



## **SUBMISSION TO THE JUSTICE RESPONSES TO SEXUAL VIOLENCE**

**inTouch Multicultural Centre Against Family Violence**

**June 2024**



## Acknowledgement of Country

We acknowledge the Australian Aboriginal and Torres Strait Islander people as the first inhabitants of this nation and the Wurrundjeri Woi Wurrung and Bunurong People as the Traditional Custodians of the land from which inTouch provides our services. We pay our respect to their Elders – past and present. We express our gratitude for the sharing of this land, our sorrow for the personal, spiritual and cultural costs of that sharing and hope that we may move forward together in harmony and in the spirit of healing.

## Acknowledgement of Victim-Survivors

We also acknowledge the countless women who have experienced family violence, in particular women from migrant and refugee backgrounds. We recognise the courageous path they have travelled to rebuild their lives and honour their stories which continue to inspire and drive our work.

## Note on terminology

Across all inTouch's services and programs, we utilise the *inLanguage, inCulture* model, emphasising clients' cultural needs. With over 80% of our staff from migrant and refugee backgrounds, they bring an understanding of intersectionality and cultural sensitivity to their work. Our approach ensures that clients are paired with case managers who either speak their language or grasp the cultural nuances of family violence and recovery needs. Beyond speaking the same language, our staff have experiences as newly arrived migrants, understand complex migration journeys and their intersection with visa status, as well as cultural norms that combine to impact on the nature and experiences of violence, and systemic barriers to response and recovery.



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## 1 Summary of recommendations

inTouch's submission to this Inquiry contains numerous recommendations outlined in detail below and in the body of this report. These fall into four broad overarching themes:

- Improved culturally responsive practice by all justice actors.
- Improved pathways for reporting and strengthened referrals to specialist services that are culturally appropriate.
- Community engagement and education that focuses on relationship and trust building with authorities and understanding of Australian laws (particularly on consent).
- Alternative and/or complementary pathways for justice that are centred on victim-survivors' needs, trauma-informed and restorative.

### Addressing barriers faced by victim survivors from migrant and refugee backgrounds in reporting sexual violence

#### Systemic issues and misidentification

1. Police, lawyers, Magistrates and other justice professionals to complete training on culturally responsive, trauma-informed practice for working with diverse victim survivors of family and sexual violence. This should include an understanding of the nuances around family relationships in diverse cultures and migration journeys to address presumptions and judgements about parties, based on bias and stereotypes.
2. Police and other justice sector workers to complete training in understanding the diversity of cultural norms and attitudes and their significant impact on the way that people respond to, and deal with, police. Culture, norms and trust in police play an integral role in how people present their emotions and communicate in emergencies.
3. Effective design and delivery of training for justice system actors must engage lived experience and inputs from agencies that are providing services to victim survivors from migrant and refugee backgrounds.
4. Establish consistent and efficient practices within the legal system to correct misidentification of migrant and refugee victim-survivors as perpetrators. This may require additional processes and support for these groups, which should be developed in consultation with specialist sexual violence services. It may also include a further file or case review by a specialist sexual abuse police officer or consultation with an appropriate specialist sexual violence service.
5. Invest in regular information and feedback sessions with diverse migrant and refugee leaders and communities. Use feedback gathered to inform the improvements to the justice system for the benefit of migrant and refugee communities.
6. Prioritise ongoing consultation and collaboration with migrant and refugee women victim-survivors and their organisations, including documenting their experiences and identifying systems improvements as an ongoing mechanism for quality monitoring in justice programs and services.



### Language barriers

7. Develop consistent, best-practice guidelines and KPIs for all justice system personnel on effective engagement with interpreters to support non-English speaking victim survivors of sexual violence. This should be supported by training and other on-the-job support to achieve these competencies.
8. Mandatory requirements to engage an independent and trained interpreter when a victim survivor is reporting sexual violence, and throughout justice system processes.
9. Development of clear and accessible in-language information provided to victim-survivors of sexual violence on reporting processes, rights and what to expect after a report is made.

### Cultural norms, customs and beliefs

10. Establish clear referral pathways that provide culturally responsive, wrap around support for women reporting sexual violence, by connecting specialist services with police and justice agencies.
11. Enable women to report their experience of sexual violence through alternative pathways where they do not feel comfortable speaking directly with police. A service that provides independent, confidential support and could include victim survivor advocates, counsellors, or navigators who can make referrals, explain options and accompany victim survivors to report to police. This service model must offer bilingual or bicultural options to meet the needs of migrant and refugee victim-survivors.

### Visa abuse and dependence on sponsor

12. Establish broad protections for women on temporary visas experiencing family and/or sexual violence to enable access to financial, housing, childcare and educational support. Women should be empowered to report incidents safe in the knowledge that their visa status does not limit her right to safety.
13. Establish 'safe booths' in all regions to provide safe reporting environments at any time to facilitate in-language reporting for migrant and refugee women, enabling safe referrals and connections with holistic supports, including relevant agencies such as the Department of Home Affairs.
14. Develop education and accessible resources on consent, designed for migrant and refugee communities, targeted at both men and boys, women and girls.
15. Establish liaison support to assist migrant and refugee women to report crimes of sexual violence. Consideration should be given to investing and embedding the liaison support within organisations such as inTouch, which works with such a vulnerable client group.
16. Consideration should be given to establish a direct referral pathway to Sexual Offences and Child Abuse Investigation Team (**SOCIT**) so that clients could report sexual violence and crimes directly to SOCIT.



### *Lack of knowledge of Australian systems*

17. Invest in partnerships between multicultural community organisations, sexual assault service providers and police to develop and deliver in-language and in-culture community engagement and information sessions and resources on sexual violence, legal rights and engaging with the justice system in Australia.
18. Invest in training for family violence case managers in supporting diverse women experiencing sexual violence, and for sexual violence frontline workers in culturally responsive practices in supporting migrant and refugee victim survivors of sexual violence.
19. Develop in-language digital and print resources about the impact of sexual violence and the support available to migrant and refugee communities.

### **The use of alternative approaches to justice, such as restorative justice and civil proceedings, for victim survivors**

20. Increase in research and investment in restorative justice initiatives, including in partnership with family and sexual assault services, to broaden the justice options available to victim-survivors.
21. Ensure that restorative justice approaches and initiatives for migrant and refugee communities are designed and implemented with a strong emphasis on language faith and cultural responsiveness.

## 7





### 3 Introduction

inTouch values this opportunity to share our insights to improve the accessibility and effectiveness of the justice system in its response to sexual violence with migrant and refugee victim survivors. We acknowledge and welcome the progress in some jurisdictions over the past decade to improve justice responses to sexual violence. However, for migrant and refugee women, the progress has been slower, with systemic barriers and discrimination preventing them from accessing and truly benefiting from these reforms. inTouch's submission to this Inquiry contains many recommendations, with the overarching themes of:

- Improved culturally responsive practice by all justice actors.
- Improved pathways for reporting and strengthened referrals to specialist services that are culturally appropriate.
- Community engagement and education that focuses on relationship and trust building with authorities and understanding of Australian laws (particularly on consent).
- Alternative and/or complementary pathways for justice that are centred on victim-survivors' needs, are trauma-informed and restorative.

Nationally, 23 percent of women and 8 percent of men aged 18 years and over have experienced sexual violence in their lifetime, including childhood sexual abuse and/or sexual assault since the age of 15.<sup>1</sup> There is little available data on the experiences of sexual violence by women of migrant and refugee backgrounds.

A Harmony Alliance survey of 1,392 migrant and refugee women across Australia in 2021, found that 42 percent had experienced physical and/or sexual violence, with 41 percent of this subgroup experiencing sexual violence alone or along with physical violence. The same study also found that approximately 20 percent of temporary visa holders had experienced physical and/or sexual violence, while 14 percent of Australian citizens and 11 percent of permanent visa holders reported experiencing physical and/or sexual violence.<sup>2</sup> This correlates with inTouch's ongoing concern with the heightened risks of violence and exploitation experienced by temporary visa holders.

There is also little data available on the rates of sexual violence against trans migrant and refugee women, who experience compounded violence from racism and transphobia, and economic disadvantage related to their gender identity.<sup>3</sup> ANROWS research in 2020 found that sexual violence is a common experience for trans women of colour, who are at higher risk than non-Culturally and

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<sup>1</sup> Australian Bureau of Statistics (2021), *Sexual Violence – Victimisation: Data download Statistics about sexual assault and childhood sexual abuse, including characteristics of victim-survivors, victimisation rates, and police reporting*. Accessed at [Sexual Violence - Victimisation | Australian Bureau of Statistics \(abs.gov.au\)](https://www.abs.gov.au/sexual-violence-victimisation), June 2024.

<sup>2</sup> Segrave, M. Wickes, R. and Keel, C. (2021) *Migrant and Refugee Women in Australia: The Safety and Security Survey*. Monash University.

<sup>3</sup> Alessi, E. J., Kahn, S., Woolner, L., & Van Der Horn, R. (2018). Traumatic stress among sexual and gender minority refugees from the Middle East, North Africa, and Asia who fled to the European Union. *Journal of Traumatic Stress*, 31(6), 805–815





Racially Marginalised (**CARM**) trans women. The study also found that CARM trans women were twice as likely as other groups of women to report having been sexually assaulted 10 or more times.<sup>4</sup>

inTouch's clients have highly complex and intersectional needs. On a daily basis, we have the privilege of seeing first-hand how our trauma informed, *inCulture* and *inLanguage* case work and legal support enables our clients to navigate the family violence and justice systems.

In 2022-2023, inTouch supported 1,495 women and 1,551 children with access to safety and security through our case work and 701 victim survivors received legal support.<sup>5</sup> During the same period, **40 percent of new clients received in 2023/24, disclosed being sexually assaulted in the context of family violence.** inTouch expects the true number to be higher, given the barriers that our clients face in disclosing sexual violence.

#### Among the women we assisted:

- 86 percent speak a language other than English as their first language (91 languages were spoken by clients from 97 different countries), highlighting the importance of providing culturally sensitive and linguistically appropriate services.
- 36 percent reported living with a disability or mental illness, emphasising the need for wrap around supports that adequately address these circumstances.
- 44 percent were on temporary visas, demonstrating their vulnerability and lack of stability, driven by the uncertainty about their immigration status. Importantly, around 33 percent of inTouch clients have lived in Australia for less than 5 years, making it very difficult to navigate a justice system they may have limited understanding of.
- 62 percent of our clients are either homeless or at risk of homelessness, underscoring the urgency of addressing housing and stability issues alongside justice responses.
- 88 percent of clients are grappling with severe financial disadvantage and 24.3 percent of our clients had nil income at the point of engaging our service.

<sup>4</sup> Australia's National Research Organisation for Women's Safety. (2020). *Crossing the line: Lived experience of sexual violence among trans women of colour from culturally and linguistically diverse (CALD) backgrounds in Australia* (Research to policy and practice, 14/2020). Sydney: ANROWS

<sup>5</sup> inTouch Annual Report 2022/23 accessible [online](#).



## 4 inTouch's insights and recommendations

### Barriers faced by victims from migrant and refugee backgrounds in reporting sexual violence.

*What might safe reporting look like? How can the criminal justice system be more culturally appropriate?*

Our clients' experiences highlight the intersecting challenges migrant and refugee women face when experiencing family and sexual violence and engaging with the justice system. The most common barriers preventing migrant and refugee women from reporting sexual violence include:

- systemic issues and misidentification.
- language barriers.
- cultural norms and customs.
- visa abuse and dependence on their sponsor; and
- lack of knowledge of Australian systems.

Each of these are discussed in detail in this section, along with our recommendations for justice sector actors to strengthen their responses.

#### Systemic issues and misidentification

When reporting family violence, misidentification of the predominant aggressor is a significant issue faced by migrant and refugee women. Misidentification occurs when police and other areas of the justice system incorrectly identify a victim survivor of family violence as the perpetrator.<sup>6</sup>

It is challenging to find accurate statistics of the incidence and frequency of misidentification, however inTouch estimates that over 30 percent of our clients have experienced misidentification when reporting abuse. As detailed in inTouch's position paper, migrant and refugee women are at higher risk of misidentification due to policing practices that are not trauma and/or culturally informed.<sup>7</sup>

The factors that make migrant and refugee women less likely to report sexual abuse, are consistent with the reasons they are much more likely to experience misidentification. Examples of policing and justice system practices that result in misidentification include police regularly failing to engage dedicated interpreters or using family members or the perpetrator as an interpreter. Similarly, women who have recently arrived in Australia are less familiar with police and justice systems and are therefore more vulnerable to systems abuse, including processes like cross-applications.

<sup>6</sup> [inTouch-Position-Paper-Misidentification-February-2021.pdf](#)

<sup>7</sup> Ibid.



The consequences of misidentification are extensive and harmful. For migrant and refugee women, the multitude of legal issues that may arise can lead to serious impacts including loss of engagement with child protective services and criminal charges. For women on temporary visas, it may jeopardise their visa status and limit their access to support services.

When considering barriers to reporting sexual abuse and the limitations of the justice system in responding to and supporting victim survivors of sexual violence, it is essential to understand the context of misidentification that so many migrant and refugee women face when attempting to report other instances of family violence.

This is driven by policing practices, lack of trust and belief in these women's stories and systemic challenges that compound their access to support. A lack of culturally responsive, trauma-informed practices and limited understanding by justice system actors of the diverse cultural experiences of migrant and refugee women reduces the likelihood of reporting.

Without addressing the causes of misidentification and the lack of culturally responsive practice, it will not be possible to establish a system in which women have confidence and trust to report sexual violence, particularly when occurring in the context of family violence.

Improved practice would require report takers to be equipped with the skills to recognise that clients from migrant or diverse backgrounds face multiple barriers when it comes to disclosure, which impacts their help-seeking behaviour. A trauma-informed lens would ensure victim survivors reporting sexual violence are given the opportunity to report without delay, listened to with patience, believed and shown empathy.

#### Case Study 1

Sarah is deaf and a migrant in Australia. She met Greg when he was on a holiday and moved to Australia on a partner visa. Sarah and Greg have three teenage-aged children. Even though Sarah lived in Australia for a long time, she has limited connections and friends in Australia. She also has a significant language barrier, and she does not speak English well. There was a family violence incident and the client's husband, Greg, called the police. The Police obtained a statement from Greg only and did not speak with Sarah on the day of the incident. Police failed to arrange a qualified AUSLAN interpreter to ascertain Sarah's version of events. The police instead used Sarah's friend to interpret, who had limited understanding of AUSLAN. Sarah had no understanding of the situation and later found out through support workers that the Police had issued a safety notice against her and criminally charged her with assault.

A lawyer from inTouch's Women's Legal Centre assisted Sarah and advocated to Police and represented her during the intervention order proceedings. The criminal charges were withdrawn once an appropriate interpreter was provided for Sarah and her statement was taken. Sarah stated that Greg had perpetrated family violence against her for years including coercive control, verbal abuse and financial abuse.



This case illustrates how Police misidentification occurs with migrant and refugee women and its consequences, also leading to a reluctance among victim survivors to come forward and engage with Victoria Police and report crimes such as sexual violence. It is essential that misidentification is addressed in the system, to foster trust and more engagement by migrant and refugee women.

## RECOMMENDATIONS

1. Police, lawyers, Magistrates and other justice professionals to complete training on culturally responsive, trauma-informed practice for working with diverse victim survivors of family and sexual violence. This should include an understanding of the nuances around family relationships in diverse cultures and migration journeys to address presumptions and judgements about parties, based on bias and stereotypes.
2. Police and other justice sector workers to complete training in understanding the diversity of cultural norms and attitudes and their significant impact on the way that people respond to, and deal with, police. Culture, norms and trust in police play an integral role in how people present their emotions and communicate in emergencies.
3. Effective design and delivery of training for justice system actors must engage lived experience and inputs from agencies that are providing services to victim survivors from migrant and refugee backgrounds.
4. Establish consistent and efficient practices within the legal system to correct misidentification of migrant and refugee victim-survivors as perpetrators. This may require additional processes and support for these groups, which should be developed in consultation with specialist sexual violence services. It may also include a further file or case review by a specialist sexual abuse police officer or consultation with an appropriate specialist sexual violence service.
5. Invest in regular information and feedback sessions with diverse migrant and refugee leaders and communities. Use feedback gathered to inform the improvements to the justice system for the benefit of migrant and refugee communities.
6. Prioritise ongoing consultation and collaboration with migrant and refugee women victim-survivors and their organisations, including documenting their experiences and identifying systems improvements as an ongoing mechanism for quality monitoring in justice programs and services.

## Language barriers

Access to justice requires the ability to engage with the justice system in a meaningful way. Non-English speakers face significant barriers and are at increased risk of disadvantage when accessing the justice system.

Although police and courts are required to engage interpreters when a language barrier is identified, there are many occasions where this does not occur. Often family members or even the perpetrator





are asked to act as an interpreter between law enforcement and the victim survivor. Similarly, there are many instances where interpreters are not engaged in court processes and victim survivors must rely on a friend or acquaintance to interpret and explain complex court procedures.

It is essential that victim survivors have access to in-language information, as soon as a report is made to the justice system and appropriate engagement and use of interpreters is essential. This requires:

- patience towards the person requiring interpreters' assistance (anecdotally, victim survivors report observing frustration and impatience from system actors when requiring an interpreter due to the additional time and use of resources)
- consideration of gender-preference for interpreters and engagement of in-person interpreters as a priority.

#### Case study 2

Amanda became uncomfortable with the way her husband was playing with their 9-month-old daughter. She went to the Police and tried to explain how strange her husband was around the baby and how uncomfortable it made her, particularly as he seemed to become aroused while playing with their baby. Amanda went to the police to ask for help as she didn't know where else to go. Amanda could speak some English but with a heavy accent and would have preferred an interpreter. The Police officer she spoke with didn't offer to organise an interpreter and dismissed her concerns and said "Its normal for a man to get aroused in the morning. What's wrong with that?" Amanda was upset by this response and didn't disclose that she was also in a family violence relationship where her husband was using coercive control to manipulate and control her.

Eventually, Amanda escaped the relationship and was placed in a refuge, which referred her to inTouch and the Legal Centre. The lawyer at the Legal Centre tried to encourage Amanda to go back to the Police in relation to seeking assistance for return of property but Amanda was reluctant because of her initial experience with the Police. This case illustrates that police enforcement need to have a consistent approach when working with migrant and refugee women. They need to take the time to understand the concerns and why the woman is seeking their help as they may not be able to articulate their needs and experiences well. Poor experiences with Police in return lead to fear and distrust of reporting and seeking assistance from the Police in the future, especially when it comes to reporting sexual violence.

#### RECOMMENDATIONS

7. Develop consistent, best-practice guidelines and KPIs for all justice system personnel on effective engagement with interpreters to support non-English speaking victim survivors of sexual violence. This should be supported by training and other on-the-job support to achieve these competencies.



8. Mandatory requirements to engage an independent and trained interpreter when a victim survivor is reporting sexual violence, and throughout justice system processes.
9. Development of clear and accessible in-language information provided to victim-survivors of sexual violence on reporting processes, rights and what to expect after a report is made.

### Cultural norms, customs and beliefs

Another hurdle in reporting sexual violence can occur when migrant and refugee communities follow cultural norms and beliefs that censure disclosures of sexual violence. Victim survivors have reported to inTouch that strict cultural norms and beliefs can mean that it is considered inappropriate to discuss one's sexual relationship issues with family, friends, or community. Many women feel too embarrassed and ashamed to convey intimate details, despite their suffering.

In some communities, the risk of social and financial sanctions from family and community after reporting sexual violence to authorities, can be a strong deterrent to reporting, underlining the importance of referrals and wrap-around support.

It is essential that women have access and clear referral pathways to seek culturally responsive help to respond to sexual violence, through both mainstream and specialist services. Establishing referral pathways and informal and formal reporting opportunities by training healthcare professionals, maternal and child health providers, counsellors or community leaders in culturally responsive care, can provide opportunities for victim survivors to share their story in a safe, inclusive space.

Where fear of community repercussions compounded by social isolation dissuades migrant and refugee women from reporting their experiences of sexual violence to justice agencies, access to wrap around, specialist services that work in-language and in-culture are critical. Engagement with these services can provide counselling, advice, safety planning and explain reporting pathways in a way that avoids re-traumatisation and recognises the cultural nuances and needs of the individual.

End-to-end justice system navigators have been found internationally to be an effective approach to addressing victim-survivors' needs for facilitating links to services and advocating on their behalf through their justice journey. inTouch strongly supports Sexual Assault Services Victoria's recommendation in their submission to this Inquiry recommending on a national rollout of Justice Navigators within specialist sexual assault services. inTouch notes the effectiveness of this pilot in Victoria and would welcome this expansion to other jurisdictions. However, this model must provide a tailored option ideally delivered with bilingual and bicultural workers in order to be responsive to the needs of migrant and refugee women from the start of the justice process to the end.

### RECOMMENDATIONS





10. Establish clear referral pathways that provide culturally responsive, wrap around support for women reporting sexual violence, by connecting specialist services with police and justice agencies.
11. Enable women to report their experience of sexual violence through alternative pathways where they do not feel comfortable speaking directly with police. A service that provides independent, confidential support and could include victim survivor advocates, counsellors, or navigators who can make referrals, explain options and accompany victim survivors to report to police. This service model must offer bilingual or bicultural options to meet the needs of migrant and refugee victim-survivors.

### Visa abuse and dependence on sponsor

Migrant and refugee women are often fearful of reporting family or sexual violence because they are dependent on their visa sponsor, who is perpetrating the abuse, and who uses this power dynamic to continue and enable their control and abuse.

inTouch clients report that when sexual violence occurs, they are often too scared to report and act because of threats to withdraw visa sponsorship. For women on temporary visas, who have been in Australia a short time with little or no work rights, they often have dependent children and no social or community connections, no financial security and face homelessness if they leave their partner. For many women in this position, they do not have access to any government support such as Medicare or Centrelink, their children do not have access to free primary or secondary schooling (they are treated as international students and must pay full fees, even at local state schools) and they have limited options in terms of their legal status in Australia.

It is imperative that a woman's right to live safely and free from family and/or sexual violence is not determined by her visa status. Although family violence provisions have been expanded for partner visas, women arriving as a dependent on their partner's temporary visa or under particular visa types (e.g., temporary skilled, student etc) experience discrimination with even more limited avenues of support.

Clear information must be provided to ensure women understand that family violence visa protection provisions include protection from sexual violence. It is also critical that these protections are expanded to all types of visa categories. Several processes, including early resolution to visa status issues, expansion of visa protection options and ensuring access to financial, housing and childcare support should not be limited by visa status and would empower migrant and refugee women experiencing sexual violence to seek help and report their experience.



### Case study 3

Rachel married her husband through an arranged marriage process. She was a dentist in her country of origin and came to Australia on a temporary partner visa. When she joined her husband in Australia, she found out that he had a sexually transmitted disease. Rachel was shocked and refused to have sex with her husband. However, he forced her without her consent. Rachel escaped the relationship and was referred to inTouch for case management, migration and legal support. A lawyer from the Legal Centre tried to discuss the possibility that a sexual crime could have occurred and encouraged Rachel to report to the Police. Rachel thought that consent was not a factor as she was married to her husband. In the end, Rachel said that she was focused on surviving in a new country and was not comfortable to speak to the Police about her sexual relationship with her husband. Rachel was also worried about the impact on her visa and what her family and community would say if they found out.

This case illustrates the difficulty migrant and refugee women on temporary visas often find themselves when they escape a family violence situation. They are overwhelmed, have limited support in the community and are focused on addressing their migration and housing status. New migrants have very little awareness about consent laws in Australia. They are also scared to report the incident to the Police, fearing that someone in their community and family would find out.



### Case study 5

Mary married her husband through an arranged marriage process. She came to Australia on a tourist visa while her husband was planning to apply for a partner visa. Mary's relationship with her husband turned violent. He physically beat her and controlled her in every way including financial and emotional abuse. When she raised her concerns with her family overseas, they tried to pressure her to stay in the relationship as getting a divorce would be bad for the family. Mary's visa situation was also insecure, and her husband threatened on numerous occasions to not proceed with the partner visa application and send her back to her country of origin. Mary became pregnant and gave birth. Soon after giving birth, there was an argument around her visa status and the police were called. The Police initially misidentified Mary and applied for an IVO against her. Mary was referred to inTouch for case management and to the Legal Centre.

The Legal Centre assisted Mary with her migration situation, misidentification of IVO and represented her during a complex parenting and property family law litigation. Mary's family law litigation case was ongoing for 3.5 years and it was only during the final stages of the proceedings that Mary disclosed the sexual violence she had also experienced during the marriage, including being forced to have sex when she did not want to and forced to do sexual acts she refused to do. Mary stated that she did not disclose this aspect of the relationship earlier because she was ashamed to speak about sexual relationships publicly. She said that she was only able to speak as she had developed trust in her lawyer. Mary also thought that this type of sexual violence was acceptable because she was married to her husband. Mary didn't understand Australia's consent laws and thought she had to submit to her husband.

### RECOMMENDATIONS

12. Establish broad protections for women on temporary visas experiencing family and/or sexual violence to enable access to financial, housing, childcare and educational support. Women should be empowered to report incidents safe in the knowledge that their visa status does not limit her right to safety.
13. Establish 'safe booths' in all regions to provide safe reporting environments at any time to facilitate in-language reporting for migrant and refugee women, enabling safe referrals and connections with holistic supports, including relevant agencies such as the Department of Home Affairs.





14. Develop education and accessible resources on consent, designed for migrant and refugee communities, targeted at both men and boys, women and girls.
15. Establish liaison support to assist migrant and refugee women to report crimes of sexual violence. Consideration should be given to investing and embedding the liaison support within organisations such as inTouch, which works with such a vulnerable client group.
16. Consideration should be given to establish a direct referral pathway to Sexual Offences and Child Abuse Investigation Team (SOCIT) so that clients could report sexual violence and crimes directly to SOCIT.

### Lack of knowledge of Australian systems

For vulnerable populations, and particularly migrant and refugee women who are experiencing sexual violence, a fear of seeking help and reporting to justice authorities is compounded by limited awareness of legal rights and the operation and processes of the Australian justice system.

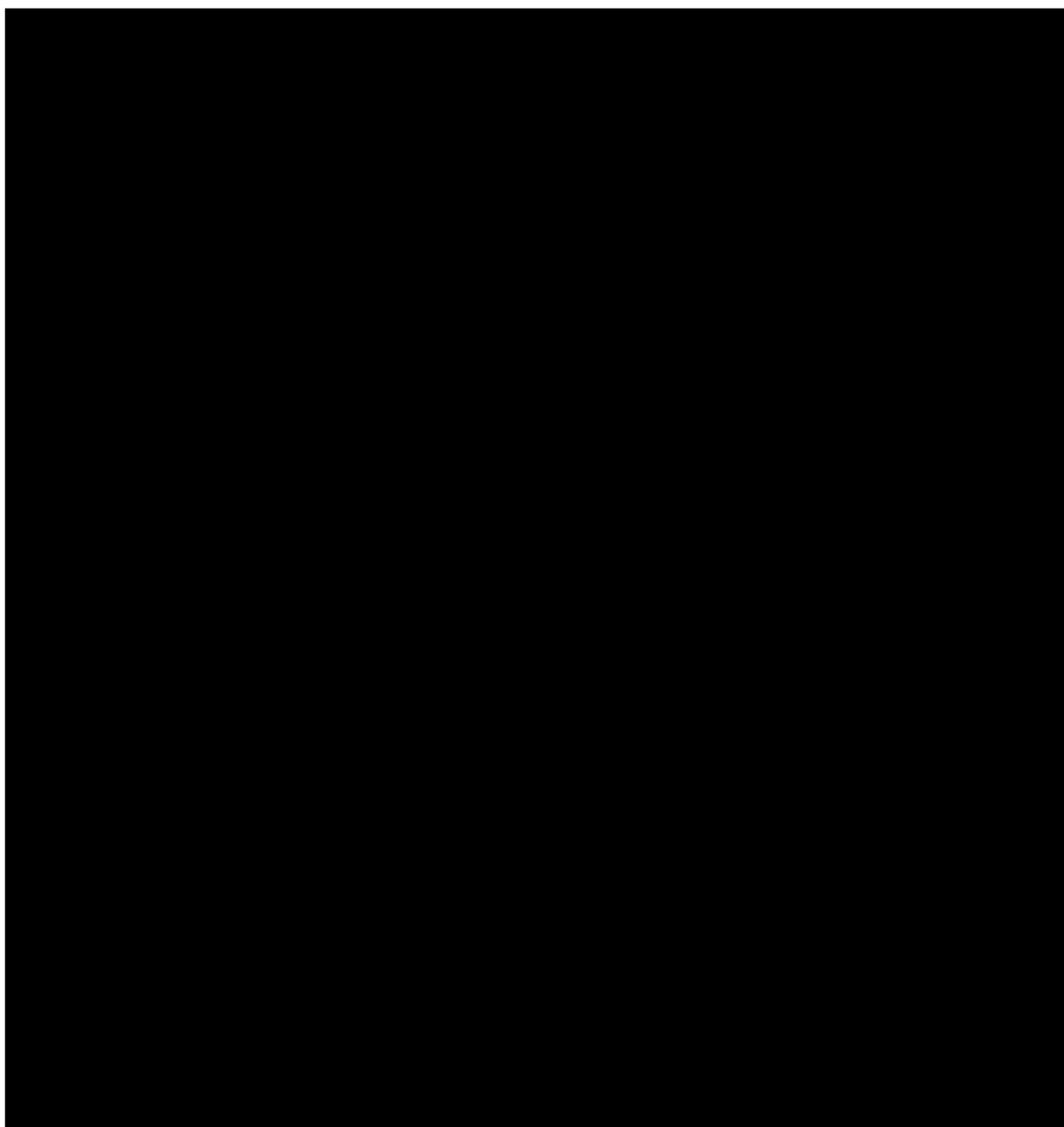
#### Case Study 6

Client attended appointment to discuss VOCAT application. When client was queried about the type of violence that had occurred, client did not initially disclose sexual violence. Lawyer noted there was a note on the MARAM and gently made some enquiries. Client asked lawyer to define what sexual assault or sexual abuse was? Client disclosed that husband forced sex often during the marriage and she did not want to do it. The husband threatened that if she made any reports to authorities, he would remove the children from her.

Many women are apprehensive to report sexual violence to police when it first occurs because they are hopeful the relationship may improve, or because she does not want her partner to get in trouble with police. Furthermore, many people are fearful or distrustful of police and justice processes due to negative experiences with law enforcement in their home country.<sup>8</sup>

At inTouch, it is not uncommon for our clients to lack awareness of their rights, the legal systems or support services available to them in Australia, which sexual acts are criminalised (especially in the context of marriage) and who they can report to. Supporting women when they first arrive in Australia to build positive experiences with police and justice systems and providing education and awareness on legal rights through community engagement, in-language resources and connections with specialist services will provide pathways to ensure women understand the support and protections available to them. These resources should be provided by the Department of Home Affairs when a visa is granted, and on arrival in Australia by settlement providers.

<sup>8</sup> Ibid.



#### **RECOMMENDATIONS**

17. Invest in partnerships between multicultural community organisations, sexual assault service providers and police to develop and deliver in-language and in-culture community engagement and information sessions and resources on sexual violence, legal rights and engaging with the justice system in Australia.
18. Invest in training for family violence case managers in supporting diverse women experiencing sexual violence, and for sexual violence frontline workers in culturally responsive practices in supporting migrant and refugee victim survivors of sexual violence.



19. Develop in-language digital and print resources about the impact of sexual violence and the support available to migrant and refugee communities.

### The use of alternative approaches to justice, such as restorative justice and civil proceedings, for victim survivors

inTouch recognises the limitations of the criminal justice system in addressing the needs of victim survivors of sexual violence. We support and welcome efforts to broaden the suite of justice responses available to victim survivors to ensure a dynamic and empowering justice response that centres the victim survivor's needs, experiences, expertise and agency in addressing the harm they have experienced. inTouch believes that victim-survivors should have the choice, agency and support to pursue justice outcomes aligned with their needs and beliefs, whether that be criminal prosecution and/or other restorative justice options.

It is important to recognise that migrant and refugee women have often encountered multiple authorities in their journey to Australia, including detention centres, refugee camps and that they may have had harmful interactions with authorities and possible trauma in a migration and/or refugee journey. Communities that experience significant structural inequality and systemic discrimination also weigh up the risk of state and institutional violence when engaging with the justice system. There may be occasions where a victim survivor of family and/or sexual violence does not view police and the formal justice system as a safe option for them and their family, or as an option that adequately addresses the harm they have experienced.

inTouch recognises that systems, services and support for restorative justice processes that sit alongside or outside of the criminal legal system are not widely understood or available at present. We would support further investment in initiatives like the Centre for Innovative Justice's [Open Circle Restorative Responses to Sexual Violence Program](#), to provide restorative justice services, research and policy engagement. These can include facilitated dialogues between the victim-survivor and the perpetrator, or another person with whom they want to address harm (e.g. a family member who didn't support them when they disclosed the sexual violence). Such programs provide a principles-based, trauma-informed, therapeutic and intersectional process to support victim-survivors' justice needs.

A hybrid model which gives a dynamic quality to the conventional-innovative response continuum is a desired approach, where victim-survivors can choose to have part of the justice process involving victim participation, voice, validation and vindication in a more free-flowing meeting or conference.<sup>9</sup>

We recommend further investment in programs for offenders to address their behaviour to avoid reoffending, especially for those who have tendency to reoffend. Such programs or sentence conditions may include the following:

- Letter of apology to the victim and acknowledgement of pain caused to the victim;

<sup>9</sup> [Conventional and innovative justice responses to sexual violence \(griffith.edu.au\)](http://conventionalandinnovativejustice.org.au)





- Previous offenders to sign an assurance to pay compensation to the affected person(s) (including both previous and/or new victims) if they reoffend;
- Compensation and civil action against the offender;
- Behaviour-addressing programs: offender-focused practices and programs with potential to positively affect victim-survivors; and/or
- Sexual violence register - where offenders' names be registered along with details of any programs, they may have participated in to address this behaviour.

### RECOMMENDATIONS

20. Increase research and investment in restorative justice initiatives, including in partnership with family and sexual assault services, to broaden the justice options available to victim-survivors

21. Ensure that restorative justice approaches and initiatives for migrant and refugee communities are designed and implemented with a strong emphasis on language, faith and cultural responsiveness.

### Outcomes sought by migrant and refugee victim survivors from the justice system

Victim-survivors of sexual offences may have greater or different justice needs than those of other offences. This is due the nature of sexual violence and the regressive and harmful patriarchal social norms and attitudes around sexual violence that influence responses among families, communities and institutions, which is often replicated through the justice system response. These can cause victim survivors to feel silenced, pressured not to speak out, shamed, disbelieved and could also result in a lack of conviction of the perpetrator. As a result, desired outcomes sought by victim survivors from the justice system can include:

- being heard and having a voice;
- feeling psychologically and culturally safe and comfortable sharing their experience;
- being believed and validated;
- gaining a sense of closure;
- perpetrator accountability, which may include an acknowledgement of harm done and an apology and/or remorse from the perpetrator;
- perpetrator commitment to/action to change their behaviour to prevent reoccurrence; and/or
- fair access to and outcomes of justice responses regardless of visa status, and in some cases compensation.

Unfortunately, the formal justice system does not elicit these outcomes with current limitations to criminal proceedings, which are not designed to meet the needs of victim-survivors. Thus, complementary restorative justice options discussed in the previous section should be offered for a victim-survivor-centered approach to advancing these outcomes.



## 5 Contact

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Should the Inquiry wish to follow up directly with migrant and refugee family violence victim-survivors, inTouch's NOOR Survivor Advocates group meets monthly and is available for further consultation. Please see [this link](#) for further information.

**If you are experiencing family violence and need immediate support, please call 1800 RESPECT on 1800 737 328**