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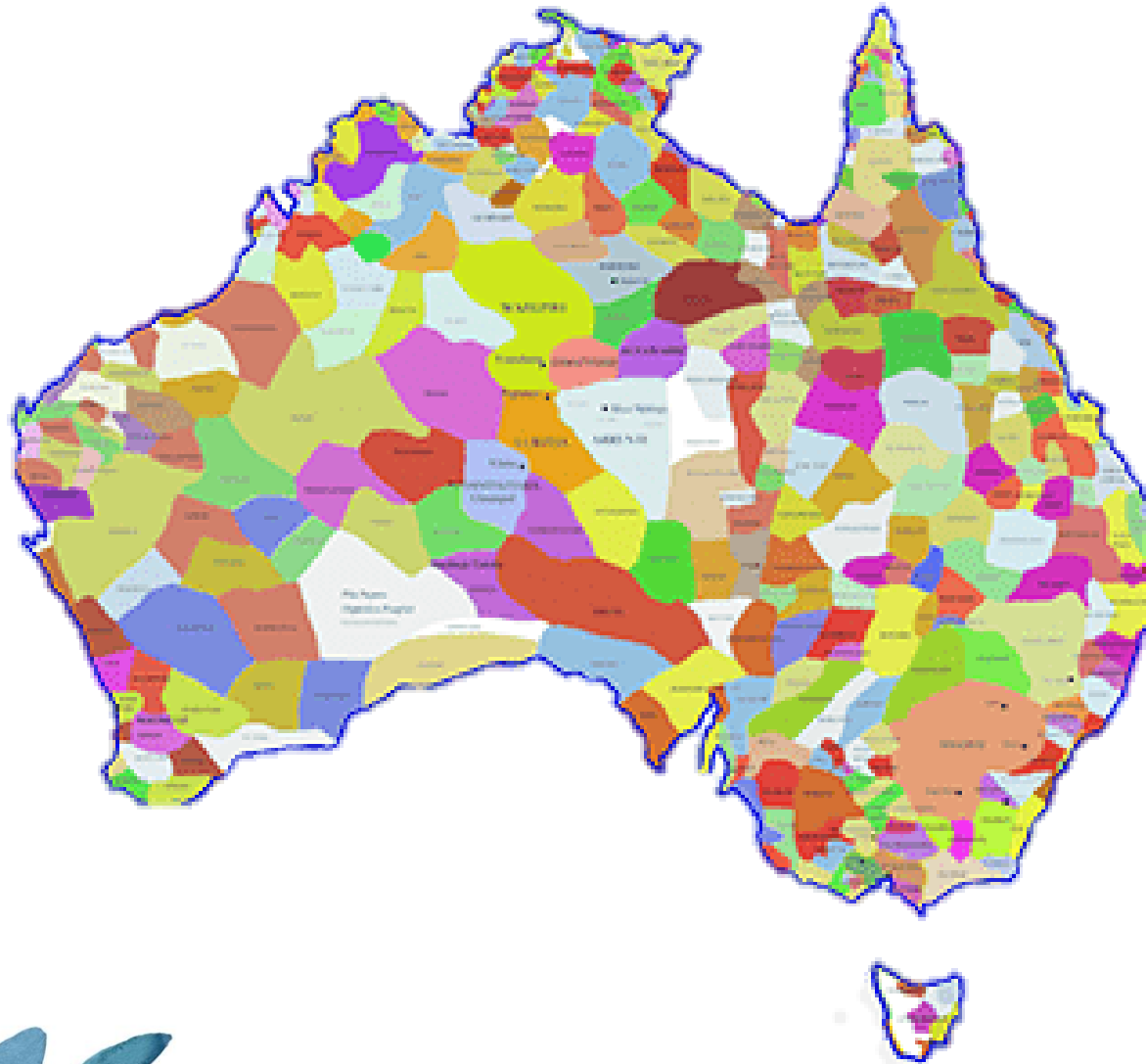
The discussion/stories of domestic and family violence may be triggering for some members of the audience. Please be mindful. If you wish to seek further support, please contact 1800 RESPECT (1800 737 732) or discuss it with us further.



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# Acknowledgement of Aboriginal and Torres Strait Islander People



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# Temporary Visa Pilot Project



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# Introduction

- Purpose: to deliver targeted support to women on temporary visas who are experiencing family and domestic violence.
- This is an extension of the current local, State and Territory based, Emergency Relief.



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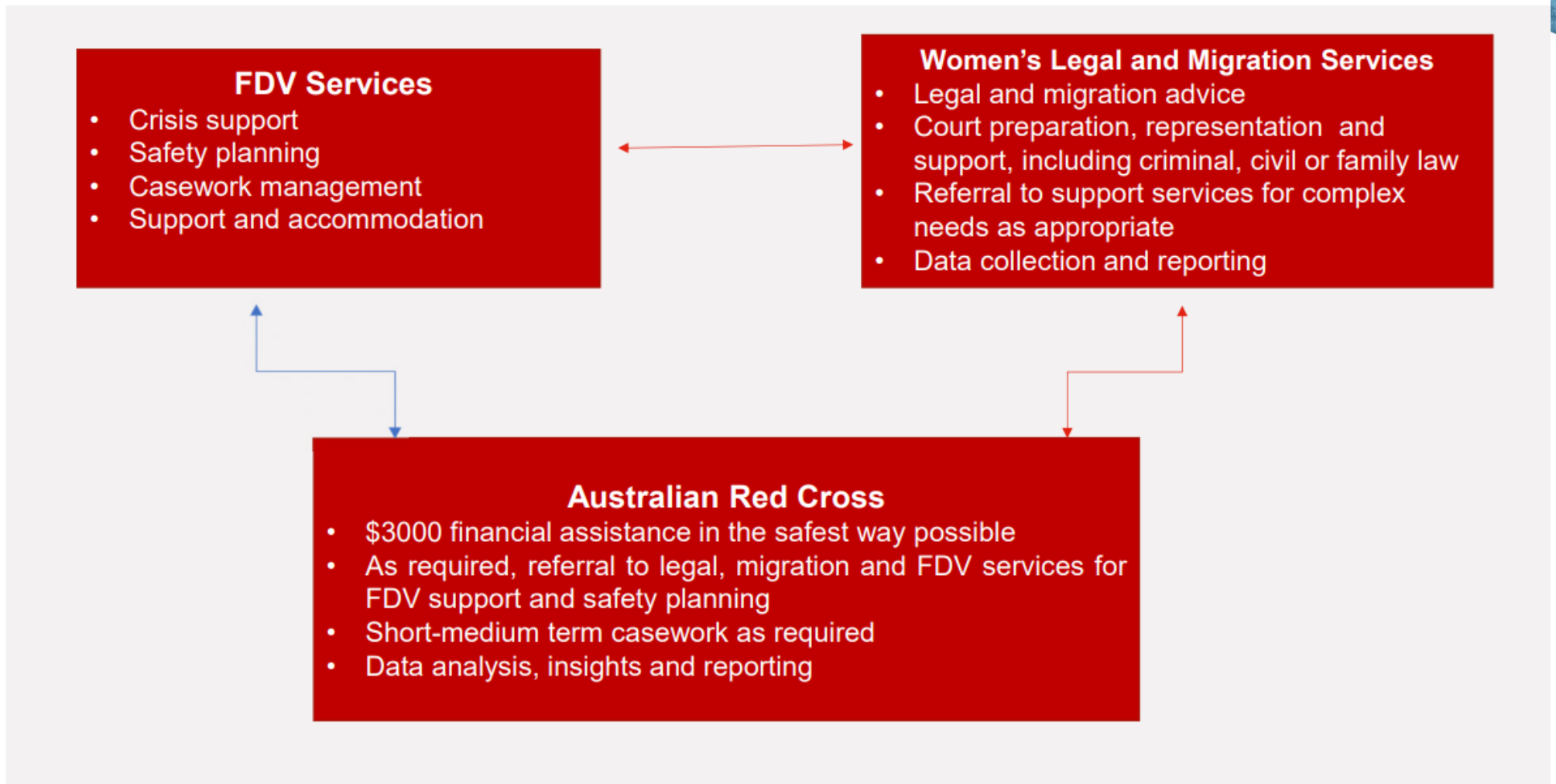
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# Why the Pilot became essential

Temporary visa holders are particularly vulnerable because of:

- Cultural differences;
- Language barriers;
- Social isolation; and
- Fear of deportation.

# Pilot Framework







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# Family Violence Provision and Migration Law

FV provision was introduced in the Migration law in 1994

Protecting some DVF victims if they are

- Holder of SC 300 visa and have already married to SP
- Holder of SC309 visa if they are in Australia
- Applicant for SC100 permanent visa
- Applicant for SC820 and 801 visa in Australia
- Holder of SC445- dependent child visa
- Dependent of Global Talent visa SC858 visa





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# Temp Visa categories

- Family violence provisions exclude all the following temp visa holders /their children
- The pilot program includes advice and support as much as possible to the following visa:
  - ETA SC601
  - eVisitor SC651
  - Transit visa SC600
  - Prospective Marriage SC300
  - Parent (Temp) SC173
  - NZ Citizen Family SC461
  - Partner SC408
  - Sponsored Parent SC870
  - Contributory Aged Parent (Temp) SC884
  - Employer Sponsored Regional SC494
  - Work&Holiday SC462
  - Working Holiday SC417
  - Skilled Recognised Graduate SC476
  - Skilled Regional SC489
  - Skilled Work Regional SC491
  - Student Visa SC500
  - Student Guard SC590
  - Temporary Activity SC408
  - Temporary Graduate SC485
  - Temporary Work (Int. Relations) SC403
  - Temporary Work (Short Stay Specialist) SC400
  - Temporary Skill Shortage SC482
  - Visitor SC600



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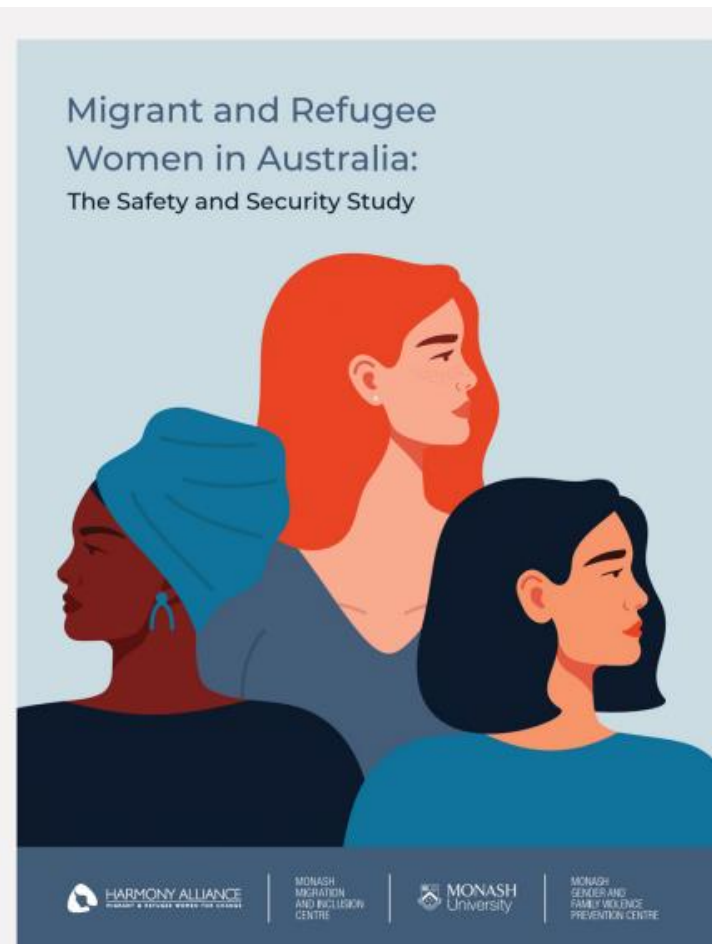
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# Other temp visa holders are being left out

The number of domestic violence victims on temporary visas accessing the Red Cross scheme is increasing. Red Cross data shows:

- 2% March 2020
- 8.8% June 2020
- 10.4% September 2020

# Evidence based research presented by Red Cross



- 1 in 3 migrant and refugee women had experience some form of FDV in the past year
- Temporary visa holders consistently reported proportionately higher levels of FDV, including controlling behaviours
- 40% of temporary visa holders had experienced FDV
  - 17% reported that this happened for the first time
  - 23% reported an increase in frequency
  - 15% reported an increase in severity
- 36% of TVHs reported at least one controlling behaviour compared to 29% of Australian citizens and 27% of permanent visa holders (*Migrant and Refugee Women in Australia: The Safety and Security Study, 2021*)





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# Funding

Federal government announced 10m boost for support for temp migrants experiencing DVF

Funding provided via DSS to:

6.5 million - provided to Australian Red Cross (Red Cross)  
To support people on temporary visas who are experiencing family and domestic violence

3.5 million - provided to nine Community and Women's Legal Centres

- To access legal assistance and migration support

# Referral Pathways

The program is available to all women:

- On temporary visas or with uncertain visa status
- Experiencing or at risk of FDV
- In need of financial support

The support Red Cross is able to offer includes the following:

- Financial assistance
- Financial assistance with short-term support to assist with referrals to FDV organisations
- Financial assistance with longer-term support (up to 3 months) where the client is not already working with a family violence service provider.

# Pre-implementation of TVPP By RAILS and WLS

- Before end of Financial year 2021, funding announced for Pilot Program
- Steering committee was formed between RAILS and WLS
- Information sharing Policy and Procedure created
- Worked through legal risk aspects and collaborative legal work
- Entered into partnership agreement until end of June 2023
- Referral process formalised



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# Referral Pathways

Client referral can be made directly into the TVPP program, instead of making referrals separately for WLS and RAILS

Complete referral form available on WLSQ Website:

<https://wlsq.org.au/services/temporary-visa-holders-experiencing-violence-pilot-project/>

You can also call WLSQ on 07 3392 0644 or email [tempvisa@wlsq.org.au](mailto:tempvisa@wlsq.org.au) to request a copy of our referral form.

Completed referral forms to be sent to [tempvisa@wlsq.org.au](mailto:tempvisa@wlsq.org.au)

Please note - Clients are not able to self-refer into the program. Any community support service or legal service (in which they are not being represented) is able to refer the client into the program



# What work has been done?

Since launching in November 2021, we have assisted clients with:

- more than 180 legal advices in Migration law and Family law/domestic violence matters.
- 14 Legal tasks
- 19 casefiles being opened.



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# Outcomes for Clients

DV/Family law casefiles	Migration law casefiles
<ul style="list-style-type: none"><li>- Successfully assisting vulnerable clients with FCFCOA recovery order applications;</li><li>- Successfully assisting clients with getting final domestic violence Protection Orders;</li><li>- Attending mediations with clients;</li><li>- Assisting with the dismissal of a Police domestic violence protection Order against a client.</li></ul>	<ul style="list-style-type: none"><li>- If client is on a partner visa pathway; obtaining permanent residency</li><li>- Assisting client get permanent residency based on whether there are:<ul style="list-style-type: none"><li>• Australian citizen children</li><li>• Judicial Evidence (e.g. DVPO)</li><li>• Non-Judicial evidence (e.g. Psychologist report, Doctors report, social workers report, hospital discharge summary etc)</li></ul></li><li>- When client is not on a partner visa pathway, but is highly vulnerable and a victim of DFV, providing client with other visa options</li></ul>



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# Conflict of Interest

- When we receive a new referral, a conflict arises for WLS when the other party in the referral has been previously associated with an existing WLS client.
- A conflict arises for RAILS when either party in the new referral has been previously associated with an existing RAILS client.
- In either of these circumstances, we would be unable to assist the client in the new referral and would refer that client to other relevant CLCs or Private Migration Agents
- WLS and RAILS each do a conflict check in CLASS first, and, provided there is no conflict, the Temp Visa Paralegal then contacts the client.

# Information Sharing

- At the referral stage, the client is made aware that participation in the pilot program will give rise to information sharing on some occasions between WLS and RAILS.
- After the client speaks to both Jen and Bunu, Jen's intake goes into WLS CLASS, and Bunu's intake goes into RAILS CLASS.
- Chinese wall - WLS do not have copies of any of Bunu's legal advices to clients and RAILS do not have access to Jen's advice or case files.
- Team meeting once per week between Jen, Bunu and Temp Visa Paralegal to discuss advice clients and casefile clients and other outstanding referrals.



# Information Sharing- benefits



## Benefits

- Can streamline legal support processes and allow better collaboration between support agencies
- Sharing can lead to better decision-making. For example, Jen may take a certain approach to a family law/DV matter (with the instructions of the client) after consultation with Bunu as to how to progress the migration matter.
- Parenting matters can be best prepared when you know the prospects for the clients immigration matters. For example, we may know in advance to make an application for international relocation in the FCFCOA.
- RAILS may be able to make an early assessment of the client's prospects of success
- Informed decision on how to proceed from the outset
- application can be made with non-judicial evidence. The foundation of the client's application can be built on an accurate and fulsome picture of the client's circumstances.





# Information sharing - challenges

- Legal and professional obligations to client confidentiality.
- Client privacy and safeguarding against breaches.
- Client authority is needed at initial/advice stage of information sharing as well as at the representation stage. The client is made well aware that information sharing is a possibility and consent is always obtained prior.



# Family law challenges

## Inability to get a Permanent Visa

- Hurdles in being able to get permanent when they separate from their husband/partner (and thus losing their visa sponsorship).
- This creates a further challenge when the other party is an Australian citizen/permanent resident and they have a child together.
- If the woman has no other visa options, they face a significant risk that they may have to relocate internationally without their child, unless they have the consent of the other party (which is extremely rare).
- We anticipate representing clients for international relocation matters in the Federal Circuit and Family Court so that women can relocate with their children. These cases are complex and international relocation orders are rare.



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# Family law challenges

## **Inability to Receive Centrelink/Work right due to Visa type**

- . There are certain visa types where women cannot receive Centrelink benefits and/or work right.
- . This is a major hurdle for women staying in relationships with children despite experiencing domestic violence.
- . If they leave, they have to find housing and financially support themselves and the child/ren.
- . We have seen a number of matters where the other party does work for cash and therefore pay minimal child support.
- . When/If they do leave, the other party argues that the Mother cannot adequately financially support the child.
- . Applications for permanent residency and/or citizenship are extremely expensive and our clients are unable to afford this expense.





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# Family law challenges

## Jurisdictional Issues

- We have advised clients where the other party has begun divorce or property proceedings in their home country.
- We are unable to then advise regarding these proceedings and direct clients to receive advice from a lawyer in that country which may be at a cost.
- Or, on the other hand, clients have come to us for advice regarding divorce or property proceedings that they have already commenced in another country and they are unhappy with how they are proceeding. We cannot advise in those circumstances.

## Regional assistance

- Funding did not include funding for travel to regional areas for DV or FCFCOA Court appearances.

# Domestic Violence Law Challenges

## **Inability to Receive Centrelink/Work due to Visa**

- This is also a domestic violence law challenge – women are staying in or returning to violent relationships due to not being able to financially support themselves and/or the child/ren.

## **Language Barriers**

- We have seen women file domestic violence order applications that have deficiencies as they did not have support in writing them. This may mean that whilst they may deserve an urgent ex parte Order, they aren't getting them. This is a significant safety issue if the parties are still residing together.

# Domestic Violence Law Challenges

## Cultural Differences

- We have also seen women excusing violent and controlling behaviour due to it being acceptable in their culture.
- This has seen women wanting police Applications for Domestic Violence Orders withdrawn or being coerced in trying to get them withdrawn. Or the order not being followed by the respondent.
- In some cultures, our clients will be reliant on the other party's family for support both with the children and financially and will then feel 'guilted' into withdrawing domestic violence order applications. Even when the families are not in Australia.
- We have also noticed a pattern of clients wanting to get rid of their final Domestic Violence Orders due to limited family support and connections in Australia. They rely on the other party for that connection.



# Migration Law Challenges

- Lack of knowledge about visa and process.
- Evidence hard to access because of social isolation and sponsor control over documents and finances.
- DHA strict deadlines.
- Risk of visa cancelled or refused if misleading information, even if didn't know.
- Abusive partners often use false threat of deportation to control.

# Migration law Challenges

- Only applicant's on Partner visa pathway and dependent of distinguish talent visa have permanent visa pathway
- Temporary visa holders can't exercise Family violence provision
- May end up with initial advice or two or to find other visa options
- Lack of finance - not able exercise desired options
- Often end up being sad after the advice
- May end up staying in an abusive relationship
- No access of Medicare, Centrelink and housing
- Need to deal with clients' emotions and sadness



# Challenges along the way

- Women that we can't help – E.g. different jurisdiction (Victoria) because the other party has filed there but the client is in QLD.
- Funding for travel for hearings – cannot assist with casework for clients in most regional areas.
- Capacity issues – unable to take on every client as a casefile. Need to consider their prospects of success
- Managing client expectations about the assistance we can provide as a CLC



# Managing Challenges

- Doing best to assist as much as possible
- Legal tasks and legal representation
- Liaising with DHA DVF unit to progress visa application
- Referring clients to other relevant services

# Positive Feedback from Clients




*"Hello,*

*I realized I forgot to respond last month to let you know the court granted the protection order. I submitted the PO to Home Affairs and they had me create a new account. A few days ago they emailed me to ask for the application the police made for a PO on my behalf. I emailed them a copy of the documents the courts gave me.*

*Last night Home Affairs sent me an 801 grant letter.*

*I didn't really believe it, but I did a VEVO check and, sure enough, I'm a permanent resident. I wish I could celebrate, but it feels really sad to be on a permanent partner visa with no partner.*

*Thank you WLS and RAILS, for the support. While I hope I never need your help again, I am grateful you were there for me when I needed assistance and reassurance."*



# Joint Case Study 1

E was in a domestically violent relationship with S. E and S have 2 young children together. E fled the relationship with the assistance of the Police to a refuge with the children. The Police made an application for a DVO for E seeking a number of conditions. E is on a temporary visa and S is an Australian citizen. S applied to the FCFCOA for an urgent recovery Order. E was distressed around this and the impending court date. E was also stressed around the status of her visa now that she is separated from S.

The pilot assisted E with filing her material and representation in the FCFCOA. RAILS assisted E to get her application for permanent residency approved. Without the assistance of the pilot it is likely E would have had to self represent in the FCFCOA and her visa status may have been in limbo for some time without a proper representation. E now lives safely with her children without the threat of deportation.

# Joint Case Study 2

A was referred to the pilot as she was experiencing DV by D, they have a child together and she was on a bridging visa. A spoke very limited English and required an interpreter. A had experienced domestic violence by D and had a final DVO in place protecting her and the child.

The pilot assisted A with successfully getting permanent residency and negotiating parenting matters and a property settlement. Given A's language barriers, it is unlikely she would have achieved this outcome in a timely manner without the assistance of the pilot.



# Perspectives from front-line lawyers

- Increased understanding of the vulnerabilities of women on temporary visas experiencing family violence
- Increased understanding the barriers they face in leaving a violent relationship
  - Language barriers
  - Isolation
  - lack of support system in Australia
  - Little or no working rights
  - Lack of migration law pathways if not already on Partner visa pathway
  - Financial barriers to obtaining legal advice
  - Threats by PUV/visa sponsor to have victim deported
  - Safety concerns when PUV/Visa sponsor manages phone and email
- Collaboration with support workers



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# Key tips if you want to support victims of FV

Be	aware that context and culture may be different – don't assume or stereotype.
Work	with cultural community groups. Contact community organizations.
Find	legal information in relevant languages.
Use	interpreters when needed.
Use	Plain English.



# Law Reform Recommendations

- Immigration law reform is essential to fill the gap for clients that are unable to access FV Pathway to Permanent Residency
- Provide legal provisions to all victims of domestic violence, regardless of the types of visa they hold. This ensures that safety of women and children are made priority
- Provide permanent visa for women who hold a temporary visa but have Australian Citizen Children
- Australian Government needs to allocate more funding to increase volume of casework assistance



# Reminder of Referral Pathways

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Any questions?