

## 1. What is the National Advocacy Group on Women on Temporary Visas Experiencing Violence?

The National Advocacy Group on Women on Temporary Visas Experiencing Violence was formed in response to the growing awareness of the difficulties experienced by women on temporary visas. The National Advocacy Group consists of state and national peak bodies, service providers and other organisations working to address violence against women across Australia. The group functions to collectively advocate for policy and law changes to support women on temporary visas experiencing violence and their children to be safe.

## 2. Our key report and recommendations for reform

On December 2018, the Advocacy Group released the report [Path to Nowhere: Women on Temporary Visas Experiencing Violence and Their Children](#)<sup>1</sup> (**Path to Nowhere Report**). This report called attention to the significant difficulties that women on temporary visas who experience violence face in addressing housing, financial, health, legal and social needs.

The Path to Nowhere Report noted that due to their risk of homelessness arising from their inability to access income and other support, women on temporary visas may decide to stay with, or return to, a violent partner. As of August 2018, Advocacy Group members found that at least 387 women on temporary visas who experienced violence in Australia sought or received assistance from a service provider. National numbers are likely to be much greater given the limited number of service providers who contributed to the survey voluntarily.

In particular, the Path to Nowhere Report acknowledged that there is increasing evidence of the intersection of sexual, domestic and family violence and human trafficking with reference to Dr Marie Seagrave's recent study that found that 10% of 300 cases she reviewed of women on temporary visas experiencing violence showed trafficking and slavery indicators.<sup>2</sup> In addition, an Australian Institute of Criminology report in 2014 found that marriage and partner migration has been used to facilitate the trafficking of people into Australia for labour exploitation, servitude and other exploitative practices.<sup>3</sup> In October 2019, the Advocacy Group released its [Blueprint for Reform](#)<sup>4</sup> (**Blueprint**) which sets out necessary reforms to achieve safety for all women, regardless of their visa status. The following recommendations are drawn directly from this Blueprint.

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<sup>1</sup> National Advocacy Group on Women on Temporary Visas Experiencing Violence (2018) *Path to Nowhere: Women on Temporary Visas Experiencing Violence and Their Children*.

<sup>2</sup> Segrave M., Hedwards B., Tyas D. (2020) *Family Violence and Exploitation: Examining the Contours of Violence and Exploitation*. In: Winterdyk J., Jones J. (eds) *The Palgrave International Handbook of Human Trafficking*. Palgrave Macmillan, Cham

<sup>3</sup> Lyneham S & Richards K 2014. *Human trafficking involving marriage and partner migration to Australia*. Research and public policy series no. 124. Canberra: Australian Institute of Criminology. <https://aic.gov.au/publications/rpp/rpp124>

<sup>4</sup> National Advocacy Group on Women on Temporary Visas Experiencing Violence (2019) *Blueprint for Reform: Removing Barriers to Safety for Victims/Survivors of Domestic and Family Violence who are on Temporary Visas*.

### 3. Response to Consultation Questions 1 and 2

1. Do the 12 goals capture key areas of focus for Australia over the next five years?
2. Should there be additional goals to address other areas of focus, emerging issues or trends? If so, what should they be?

Consistent with the public consultation paper, this submission refers to modern slavery as a range of exploitative practices including human trafficking, slavery and slavery-like practices including forced labour, servitude, debt bondage, deceptive recruiting for labour or services and forced marriage.

In accordance with its Blueprint, the Advocacy Group agrees that the following proposed goals of the National Action Plan to Combat Modern Slavery 2020-2024 (**NAP**) should be included as priority goals:

#### 5. train frontline officials to support the identification of victims and effective investigations of modern slavery

The Advocacy Group supports this goal and recommends that the NAP include an action item to train:

- a) workers in all relevant government agencies who come in contact with women on temporary visas who have experienced domestic, family and sexual violence, including the Department of Home Affairs, Department of Human Services (including Centrelink and Medicare) housing agencies, and
- b) non-government organisations who work to support women who have experienced domestic, family and sexual violence.

The training should be mandatory and supplemented by ongoing professional development and touch on:

- a) the nature and dynamics of domestic, family and sexual violence including complex forms of violence (dowry abuse, forced marriage, female genital mutilation or cutting, trafficking and servitude), financial abuse, reproductive coercion, and technology-based abuse;
- b) intersections between domestic, family and sexual violence, immigration issues and family law for women on temporary visas;
- c) marriage practices across different cultures;
- d) human trafficking and slavery indicators; and
- e) where relevant, gender mainstreaming including gender analysis tools which help identify specific risks and capacities for women and girls.

(See recommendation 3.6, Blueprint)

The Path to Nowhere Report observed that the domestic and family violence service sector has limited knowledge of modern slavery indicators and how to respond and make appropriate referrals. The Report acknowledged that some women who may be victims-survivors of modern slavery may only be identified as a victim-survivor of domestic and

family violence only.<sup>5</sup> Accordingly, government and non-government services and workers should be trained to effectively identify human trafficking and slavery so that people on temporary visas experiencing violence can access specific migration pathways and the Commonwealth funded Support for Trafficked People Program.<sup>6</sup>

10. provide appropriate support, protections and remedies to empower victims of modern slavery

The Advocacy Group supports this goal and recommends that the NAP include an action item to review and amend migration rules (outside of the Human Trafficking Visa Framework) which disempower victims-survivors and discourages victims-survivors from leaving violent relationships.

In particular, the NAP should consider amending the Family Violence Provisions in the *Migration Regulations 1994* (Cth) to women who have experienced exploitation in a domestic or familial setting (or women who have experienced domestic, family or sexual violence more generally) to access appropriate visa arrangements for support and recovery, irrespective of their participation in a criminal investigation or prosecution.

The following amendments to the Family Violence Provisions in the *Migration Regulations 1994* (Cth) should be considered:

- a. Expand access to the Family Violence Provisions to enable women and their dependants to apply for permanent residency to include:
  - Any person experiencing domestic, family and sexual violence on Prospective Marriage Visas (subclass 300) who does not marry their sponsor prior to relationship breakdown, and their dependants;
  - Any person experiencing domestic, family and sexual violence who has applied for a permanent visa onshore as a secondary applicant, and their dependants;
  - Any person experiencing domestic, family and sexual violence who has applied for a family visa onshore, who is awaiting a decision, and their dependants.
- b. Determine whether there is domestic, domestic, family and sexual violence and sexual prior to assessing for a 'genuine relationship' and ensure the evidence required can reasonably be provided in the context of a relationship with a partner who is abusive.
- c. Expand the Family Violence Provisions to allow for a waiver of the requirement for a marriage to be valid under the *Migration Act 1958* (Cth) or proof of 'genuine relationship' where there is sufficient evidence that the person is a victim of forced marriage or was deceived about the ceremony, marital status or that the Australian

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<sup>5</sup> pg 12, National Advocacy Group on Women on Temporary Visas Experiencing Violence (2018) *Path to Nowhere: Women on Temporary Visas Experiencing Violence and Their Children*.

<sup>6</sup> Ibid.

partner has or had multiple partners. This evidence can be judicial or non-judicial.

Good practice of the assessment for a 'genuine relationship' would include:

- Consideration and recognition of the impact of financial abuse including dowry abuse, as part of assessing the financial aspects of a relationship.
  - Consideration and recognition of the role of deception and coercion by the perpetrator of violence in influencing a woman's decision to enter and remain in a relationship.
  - Lawyer/migration agent would be permitted to attend an interview with an independent expert.
- d. Broaden the definition of domestic, family and sexual violence to include abuse and violence perpetrated by a partner and/or a relative of the partner or the victim/survivor whether in Australia or a Foreign State.
- e. Allow access to the Family Violence Provisions even if the relationship has not yet ceased.

(see Recommendation 1.1, Blueprint)

In considering what protections and supports victim-survivors should receive, the NAP should include an action item to consider removing the requirement for a victim-survivor to provide assistance with a police investigation or prosecution in order to receive ongoing support via the Support For Trafficked People Program. Women and their children have the right to be safe from all forms of violence and exploitation in Australia, regardless of their visa status and willingness to assist in criminal justice processes. Victims-survivors should be empowered to make decisions which promote their safety, well-being and recovery through stable visa status and access to specialist services, including housing, health, legal, social security and education.

#### **4. Response to Consultation Question 3**

*3. The Government is committed to ensuring victims of modern slavery are supported, protected and empowered. Are there ways in which the Government can better reflect the voices of victims and their lived experiences in the 2020-24 Plan and Australia's response to modern slavery?*

Victim-survivor voices and experiences are invaluable in understanding and evaluating the effects of existing laws and support systems on women on temporary visas who experience violence and exploitation. In order to integrate victim-survivor's voices and lived experiences, the NAP should consider utilising existing models for victim-survivor input in the domestic and family violence space, such as the Victim Survivors' Advisory Council in Victoria.