, in which rates of violence against women are very high. They could also have spent time in urban settlements with little protection as part of 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)'.<sup>3</sup> One of the women

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<sup>1</sup> Commonwealth of Australia (Department of Social Services) 2015, 'Hearing her voice: report from the kitchen table conversations with culturally and linguistically diverse women on violence against women and their children', [https://plan4womenssafety.dss.gov.au/wp-content/uploads/2015/07/cald\\_womens\\_safety\\_report.pdf](https://plan4womenssafety.dss.gov.au/wp-content/uploads/2015/07/cald_womens_safety_report.pdf).

<sup>2</sup> *Ibid.*

<sup>3</sup> 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>.

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.<sup>4</sup>*

She went on to explain how these experiences and the uncertainty of a 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.<sup>5</sup>*

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 including housing, financial assistance, pro-bono legal services, counselling and sexual assault services.

For women who have experienced violence, there may be additional factors such as reduced self-esteem, a sense of worthlessness, family pressures and compounded trauma which can reinforce their own sense of vulnerability.

Asylum seeking and refugee women often have a fear of authoritative figures such as Government and Police, due to experiences in their country of origin or throughout the migration journey to Australia. This accompanied with a fear of a negative impact on their insecure visa status also contributes to under-reporting of violence.

Asylum seeking women face specific barriers to seeking support when experiencing violence. These include a lack of services and government assistance, 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. Recommendations to overcome these barriers are suggested later in this submission. Perpetrators of violence against asylum seeking women use these barriers to maintain power and control and to continue the cycle of violence.<sup>6</sup>

There is a lack of national data on asylum seeking and refugee women and their children experiencing violence. There is also a lack of data on asylum seeking and refugee women accessing the family law system. The 'Path to Nowhere' Report produced by the *National Advocacy Group on Women on Temporary Visas Experiencing Violence* developed an online survey for service providers to submit data on women on temporary visas experiencing violence who sought assistance. The survey found that out of the 387 women who accessed support services during the month of August 2018, these women had more than 351

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<sup>4</sup> *Ibid.*

<sup>5</sup> *Ibid.*

<sup>6</sup> National Advocacy Group on Women on Temporary Visas Experiencing Violence 2018, 'Path to Nowhere; Women on Temporary Visas Experiencing Violence and their Children',

<https://s3-ap-southeast-2.amazonaws.com/awava-cdn/awava/wp-content/uploads/2018/12/11131529/National-Report-on-Women-on-Tempo...3-compressed.pdf>.

children or dependents, 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.<sup>7</sup>

## 6. Judicial and legal resourcing

With respect to the Terms of Reference point 'c.', RACS and JRS submit that better resourcing of the judicial system is essential in enabling access to justice.

While the Terms of Reference do not seek comment on the merger of the Family Court and the Federal Circuit Court, we oppose this proposal. Evidence relating to backlogs and the lack of resources in the Family Court are contained in other submissions before the Committee.<sup>8</sup> Such backlogs and resourcing concerns also exist in the Federal Circuit Court, for example for migration matters. Migration appeals often span years, due largely to the need for greater resourcing of courts and tribunals. The proposed merger does little to practically address such delays and resourcing concerns.

RACS and JRS also recommend that courts be better resourced to work with families to identify safety risks that should be considered in any court decision, by implementing consistent screening and risk assessment tools to protect children and parents at risk of violence, and ensuring these assessments are gender responsive and include considerations for asylum seeking and refugee women. This could be implemented in part by ensuring the courts have access to all relevant information by establishing a national information sharing framework to ensure information from state jurisdictions can be considered where relevant, and the courts are supported to make informed decisions that prioritise child safety and wellbeing. Such support could be provided by firstly prioritising matters where people are at high-risk such as women and girls seeking asylum and by establishing a specialist case management system funded to work with families involved in domestic and family violence matters. This service should provide multilingual case management workers for domestic and family violence matters involving children and parents, ensuring training for practitioners on working with asylum seeker and refugee women.

The Terms of Reference also seek comment on legal fees at 'd.' It is our submission that cuts to funding of Legal Aid and Community Legal Centres (CLCs) presents a serious barrier for people accessing justice. **RACS and JRS call on Government, both state and federal, to ensure that Legal Aid and CLCs are properly resourced in order to provide vital legal services to all people navigating the legal system.**<sup>9</sup>

Such resourcing should not only focus on family law advice and representation, but also domestic violence advocacy and legal assistance and immigration law. This is particularly necessary for victims/survivors of family violence who are also asylum seeking or refugees, particularly women. In RACS' experience, our clients' legal issues rarely require family law advice alone. Accordingly, **we call on the government to reinstate immigration advice to ensure the safety of women and children.**

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<sup>7</sup> *Ibid.*

<sup>8</sup> See, for example, the Law Council of Australia's submission, dated 25 September 2019, p. 3.

<sup>9</sup> Lack of access to justice contributes to the exclusion of asylum seeking and refugee women; Not-For-Profits with minimal resources have less incentive to prolong or drag out legal cases.



## 7. Services and financial assistance

The Terms of Reference seek recommendations and submissions as to the necessary services to ensure the safety and wellbeing of children and families at 'e.' and 'f.'

Women on temporary visas, and in particular women who are seeking asylum, face multiple barriers to ensuring their own safety, and are ineligible for many essential services that Australian citizens or permanent residents have access to, such as Centrelink domestic violence payments, housing, refuges, and even work rights and medicare.

For women seeking asylum, access to Government payments through the Status Resolution Support Service (SRSS), which is approximately 89% of Newstart allowance, has become increasingly difficult to attain due to the tightening of the eligibility criteria. 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 supports, deprivation of opportunities of previous work experience and language barriers.

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. 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.

Asylum seeking women and their children may also not be granted access to Medicare, placing their health and wellbeing in significant danger.

A general lack of affordable housing and social and public housing may push women to stay with a violent partner. In addition, in most states of Australia, only Australian 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 government social supports. 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 return to their abusive partner.

One woman explained to JRS how she felt 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.<sup>10</sup>*

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<sup>10</sup> Jesuit Refugee Service 2018, 'Free from Violence Against Women and Girls', p. 4, <https://www.jrs.org.au/wp-content/uploads/2018/11/Free-from-Violence-Against-Women-and-Girls-VAWG-Report-8.pdf>.

This lack of services can make asylum seeking women particularly vulnerable to violence as they often do not have the supports that Australian permanent residents, citizens or people on other substantive visas may have.

**In order to ensure their safety and that of their children, women on temporary visas and in particular women who are seeking asylum must be able to access secure and long term housing, financial assistance and other essential supports; they must be made eligible for government assistance such as Centrelink, Medicare and social housing.<sup>11</sup>**

## **8. Family law and immigration law**

With respect to 'f.' in the Terms of Reference, women and children who are seeking asylum or are refugees and women temporary migrants face particular threats to their health, safety and wellbeing as a result of the intersection of immigration and family law.

Women seeking asylum in particular are reluctant to denounce violence and seek support due to fear about the uncertainty of their visa status and whether they are likely to be sent back to a country in which they fear harm or detained as a result of reporting. Many women stay in abusive relationships rather than risk losing their visas or risk not having their visas extended. They are also worried about losing their children. In RACS' experience, often women who have been subjected to family violence may not have had agency in relation to their visa status and may be unaware of which visa they hold. They often cannot access immigration documentation and may be unaware of what was submitted on their behalf by their abusive partner in a visa application. For women seeking asylum, often their partner may have raised a fear of harm in their home country, and their perceived reliance on his claims for protection may prevent a woman from leaving the relationship, seeking legal advice and/or raising their own reasons that they fear harm in their home country as they relate to that abusive partner.

Women are also fearful of losing custody of their children, either formally via government systems or by their abusive partner. A woman interviewed by JRS explained how she reported violence to the police who subsequently took out an Apprehended Violence Order (AVO). This prompted her ex-husband to take their son and return to their country of origin;

*He took my son, my ex-husband. He didn't let me know that he's going to [country of origin]. He just, because I gave a complaint against him to the police and I got a court order, AVO. After 2 days, he say that they're going somewhere outside... The next day I heard the news that they reach [country of origin]... I couldn't even, I couldn't even dream like in this big country, how could he leave me alone and go... I thought maybe I want to kill myself or something at that time... still I am living. I hope maybe I will get my son back.<sup>12</sup>*

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<sup>11</sup> National Advocacy Group on Women on Temporary Visas Experiencing Violence 2018, 'Path to Nowhere; Women on Temporary Visas Experiencing Violence and their Children', <https://s3-ap-southeast-2.amazonaws.com/awava-cdn/awava/wp-content/uploads/2018/12/11131529/National-Report-on-Women-on-Tempo...3-compressed.pdf>.

<sup>12</sup> Jesuit Refugee Service 2018, 'Free from Violence Against Women and Girls', p. 5, <https://www.jrs.org.au/wp-content/uploads/2018/11/Free-from-Violence-Against-Women-and-Girls-VAWG-Report-8.pdf>.

This woman's ex-husband further threatened to seek retribution for her taking the matter to the police;

*He didn't expect that I go to the police station. He explain like 'in front of others you took me to police' and he say like he can't forget that, he can't forgive that... My ex-husband still he is threatening me, ok you come back to [country of origin]... that time he will show who he is... He knows very well that nobody is going to support me in [country of origin].<sup>13</sup>*

These examples highlight some of the challenges that are present for women seeking asylum in trying to seek assistance. While the Australian Federal Police (AFP) monitor the movements of children who have registered on the AFP stop-list, often registering a child is impossible for asylum seeking and refugee women. The AFP stop-list requires a parenting order from the Family Court or Federal Circuit Court. Given the barriers to accessing the family law system, this places migrant women in particularly difficult circumstances.

**RACS and JRS recommend that for women who have applied for protection, a mechanism should be introduced to ensure that their children are not removed from the country by their partner.**

**RACS and JRS also submit that the 'family violence provisions' of the *Migration Regulations 1994* must be expanded to include women on temporary visas.** These provisions enable women who have been the victim of domestic violence to access pathways to residency that do not require them to remain with an abusive partner.

## **9. Training on culturally safe practices**

The Terms of Reference at 'h.' seek comment on how professionals involved in family law proceedings could better serve parties to family law proceedings.

**RACS and JRS recommend that all professionals have competency in identifying and responding to domestic and family violence in asylum seeker and refugee communities by implementing an accreditation and training framework for all judicial officers, court officials, family law practitioners, court report writers and supervised contact centre workers.**

Noting the recent ABC News report on the experience of sexual assault survivors in their dealings with police,<sup>14</sup> **RACS and JRS call on better training for police officers with respect to the experiences of victims/survivors of gender-based violence, with specific training relating to people from diverse backgrounds.**

Given the complexity of the family law system and the diversity of people interacting with it, there needs to be an emphasis on early determination (court decisions), triaging and case

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<sup>13</sup> *Ibid.*

<sup>14</sup> ABC News, 'Rough justice: How police are failing survivors of sexual assault', (28 January 2020), <https://www.abc.net.au/news/2020-01-28/how-police-are-failing-survivors-of-sexual-assault/11871364>.

management, particularly where family violence is a factor. The Family Law Court<sup>15</sup> has found that people from culturally and linguistically diverse backgrounds face a range of additional barriers when accessing legal, counselling and family dispute resolution services. The Third Action Plan of the National Plan to Reduce Violence against Women and their Children has also indicated a commitment to improving the quality and accessibility of services for women from culturally and linguistically diverse backgrounds. There has not yet been reporting on the progress of this measure. Responding to the diversity of women and children facing violence is also listed as a priority in the Fourth Action Plan. In the family law system, there is a need to extend this commitment to people who identify as LGBTIQ as well. **Thus, there should be a particular focus placed on training programs developed and delivered for judicial officers, court staff and family lawyers including Independent Children Lawyers (ICLs) and Family Dispute Resolution (FDR) practitioners in the areas of intersection of family law and family violence, cultural competency in relation to working with people of a culturally and linguistically diverse background (including working with interpreters), working with vulnerable clients, trauma-informed practices, working with people who have a disability and working with clients from LGBTIQ communities.**

Results from the DVNSW Practitioners' Survey<sup>16</sup> indicated that in many cases there is lack of acknowledgement of domestic or family violence history. One of the respondents suggested;

*Rulings are made based on an assumption of equal power between the parties rather than the fixed imbalance of power that pre-dates and persists through the court process. This leaves victims further vulnerable to system abuse by wealthy and highly educated perpetrators. Victims are judged on their emotional presentation at court, ignorant of the impact of domestic violence.*

*The same applies to property settlement matters, where often the history of domestic violence is not taken into account as a major factor influencing woman's ability to equally participate and acquire property. Where DV is ignored, as an aspect in property matters, women may be forced into settlements regarding property that will leave them at a significant disadvantage, compared to the offender.<sup>17</sup>*

All participants in court processes, judges, lawyers and court staff should have a thorough understanding of the nature and dynamics of domestic and family violence, such as an understanding of the tactics a perpetrator may utilise within the court system to perpetuate a pattern of dominance and control. This is particularly the case when a woman is on a temporary visa as the perpetrator often uses this as a control mechanism. Increased knowledge regarding gender bias and the nature of family violence amongst staff in the judicial system can assist in holding perpetrators to account, and ensure that victims are treated in a consistent manner.

Further, the training of staff within the judicial system should account for the specific needs of asylum seeking and refugee women that have been subjected to domestic and family

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<sup>15</sup> Family Law Council 2012, 'Improving the family law system for clients from culturally and linguistically diverse backgrounds',

<https://www.ag.gov.au/FamiliesAndMarriage/FamilyLawCouncil/Pages/FamilyLawCouncilpublishedreports.aspx>.

<sup>16</sup> Domestic Violence NSW Practitioner Survey Respondent – Parliamentary inquiry into a better family law system.

<sup>17</sup> *Ibid.*

violence. A report prepared by the Judicial Council on Cultural Diversity (JCCD) identified that culturally and linguistically diverse women who experience family violence may have different experiences which require comprehensive cultural competency training for court staff that interact with them, for example instances of dowry-related violence, forced marriage and female genital mutilation.<sup>18</sup>

**We recommend comprehensive training of staff within the judicial system to include the following topics;**

- the nature and dynamics of family violence;
- working with vulnerable people;
- cultural competency and safety (working with people from culturally and linguistically diverse backgrounds particularly women on temporary visas and asylum seeking and refugee women);
- working with people who identify as LGBTIQ;
- disability awareness and accessibility;
- intersectionality of people's needs that includes recognition of structural inequalities arising from the interconnectedness of gender, age, sexuality, disability, culture, religion, race and/or other experiences;
- trauma-informed practice;
- the intersection of family law, child protection and family violence;
- the intersection of family law, family violence and migration status;
- technology facilitated abuse;
- the intersection of family violence and family law in property determinations that includes:
  - the financial impacts of family violence
  - the nature and impacts of economic abuse
- understanding and working with influencing systems including child support and child protection; and
- working with interpreters.

Additional resources, such as videos, factsheets and toolkits regarding these topics could also be provided to support those who work in the legal system better understand the barriers to justice, and to access information and resources of relevance to the context of their work.

## **10. Interpreters**

Also relevant to the Terms of Reference 'h.' is the need for quality interpreting services at all stages of the family law process, including from initial legal advice through to court proceedings and to explain court orders. RACS and JRS endorse the submission provided to the Committee by the Federation of Ethnic Communities' Councils of Australia (FECCA). FECCA's submission makes valuable recommendations in relation to cultural competency and the importance of access to interpreters and translators.

The complexity of the family law system makes it difficult to navigate for anyone who is not legally represented and anyone whose first language is not English. One of the ways to

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<sup>18</sup> Judicial Council of Cultural Diversity 2016, 'The Path to Justice: Migrant and Refugee Women's Experience of the Courts', p. 31.



improve the accessibility of information in courts is to produce resources (including visual flowcharts), outlining step-by-step guidelines about what to expect in court. These resources should cover court processes from the initial filing through to receiving a decision and should be published in plain English as well as translated into relevant community languages.

It is vital for asylum seeking and refugee women to be provided access to an interpreter when their first language is not English. When there are instances of domestic or family violence, it is crucial that victims/survivors have the choice of accessing a female interpreter, and that this choice is explicitly presented to them.

Access to interpreters is essential for access to justice; when an in-person interpreter is not available, a telephone interpreter should be provided, and court hearings/listings should not proceed without one. When working with interpreters, we suggest ensuring consistency in the family law system by abiding by the 'Recommended National Standards for Working with Interpreters in Courts and Tribunals' developed by the Judicial Council on Cultural Diversity.<sup>19</sup> Interpreting services should be free for use by all community legal services and legal aid and funded by Government. This includes for family law, domestic violence and immigration law advice, as well as mediations and court processes.

## **11. Conclusion**

**RACS and JRS call for asylum seeking and refugee women to be specifically considered by legislators, practitioners and the judiciary when reviewing the family law system in Australia.**

This is crucial, given the barriers preventing victims/survivors of domestic and family violence from asylum seeking and refugee backgrounds from accessing justice.

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<sup>19</sup> Judicial Council of Cultural Diversity 2017, 'Recommended National Standards for Working with Interpreters in Courts and Tribunals', <http://jccd.org.au/wp-content/uploads/2018/02/JCCD-Interpreter-Standards.pdf>.