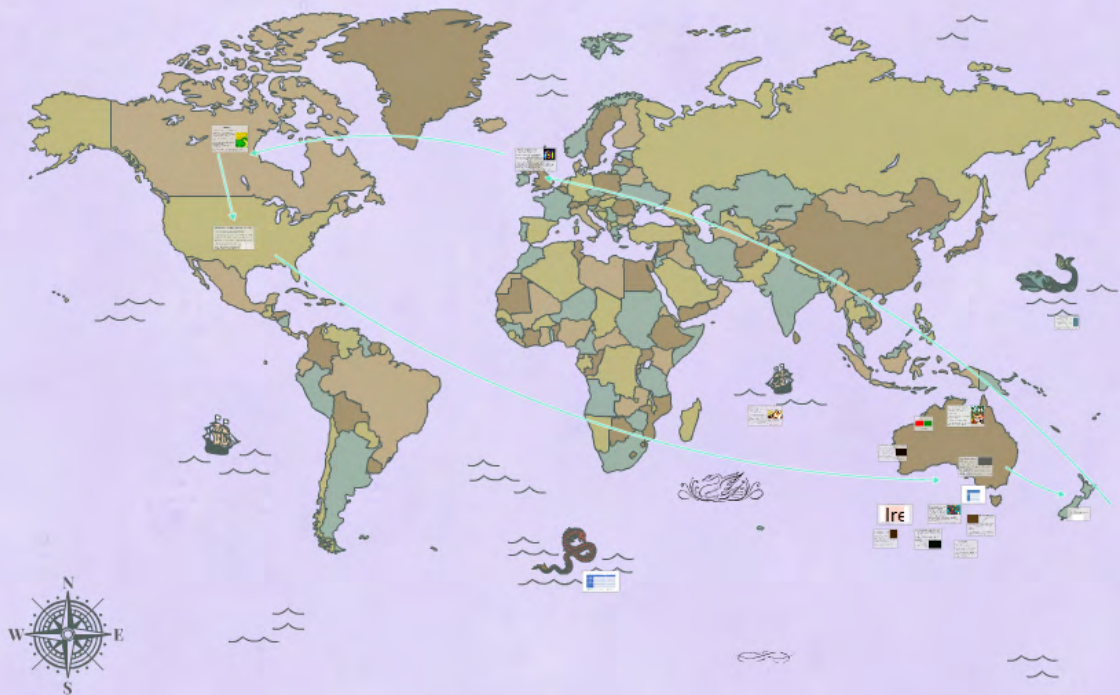


Migration and Domestic Violence: Women's experiences of proving domestic violence as a requirement for permanent residency in Australia

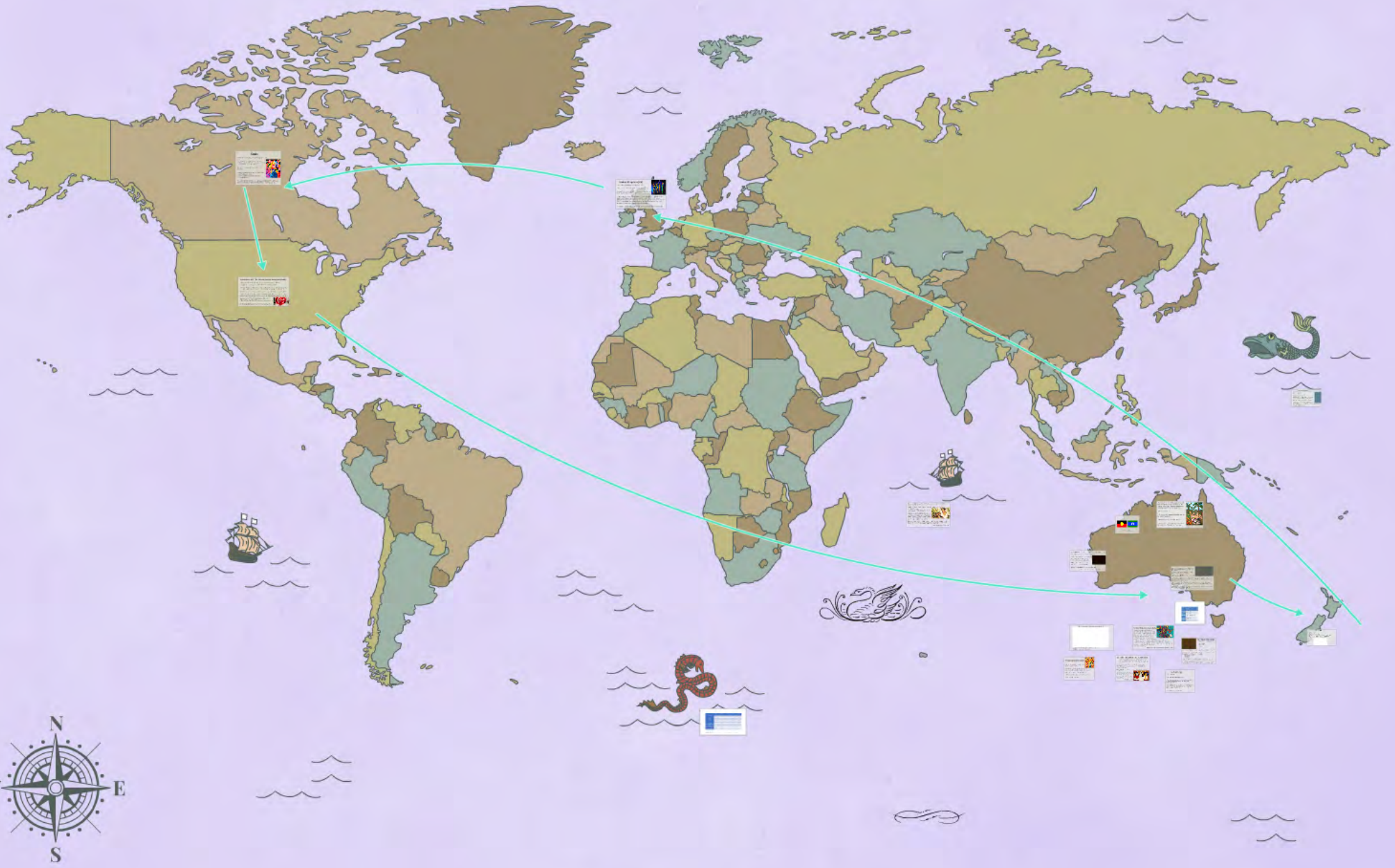


Confirmation document

Supervisors: Professor Heather Douglas and Associate Professor Liz Mackinlay

Phd Candidate: Ana Borges Jelinic

as a requirement for permanent residency in Australia



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The beginning...

This research aims to investigate *sponsored women's* experiences of engaging with the Domestic and Family Violence Provisions in *Migration Regulations, 1994* in Australia.

Sponsored women:

- Migrant women sponsored by their partners to reside in Australia;
- Who have survived domestic violence;
- Engaged with the Immigration Department through the Family Violence Provisions.



Domestic violence

Characterized by conduct or threat of violence towards a family member/ partner.

Physical, sexual and psychological abuse;

Financial and social control;

Abuse that result in the victim feeling humiliated, scared, seriously neglected in basic needs or in risk of harm.

Its definition varies between countries/ organisations.

Domestic violence is used interchangeably with 'intimate partner violence', 'domestic abuse' and 'family violence'.

It is also referred to as **gender based violence** because women are often the victims and men the perpetrators.



- Violence against women has not reduced in Australia's general population recently.
- The number of sponsored women in Australia is increasing
- Global suspicion around migration is also increasing
- There are indications that domestic violence could be even more prevalent against migrant women
- **2008-2009:** 34,399 partner visa applications.
- **2013-2014:** 42,330 - **68.7% were women**
- Just over 700 people applied for the Family Violence Provisions



(Athaide, 2010; Ghafournia, 2006; Menjivar and Salcido, 2002)

Many migrant women, from all cultural and social backgrounds, become trapped in relationships with perpetrators of domestic violence:

- Combination of complex personal and systemic reasons (social isolation, language, lack of contact with support services)
- Past experiences of trauma;
- Societal tendencies to minimise or ignore domestic violence
- Deficiencies in the immigration processes

The social vulnerability of many immigrant women has considerable impact on government funding and social services

Lack of research in the field of migrant women's experiences of domestic violence including sponsored women around the world and sponsored women accessing the Family Violence Provisions in Migration Regulations (1994) *Cmth* in Australia



Knowledge in this area can assist on providing safety to women and children survivors of domestic violence, preventing fatalities and mental health issues while also assisting on better policy to support the work of the Department of Immigration and Border Protection (DIBP) and potential law reform

(Lindee, 2007; Gray, Eastel and Bartels, 2014)

Partner Migration in Australia

- be sponsored by an eligible person (permanent resident or Australian citizen);
 - be legally married to the Australian partner (usually the sponsor) or be living in a de facto relationship with the Australian partner;
 - demonstrate that there is a commitment to a shared life 'to the exclusion of all others';
 - demonstrate a genuine and continuing relationship with the partner;
 - demonstrate that the couple has been living together (over 12 months in case of de facto relationships) or, if not, that any separation is only temporary;
 - meet health and character requirements.
- It is a two-step process.



(Migration Act, 1958; Cmth Migration Regulations, 1994)



Five 'immigrant-seeking' countries

Australia's overseas-born population (23.9%) is the highest among all immigrant-seeking countries.

- New Zealand (22%)
- Canada (19.8%)
- US (11.1%)
- UK (8.3%)

- Economic considerations play a central role in shaping immigration policy: shift away from family reunification to an emphasis on market skills, in all above mentioned countries, but the US.

- There have been several types of government-level responses to domestic violence/ gender based violence against immigrant women in these countries

- Gender based claims for asylum
- Human trafficking
- *Sponsored women*

Asylum seekers and Gender Based Violence / Domestic Violence - Between 1999- 2009, all countries named here started considering domestic violence as grounds to apply for asylum.

Human Trafficking as Gender Based Violence - All these countries have signed the Palermo Protocol (United Nations, 2000). (Akbari and MacDonald, 2014; Ghafournia, 2006)

Table 1: Partner migration after separation due to DV

Country	Partner self-petition	Partner can access support services	Partner can access financial benefits	Visa processing time	Proof of dv required	Consequences to the perpetrator of violence	Year law was approved	Any dv survivor can apply
Australia	Yes	Yes	Depend on the visa the partner is holding.	Often over 1 year after declaring domestic violence.	Yes. Judicial or non-Judicial	None. There may be a note on his immigration file if he decides to sponsor a new person	1995 with many reviews since.	No. Only partners already on the partner visa process.
UK	Yes	Some	No, but it can be allowed in extreme cases	Often 9-10 months.	Yes. Judicial or non-Judicial	None.	2002.	No. Only partners already on the partner visa process.
USA	Yes	Yes	Some	Often over 1 year after declaring domestic violence.	Yes. Judicial or non-Judicial	Maybe. If a court proves there was domestic violence, a non-citizen male can be deported.	1995 with reviews in 2000, 2005 and 2013.	Yes. Any woman in any visa arrangement already in the country.
NZ	Yes				Yes. Judicial or non-Judicial			No. Only partners already on the partner visa process.
Canada	Yes	Yes	Yes		Yes. Judicial or non-Judicial		2012	No. Only partners already on the partner visa process.

- Two step process (application to breach this waiting period)
- Submit proof that domestic violence occurred

Sponsored Women - Immigration Path to Permanent residency - Australia

...conduct, whether actual or threatened, towards the alleged victim... that causes the alleged victim to reasonably fear for, or to be reasonably apprehensive about, his or her own wellbeing or safety. Relevant family violence is not limited to physical harm. It may also include other forms of abuse such as psychological and/ or financial abuse, which is consistent with the above definition.

Before proving 'relevant' family violence, women are required to prove **genuineness of relationship** even after separation, meaning they must '[d]emonstrate that there is a commitment to a shared life to the exclusion of all others and a genuine and continuing relationship with the partner'.

Independent Expert: when there are disputes regarding the experience of domestic violence.
(changed in 2012)

Women refused permanent residency can appeal the process - AAT(Administrative Appeals Tribunal)
- Fee and around one year waiting period.

Last, Minister for Immigration that may or may not consider the case.

(Migration Regulations, 1994)



New Zealand

- *Immigration Act, 2009*
- Very similar to Australian law.
- It identifies domestic violence applications as priority applications and commits to dealing with them in an expedited way.
- Acceptance of broad evidence before Australia



United Kingdom (UK)

- *Nationality, Immigration and Asylum Act, 2002*
- Strict access to financial support and accommodation.
- Non-judicial evidence include letters from support workers and overall more options than Australia.
- Inquiry into the Home Office regulations (2013) concluded that inflexible financial requirements imposed on those who want to “sponsor” their non-European partners into the UK means it is more likely that men will take their partners to the UK under alternative visas (student visas for instance), therefore leaving these women without residence rights in case of separation.
- This issue will likely affect more families with UK’s exit from the European Union.



Canada

- *Immigration and Refugee Protection Regulations, 2002*
- Applying for a visa after domestic violence:
 - A humanitarian and compassionate assessment
 - Assessment of domestic violence.

The concept of domestic violence includes negligence.

Canada has a sponsor ban on people who have committed violent crimes

- In debt with the Child Support Agency
- Immigration debt.

In Australia banning sponsors is a very new and discretionary Ministerial decision in the case of 'relevant criminal history' (November 2016).



United States (US) – The Violence Against Women Act (VAWA)

- *Violence Against Women Act, 2000, 2005, 2010* - Not written in gender neutral language

- 1994 and 2000 - US was very similar to the current approach in other countries

VAWA 2000 - Women in all visas or undocumented to self-petition and file for cancellation of deportation

- No longer proof of extreme hardship and included abuse inflicted outside of the United States.

VAWA 2005 - Protection to women that arrive as mail-brides, vulnerable to both abuse and trafficking.

- Criminal background check on the sponsoring partner rather than just the migrant woman, stopping serious criminal offenders, particularly former abusers, murderers or sexual predators, from sponsoring.

- Applications under VAWA are managed by a specialized unit.

- This unit accepts 'any credible evidence'

- Claims fully analysed within the unit to reduce the trauma of re-telling.

Controversy regarding components of VAWA (eg. number of 'U' visas / overreliance on prosecuting and deporting perpetrators of violence).



	Australia	New Zealand	United Kingdom	Canada	United States
Gendered Language					x
Visa inclusivity					x
Complementary requirements				x	
Sponsorship bans	x			x	x
Broad evidence	x	x	x	x	x
Specialised teams		?		x	x
Sponsor financial responsibility	1/2			x	
Expedited processing time		x			
Appeals process	x	x			x

Domestic violence definition: The definition of domestic violence varies among these countries.

Women in all these countries report fears of deportation, worsening mental health and struggling to find support after separation.

Sponsored women experience similar barriers in pursuing permanent residency in the receiving countries.

- Financial strains, the high burden of proof that domestic violence occurred and the fear of being punished by the former partner or other community members for speaking up.
- Women originally applying for a partner visa may be lured into marrying citizens or permanent residents who later subject them to slave-like conditions. Therefore, a woman in that position may struggle to be perceived as a partner or see herself as a trafficked woman.
- Women may be more concerned about their family and community's reaction to the story and the country's treatment of separated women than other threats, identifying deportation as the biggest threat to their life and wellbeing.
- Additionally, women may be faced with practical concerns regarding healthcare access and income and may opt for a visa path based on the availability of those benefits.

(Gray, Easteal and Bartel, 2014; Athaide, 2010; Lindee, 2007; Ghafournia, 2006; Menjivar and Salcido, 2002)



The research questions to be examined



- What are the obstacles faced by sponsored women in leaving violence?
- What are the challenges for sponsored women in demonstrating domestic violence to authorities in Australia?
- What is the psychological impact of this process?
- What can we learn from approaches in other countries?
- Is reform needed in Australia?

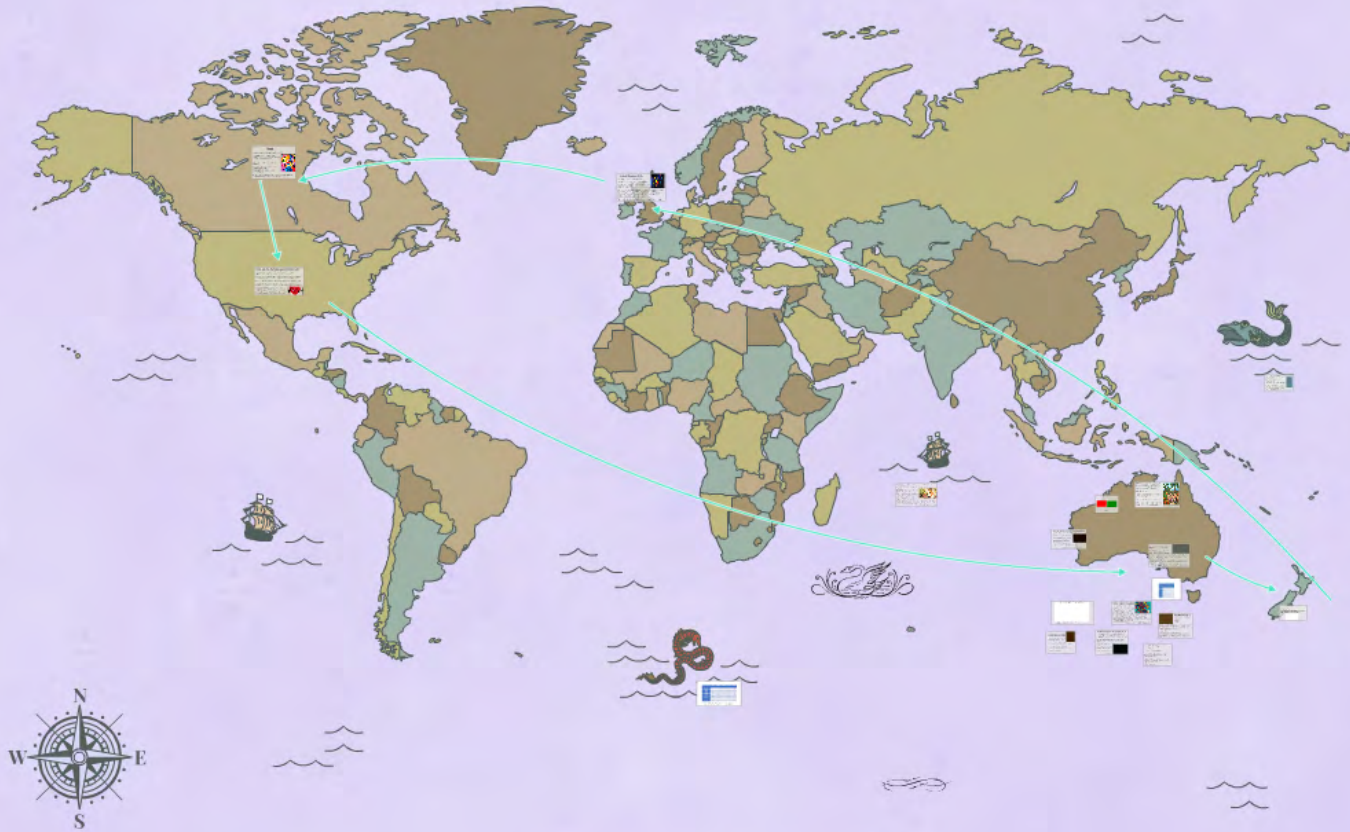
Methodology



- Qualitative study
- Interviews with 20 sponsored women
- Questions about domestic violence and the immigration process and self assessment mental health tools (DASS-21 and PTSD checklist)
- Two interviews with each woman (9-12 months apart) to observe changes in their experiences, perceptions and mental health, through time.
- Ethics Approval received in 2017.

February 2017	<ul style="list-style-type: none"> - PHD first Milestone - Confirmation - Advertising the research. - Select participants. - Write Chapter Two – Bibliography Review: Immigrant women and domestic violence
March – May 2017	- First round of 20 interviews and transcriptions.
May – June 2017	- Write Chapter Four – Methodology
July – August 2017	- Data analysis
September – November 2017	- Write Chapter Five – Data analysis
December 2017	- Second PHD Milestone – Mid candidature Review
January – February 2018	<ul style="list-style-type: none"> - Second round of interviews with the same participants and transcriptions. - Write Chapter One – Introduction
March 2018	- Review Chapters written so far.
April – May 2018	- Finalise data analysis update Chapter 5.
June - July 2018	- Write Chapter Six – Conclusions.
August 2018	- Third PHD Milestone – Thesis Review.
September 2018 – January -2019	-Finalise thesis and submit.

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