



Victorian
Law Reform
Commission

Protection Applications in the Children's Court

Report of Consultations with New and Emerging Communities

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1. Introduction

1.1 Background to Review

The Attorney-General has asked the Victorian Law Reform Commission (VLRC) to review child protection applications in the Family Division of the Children's Court.

The terms of reference are:

To review Victoria's child protection legislative and administrative arrangements in relation to Children's Court processes, and to recommend any procedural, administrative and legislative changes that may minimise disputation and maintain a focus on the best interests of children.

In reviewing the current Victorian arrangements, the Victorian Law Reform Commission should consider models that take a more administrative case management approach to child protection issues. In particular, the Commission should include consideration of the arrangements currently in place in other relevant Australian jurisdictions (including the Family Court) and overseas, including England and Scotland.

In addition to consulting with Victoria's Children's Court and the Victorian Departments of Human Services and Justice, the Victorian Law Reform Commission should consult with Victoria Legal Aid and other relevant stakeholders.

The VLRC have a commitment to ensuring consultations are undertaken with people from traditionally marginalised groups, including regional and remote communities, Indigenous peoples, people from non-English speaking backgrounds and people with disabilities.

1.2 Consultations with New and Emerging Communities

Anecdotal evidence suggests that some members of various new and emerging communities are increasingly interfacing with the Victorian child protection system, including the Children's Court.

As such, Maria Dimopoulos from MyriaD Consultants was contracted to assist the Commission to undertake a series of consultations with client groups of between 6-8 people from the following communities:

- South Sudanese
- Somali
- Afghani

The following questions informed the focus group discussions and interviews that were conducted.

1. *What have your experiences of the Children's Court been?*
2. *What did you know about the case before going to court?*
3. *Did the outcome reached differ from what you expected?*
4. *How did the lawyers conduct themselves?*
5. *Did you understand all that was going on?*
6. *How were the facilities at court?*
7. *Have you attended Children's Court in another location apart from Little Lonsdale Street (for example Moorabbin)? Did this experience differ?*
8. *What could be done better?*
9. *Anything else you would like to tell us about your experience with the Children's Court or Child Protection services?*

1.3 Details of the Consultations

Consultations were conducted with the assistance of the Multilingual Community Educators at the Justice for Refugees Program within the Department of Justice. The Educators identified participants to be interviewed. They utilised their existing and extensive networks to identify people within the communities who had had previous involvement with the child protection system and the Children's Court.

Samia Baho, the Manager for Justice for Refugees provided additional insight into the range of issues experienced by new and emerging communities more generally.

Specific efforts were made to engage the support of community and faith leaders to ensure that proper protocol had been observed. In many new and emerging communities, it is important to obtain community support for research, as well as individual consent. Therefore a number of preliminary meetings were held with a select number of community leaders from the three identified communities, where the overall objectives of the consultations were explained.

Details of the approach and consultation outcomes are provided in the last section of this report.

1.5 Limitations of the Study

It is important to note that whilst every effort was made to emphasise that the criteria for participation was involvement with the Children's Court in relation to child protection matters, it appeared on occasion that some participants were confused about various Child Protection procedures and the extent to which they were in fact involved in Children's Court Matters. For example, several of the Somali and Sudanese respondents referred to intervention orders obtained in the Magistrates Court and occasionally made reference to this court as if it was synonymous with the Children's Court.

This nevertheless raises the overall issue of lack of understanding of various legal process and procedures relating to child protection matters.

Additional issues impacting on the research relate to the overall inadequacy of existing data in relation to matters involving members from diverse ethnic and religious communities, including new and emerging communities.

Informal discussions with a number of practitioners and government officers have indicated that data is not available in relation to CALD clients in child protection in many agencies. Thus it can be concluded there is no research or data to indicate the prevalence of child abuse in culturally diverse communities.

1.5 *Structure of the Report*

This report is divided into the following sections

- Brief Literature Review
- Overview of Communities
- Consultation Findings – including consultation approaches and key outcomes

2. Brief Literature Review

2.1 Summary

- There is very little literature related to CALD experiences of Child Protection matters in the Children's Court. There is however an increasing focus on CALD communities and their experiences with Child Protection Systems. Most of the research however tends to focus on the following key themes:
- Lack of data kept by agencies
- Inadequate use and availability of interpreters
- Importance of cultural competencies on the part of Child Protection Workers
- Impact of pre arrival experiences for refugee and humanitarian families
- Need for community education and other culturally responsive models

2.2 *Paucity of Research*

It is only recently that research into the needs of culturally and linguistically diverse (CALD) groups in Australian child protection systems are receiving attention. There is however even less specifically related to the experiences of CALD clients within Children's Court jurisdictions in relation to child protection matters.

The research in relation to CALD communities tends to focus on the fact that there is limited data available. For example, determining actual levels of children at risk in culturally diverse communities is difficult due to a lack of available research or data; and low levels of reporting leading to the assumption that the problem deserves little attention. Welbourne (2002) has argued for a more sustained and accurate statistical data collection to effectively address future needs.

A recent report detailing research conducted by the Australian Centre for Child Protection at the University of South Australia outlines the findings of a three stage research project designed to examine why recently arrived families from refugee backgrounds are presenting to the child protection system and to identify culturally appropriate strategies and models for intervention. This is the first study of its kind in Australia.

Specifically, the study addressed the following research questions:

- To what extent are newly arrived refugee groups coming into contact with the child protection system? What are the issues that bring these families into contact with the system?

- What are the ‘drivers’ or influences on these incidents (this may include beliefs, parenting practices, family trauma and breakdown, mental health, adjustment, cultural practices, etc.)?
- What does current literature and learnings from previous waves of immigrants/refugees tell us about good practice/models here and interstate/overseas?
- What child protection, family intervention and community development strategies are required?
- In particular, what is culturally competent child protection practice for these arrivals?

The first stage of the project involved the analysis of data extracted from Families SA’s, the statutory child protection agency in South Australia, ‘Client Information System’ (administrative data system) for the period 17th October 2005 – 17th October 2006. The aim of this stage of the project was to provide a snap shot of refugee families’ involvement with the child protection system and to use this snapshot to inform the second and third stages of the research project.

Stage Two of the project involved 55 practitioners employed within Families SA and used a paper based survey, telephone interviews and a focus group. The key objective of this stage of the project was to explore the facilitators and barriers to child protection work with refugee families and communities.

Stage Three, the final stage of the project, involved community focus groups with seven refugee communities across Adelaide, South Australia. The aims of the community focus groups were to explore parent and community member perspectives on raising children in Australia and to identify strategies and resources which have supported them, or might support them, in their parenting role.

The report showed that neglect was the most common form of abuse notified, followed by physical abuse and emotional abuse. There were five notifications of sexual abuse, three of which involved abuse carried out by someone other than a parent, family member or adult living in the immediate family. There was one high risk infant notification. Twenty-nine notifications were investigated and twelve of these were substantiated. Substantiated cases of abuse included physical abuse, emotional abuse and neglect. There were no substantiated cases of sexual abuse.

2.3 Cultural Competence

This research identified some common issues for CALD children and families in relation to child protection issues and the system:

- Lack of awareness about DoCS and their statutory power;
- Fear of authority because of past experiences with DoCS or authority bodies in their country of origin;
- Fear of authority because of shame on family; and

- Lack of awareness of local community services.
- There is an emerging literature on issues facing some migrant communities re-settling in Australia. This literature highlights social alienation, family breakdown, changing family relationships and parenting issues among others.

In 2004 the Victorian Government Department of Human Services published a report titled 'The Report of the Panel to Oversee the *Consultation on Protecting Children: The Child Protection Outcomes Project*'. This paper records the outcomes of the consultation process and describes the range of views presented through that process and the panel's reflections. This report notes the failure to consider issues of diversity and in particular the needs of culturally and linguistically diverse children. This report highlighted the importance of considering the needs of CALD communities in child protection.

The search of the Department of Human Services website did not reveal any specific initiatives for CALD communities.

A major workshop of African communities held in Victoria in 2006, identified that:

Many families experience "culture shock" on their arrival in Australia and, without appropriate support, find it difficult to understand and adapt to mainstream Australian values and norms. Cultural differences increase pressures on families and communities, and have serious implications for refugees' on-going physical and psychological wellbeing and for their engagement with other Australians and mainstream institutions. (African Think Tank, 2006, p. 3)

The Victorian experience echoed that of earlier research conducted about African communities in Tasmania (Juma, 2005). Similarly, a community forum of African communities in WA in 2005 identified the same range of issues as both the Victorian and Tasmanian experiences discussed above. As with the Victorian documentation, the WA forum report (Department of Community Development WA, 2005) identified strategies focusing on cultural education for mainstream services, involvement of African community leaders in service provision, and culturally appropriate information about available services to overcome the significant ignorance about these services among African communities.

All reports commented throughout on social isolation, the need for social relationship building, and the role of migrant community members as facilitators and leaders in community service strategies targeting their own communities.

Likewise, a report by the University of Western Sydney and the New South Wales Department of Community Services, *Enhancing Partnerships and Networks with Culturally and Linguistically Diverse Families in Early Childhood Settings* (Hayden et al., 2003) identified a critical need to enhance social connections and community cohesion as well as a need to rebuild community structures to support family wellbeing. In particular, the report identified CALD families as at risk of isolation and other forms of social alienation, and that:

The development of positive relationships with institutional staff such as those in early childhood settings and the facilitation of networks for CALD families can have long term positive outcomes for children, families and communities. (Hayden et al., 2003, p. 6)

It is important that practitioners and professionals are well informed about how best to address such barriers and support these families using culturally competent child protection, family intervention and community development practices.

There are a number of often complex factors that need to, additionally, be taken into account when assessing reports of neglect involving children and families from culturally, religious and linguistically diverse backgrounds. Existing research shows that these factors may be related, but not limited to:

- the impact of migration and settlement in a new cultural environment including isolation (cultural and physical) and inaccessibility of support services for humanitarian entrants, the families' lengthy periods in refugee camps (often for many years) due to natural disasters, famine or civil war
- the impact of torture and trauma or chronic loss and grief issues on parenting skills and family relationships
- poverty caused by difficulties obtaining employment as a result of language barriers
- the use of child rearing practices specific to a particular ethnic, cultural or religious group that may be inadequate in the present setting.

2.4 Impact of Pre Migration Experiences for Refugees

Increasing numbers of families arriving in Australia through humanitarian settlement schemes are coming into contact with the child protection system. Many of these families come from African and Middle Eastern countries and have common experiences of trauma, dislocation and loss, and many are victims of genocide, war and torture.

Pre-migration experiences together with the considerable challenges of settling into a vastly different new country can significantly affect family well-being and parenting practices. For many of these families, parenting styles that were normative in their countries of origin are not endorsed in Australia

2.5 Developing Culturally Responsive Models

Departments, agencies and services need to recognise the amount of cultural change that is required of new arrivals from CALD and refugee communities, and acknowledge that this takes time and is not always possible in a short period of time.

Community education and information is required to ensure that CALD communities, particularly new arrivals from refugee communities understand how child protection works

in Australia, and what their rights and responsibilities are. A community education program should include a focus on positive parenting skills and family strengths rather than negatives

In relation to child protection issues, NSW DoCs has undertaken a range of different initiatives and commissioned various research projects.

DoCS has a Multicultural Strategic Commitment 2008-2013 which aims to improve DoCS capacity to provide culturally and linguistically appropriate services.

NSW DoCS has recently produced and made readily available to its caseworkers, through its internal intranet, a number of documents to help address the gap in good practice and policy guidelines. These include:

(a) Good practice guide for working with Culturally and Linguistically Diverse people and communities in Out of Home Care

(b) Practice resource for secondary risk of harm with migrant and refugee families,

(c) Assessing needs and supports for migrant and refugee children, young people and families in Out of Home Care,

(d) CALD assessment checklist, and

(e) Interpreters and other language services – caseworker practice topic.

In 2007, DoCS Multicultural Services began implementing a pilot African Sessional Workers project, in response to the expressed need of DoCS Caseworkers and Managers for assistance and support with their work with African clients. These clients were/are from new refugee communities and appropriate infrastructural supports and interpreter services to meet their needs were not yet developed and are still only in the early stages of development.

This meant that DoCS Caseworkers found it difficult to understand, work and communicate with this very new client group because of the lack of interpreters and DoCS caseworkers from these communities. As well, a combination of traumatic refugee experiences, very different cultural backgrounds; different experiences in relation to parenting and child protection and the lack of interpreters/language and cultural support made casework with clients from these communities particularly difficult.

This project was undertaken as a twelve month pilot in Metro-West to support DoCS caseworkers and African families within the child protection system. African Sessional Workers were engaged by an NGO with funding from DoCS, to use their cultural and language skills to assist DoCS CSC's and Caseworkers, working with African families and to deliver community education information sessions.

The pilot is focused in the DoCS Met West Region of Sydney in the service areas of St Mary's, Blacktown, Mt Druitt, Auburn and Parramatta CSCs of DOCS and targets African backgrounds especially those from Southern Sudan, Somalia, Ethiopia, Liberia and Sierra Leone. A total of fourteen different African languages are covered by the Project's staff.

These African workers have markedly assisted caseworkers improve communication with African clients, resulting in improved service delivery including better assessments and investigations and more constructive/appropriate interventions and case plans with African families.

The project has now been in operation for more than 12 months and continues to successfully promote culturally competent family intervention and better equip DoCS caseworkers with cultural information, language and communication, to assist in case planning and referral support systems, and to build positive relations between DoCS and African families. They also provide community education programs to inform African families about the role of DoCS and rights and obligations under the child protections system and laws. A major resource for these community education sessions is the Community Information facilitators Guide developed by the Multicultural Services Unit for work with migrant and refugee communities.

Training for the Sessional Workers was supported by Multicultural Services, Partnerships and Planning and Learning and Development.

The Parenting and Research Centre is currently conducting an evaluation of the project assisted by Multicultural Services. Findings so far have indicated that caseworkers have found the project very helpful to their casework with African families. The evaluation is due to be completed by the end of November.

They also have the Muslim Foster Carers program and Youth Partnerships with Pacific Islanders communities (YPPIC)

The Metro Muslim Foster Care Team implements all stages of the especially designed foster care recruitment strategy targeting the Muslim community. These stages include promotion, recruitment, training and assessing of Muslim foster carers. In addition, the Team manages Muslim child placement referrals and provides support to the newly recruited carers.

DoCS continues to explore the potential for increasing the numbers of carers from migrant and refugee communities as this is a vast and largely untapped resource. As well, migrant and refugee agencies have developed successful models of service delivery over many years and, in the longer term, with appropriate capacity building support, they could provide an additional resource base to assist DoCS deliver its services. Few models of culturally appropriate service delivery have been developed for CALD children and families.

In February 2008, the Department of Child Safety and the Department of Communities in Queensland invited Toowoomba's community agencies to take part in facilitating the Strengthening Families Toowoomba Multicultural Child Protection Project.

It was believed by agencies that the reluctance among Sudanese and other African families to engage with child protection agencies could amplify any risks posed to children within these communities. African families generally perceived domestic and family violence issues as a private matter that should be settled within the family, and were unaware of how laws operated in Australian life and how these affected all families in the community.

The Strengthening Families Project set up four Working Groups made up of representatives from relevant local organisations, including labour market agencies, school-based youth health services, child, youth and family health, hospital services, child protection, the Department of Communities and Education, domestic violence services, neighbourhood centres, Legal Aid, settlement services, the Police and the Sudanese community.

During 2008, the Working Groups developed three training modules on parenting issues for newly-arrived African refugee families, to be delivered in a workshop format. The modules covered bringing up children in Australia, bringing up teenagers and family and work.

The three modules were piloted with clients from Toowoomba's Sudanese community, using accredited interpreters in Sudanese Arabic and Dinka.

3. Brief Background Information on Participating Communities

3.1 Somali Communities

Somalis are among the largest African communities in Victoria. From 1990 onwards, large numbers of Somali refugees began migrating to Australia under the Refugee and Special Humanitarian Program as well as the Family Reunion Program. Most of them live in Melbourne's northern suburbs. The number of Somali migrants increased from 3,000 in 1996 to 11,000 in 2006. 62.2 % of them live in Victoria (ABS, 2006).

Many Somalis were accepted as refugees in New Zealand, and have since come to Australia on New Zealand passports. Many younger Somali refugees are likely to have been born in refugee settlements in Kenya and Ethiopia and will therefore not be evident as Somali in the settlement data.

Somalis have settled mostly in the LGAs of Banyule, Melbourne, Moonee Valley, Darebin and Hume.

The clan structure is central to Somali society and although Somali refugees are on the whole ethnically and linguistically homogenous, the Somali community in Australia is fragmented along clan lines. Because the different factions do not tend to mix, communication can be difficult, as information will not generally be passed between different groups. Clan groups are likely to have their own community organisations and welfare associations (Jupp, 2001).

The vast majority of Somalis are practicing Sunni Muslims who observe religious festivals and teachings regarding women's dress. Because of clan factionalism, they do not attend common mosques. Although Somali society is patriarchal, it is also generally egalitarian in that decisions are made through discussion and consensus. Elders are given respect but do not usually have outright decision making powers (Kemp and Rasbridge, 2004).

War, displacement and a largely pastoralist society in Somalia mean that many refugees have low levels of education prior to arrival. Few speak English, although some will speak Arabic as a second language. Consequently, unemployment following arrival has been a major problem for the Somali community in Australia. Those who have found employment have mostly worked in manual or low skilled jobs.

Within the clan structure, the family is the principal social unit and identity is largely based on genealogy (Putnam and Noor, 1993). Families are traditionally large, but fragmentation

during migration has split many families up and made it difficult for some to cope without these extended social support networks.

There are also many separated or unaccompanied children in the diaspora who were smuggled out of Somalia by their parents hoping they would have a better life and prospects elsewhere. They tend to be adopted by relatives, although older children may live alone in social welfare housing.

Many single mothers have also come from Somalia. Community workers report that these women are often struggling to cope with caring for their children and have little understanding or knowledge of the welfare system. The middle-aged population, who have often brought their elderly relatives to live with them through the family reunification scheme, are also reported to struggle with the pressures of caring for and supporting their children and their parents.

Female circumcision is a common practice in Somalia and women may suffer ongoing medical problems from operations performed in their youth or from complications during childbirth.

The principle barrier to accessing services for the Somali community is a lack of knowledge of the welfare system and a shortage of information in appropriate languages and formats.

Somalis in Victoria share many of the same problems as other immigrants, such as learning new language, finding work, adjusting to new environment and culture, and adapting to the Australian system. But they have also had to face many other cultural barriers and have not been confronted by other refugees, particularly non-Muslims.

3.2 South Sudanese

Australian Bureau of Statistics (ABS) figures show that the Sudanese community is one of the fastest growing communities in Australia. Over 30,000 Southern Sudanese have now chosen Australia as their home.

The overwhelming majority have come to Australia under the refugee and humanitarian program with limited English language skills, large families and the scars of the experiences that have driven them into flight. Many of these families have spent numerous years living under temporary and difficult conditions in neighbouring countries and refugee camps, awaiting acceptance to settle in Australia. Many have witnessed loved ones being killed and experienced the pillaging and complete destruction of their homes and neighbourhoods, arriving in Australia with very few personal belongings and a fractured sense of self, family and community

The main groupings are as follows:

- Dinka community
- Nuer community
- Equatoria community
- Chollo community
- Nuba community
- Darfur community
- Luo community
- Anyuak community
- Murlie community

Many of the Sudanese family groups arriving in Australia are large by Australian standards, which present particular problems related to housing and income support on arrival.

Many South Sudanese Victorians may have been separated from or experienced the death of parents and family members.

3.3 Afghan

The first Afghan immigrants to Australia (1859) worked as camel drivers for the early explorers and numbered about 300. Between 1980 and 1992 was the second wave of migration and the number of Afghan immigrants mostly from Pashtun background, rose from 500, to reach 1000.

During the rule of the Taliban since 1996, several hundred refugees arrived by boat and were sent to immigration detention centres. They were later granted asylum and given Temporary Protection Visas.

The 2006 distribution by state and territory showed New South Wales had the largest number with 7540 followed by Victoria (5250), Western Australia (1460) and South Australia (1390).

Afghanistan-born entrants to Victoria since 1996 have settled mostly in the LGAs of Greater Dandenong, Casey, Greater Shepparton, Mildura & Swan Hill. The majority of the recent immigrants are from Hazara background.

Main languages spoken by Afghanistan-born immigrants across Australia, according to 2006 census are:

- Dari 66.1% ,
- Persian (excluding Dari) 16.2 %,
- Pashto 7.6 % and
- English 3.0 %

Pashtu & Dari (a dialect of Persian) are the two official languages in Afghanistan. Majority of people speak at least one of them, some speak another dialect too. Dari is a dialect of the

Persian/Farsi language. Pashtu & Persian/Dari/Farsi use Arabic script but they are different languages than Arabic

Hazaragi is a dialect of Dari language spoken by Hazara people in Afghanistan. Although there is shortage of interpreters in Australia who can speak the Hazaragi dialect of the Persian/Dari language, it is still preferred by many clients.

It is estimated that there are 14 Afghan associations in Melbourne, five of them for Pashtuns.

There are estimated to be 800 Hazara Afghans living in Victoria, out of a total Afghan population of almost 3500. They live largely around Dandenong and work in factories, and on building sites and farms.

4. Consultation Findings

4.1 *Consultation Approaches*

Specific efforts were made to engage the support of community and faith leaders to ensure that proper protocol had been observed. In many new and emerging communities, it is important to obtain community support for research, as well as individual consent.

Therefore a number of preliminary meetings were held with a select number of community leaders from the three identified communities, where the overall objectives of the consultations were explained.

Consultations were conducted with the assistance of the Multilingual Community Educators at the Justice for Refugees Program within the Department of Justice:

Afghani Community Educators,

- Hodayun Wahidi

Somali Community Educators,

- Malyun Ahmed

Sudanese Community Educator

- Nyanchiew Lul

Each of these educators identified potential participants for consultation. Respondents from each of the ethnic groups had little or no English language ability.

Samia Baho, the Manager for Justice for Refugees provided additional insight into the range of issues experienced by new and emerging communities more generally.

The JRP is a new program aimed at addressing justice access issues for people from refugee backgrounds. The JRP contains three initiatives aimed at reducing negative contact between emerging refugee communities and the justice system by providing refugees with the same access to legal protection and information about rights and responsibilities as other Victorians.

4.1.1 *Community Participants*

Individual interviews and focus groups were conducted. In total:

- 5 people participated in the Somali consultation group
- 6 people participated in the Sudanese consultation group
- 4 people participated in the Afghani consultation group.

4.1.2 Consultation Questions

Each consultation interviews and focus groups were asked to address the following key questions:

1. *What have your experiences of the Children’s Court been?*
2. *What did you know about the case before going to court?*
3. *Did the outcome reached differ from what you expected?*
4. *How did the lawyers conduct themselves?*
5. *Did you understand all that was going on?*
6. *How were the facilities at court?*
7. *Have you attended Children’s Court in another location apart from Little Lonsdale Street (for example Moorabbin)? Did this experience differ?*
8. *What could be done better?*
9. *Anything else you would like to tell us about your experience with the Children’s Court or Child Protection services?*

Findings from each of the three groups are set out below.

Key Findings: Summary

Broadly however, the following key themes emerged across each of the groups:

- Many do not understand the legislation
- Most respondents thought that the Children’s Court was an extension of Child Protection.
- Most respondents did not feel that their experience of either child protection or the Courts was positive, with two exceptions.
- Information about Australia’s child protection laws are not readily available to newly arrived migrants and refugees, and a lack of appropriately translated information exacerbates this problem
- Family relationships between the nuclear and extended family are very important, family being central to life.
- Definition of child protection across cultures
- ‘Best interests of the child’ was not a concept that was well understood.
- Even though the Court makes interpreters available, it would appear that the quality and availability of interpreters in the range of languages spoken by various new and emerging communities are relatively poor. In addition, most respondents said that the

interpreter should also be available to interpret information about the court prior to the commencement of proceedings rather than only be used during the formal court hearing.

- The presence of a bilingual support worker was viewed by respondents as a positive
- As parents try to juggle their cultural expectations with the values and attitudes adopted by their children conflict often arises as a result.
- The discipline of children becomes problematic in families where parents are forced to work long hours to make ends meet.
- Children often learn that their parents' discipline methods are considered abusive in Australia and will use this information to threaten reporting parents to the police
- Culture influences how parents care for children
- Ethnicity and culture may also have an influence on how abuse is understood and experienced and will affect ways in which abuse is disclosed
- The importance of family size, structure and composition, including extended family networks is also an important consideration in assessment.
- There is a need for better access to cultural and language support for those going through the Child Protection System, including the Children's Court.
- There is a need for greater matching of children and young people with carers who are competent to meet their needs
- Cross-cultural mediation would benefit communities more so than formal legal interventions.

4.2 Key Findings from the Somali consultation group

4.2.1 Profile of Group

- All were women and sole parent families, three had five children living with them, and one had six children living with them. Consultations were conducted at a local community centre in the Western Region of Melbourne.
- All had been in Australia for over ten years.

4.2.2 What have your experiences of the Children's Court been?

"There is misunderstanding of our culture. There was a case where a father was separated overseas from his family. He came to Australia. He used to take them [children] to school. A woman saw him having a stick which is used as a tooth brush. She reported that he was physically abusing the children. Back home people hold the toothbrush going to the shops. They clean and they shake it clean. He was seen with it, and it was reported that he used the stick. Child protection were brought in. No one gave us the opportunity to explain the culture. There should be a chance to explain the culture to the court"

"There are other cases where six or eight kids in the house, where the families are questioned around whether there is verbal abuse, and not understanding there are about ten people living in the house, and the language used is quite loud."

"The majority of Somalis don't understand what the court is and what the court can do. They just know that the court is child protection – an extension of the department, and that they advocate for the government"

"The community perceives that your children can be taken away from you. This is all they think the court does"

"If you discipline your child, then the child can be removed from you. That is what I know"

Language difficulties were identified as being a major barrier, and experiences of the Court were very much reported to be influenced by the extent to which people understood the proceedings that they were involved in.

4.2.3 What did you know about the case before going to court?

All of the respondents said that information in relation to what was taking place tended to be provided later in the piece when an interpreter was made available. However, the view was that this was 'too late':

“Even though information was given, by then the family was traumatised. Couldn’t put their case forward because they were so upset”

One respondent said that even though they were provided with information translated in Somali, they could not understand the document due to the language used:

“Most of us have not had a proper education because of the war and so we did not understand the translated information that was given to us. It should be done in simple language, and maybe even on the radio because many of us cannot read in our language”

4.2.4 Did the outcome reached differ from what you expected?

All said that their efforts to retain strong cultural and religious links had been misunderstood by relevant authorities.

“Whilst removal of child is last resort, in this case the woman was misdiagnosed. The kids when they are removed temporarily. They felt that they were in heaven, and decided they didn’t want to go back home”

“I was involved in a case where a mother had two boys, 15 and 16. There were nine in the family. They wanted a television in their rooms. The woman couldn’t afford it. They often want sneakers that are \$200 etc. There is a lot of pressure on single mothers. She brought the television and then discovered they were watching inappropriate movies. She smashed the television. Child protection somehow got involved. The assessment person needs to understand the dynamics involved with these families. This needs to be looked at. She lost her children”

4.2.5 How did the lawyers conduct themselves?

This group did not comment on this question.

4.2.6 Did you understand all that was going on?

All of the respondents referred to the lack of translated information about the Court and the poor quality of interpreters as the key barriers to understanding proceedings in the court.

“Interpreters in the community are not good in the Somali community. Don’t know how they pass the tests required”

“The legal terminology is a problem for most of our interpreters”

“Sometimes we can come across as being angry and so sometimes the interpreters try to manage the client rather than interpret what is going on”

“I did not understand this Interim accommodation order”

4.2.7 How were the facilities at court?

Each of the respondents said that they felt that the atmosphere was very formal and ‘intimidating’, although several conceded that the nature of the hearings was extremely stressful for most community members involved:

“The court tries I think, but I hear people say mostly it is unfriendly and intimidating atmosphere”

4.2.8 Have you attended Children’s Court in another location apart from Little Lonsdale Street (for example Moorabbin)? Did this experience differ?

All made reference to the Little Lonsdale street site.

4.2.9 What could be done better?

“When you are doing assessments you have to be aware of the range of cultural issues”

All of the respondents suggested the use of elders as a better way of ‘resolving’ matters where neglect was the key issue rather than physical abuse:

“Why are our Elders not involved. They can help the situation and make sure our children are not lost again when we come to this country”

“We came to this country for safety, but our children now are being taken away from us. We have alot to say and offer about the safety of our children. Why doesn’t the Court listen more and maybe get elders to come in and talk to them”

Several respondents made comments in relation to foster carers and the need for more recruitment from within the Somali community:

“..when placing a child into care include preservation and enhancement of cultural, ethnic or religious identity, and the need for the child to maintain contact with family members and significant others”

4.2.10 Anything else you would like to tell us about your experience with the Children’s Court or Child Protection services?

- Somali women who are sole mothers often face social isolation
- The child’s voice is listened to over and above the parents. This is an issue.
- There are issues of torture and trauma –*“they can get played out alot by the children”*
- families may be incorrectly found to be negligent due to a lack of understanding of sleeping arrangements such as sharing beds, co-sleeping arrangements, children sleeping on the floor (near the door).

- A key concern here is that a lack of religious and cultural care placements places additional stress on placement stability, which could contribute to eventual placement breakdown.

Additional quotes:

“Child protection workers are fresh from University and has no other skills than from a text book”

“there are some religious issues that might emerge. For teenagers they do not like to do the religious readings and they can find this ‘abusive’”

4.3 Key findings from the Sudanese consultation group

4.3.1 Profile of Group

- Six women participated in the Sudanese consultation group. The consultation took place in a private residence in Dandenong.
- One woman had directly experienced the Children's Court as the mother of a child that had been 'removed by Child Protection'.
- Another stated that she was the grandmother of two children who had been the subject of Child Protection proceedings.
- The remaining four stated that they were indirectly involved as family supporters/extended family in cases involving child protection and the Children's Court.
- Both Dinka and Nuer translations were provided.

4.3.2 What have your experiences of the Children's Court been?

One case involved what was perceived to be a 'positive' experience with the children's court, whilst the remainder were negative.

"The kids were taken by child protection. We went to the court. The mother left the two kids under three alone and she slept somewhere else. This was said by child protection but she left children with older children who are teenagers. They put on loud music and neighbours called police. The police asked where is the mother. The teenagers said that the mother left the children with them. Police did not ask the teenagers who they were. This was not asked until it all happened in the court"

"The issue is around not knowing what is expected when you go to Court. I did not know what would happen. This is very frightening. I did not know if I would go to jail because they said that I was not a good mother"

"I just saw the sign of the court and started to tremble"

Even I who am a worker don't feel comfortable"

Four respondents believed that Child Protection and the Children's Court were the same thing:

".. we thought the Children's Court was the court for child protection workers"

Two of the respondents said that they thought this until it was clarified by the Lawyer.

4.3.3 What did you know about the case before going to court?

"I did not understand why this happened. My husband, he beats me, and now my children are gone. Why did this happen. No one told me."

“The interpreter was good. She explained things, but before no one said what was going on”

4.3.4 Did the outcome reached differ from what you expected?

The response to this question appeared to be dependent on whether the outcome was positive and favourable to the parent:

“I did not think the court would hear me but they did and they said that child protection did not do the right thing”

“My aunty gave evidence that she was capable of looking after the kids. We won the case and the kids was given to the aunt. This was on the 24th of December. She has one year under supervision. Child protection come to the house without making appointment. It feels like they are trying to trick us”

4.3.5 How did the lawyers conduct themselves?

“We got good lawyer from legal aid”

“There were a couple of meetings with the legal representatives and child protection and the case was discussed, and that did helped”

“ The legal aid workers were particularly helpful”

4.3.6 Did you understand all that was going on?

All of the respondents except one said that they did not understand everything that was happening during the process, particularly as the interpreters only interpreted during court proceedings rather than be used to describe court procedures and processes prior to the case being heard:

“ There is no translated information and I did not really know what was happening”

4.3.7 How were the facilities at court?

“We got lost trying to find this court.”

“I do not understand how these things open to the public”

4.3.8 Have you attended Children’s Court in another location apart from Little Lonsdale Street (for example Moorabbin)? Did this experience differ?

4.3.9 What could be done better?

“The court needs to do some more work with the community to explain how things operate”

“Our community operate through word of mouth and so one negative experience impacts on the whole community”

“There are issues around child payments and centrelink. These make the issues more difficult”

4.3.10 Anything else you would like to tell us about your experience with the Children’s Court or Child Protection services?

- Sudanese families who have recently arrived in Victoria experience parenting differently from other groups in the community in a number of important ways.
- Family members are often not aware of the role of child protection and do not access the services available to them.
- the community has deep concerns and fears about having children taken away by Child Protection workers
- There is also confusion about the role of child protection services and a feeling that they remove children without regard of the impact or needs of the family.
- Participants expressed wishes to know more about how protective services work and to also raise their concerns with staff directly
- There is a lot of misunderstanding between the community, child protection and police and the court.
- When the children come home from foster care they don’t cope.

4.4 Key findings from the Afghani consultation group.

4.4.1 Profile of Group

All four members claimed to be indirectly involved in matters relating to child protection that had been before the Children's Court.

All members of the group highlighted that there are particularly sensitivities related to child protection within the diverse Afghani communities, and these sensitivities can also be heightened by cultural and ethnic diversities characterising the Victorian Afghani communities.

All of the respondents were women.

4.4.2 What have your experiences of the Children's Court been?

All stated that their experiences of the court were negative:

"the wrong interpreter was there, and it was not good for the family because they had a Pashtun person there"

"We dont have good interpreters in legal issues"

"Sometimes they prefer Iranian interpreters because of confidentiality issues"

4.4.3 What did you know about the case before going to court?

Each of the respondents expressed the view that most of those involved in children's court cases did not know much about the case before going to court:

"They don't even know why child protection got involved. Alot of assumptions are made about language needs and the quality of interpreters is not very good in the community"

4.4.4 Did the outcome reached differ from what you expected?

One respondent said they were surprised as the outcome was in favour of the family who were trying "to get their children back".

Most expressed cynicism about the court processes generally.

4.4.5 How did the lawyers conduct themselves?

All of the respondents said that Legal Aid lawyers were generally good, but that most did not spend a lot of time explaining the process or exploring appropriate options with them:

4.4.6 Did you understand all that was going on?

All of the respondents said that they did not believe that the families involved understood what was going on:

“The system here is not the same and it can be very confusing”

“Most families don’t know about the law here in Australia”

“It is important that interpreters are used who understand the law as well. There are many reports of bad interpreting which has disadvantaged people in our communities in the children’s Court

One respondents conveyed the view that there was considerable misunderstanding in relation to the conditions of various orders that are issued by the children’s Court:

“The person did not understand this thing called undertaking. It needs to be better explained”

4.4.7 How were the facilities at court?

The overwhelming focus was on the “intimidating nature” of the court, although most conceded this was the case for most courts:

“The experiences before arriving makes us very scared of any court”

“I saw the mother of the child crying she was so scared”

4.4.8 Have you attended Children’s Court in another location apart from Little Lonsdale Street (for example Moorabbin)? Did this experience differ?

All of the respondents said their knowledge of the court was specific to Little Lonsdale street.

4.4.9 What could be done better?

“One of the difficulties is that if you remove a child, and you take the family to a motel or somewhere else. When they take the children to the motel, they dont have access to the same lifestyle”

“Instead of isolating the women and removing them from the house, they should remove the perpetrator”

“If you take someone from the community to be foster carers within the system”

“There are some situations where children have to be removed. There is a need to employ foster carers from their backgrounds”

4.4.10 Anything else you would like to tell us about your experience with the Children's Court or Child Protection services?

"There are issues around unaccompanied minors and child protection issues in the Afghani community but no one is doing anything about it"

"There are many challenges of raising children in a new country"

"Better information on child protection issues is required"

Conclusion

This small scale study has highlighted that many newly arrived families are major issues, including the breakdown of traditional family and community structures as a result of integrating into a new society and the adjustment from a war-torn environment to the Australian multicultural society.

Many families from Africa and the Middle East have large families and are in extremely precarious socio-economic situations. Cultural expectations differ in regards to expectations around parenting and family roles.

Intergenerational conflict was seen as a major issue affecting communities in their transition in Australia, and ways of disciplining children through corporal punishment is causing problems.

Suggested strategies included providing information sessions about child protection and the Children's Court with parents

As stated, this report constitutes a very small study and has clearly only touched the tip of the iceberg. The Department of Human Services and the Children's Court have a legislative obligation to preserve as far as possible the 'language, cultural and religious ties' of a child or young person in care, through its services and intervention.

Further research is urgently needed in relation to the implications for CALD families and for newly arrived communities in particular.

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