



IMMIGRANT WOMEN'S SUPPORT SERVICE

a domestic violence and sexual assault service
for women of non-english speaking backgrounds

Submission to the Criminal Law (Domestic Violence) Amendment Bill 2015

The Migrant Women's Emergency Support Service Inc. operating as the Immigrant Women's Support Service is funded by the Department of Communities, Child Safety and Disability Services to provide a sexual assault service and by the Department of Housing and Public Works to provide a domestic violence service response.

The Immigrant Women's Support (IWSS) provides an integrated service response to women of non-English speaking backgrounds and their children who have experienced domestic violence and/or sexual assault. IWSS is the only service of its kind in Queensland providing services from an integrated model that is beyond co-location; focusing on responding to domestic violence and sexual assault through the provision of holistic support via crisis intervention, ongoing case management and support, counselling/advocacy; and facilitated referrals.

Background

From the experiences disclosed from women accessing support services from IWSS, intimate partner sexual violence is a common type of abuse perpetrated against women from Culturally and Linguistically Diverse backgrounds. This type of violence includes ongoing rape by a husband or de facto partner throughout the relationship, usually also involving physical assault, emotional and economic abuse and threats of deportation from Australia for women who are on temporary visas.

There is evidence to demonstrate that women who have been sexually assaulted by their partner are at greater risk of being killed by their partner, suffer from stress related symptoms, have an increased likelihood of developing gynaecological problems and present detrimental emotional and mental health effects.

The disclosures of women accessing support from the Immigrant Women's Support Service are consistent with the body of evidence available in current research on intimate partner sexual violence. For instance:

- Women are subjected to multiple and ongoing sexual assault by their intimate partner.
- Due to the type of relationship with the perpetrator, the women usually feel shame and guilt.
- The nature of sexual assaults also makes it very hard for the women to report to either authorities or services.
- The traumatic experience of ongoing sexual assault often goes undetected and untreated despite the many symptoms presented by the women including disturbed sleep, fatigue, heightened alertness, suicidal ideation, anxiety, depression, loss of appetite, and flashbacks.
- Women from refugee backgrounds who have experienced rape or sexual assault during war and civil unrest are placed at higher risk of further abuse or sexual exploitation in their country of origin and are more vulnerable to intimate partner violence on resettlement in Australia.

Part 4 Amendment of Evidence Act 1977

The draft *Criminal Law (Domestic Violence) Amendments Bill 2015* includes provisions to amend the *Evidence Act 1977* to ensure the availability of protections for special witnesses apply to all victims of domestic violence (Taskforce Recommendation 133). These provisions are:

1. Clause 10 states that Part 4 of the Bill amends the *Evidence Act 1977*
2. Clause 11 subsection (1) inserts new definition of domestic violence into section 21A (1). The new definition adopts the definition of domestic violence contained in section 8 of the *Domestic and Family Violence Protection Act 2012*
3. Subsection (2) amends the existing definition of *special witness* in section 21A (1) to include within that definition a person who is a victim of domestic violence and who also is to give evidence about the commission of an offence committed by the person who committed the domestic violence

These provisions aim to ensure that the victims of domestic violence who are giving evidence about the commission of an offence by the perpetrator automatically fall within the definition of 'special witness' under the *Evidence Act 1977*.

Recommendations for consideration

On behalf of the Immigrant Women's Support Service, we offer the following recommendations for consideration:

1. The Immigrant Women's Support Service fully supports the expansion of the definition of 'special witness' to automatically include victims of domestic violence. As a provider of support services to victims of domestic violence we are aware of the many barriers to reporting violence, being fear of the legal system a significant deterrent.
2. Furthermore, it is also our experience from providing support services to victims of sexual assault that current special provisions are limited in their application (only apply to children and young people under 16 years of age). Therefore, we seek and recommend that the special witness provisions are made available to all victims of sexual violence, who are involved in giving evidence in criminal proceedings, irrespective of their age. This can be achieved by enacting additional provisions to those outlined in the *Criminal Law (Domestic Violence) Amendment Bill 2015* to amend the *Evidence Act 1977*.
3. Safe and culturally responsive mechanisms be made available in court proceedings to facilitate greater participation and inclusion of victims, in particular women from Culturally and Linguistically Diverse backgrounds.

We welcome the opportunity to provide the above recommendations to the proposed amendments to the *Criminal Law (Domestic Violence) Amendment Bill 2015* and fully support any measures to enhance victim safety in court proceedings.

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