

16 March 2023

Joint Standing Committee on Migration
PO Box 6021
Parliament House
Canberra ACT 2600
Submitted: Online through My Parliament

Dear Committee Secretary,

Re: Inquiry into the role of permanent migration in nation building

1. Women's Legal Services Australia welcomes the opportunity to make a submission to the Joint Standing Committee on Migration, inquiry into the role of permanent migration in nation building. We give permission for this submission to be published.

About Women's Legal Services Australia

2. Women's Legal Services Australia (WLSA) is a national network of 13 specialist women's legal services in each State and Territory across Australia, specifically developed to improve women's lives through specialist legal representation, support, and advocacy.
3. WLSA members provide high quality free legal services, including representation and law reform activities, to support women's safety, access to rights and entitlements, and gender equality. We seek to promote a legal system that is safe, supportive, non-discriminatory, and responsive to the needs of women. Some of our services have operated for over 40 years.
4. In 2021, 7 WLSA members were identified as best-placed service providers for the Temporary Visa Holders Experiencing Violence Pilot; a Pilot to provide wraparound and specialist legal and support services, including migration advice and representation, to women on temporary visas or no visa experiencing domestic and family violence. Notably, the Pilot is about to commence its third funding cycle, with WLSA members again identified as best-placed to deliver same.
5. WLSA members have specialist expertise in safety and risk management, maintaining a holistic and trauma-informed legal practice, providing women additional multidisciplinary supports, including social workers, financial counsellors, trauma counsellors, and cultural safety workers, for long-term safety outcomes.
6. WLSA members approach the legal issues facing women and their experience of the legal system within a broader analysis of systemic gender inequality. We are committed to providing individual services whilst also working towards deeper legal and cultural change to redress power imbalances and address violence against women and gender inequality.

Our advocacy focus.

7. WLSA and our individual member services work to contribute to policy and law reform discussions to ensure that the law does not entrench gender inequality or gender-based discrimination, or unfairly impact women experiencing violence and relationship breakdowns. We are informed by a feminist framework that recognises the rights of women as central.
8. Our primary concern when considering any proposed legislative or policy amendments is whether the changes promote gender equality and/or make the legal system fairer and safer for both our clients and all victims of violence against women. Our submission reflects this focus.
9. WLSA may use the terms “victim,” “survivor,” and “victim-survivor” interchangeably throughout this submission to refer to women or people who identify as women, children and others who have experienced or are experiencing family and domestic violence and abuse in any of its forms. While acknowledging that anyone can experience domestic and family violence and abuse, the research and our members’ experience over more than forty years clearly identifies that domestic and family violence and abuse is predominantly perpetrated by men against women and children. Our language in this submission is gendered to reflect this.

Introductory Comments

10. WLSA welcomes the inquiry into the role of permanent migration in nation building and commends the government's commitment to women's social, economic and gender equality.
11. Australia’s immigration system has the potential to be a strategic enabler of vibrant economies and sustainable communities. However, Australia must ensure that all migrants have pathways to safety and recovery if they experience family violence in Australia.
12. The recently launched National Plan to End Violence Against Women and Children 2022-33 (National Action Plan) recognises the vulnerability of migrant women and children to family violence. 1 in 3 migrant and refugee women in Australia are experiencing family violence and rates are known to be even higher amongst women on temporary visas. Importantly, the National Action Plan recognises that migrant women face structural barriers other women do not, such as the impact ending a relationship has on their visa status and eligibility for social security.
13. Women on temporary visas can experience unique forms of family violence because their visa status can be tied to the person who uses violence. Many of the users of family violence against temporary visa holders are Australian citizens. We see clients every day whose perpetrators use visa status and the migration system to further coerce, manipulate and control.

The role of permanent migration in nation building, cultural diversity, and social cohesion

Permanent migration has played a critical role in nation building, cultural diversity, and social cohesion. Australia's 2021 census data shows that 48.2 per cent of Australians had at least one parent born overseas¹. We are a proud culturally rich country, and it is critical our policy and legislative frameworks support migrants to flourish.

One of Australia's most pressing and impactful issues impacting social cohesion is family violence. Family violence is prevalent across all social and economic groups and causes significant and often life-long emotional, physical, and psychological damage. Each year family violence costs an estimated \$21.7 billion each year.² Governments (national and State and Territory) bear the second biggest cost burden, estimated at \$7.8 billion a year, comprising health, administration, and social welfare costs.³

Recommendation: Adopt a consistent approach across policy areas so women, regardless of status, migration status or identity can contribute to and benefit from a flourishing Australian community.

Recommendation: Align the permanent migration program with the commitments made under the Australian Government's National Action Plan to End Violence Against Women and Children.

Immigration as a strategic enabler of vibrant economies and socially sustainable communities in our cities and regional hubs

Immigration has the potential to be a strategic enabler of vibrant economies and communities. One major study found higher gender inequality predicted higher levels of intimate partner violence across 44 countries. It is therefore critical that the immigration program plays its part in helping create a more gender equal world. The immigration program is best placed to ensure the system supports women on temporary visas and who are permanent migrating to Australia to seek safety, support, and recovery from family violence. Users of violence, whether temporary immigrants or citizens must be held to account through Australia's justice system.

One concrete way to support vibrant and socially sustainable communities in cities and rural areas, is allowing women on temporary visas who are victim-survivors of family violence to work. Many of our clients across Australia are willing to work, but due to their visa status, are unable. This is particularly so for a woman on temporary visa who may be recently separated from a partner that used violence against her. A victim-survivor may have been totally dependent on the user of violence for financial support in Australia, and not being allowed to work not only hinders her ability to recover and start a life over free from violence but can also contribute to her decision to return to her abusive partner. This forms part of the coercion and pattern of violence. Compounding, this experience is most of our clients are ineligible for social security support and Medicare, which dramatically hinders support and recovery. Furthermore, if a victim-survivor does choose to leave an abusive partner, they may have children who they are then solely financially responsible for. We see clients, who due to the family violence and being ineligible for supports, are unable to afford to send their children to school, sometimes for many years while they wait for a decision on a visa.

A pathway to permanent residency with full work rights would support the economic independence and recovery of a victim-survivor and would support the choice to leave.

¹ Australian Bureau of Statistics (2022) <https://www.abs.gov.au/media-centre/media-releases/2021-census-nearly-half-australians-have-parent-born-overseas#:~:text=The%202021%20Census%20found%20that,cen%20reporting%20a%20birthplace%20overseas>.

² PwC (2017) *The Economic Case Preventing Violence Against Women* <https://www.pwc.com.au/publications/economic-case-preventing-violence-against-women.html>

³ *ibid*

Recommendation: To support economic, community and social cohesion, provide full work rights to victim-survivors of family violence

Policy settings to strengthen skilled migrant pathways to permanent residency.

One concrete action that could be immediately taken to support women experiencing violence is creating a substantive safety visa or extending the current family violence provisions to have this effect. Too many of the women who access our services are ineligible to access the current family violence provisions, even when they have proof of the relationship and violence. For example, since October 2021 only 25 of 150 of Women's Legal Service Victoria' clients who were on partner visas were able to access these provisions. The remainder, even though they had experienced family violence, were ineligible and had very limited visa pathways to remain in Australia, temporarily or permanently.

Creating a substantive family violence visa is not only taking a step towards implementing Australia's commitments in the National Action Plan, but it supports women's choice to leave a violent relationship. A family violence visa could be a temporary visa with a pathway to permanent residency, providing a victim-survivor time and safety to consider what is best for her and her family. We note that a temporary visa for people impacted by COVID-19 was quickly introduced to enable people time to work out the best pathway for them, and this same efficient approach could be adopted to improve outcomes for women experiencing violence.

Recommendation: Create a fee-free substantive temporary visa with pathways to permanent migration for victim-survivors of family violence

Strengthening labour market participation and the economic and social contribution of migrants, including family and humanitarian migrants and the partners of working migrants

In addition to affording victim-survivors of family violence full work rights, one way to strengthen the labour market is when they do have work rights, to enable more flexibility to move between jobs. If a migrant is tied to a particular employer, it can create an opening for exploitation and poor treatment. Being able to move easily between employers in the same industry may help 'raise the bar' and force employers to offer better working conditions as they compete for attracting and retaining the highest quality staff.

Many victim-survivors of family violence that WLSA's members support come to Australia as secondary applicants. While Australia collects comprehensive data on primary applicants, Australia does not currently count secondary visa applicants and dependents or collect much information about them. This has multiple impacts. Firstly, it creates a section of our community that we know very little about, which because most primary applicants are men, reinforces the gendered nature of our migration system. Secondly, collecting data on secondary and child applicants would provide policy makers with vital information to make informed decisions about our migration system, including how to better harness labour market participation of dependants. For example, do they need industry introductions, language training or other targeted supports.

Recommendation: Enhance flexibility so skilled migrants can more easily move between employers

Recommendation: Australia should collect data on secondary applicants to help understand how they can be best supported in Australia

Conclusion

WLSA looks forward to making further contributions to policy and law reform discussions to ensure the law does not entrench gender inequality or gender-based discrimination, or negatively impact women experiencing violence and relationship breakdowns.

If you require any further information, please contact Vanessa Burn, Chair of the WLSA Migration Law Committee at VBurn@wlc.org.au.

Yours faithfully,



Vanessa Burn
Chair
Migration Law Committee
Women's Legal Services Australia