



Immigration policy and family violence: Findings from in-depth research webinar transcript*

*(*Transcript edited for clarity. Times below are not accurate by about 5 seconds due to recording delays.)*

Webinar was recorded 28 February 2023

Find details about and watch the recording of the webinar on our website:

<https://nzfvc.org.nz/immigration-policy-and-family-violence-findings-depth-research>

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00:00:00.000 --> 00:00:09.080

Charlotte Moore: Welcome to today's webinar exploring findings from in-depth research by Sarah Croskery-Hewitt on immigration policy and family violence.

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00:00:09.230 --> 00:00:23.060

Charlotte Moore: Ko Charlotte Moore toku ingoa. I'm the Kaiwhakahaere for the New Zealand Family Violence Clearinghouse, and it is my pleasure to be hosting our webinar today. Before I introduce Sarah, I'm just going to run through some housekeeping for our webinar.

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00:00:23.540 --> 00:00:25.850

Charlotte Moore: So, some tech tips and netiquette.

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00:00:25.940 --> 00:00:40.670

Charlotte Moore: In a webinar as attendees, your microphones and cameras are off. No one can see or hear you. You can use the chat box to share comments. You can set these comments to go to all panellists and attendees, or just to the host and panellists.

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00:00:41.140 --> 00:00:45.490

Charlotte Moore: You can use the chat box if you have technical issues, and we will try and help.

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00:00:45.700 --> 00:00:55.590

Charlotte Moore: Please use the Q&A box for questions for our speaker, Sarah. She will answer questions at the end, but you can ask questions anytime during the webinar.

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00:00:56.360 --> 00:01:05.560

Charlotte Moore: We have pre-recorded Sarah's presentation today. This is a new approach to our webinars, and we welcome your feedback. The Q&A, however, will be live.

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00:01:06.090 --> 00:01:17.310

Charlotte Moore: We are using the zoom automatic closed caption service. You can turn this on by clicking the CC button on your screen. We will provide an edited transcript with video recording.

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00:01:17.750 --> 00:01:21.980

Charlotte Moore: This webinar is being recorded, and we will email the link to you as well.

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00:01:22.730 --> 00:01:32.810

Charlotte Moore: We understand that the issues we'll discuss today can be challenging or triggering. You can mute the sound or leave the webinar at any time, and a recording will be available.

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00:01:32.850 --> 00:01:40.900

Charlotte Moore: We will provide a list of where to go for help at the end of the webinar, and we will also post contact details in the chat now.

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00:01:42.960 --> 00:01:51.540

Charlotte Moore: Please note, if we consider any comments to be disrespectful or offensive, we reserve the right to remove people from the webinar at our discretion.

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00:01:52.230 --> 00:02:02.430

Charlotte Moore: Our NZFVC staff, Megan Sety and Oanh Le, are in the background helping to manage tech issues, respond to your chat messages, and also help with the Q&A.

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00:02:03.910 --> 00:02:10.289

Charlotte Moore: So, this is the second in a 2-part webinar series, looking at immigration policies and family violence.

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00:02:10.400 --> 00:02:24.440

Charlotte Moore: In today's webinar, Sarah will share findings from her forthcoming report, 'Fighting or Facilitating Family Violence? Immigration Policy and Family Violence in New Zealand', which is due shortly, or out now?

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00:02:27.060 --> 00:02:28.960

Charlotte Moore: Out, now. Awesome

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00:02:29.220 --> 00:02:47.410

Charlotte Moore: Members of ethnic communities and organizations working with ethnic and migrant women, including Shakti and Shama, have long highlighted specific risks of violence for

migrant victims, including immigration-based abuse and the barriers in current immigration policies that impact on victims' ability to access help.

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00:02:48.230 --> 00:02:57.320

Charlotte Moore: Alongside the voices of community experts, there have been numerous research reports over many years identifying barriers in immigration policy.

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Charlotte Moore: The UN Committee on the Elimination of Discrimination Against Women has also raised concerns about immigration settings in their concluding observations on New Zealand's previous periodic report.

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00:03:08.800 --> 00:03:19.370

Charlotte Moore: Immigration New Zealand has indicated there will be a review of partnership-based visa settings, including the 'Victims of Family Violence' work visa in 2023.

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00:03:19.870 --> 00:03:39.700

Charlotte Moore: Most recently, the government's draft ninth report on progress related to the Convention on the Elimination of All Forms of Discrimination Against Women, notes that the Ministry of Business, Innovation and Employment (MBIE) has been directed to begin their work on wider eligibility for 'Victims of Family Violence' visas, including the partners of temporary migrants.

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00:03:39.830 --> 00:03:47.110

Charlotte Moore: MBIE has also been directed to conduct a broader review of partnership and family immigration settings in 2023.

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00:03:47.970 --> 00:04:00.260

Charlotte Moore: So, joining me today to talk about the gaps in immigration policy for migrant victims of family violence, and the policy reform and education that is needed to ensure safety for migrant victims, is Sarah Croskery-Hewitt.

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Charlotte Moore: Welcome back Sarah.

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Charlotte Moore: Sarah is a lawyer who has previously worked with Community Law Wellington and Hutt Valley as a community lawyer, and the National Law Reform coordinator for Community Law Centres o Aotearoa.

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Charlotte Moore: Her work with Community Law focused primarily on access to justice issues facing survivors of family and sexual violence and establishing a specialist immigration law service for migrant women experiencing family violence.

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Charlotte Moore: She's one of the Inaugural Borrin Foundation Community Law Fellows, and she's currently undertaking PhD research at the University of Wollongong on the use of intoxication evidence in sexual assault trials.

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00:04:41.670 --> 00:04:46.290

Charlotte Moore: So, I'll now hand over to Sarah to share her presentation. Kia ora, Sarah.

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00:04:46.570 --> 00:04:54.640

Sarah Croskery-Hewitt: Kia ora Charlotte and thank you so much for having me. I'm going to share my presentation now and then I really look forward to answering some questions at the end.

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00:05:06.670 --> 00:05:23.420

Tēnā koutou katoa and thank you so much for taking the time to attend this webinar. Today I'm going to be sharing the findings of my recently released report looking at immigration policy and family violence, which is a project that I undertook with the support of a Borrin Foundation Community Law Fellowship.

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My research examines New Zealand's 'Victims of Family Violence' visa regime, looking at gaps in its coverage and comparing those to other models internationally, and analyses, as well, all of the available appeal decisions relating to this visa category.

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So, for those who saw the Clearinghouse's recent panel discussion on this topic, you'll recall that we're expecting a very long overdue review of the 'Victims of Family Violence' visa policy this year.

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So, I'm hoping that sharing my research with you today will help give some context on how the policy is currently working, and where the immigration response to family violence needs to be strengthened.

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So, I want to acknowledge at the outset that I'm not myself a migrant woman, and I don't at all speak on behalf of migrant victim-survivors. The background that I came to this project with was my experience as a community lawyer,

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and establishing a specialist service at my Community Law Centre for migrant women who are experiencing violence. Through that work, I saw the gaps in immigration policy that affected the

victim-survivors we work with, and I became really interested in how our immigration policy could be better supporting their safety.

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So, for those who may not have seen the previous webinar, I'm going to start with an overview of New Zealand's 'Victims of Family Violence' visa system. Please bear with us for a few minutes if this is all very familiar from the last webinar, I will try not to take too long.

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So, under current immigration policy, victim-survivors of violence who don't yet hold residence are often at risk of losing their right to remain in New Zealand if they separate in the context of violence from their partner.

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And this is because their visa and their pathway to residence will often depend on the continuing support of their partner. So, of course, that can have massive consequences for a victim-survivor and their children. If they separate, they'll be at risk of losing the life they've built in New Zealand, their job, any support network they have in New Zealand,

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00:07:24.740 --> 00:07:41.220

and in the most severe situations, they might face separation from their child, or being returned to a home country where they'd face serious hardship and stigma. This visa uncertainty is a very well-known barrier to migrant women seeking help if they experience violence.

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Something I just want to note here is that you might notice that I'm using gendered language, and I'm doing this to reflect the dominant experience in the cases I studied, and the experiences of the clients seen at our Community Law Centre. But I'm in no way meaning to suggest that people of all genders can't experience family violence.

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So New Zealand has this 'Victims of Family Violence' visa scheme which applies to certain victims who are in this situation. But our scheme is quite a lot narrower than similar policies in countries like Australia, the UK, and the USA.

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New Zealand has both a short, six-month 'Victims of Family Violence' work visa, which a wider group of victim-survivors can access, and then a 'Victims of Family Violence' residence visa, which allows the applicant to remain in New Zealand permanently, but it's quite a bit harder to access.

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So just on the slides you'll see that I've abbreviated the visa scheme to the 'VFV' visa.' I've put the key visa criteria onto the slide for everyone to follow along, and these come from immigration instructions, which the Minister of Immigration approves.

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So, the first requirement is the applicant must have been in a partnership with a New Zealand citizen or resident. This means that women whose partner was on a temporary visa can't access the Family Violence visa,

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even if their partner was on a pathway to residence, or even if they'd already submitted a residence application. And it's worth remembering that residence applications in New Zealand can take several years to process.

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Second, they must have intended to seek residence on the basis of the relationship. So, the policy is only safeguarding the pathway to residence that a victim-survivor already expected to have prior to their separation.

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Third, they must have separated due to family violence, and only 4 forms of evidence of family violence are accepted. They need to provide either a New Zealand conviction for family violence offending, a letter from New Zealand police stating police are satisfied that violence has occurred, a final protection order— it can't be a temporary one, or 2 statutory declarations from certain professionals, stating that they're satisfied violence has occurred, plus a declaration from the applicant herself.

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The fourth requirement is where New Zealand is particularly different and more restrictive than other comparable countries. This is the requirement that, for residence, an applicant needs to show she's unable to return to her home country because she would be at risk of abuse or exclusion because of stigma,

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00:10:17.180 --> 00:10:38.470

or has no means of financial support there. So again, there's no requirement like this in countries with comparable visa schemes. Internationally, family violence visa schemes tend to focus more on ensuring that no woman with a pathway to residence is penalized by being sent back to her country of origin, if she reports violence.

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Whereas in New Zealand, this requirement effectively limits access to family violence residence visas to women from regions that are perceived as especially hostile to separated women.

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00:10:50.290 --> 00:11:07.650

There's also several other generic requirements that I haven't put on the slide, as they don't tend to cause as many difficulties, but they sometimes can. These are that the applicant needs to be physically present in New Zealand, which is a problem for victims of a form of abuse called transnational abandonment.

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00:11:07.840 --> 00:11:33.850

She also needs to be of an acceptable standard of health, which can be a problem for victims who have a disability or have suffered severe violence. And she needs to be of good character. So given how narrow these criteria are, it's possibly unsurprising that an average of only 43 grants of residence have been made under the family violence category per year, over the 5 years that Immigration has published data for.

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The immigration instructions also include a statement of the objectives of the family violence residence visa, and these are to recognize New Zealand's international obligations to “end discrimination against women in all matters related to marriage and family relations.” And this includes gender-based violence and comes from the Convention on the Elimination of All Forms of Discrimination Against Women.

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Also, to protect children from mental and physical violence— and this comes from the Convention on the Rights of the Child.

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The objective statement was added in 2008, with the intention that this would help to guide decision making in marginal cases, and particularly would help women appealing against the decline of their visa, who might be able to strengthen their case by showing that the decline was counter to the objectives of the policy.

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Something to note here, is the fairly heteronormative framework that this sets up, and the Convention on the Elimination of All Forms of Discrimination Against Women has specifically been critiqued for not responding to the needs of rainbow communities well.

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My report touches briefly on the need for rainbow victim-survivors to be better served by the family violence scheme, and also raises some concerns about whether the appeal decisions and the approach the tribunal is taking might run the risk of currently excluding them from the visa scheme.

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So, for applicants whose 'Victims of Family Violence' residence visa is declined by Immigration New Zealand, they can appeal this to the Immigration and Protection Tribunal, which you'll see on the slides I've abbreviated to IPT.

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To understand how the family violence visa scheme is working in practice, I think it's crucial to understand how the tribunal is handling these appeals, because, as well as affecting the individual who is making the appeal,

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it also guides immigration officers' decision making in future cases by showing how the policy is supposed to be interpreted. Tribunal decisions are also very important, because immigration officers have no discretion to grant residence to applicants who don't fit the strict eligibility criteria,

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00:13:49.510 --> 00:14:09.750

whereas the tribunal can recommend that exceptions are made where a victim-survivor has special circumstances. So, the tribunal is a really important safeguard in cases where an applicant might not meet a strict visa criteria, but her situation fits the objectives of the policy, or she otherwise has special circumstances.

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00:14:10.430 --> 00:14:34.770

But it's also important to remember, I think, that lodging an appeal to the tribunal isn't a viable option for many women who are declined, because it costs \$700 to file an appeal, and those who were in the previous webinar will remember there is very little social welfare assistance for victim-survivors. And there's also no legal aid assistance to help an appellant present her case.

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00:14:36.580 --> 00:14:51.810

For my study, I analysed all of the published tribunal decisions under the current family violence visa policy. So, the policy wording changed a bit in 2008. So, I looked at all decisions since that time, and that gave me a set of 49 decisions.

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The majority of appellants, by which I just mean the women who were appealing, were ethnic minority women from the Global South, with Fiji, India, China, and the Philippines being the most common countries of origin.

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A majority of the appellants also had dependent children who would be affected by the outcome of their appeal, and all but one appellant was female.

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00:15:15.020 --> 00:15:30.330

On looking at the decisions, it very quickly became clear that the 'unable to return to their home country' requirement was the central eligibility issue in those cases, so at least 80% of the appeals, or 39 out of 49 of the decisions

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00:15:30.330 --> 00:15:47.060

related to applications that immigration had declined because they weren't satisfied the 'unable to return' requirement was met. And I was quite surprised to find that the tribunal only found that Immigration had made an error in this assessment, in 3 out of those 39 cases.

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00:15:47.280 --> 00:16:01.080

And even in those 3 successful cases, the tribunal didn't actually reverse Immigration's decision and grant the visa. Instead, the tribunal held that Immigration had made a procedural error in how it approached the assessment,

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but even if it weren't for the error, the tribunal wasn't satisfied the appellant should have been granted the visa. So, it returned the applications to Immigration for reassessment.

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Given that it was the reason for most appeals, and that it's the requirement that's most unique to New Zealand, the 'unable to return' requirement became a key focus of my research,

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and what I found was that the tribunal is applying a very high threshold for this requirement to be met, and practically it can be very challenging for appellants to provide the types of evidence that would satisfy the tribunal.

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00:16:38.390 --> 00:16:49.310

In my report, I've argued that the tribunal has narrowed eligibility to an unreasonable degree by setting such a high threshold, and this slide is going to give some examples of this.

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Please do excuse the text-heavy slides. I'm going to be using quotes to illustrate my points, but you don't need to worry about quickly reading them as I'm going to read the key points aloud.

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So, I found that the social aspect of the 'unable to return' requirement, where an appellant needs to show she's at risk of abuse or exclusion because of stigma,

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00:17:11.829 --> 00:17:29.160

was frequently talked about in the language of 'shunning' or 'disowning', and the examples on the slide illustrate this. So, this was happening, despite the fact that the language of 'disowning' was specifically removed from the policy in 2008, because it set too high a bar.

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It was particularly common for appellant's fears of ostracism and discrimination to be dismissed by the tribunal as 'mere gossip', even when she was describing quite severe treatment.

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Decisions stated that things like disgrace, humiliation, and discrimination are not, of themselves, enough to amount to a risk of exclusion. Whereas I argued that this kind of treatment will, in fact, often exclude someone from participating in community life.

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00:18:01.230 --> 00:18:17.160

In terms of the financial side of the 'unable to return' requirement, which is showing that you have no ability to gain financial support, several decisions appeared to treat almost any level of financial support as a barrier to meeting this requirement,

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00:18:17.250 --> 00:18:39.300

even if it wasn't going to be enough for an appellant and her children to survive on. This also meant that women were expected to disprove support from any and all sources, so not just proving that they wouldn't be able to find work, but also that they had no possible family support, or state-support, or child-support payments from ex-partners in some cases,

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assistance from charitable or religious organizations in other cases. So, I put some examples on the slide here. "It might be difficult for the appellant to find a favourable job immediately, which would cover all her living costs,

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but she did not provide evidence to demonstrate that she was excluded from the entire labour market." "Whilst a letter from the Fiji Muslim League states that it would not be able to "guarantee" [charitable] assistance, it did not rule out the possibility."

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"There is also evidence of some— an unspecified level— of social support being available to the appellant in Fiji as a victim of domestic violence." Last, "the appellant would have accommodation, even if cramped and/or temporary with her parents."

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So, this approach also meant that appellants were expected to show that nobody in their extended family would give them financial support, and it was assumed that women could, and should, be expected to depend on a wide range of generally male relatives

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00:19:44.220 --> 00:19:58.890

to financially provide for her and her children. When she argued that these relatives were unsupportive, the severity of their hostility towards her became a focus, meaning that once again she was effectively having to prove likely disownership.

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00:19:59.380 --> 00:20:18.910

So, this slide provides a few examples of the kinds of people who were identified as able to financially provide for an appellant. So in the first example, "despite the appellant's brother's responsibility to support his own family and their mother, it was not established he could not also provide some financial assistance to the appellant and her children."

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00:20:19.180 --> 00:20:29.790

In the second example, several different sources of financial support are suggested. They note her daughter's boyfriend, the husbands of her sisters, and her 18-year-old son.

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The last example notes "Immigration New Zealand did not believe the appellant's claims that her brother-in-law would not allow her to live in their household or share in the livelihood that he brings to that household."

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00:20:44.620 --> 00:21:07.830

It was also really difficult for appellants to meet the tribunal's expectations of the evidence they should provide of their inability to return to their country of origin. So, an example was that, in order to prove a risk of abuse or exclusion, the tribunal often suggested that direct written evidence of the appellant's family or community's hostility was needed.

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00:21:08.880 --> 00:21:24.350

So, in these examples here, "Immigration New Zealand did not receive any communication from the appellant's family as to their refusal to support her." "The appellant could not produce any direct evidence that she would not be accepted back into their home by her brother-in-law."

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00:21:25.170 --> 00:21:36.820

"There was also no convincing evidence, such as written statements from community or family members, to suggest that the appellant's family intended to force her to remarry, or of the proximity of abuse."

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00:21:37.930 --> 00:21:47.220

"The allegation that the ex-husband's father had said in a phone call that he would take revenge on the appellant if she returned to Fiji was unsupported and uncorroborated."

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00:21:48.620 --> 00:22:02.050

Providing this kind of direct written evidence presents some obvious practical problems, because producing it usually requires the cooperation of the appellant's family or community, who are the very people that she's too fearful to seek help from.

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00:22:02.500 --> 00:22:24.510

It also requires you to prove what would happen if she were to return home, which is an event which hasn't yet happened. It can be really hard to prove this, especially from offshore, and her family's behaviour and attitude towards her while she's still in New Zealand might be quite different to what it would be if she were returned to the family home and the family was suffering stigma for that.

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00:22:25.390 --> 00:22:38.320

Family violence risk-prediction is a complex enough task already and I think that proving risk in a different country that has really different social and legal responses to family violence is quite a difficult ask.

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00:22:40.950 --> 00:22:55.490

So, many appellants supplied general research about the situation for divorced women or single mothers in their country of origin, or they provided letters from experts or community organisations about the treatment of divorced victims of violence.

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00:22:55.730 --> 00:23:13.180

But often this was dismissed as not being specific enough to her circumstances, as is seen in the first quote here. "She presented evidence that was too independent, because it was from people, being an MP, the Fiji Council of Social Services, and an international human rights lawyer in Fiji,

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00:23:13.260 --> 00:23:28.910

who did not know her personally or know her family." However, when appellants did manage to supply direct evidence from people who knew their circumstances, it was often rejected as self-serving or unconvincing, as these next quotes illustrate.

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00:23:29.250 --> 00:23:43.030

“Immigration noted the affidavits the appellant had provided from her family, which suggested that there was a real threat to her life should she return to India. Immigration was correct to note that this affidavit evidence was speculative only.”

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00:23:43.450 --> 00:23:57.860

And the final one, “a joint statement from her grandparents rejecting her and stating that they could no longer afford to look after her son was weighed against the evidence that she had been able to stay with them at an earlier time prior to her separation.”

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00:24:00.950 --> 00:24:15.370

A very similar approach was taken to assessing an appellant's prospects of finding employment. So, as in this first quote, a common suggestion was that appellants should have supplied evidence of unsuccessful job applications in their country of origin.

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00:24:16.180 --> 00:24:30.860

“While it is acknowledged that the Fijian economy is depressed and unemployment high, the appellant cannot rely on bare assertions that she will be unable to find employment. She admitted at interview that she had not searched for or applied for any jobs in Fiji.”

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00:24:32.300 --> 00:24:44.990

I think this can be quite a difficult ask for the many women who worked in the informal labour market or in low-wage work that's unlikely to be advertised online or able to be applied for from abroad.

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00:24:45.960 --> 00:24:58.230

I'd also argue that making futile offshore job applications is a challenging expectation of women who are in the process of re-establishing their lives and their families after experiencing violence.

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00:24:58.810 --> 00:25:25.240

But even when appellants did manage to produce evidence of unsuccessful job applications, this was often dismissed as unconvincing, as the next quote highlights. “She responded with unsuccessful applications for jobs in Romania, a claim that over half the employment positions in Romania were filled through referrals, and testimonies provided by people living in Romania, as to the extreme difficulty in securing employment.”

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00:25:25.620 --> 00:25:35.340

However, the tribunal decides, “it is not sufficient to simply claim that a woman of her age, with previous work experience will be unable to secure employment again.”

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00:25:38.220 --> 00:25:49.850

There were also a number of other problematic ways in which the ‘unable to return home’ test was applied, which I don't have time to go into at any length today, but just for some brief examples.

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00:25:50.030 --> 00:26:07.270

This included relying on indicators of an ability to return home that weren't attentive to a woman's cultural context. For example, using an appellant's family's past payment of a dowry as an indication that they were able to financially support her in future.

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00:26:07.440 --> 00:26:18.270

When in reality, a family might have saved for several years, or taken out loans for their daughter's dowry, and would have viewed this as a one-off expense to secure their daughter's future.

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00:26:18.940 --> 00:26:26.460

In fact, I think the loss of a large dowry might make it less likely that a woman's family is going to be supportive of her separation.

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00:26:27.490 --> 00:26:41.320

Similarly, some decisions took the approach that the fact an appellant was on her second marriage indicated that there wasn't a stigma against divorce in her community because she'd managed to remarry.

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00:26:41.580 --> 00:26:55.720

But, as one appellant explained, a remarriage might have been a desperate attempt to salvage her and her family's reputation, because she'd been stigmatized, and her status, on entering into a remarriage, might have actually been very poor.

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00:26:57.750 --> 00:27:11.650

Another way that the 'unable to return' test was narrowed was by giving the words in the policy very specific meanings, like interpreting 'stigma', to mean only the stigma of separation in the context of family violence.

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00:27:11.840 --> 00:27:28.700

And in this way, the tribunal was able to dismiss the stigma that some appellants faced, for example, on the basis of having had more than one marriage end, or in another case, the stigma of being widowed after an appellant's husband took his own life when she reported his violence.

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00:27:31.800 --> 00:27:46.630

Another concerning and surprising trend was that the international obligations in the policy objectives were only cited in support of narrowing the family violence visa eligibility, rather than widening it.

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00:27:46.870 --> 00:27:59.240

So, I argued that the tribunal has incorrectly treated the obligation to protect women from discrimination in family relations as being about protecting women from cultural stigmas against divorce,

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00:27:59.490 --> 00:28:11.340

which is portrayed as the problem of 'other', non-Western, countries. But in reality, I think this obligation is about protecting all women from family violence within New Zealand's own borders.

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00:28:11.470 --> 00:28:27.390

And that objective, I think, is better achieved through a more expansive interpretation of the policy. So overall, my analysis found that the tribunal's application of the 'unable to return' requirement is restricting eligibility to an excessive degree.

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00:28:27.880 --> 00:28:40.560

The family violence visa criteria are already very narrow, and the tribunal's restrictive approach means that these visas, realistically, are only available to a small minority of migrant victims of violence.

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00:28:40.680 --> 00:28:57.600

So, I'm hoping that the outcome and review of the policy is an opportunity to address whether this is really how we want to continue responding to migrant victims. Should the default position really be that they lose their pathway to residence, because through no fault of their own, they've been subjected to violence?

120

00:28:57.930 --> 00:29:04.410

Or should we remove the 'unable to return' requirement and bring our policy more into line with other countries?

121

00:29:06.330 --> 00:29:28.240

The next major focus of my research was the tribunal's decisions about whether appellants had special circumstances warranting an exception to policy. Special circumstances were found in 15 cases, meaning that appeals were much more likely to succeed on this basis rather than by arguing that the appellant fit the family violence visa criteria.

122

00:29:29.210 --> 00:29:44.990

However, it quickly became clear that children's interests were the main factor behind the successful appeals. All but one of the 15 appeals where special circumstances were found involved women with dependent children, and it was their children's interests that appeared to be determinative.

123

00:29:45.800 --> 00:30:04.180

The only childless appellant who was found to have special circumstances was a citizen of the USA, who the tribunal felt would contribute significantly to New Zealand through her employment, and a future inheritance of 2 million dollars, which are very different circumstances to those of most appellants.

124

00:30:05.670 --> 00:30:25.950

Overall, the impacts of family violence received little recognition as special circumstances. And another issue was that some of the standard considerations in special circumstances decisions, like an appellant's financial and employment contributions, or her nexus or connection to New Zealand—

125

00:30:26.010 --> 00:30:42.400

they were applied in a way that disadvantaged survivors of violence. For example, a victim-survivor's economic capacity might have been restricted by violence; they're likely to have had primary care responsibilities for any children, rather than be working full time,

126

00:30:42.450 --> 00:30:50.790

and their partner might have isolated them and prevented them from forming strong community ties. But these things weren't really given any consideration.

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00:30:52.110 --> 00:31:10.080

Since the intention behind including New Zealand's international obligations in the policy was to benefit woman appealing family violence visa declines, it was interesting to see that these obligations actually weren't really cited, and don't appear to be of any obvious benefit to appellants.

128

00:31:12.860 --> 00:31:42.210

So unsurprisingly, many appellants raised the family violence they've experienced and its mental and physical health impacts as a special circumstance. But this was seldom given much weight and violence was often normalized or rendered invisible by not even mentioning it, as the quotes on this slide are going to illustrate. So here, "the failure of a relationship which was to be the basis of a residence application is not out of the ordinary."

129

00:31:42.640 --> 00:31:49.830

Ignoring the context of family violence and making it just an ordinary situation of a relationship separation.

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00:31:51.290 --> 00:31:59.310

"The fact of the abuse inflicted upon the appellant, regrettable as it is, does not make her circumstances uncommon or out of the ordinary."

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00:32:00.800 --> 00:32:12.310

"Neither the difficulties relating to the end of the appellant's relationship with her former partner, nor her acute disappointment and hurt at his actions, are out of the ordinary or uncommon."

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00:32:14.510 --> 00:32:27.650

So, I argued that this normalizing of family violence is surprising in the context of family violence visa appeals, given that the visa objectives specifically talk about our obligations to combat family violence.

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00:32:27.920 --> 00:32:39.230

I think it seems perverse, in light of those international obligations, to cite the commonness of family violence in New Zealand as a reason that an immigration response is not warranted.

134

00:32:40.580 --> 00:32:51.100

In cases where the effects of violence were addressed more directly, usually where an appellant argued that she needed to maintain her New Zealand support network for her mental or her physical health,

135

00:32:51.390 --> 00:33:12.780

the tribunal was seldom persuaded by this, as the next example highlights. So, “the appellant's doctor advises that the appellant continued to suffer from significant depression and anxiety, low mood and self-confidence resulting from the stress arising from the breakup of her marriage and domestic violence and the strain of the court case.

136

00:33:13.120 --> 00:33:26.670

In the doctor's opinion, the appellant needed to continue with ongoing therapy in New Zealand. Any move back to Fiji would negatively impact her mental and emotional health. The tribunal recognizes the domestic violence suffered by the appellant.

137

00:33:26.810 --> 00:33:42.260

The appellant has suffered, and no doubt continues to suffer emotional and physical effects as a consequence of his behaviour. However, while being out of the ordinary, it is not demonstrated that these circumstances warrant consideration of an exception to immigration instructions.”

138

00:33:43.500 --> 00:34:01.140

A positive development is that several quite recent decisions included fairly lengthy descriptions of the violence reported by an appellant, and that was included within the special circumstances discussion, which would suggest that family violence is receiving some increasing consideration.

139

00:34:01.510 --> 00:34:20.460

However, when the tribunal came to draw conclusions as to whether there were special circumstances, only one of those cases explicitly took the family violence into account. So, in most cases it was unclear what weight, if any, the impacts of violence were being given, because it was actually children's interests that were determinative.

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00:34:22.360 --> 00:34:35.090

So, moving now to children's interests. In all decisions, not just family violence related ones, the tribunal is required to treat any affected children's best interests as a primary consideration.

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00:34:36.070 --> 00:34:49.739

In the context of family violence visa appeals, many victim-survivors and their children are at risk of separation if they can't obtain residence, because family court orders might not allow a child to be relocated overseas.

142

00:34:49.929 --> 00:35:05.680

and this isn't a situation that's provided for at all in immigration policy, so special circumstances decisions play a crucial role in addressing this. However, I found fairly inconsistent approaches to the separation of mother and child across the decisions.

143

00:35:06.110 --> 00:35:20.600

Several decisions stated that family court orders preventing a child's removal did not operate as a 'trump card' warranting a grant of residence to the mother, while other decisions gave significant weight to the likelihood of separation.

144

00:35:21.740 --> 00:35:46.020

But even where it might be possible to seek the family court's permission to remove a child, it's often not going to be in that child's best interest to leave New Zealand. But again, there were inconsistent approaches to this assessment of which outcome is in a child's best interests. Some cases discuss the disruption, reduced support and educational disadvantage a child might face if they were removed from New Zealand,

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00:35:46.310 --> 00:36:00.100

while other decisions quickly dismissed these kinds of arguments and said that children are adaptable. And I argued that observing that children are adaptable really doesn't address the question of which outcome would be in the child's best interests.

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00:36:02.140 --> 00:36:12.690

Of course, the obligation to treat a child's best interest as a primary consideration applies irrespective of the child's visa status or immigration status.

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00:36:12.730 --> 00:36:27.200

But a particularly unexpected consequence of the tribunal's inconsistent approach was that 4 decisions effectively sanctioned the removal of New Zealand citizen children along with their mother, including in 1 instance, a Māori child.

148

00:36:27.660 --> 00:36:40.770

So, in that case, the appellant specifically raised the importance of her 5-year-old son remaining connected to his Māoritanga, and there was a family court order preventing the son's removal from New Zealand.

149

00:36:41.210 --> 00:36:57.620

But the tribunal held that his best interest did not require him to remain in New Zealand, and that even though the child's father had made it clear he would continue to oppose the child's removal, the appellant should return to the family court to try and have the order preventing removal lifted.

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00:36:57.650 --> 00:37:21.420

And this quote sets out the tribunal's reasoning: "There is no reason the appellant cannot continue to parent her son in India, as she does in New Zealand. While the son is entitled to know about both his parents' cultures, naturally he'll be more exposed to the culture of his custodial parent. His father's twice-yearly visits can have done little to assist his son to adopt a Māori identity or become familiar with his whānau.

151

00:37:21.880 --> 00:37:38.720

As for the father's claim that it is his son's birth right to stay in New Zealand, as a New Zealand citizen, the son is free to depart or return to New Zealand at any time. That is a self-evident but distinct principle from the question of whether his mother is entitled to remain in New Zealand.”

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00:37:39.940 --> 00:37:50.940

2 of the other cases involving the effective expulsion of New Zealand citizen children similarly stated that the children were free to come and go from New Zealand,

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00:37:50.940 --> 00:38:04.370

despite the fact that those children were both 3-year-olds and, like this 5-year-old here, obviously were unable to do so. And I think these kinds of comments really minimize the effective loss of all of the benefits of these children's citizenship.

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00:38:07.560 --> 00:38:20.730

In several decisions, where there was a risk of separation of mother and child, the tribunal made clear that this was a matter for the family court to resolve, presumably by lifting any order it had made that prevented the child's removal.

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00:38:21.080 --> 00:38:41.310

And the tribunal felt it wasn't a situation warranting an immigration solution. However, I think this leaves the family court with quite unsatisfactory options— either it has to allow the separation of the child from their mother, or the separation of the child from the family, support networks, and resources available to them in New Zealand.

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00:38:41.490 --> 00:38:57.480

So, I argued that these cases failed to prioritize the children's best interests as they should. Because being removed from New Zealand will often not be in their best interest at all, and an immigration solution is often what is required in order to uphold a child's best interests.

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00:38:57.790 --> 00:39:09.130

So, in the examples on the slide, the tribunal stated, "the nature of the appellant's rights to have contact with her daughter do not operate as a trump card, which mean that the appellant ought to be granted residence.

158

00:39:09.170 --> 00:39:26.860

The appellant has recourse to the family court to seek to remove her child." In the second example, "details as to how the child's future best interests can be protected can be determined by agreement between the appellant and her ex-husband or, failing such agreement, by order of the New Zealand family court."

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00:39:28.910 --> 00:39:43.580

More recent decisions appear to have given much greater weight to children's care arrangements as approved by the family court, and that's led to much more positive outcomes overall and more findings of special circumstances where children are involved.

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00:39:44.070 --> 00:39:59.270

Several of these recent decisions have also explicitly recognized children's need for stability in their relationship with their primary carer and identified an appellant's parenting role as a valuable contribution to New Zealand, and these are positive developments.

161

00:39:59.630 --> 00:40:20.640

However, I did note that all of these recent decisions were made by the same tribunal member, so there's no guarantee that other decision-makers would take the same approach. I also identified a tension in focusing heavily on family court orders that facilitate contact between a child and a father who uses violence,

162

00:40:20.950 --> 00:40:39.680

when that contact might actually be at odds with the victim-survivor mother's own safety interests. And this possibly creates a perverse incentive for victim-survivors to agree to contact between the perpetrator and her child that is beyond what they feel is safe for themselves or the child.

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00:40:39.680 --> 00:40:49.810

And some decisions did specifically cite an appellant's efforts to maintain a relationship between her child and her violent ex-partner as a reason for her remaining in New Zealand.

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00:40:50.150 --> 00:41:00.950

So, on the slide, some examples were, "despite the difficulties which ongoing contact presents to her, the appellant maintains and encourages her child's ongoing contact with her father.

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00:41:01.010 --> 00:41:19.560

The ongoing relationship that the child has with her father should not be undermined by her removal." Second, "the appellant's presence is required in New Zealand, so that she can continue to provide this care and to support her daughter in maintaining a relationship with the father."

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00:41:20.970 --> 00:41:37.310

So, I argue that this could create a degree of tension with the family violence visa objectives of protecting women and children from violence. Because, on the one hand, the family violence visa policy is intended to facilitate their separation from the perpetrator,

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00:41:37.560 --> 00:41:51.270

whilst on the other, assessments of children's best interests are prioritizing ongoing contact with the perpetrator. So instead, I suggested that children's best interests should be understood as closely entwined

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00:41:51.310 --> 00:42:09.830

with their victim-survivor mothers, and they shouldn't be framed in opposition to each other. It's in a child's best interests for their bond with their primary carer to be protected and strengthened, and for their carer to be protected from violence, and given the resources to parent the best of her abilities.

169

00:42:10.220 --> 00:42:22.630

Children exposed to violence often are also going to have their own additional support needs, and these were seldom recognised. So, while there's definitely been some improved outcomes in cases involving children,

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00:42:22.740 --> 00:42:37.350

I would argue that the upcoming policy review really needs to address the situation of all victim-survivors who need to remain in New Zealand to be with their children. Special circumstances decisions are not responding to these situations in a consistent way,

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00:42:37.480 --> 00:42:48.490

and without certainty of a pathway to residence, the risk of separation from their child will continue to be a huge barrier to migrant victims being able to leave a situation of violence.

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00:42:50.600 --> 00:43:03.990

There were also a number of other broad areas across both the application of the policy and the special circumstances assessments where I identified that the tribunal's understanding of and responsiveness to family violence could be improved.

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00:43:04.360 --> 00:43:16.490

For example, the use of minimizing or euphemistic language to describe violence was common, such as "domestic incidents", "poor treatment", "so-called abuse" or "troubles."

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00:43:16.870 --> 00:43:30.380

The language used also sometimes failed to identify the perpetrator, or made it sound mutual by calling the relationship violent, rather than the perpetrator. So, it's seen here in the quote on the slide where

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00:43:30.730 --> 00:43:46.660

the tribunal is apparently describing an incident where the appellant was assaulted to the point that her unborn child was killed. And the tribunal describes this as “the relationship was unstable and abusive. This culminated in the appellant suffering a miscarriage.”

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00:43:49.010 --> 00:43:59.990

Some decisions also seem to show a lack of understanding of violence that specifically affects migrant women, such as in the minimization of dowry abuse.

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00:44:00.020 --> 00:44:10.880

In one case it's not identified as abuse, but the tribunal says, “the appellant became disillusioned with her fiancé’s expectation of money and gifts from her.” In another case,

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00:44:10.900 --> 00:44:17.440

it's referred to as “what the appellant describes as her case against her ex-husband and in-laws “dowry abuse.””

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00:44:18.980 --> 00:44:31.220

In another case the appellant had actually been the victim of a sham marriage. So, she had taken part in an Islamic marriage ceremony, but her husband was later found to already be married—something she was unaware of.

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00:44:31.330 --> 00:44:43.630

But his lack of genuine intention in entering into the marriage was used as a reason that she didn't meet the visa criteria, rather than being identified as a form of abuse perpetrated against her.

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00:44:44.790 --> 00:45:05.800

Last, it was very common for... the majority of decisions actually, noted behaviour that I think constituted immigration systems abuse— the misuse of a victim's immigration status as a tool of control. But this was very rarely identified as a form of abuse, it was just mentioned in passing and not identified as abuse.

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00:45:08.080 --> 00:45:18.190

So, another concerning trend was the use of safety risks in New Zealand as a reason that a victim-survivor shouldn't remain here, against her own wishes to the contrary.

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00:45:18.450 --> 00:45:33.030

I thought it seemed inappropriate and quite paternalistic for the tribunal or Immigration New Zealand to be deciding against a victim-survivor's own assertions and wishes, that her safety or well-being would be served by leaving New Zealand.

184

00:45:33.570 --> 00:45:52.540

Any safety risks to a victim-survivor in New Zealand are not actually relevant to the policy criteria. The policy is solely focused on conditions in her country of origin, and also, if she's already facing safety risks in New Zealand, there's often a high likelihood that she would be in a far more unsafe position in her country of origin.

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00:45:52.540 --> 00:46:02.870

If her violent ex-partner follows her there, she might not have meaningful police protection, or social support, or the benefit of her New Zealand Protection Order, if she has one.

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00:46:05.000 --> 00:46:29.400

Another trend was the quite frequent use of victim-survivor's strengths and resilience against them. So, it was very common for decisions to cite appellant's strengths like, here on the slide, her resilience, independence, resourcefulness, determination, or 'capacity for assertive action', as reasons they could be expected to withstand being returned to a hostile environment.

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00:46:29.620 --> 00:46:41.250

And I argue that this is problematic, because women often seek to emphasise the positive attributes that will make them an asset to New Zealand in their dealings with Immigration and their submissions to the tribunal.

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00:46:41.550 --> 00:46:54.560

They might provide well-meaning support letters from professionals or social services who, usually in the family violence sector, adopt strengths-based practices, and will applaud the resilience that a survivor has shown.

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00:46:54.770 --> 00:47:12.750

And those positive personal attributes don't negate the very real hardships that appellants might face in their home countries. And I think treating their resilience as a factor in favour of returning them to a hostile environment arguably penalizes victim-survivors for having withstood adversity.

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00:47:14.990 --> 00:47:26.700

So, this has only been a really brief snapshot of a few of my key findings, and my report provides much more comprehensive recommendations. But just from what we've covered today, I think there's a couple of clear takeaways.

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00:47:26.970 --> 00:47:48.310

First, review of the family violence visa eligibility criteria is urgently needed. The recent Clearinghouse panel discussion covered many of the problematic exclusions, such as partners of temporary visa-holders, victims of transnational abandonment, and victims who don't have access to the prescribed types of evidence of violence.

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00:47:48.630 --> 00:48:00.020

And my report touches on all of those too. I think what the analysis of tribunal decisions adds is, it really shows the extent of the issues being caused by the 'unable to return' requirement,

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00:48:00.140 --> 00:48:29.280

and it also shows the real need for a pathway to residence for all victim-survivors who need to remain in New Zealand with their children. Most importantly, I think the organizations that work with migrant women experiencing violence need to have input into the redesign of the family violence visa scheme, because they hold the knowledge about who is currently being excluded, and what kinds of evidence it's feasible to expect migrant victim-survivors to provide.

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00:48:30.830 --> 00:48:43.180

Secondly, policy reform is not going to be enough on its own. I think comprehensive and ongoing education on family violence and on forms of violence that are specific to migrant communities is needed.

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00:48:43.470 --> 00:48:54.110

I think we need to recognize that the immigration system plays a central role in responding to family violence and to train the workforce accordingly, so that appropriate decisions can be made.

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00:48:54.800 --> 00:49:22.480

And I think that training isn't only needed for tribunal members and immigration officers who handle these family violence applications. It's also needed for people throughout the immigration system—they have to be equipped to respond well too, such as immigration call centre operators who might receive disclosures of violence or immigration compliance officers who may receive reports that a visa-holder has separated from their supporting partner.

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00:49:23.500 --> 00:49:28.590

So, I hope that has been useful, and I look forward to taking some questions next.

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00:49:33.190 --> 00:49:40.130

Charlotte Moore: Kia ora, Sarah. Ngā mihi nui ki a koe for such important research and

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00:49:40.340 --> 00:49:53.520

Charlotte Moore: quite disheartening on so many fronts, if I'm honest. I'm going to head straight into questions because there's quite a few. So, thank you everyone for your questions, and we won't be able to cover all of them today, but we'll do our best to cover

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00:49:53.520 --> 00:50:07.260

Charlotte Moore: as many as we can. I think maybe you could potentially weave a couple of these questions in together. One of the early ones was asking, "who is considered a professional and able to supply a statutory declaration?"

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00:50:07.260 --> 00:50:21.410

Charlotte Moore: And another question around, "does the person applying for the 6-months VFV work visa need to have had a police call out, or is ongoing emotional abuse or verbal harm and control accepted?"

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00:50:22.580 --> 00:50:40.130

Sarah Croskery-Hewitt: So, the professionals, to start with that, they need to be independent of one another, so from different organizations, and they have to either be registered as social workers, doctors, nurses, psychologists, counsellors, or some designated women's refuge or Shakti staff.

203

00:50:40.130 --> 00:50:52.190

Sarah Croskery-Hewitt: And in the Clearinghouse's last panel discussion we covered some of the big problems this can cause because there's a lot of you know, financial, geographic, language, other reasons why

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00:50:52.240 --> 00:51:12.070

Sarah Croskery-Hewitt: those kind of professionals might not have been accessible. The other problem is, it doesn't include a lot of the professionals that work with migrant victim-survivors. So, for example, we've had problems with psychotherapists who work in family violence, who have worked in that area for years, not being recognized because they're not a counsellor.

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00:51:13.800 --> 00:51:30.240

Sarah Croskery-Hewitt: The second part of that question was about the broader evidence requirements, I think? So, whether there needs to be police evidence? So, the evidence requirements of family violence are exactly the same for the 6-month visa and the residence visa. So in both cases,

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00:51:30.240 --> 00:51:45.510

Sarah Croskery-Hewitt: there needs to either be a police letter, a conviction, a final protection order, or the 2 statutory decorations from professionals. And yeah, as I said it, that is really restrictive and I think, like we talked about in the first webinar,

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00:51:45.510 --> 00:51:51.940

Sarah Croskery-Hewitt: really requires review because it excludes a lot of women, and it's a lot narrower than other country's evidence requirements.

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00:51:52.910 --> 00:52:12.050

Charlotte Moore: Kia ora, thanks Sarah. There's been a few people asking both in the chat and in the Q&A about whether an alternative pathway for some victims is to go down the refugee pathway. And, I wonder if you could speak to what some of the barriers and challenges of that are.

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00:52:12.390 --> 00:52:20.120

Sarah Croskery-Hewitt: Yeah, that can be an option. But it's only suitable, in a narrow range of circumstances, I guess. So there has to be

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00:52:20.120 --> 00:52:32.780

Sarah Croskery-Hewitt: a threat of violence to her in her home country. If it's a risk of being separated from children or a risk of financial hardship that she's worried about, that's not going to be enough for refugee status.

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00:52:33.230 --> 00:52:45.480

Sarah Croskery-Hewitt: Gender-based refugee status claims can also be quite fraught. So, in my report I didn't do a comprehensive review or anything of domestic violence related refugee claims, but

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00:52:45.600 --> 00:53:01.200

Sarah Croskery-Hewitt: some of them that I did look at set a really high bar for what will be sufficient. And I think one example talked about the fact that the violence that the appellant and her son would be sent back to in India, was not

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00:53:01.200 --> 00:53:07.220

Sarah Croskery-Hewitt: severe enough to cause lasting issues other than some pain, and the claim was declined.

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00:53:07.230 --> 00:53:17.750

Sarah Croskery-Hewitt: So, a really high threshold can be set in some of those cases, and it's not something that we would generally recommend as a first option for that reason. I think it also

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00:53:17.820 --> 00:53:30.900

Sarah Croskery-Hewitt: highlights the need for education for decision-makers— both the immigration officers and the tribunal members that are hearing these cases, because it's not just family violence visa applications that they're being called on to decide.

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00:53:30.940 --> 00:53:44.390

Sarah Croskery-Hewitt: Even if the family violence visa criteria improved, they're still going to be seeing, you know, refugee status cases and other cases involving family violence, and they need the training on violence to be able to decide those well.

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00:53:45.610 --> 00:54:03.020

Charlotte Moore: Kia ora. That actually brings me to my next question, which I know that other people have kind of asked around as well, and it relates to that misunderstanding of cultural norms, because there is obviously a need for tribunal members and people working within Immigration New Zealand to have an analysis of violence.

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00:54:03.020 --> 00:54:17.930

Charlotte Moore: But in relation to that misunderstanding of cultural norms, what expertise is actually a requirement to serve on the tribunal? And how, or is there kind of an expectation of expertise and understanding, and what does that look like?

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00:54:18.380 --> 00:54:35.380

Sarah Croskery-Hewitt: I'm not aware of any expectations in relation to family violence. Essentially the tribunal is made up of members who are people that normally have a legal background— normally lawyers. I think at the moment there's 16, and then they're headed by a Chair, who is a District Court judge.

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00:54:35.380 --> 00:54:46.360

And I think it's the Chair's responsibility to set their education and development expectations. So, it would be for them to organize, I suppose, their own training on violence.

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00:54:46.930 --> 00:54:58.500

Charlotte Moore: So, there's no expectation, for example, that tribunal members might include members of ethnic communities or people that actually bring cultural understanding and awareness of some of the issues faced by people coming before them?

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00:54:58.840 --> 00:55:00.520

Sarah Croskery-Hewitt: Not that I am aware of.

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00:55:02.220 --> 00:55:17.590

Charlotte Moore: Thank you, Sarah. There's a question here around eligibility criteria for the VFV visa and is there a minimum number of years that victims must be in a relationship with a partner or New Zealand citizen/resident before they can be considered for the visa?

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00:55:17.840 --> 00:55:37.470

Sarah Croskery-Hewitt: So generally, they need to have been living together for 12 months, and that's because the same test for partnership is applied to the 'Victims of Family Violence' category as to a regular partnership visa. And that can cause real problems, for obvious reasons— if someone feels they need to stay for 12 months to be able to be eligible.

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00:55:37.470 --> 00:55:56.340

Sarah Croskery-Hewitt: But also, like we touched on in the last webinar, providing evidence of the partnership once you've left the relationship, and you can no longer rely on your partner's cooperation can be really hard, and if there's been financial abuse, there might not be things like a tenancy in both your names, or joint bank accounts, or—

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00:55:56.340 --> 00:56:11.580

Sarah Croskery-Hewitt: you know, that kind of evidence might not exist. And if you've had to cut ties with your community because of the separation, there might not be friends who can write support letters as evidence of the relationship. So those evidential requirements around proving the partnership can be a real issue.

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00:56:12.860 --> 00:56:27.760

Charlotte Moore: There is a somewhat leading question in our Q&A asking, "are you aware of a members bill that the Government could pick up to address many of these concerns?"

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00:56:27.760 --> 00:56:31.760

Sarah Croskery-Hewitt: I am, yes. So, Jan Logie put forward the 'Protecting Migrant Victims of Family Violence' member's bill recently

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00:56:31.760 --> 00:56:46.530

Sarah Croskery-Hewitt: as a way, I think, to hasten reform. So, it's really important to know that these criteria that are causing these problems, they're not actually in legislation. They're in immigration policy, so it only requires the Minister of Immigration's approval to change them.

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00:56:46.530 --> 00:56:59.620

Sarah Croskery-Hewitt: So, reform shouldn't actually be that difficult or require legislation. But to try and push the issue on, because review has been deferred for year after year, Jan has put forward a bill that addresses

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00:56:59.750 --> 00:57:02.730

Sarah Croskery-Hewitt: many of the issues that we've discussed with the visa scheme.

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00:57:03.240 --> 00:57:04.840

Charlotte Moore: Kia ora, thanks Sarah.

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00:57:04.990 --> 00:57:13.470

Charlotte Moore: Final question before we move on. Is there a gap for migrants accessing police or New Zealand organizations—

234

00:57:13.680 --> 00:57:15.640

Charlotte Moore: Oh, sorry.

235

00:57:15.750 --> 00:57:19.820

Charlotte Moore: Aroha mai. I think that question might have cut off halfway through.

236

00:57:19.950 --> 00:57:28.400

Charlotte Moore: There was some questions around legal aid to support people going through the tribunal process. Can you speak to that a little bit?

237

00:57:28.470 --> 00:57:48.110

Sarah Croskery-Hewitt: So, unfortunately, it's only available for refugee status appeals— it's not available for 'Victims of Family Violence' category appeals. That's in legislation, so it's quite hard to change— the things that you can get legal aid for in an immigration context are really really narrow and essentially just refugee status.

238

00:57:48.640 --> 00:57:58.850

Charlotte Moore: Kia ora, thanks for clarifying that, Sarah. Just one last question about the funding for your research. Can you tell us a little bit about the Borrin Foundation Fellowship?

239

00:57:59.170 --> 00:58:12.450

Sarah Croskery-Hewitt: Yeah. So, I was very lucky to get a Borrin Foundation Community Law Fellowship that allowed me to do this research, and essentially having that fellowship was the only way that this research could have happened.

240

00:58:12.450 --> 00:58:29.970

Sarah Croskery-Hewitt: We've known for quite a lot of years at Community Law that this was an issue that we really wanted to do research into and that needed attention, but we're just not resourced to undertake this kind of work. So yeah, the fellowships are a really good opportunity, because often, I think, as community lawyers, we've got insight into areas of law that

241

00:58:29.970 --> 00:58:41.500

Sarah Croskery-Hewitt: a lot of lawyers in private practice might not see much of. And so, the Fellowship gives us an opportunity to address those access to justice issues at a more systemic level.

242

00:58:42.080 --> 00:58:43.490

Charlotte Moore: Kia ora, Sarah.

243

00:58:43.520 --> 00:58:56.910

Charlotte Moore: Unfortunately, that is all the time we have for Q&A today, and I'm sorry that we weren't able to get to everybody's questions. There's a lot to discuss, and we really hope that people will become engaged in those opportunities

244

00:58:56.910 --> 00:59:20.760

Charlotte Moore: for consultation that are hopefully coming up this year. There are actions that we would like to highlight that people can take on some of these issues. First and foremost, obviously get informed and ready to participate in the expected Immigration New Zealand review due this year, and we'll send a link, obviously to Sarah's report, and our previous webinar if you have not already received it.

245

00:59:21.200 --> 00:59:42.480

Charlotte Moore: We would love, obviously, for government agencies to continue to look at opportunities for policy change and just for everyone to, I guess have this on their radar as an issue that we all need to be aware of, and really motivated to seek some significant change within our policy spaces.

246

00:59:42.640 --> 00:59:54.970

Charlotte Moore: Particularly for obviously that diversity within ethnic communities that we can sometimes miss in terms of rainbow communities and people with disabilities and older people as well.

247

00:59:55.770 --> 01:00:06.610

Charlotte Moore: The session today has been recorded. We'll send an email in a few weeks with a link to the video transcript and links to some of the reports and information that we've referenced today.

248

01:00:06.620 --> 01:00:30.870

Charlotte Moore: All of this information can be found on our website, and I encourage everyone to sign up for our mailing lists to learn about other upcoming events. If you, or a client you work with needs assistance, you should see a slide on your screen shortly with options of who to contact for help. As many of you know, there are limited options on where to refer migrants experiencing family violence who might need assistance with the visa process.

249

01:00:31.040 --> 01:00:43.120

Charlotte Moore: If you have specific questions, you can email them to us, and we will forward them onto Sarah and some of our previous panellists as well who may be able to offer and provide some advice.

250

01:00:43.270 --> 01:00:49.650

Charlotte Moore: Just want to thank Sarah again for taking the time to share her research with us.

251

01:00:49.700 --> 01:01:08.180

Charlotte Moore: It's been a really important opportunity for us all to learn more. So, kia ora, Sarah. And finally, please do fill out our short feedback survey. You'll see the link in the chat box, and we

will also email that to you afterwards. That really does make a big, significant difference for us as well. So,

252

01:01:08.180 --> 01:01:15.000

Charlotte Moore: wishing you all well for the rest of your week wherever you are, and we look forward to seeing you again.

253

01:01:15.110 --> 01:01:16.130

Charlotte Moore: Ka kite.