



Family Law and Culturally & Linguistically Diverse Communities Project

Legal Education Kit



Funded with support from the Australian Government



Legal Services Commission of South Australia

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Introduction

This project was funded to promote understanding of Australian family law and the Australian legal system among culturally and linguistically diverse (CALD) communities, with a particular focus on new arrivals.

The recognition of the need for this project is timely. Australia is seeing an influx of arrivals from war torn countries, many on humanitarian entry programs, and refugees seeking a new life. While there has been long term recognition that factors such as language and culture can operate as barriers to accessing justice, for today's migrants, many of whom come from Asia, Africa and the Middle East, the values and principles inherent in the Australian legal system can be challenging and confronting.

The project has demonstrated the need for constant consultation with differing ethnic groups, to understand the morals and values of each group before delivering education on Australian family law. Our laws needed to be unpacked into smaller distinct packages and related back to concepts common to Australian culture and that of the CALD community.

The development of the project over three years has culminated in the production of this kit with best practice guidelines for use by other organisations. This kit provides a valuable tool for the delivery of legal education. It provides a mechanism for discussion of important and sensitive issues such as family violence and child protection. These issues are just as significant for members of CALD communities as they are for the Australian community as a whole, but may be less effectively addressed in CALD communities through traditional methods of legal education.

Consultation with members of CALD communities throughout the development of this project has been thorough and time consuming. I would like to thank the participants in the consultation process for the vital role they played in the development of the project.

The Legal Services Commission undertook this project in association with the Migrant Resource Centre, the Multicultural Communities Council and with the generous support of the Law Foundation. I commend the education and training staff of the Legal Services Commission who designed the project and particularly Liz Ahern who has been strongly committed to its development and success.

My thanks also go to Carla Torgun, a member of the Sudanese community in South Australia who first pointed out to us the different perceptions that people from new and emerging communities may have about the law in Australia.

I am pleased to present the *Family Law and Culturally and Linguistically Diverse Communities Project* report and legal education kit.

Deej Eszenyi *Chair*
Legal Services Commission South Australia
May 2006



Summary

In March 2004 the Legal Services Commission, in partnership with the Migrant Resource Centre SA Inc and the Multicultural Communities Council of SA Inc, designed a project to enhance access to and understanding of Australian family law for culturally and linguistically diverse (CALD) communities in South Australia. The project was jointly funded by the Law Foundation of South Australia and the Legal Services Commission.

A project reference group - the Migrant Resource Centre, Multicultural Communities Council, Migrant Women's Support and Accommodation Service, Survivors of Torture and Trauma Assistance and Rehabilitation Service and the Family Court of Australia, Adelaide Registry - identified the African, Asian and Middle Eastern communities based in metropolitan Adelaide as 'high need'. Consultations attended in July and August 2004 by members and leaders from these three communities provided invaluable information which informed the development of customised legal education sessions on family law.

The premise of the project is that the Australian family law system is one of many family law systems throughout the world and is not inherently more sensible or fair than any other. Those who are used to very different models of relationships, families, parenting, authority, responsibilities and rights can not only find it difficult to make sense of the Australian system, but may also find some of its underlying assumptions opposite to their traditional views.

The ability of members of CALD communities to access legal information and the legal system is often restricted by the barriers of language and culture, knowledge of and ability to negotiate the Australian legal system. Even where language barriers can be addressed through the use of interpreters, cultural barriers can still inhibit understanding and acceptance of the Australian legal system, and access to it. This project operates to remove some of those barriers, while recognising that family law, family violence¹ and child protection are all-of-community issues — just as relevant to culturally and linguistically diverse communities as they are to the Australian community as a whole.

Following the successful implementation of the project this kit was developed to aid legal educators working with CALD communities.

This kit sets out the objectives of the project, the methodology employed to identify stakeholder needs, the legal education programs developed and includes evaluation and resource materials. A best practice guide has been provided to frame future projects.

¹ *In this report family violence refers to the actions and harm caused when an individual tries by physical and/or psychological means to dominate or control another family member. It also encompasses any harm that may extend to additional members of the family. It is a broader term than domestic violence. Source: Through Young Black Eyes, A handbook to protect indigenous children from the impact of family violence and child abuse, Kenny Bedford SNAICC 2002, p 10.*



Index

<i>Introduction</i>	<i>i</i>
<i>Summary</i>	<i>ii</i>
1 Objectives of the Family Law and CALD Communities Project	
1.1 Overall purpose	1
1.2 Intended outcomes	1
2 Project Overview	3
3 Stakeholder Needs	
3.1 Strategic Partnership Organisations	4
3.2 Project Management	5
3.3 Reference Group	5
3.4 Research	5
3.5 Consultations	7
4 The Training Programs	
4.1 Building Relationships	9
4.2 Methodology	9
4.3 Content	10
5 Program Evaluation	11
6 Best Practice Guide	12
7 Acknowledgements	13
8 Resources	15

1 Objectives of the Family Law & CALD Communities Project

1.1 Overall purpose

The Family Law and Culturally and Linguistically Diverse (CALD) Project was funded:

- To promote understanding of Australian family law, including how to access the legal system and legal aid, among culturally and linguistically diverse communities, particularly newly arrived communities by:
 - research into culturally appropriate modes of community legal education
 - consulting with a variety of communities and key stakeholders to identify appropriate means of training about family law
 - providing culturally appropriate training programs in association with key stakeholders
- To develop training programs and recommend best practice guidelines for the conduct of similar programs.

1.2 Intended outcomes

1.2.1 Within a framework which respects cultural diversity and encourages dialogue about difference, the primary objectives of the project are to:

- (a) promote understanding of the Australian family law system among culturally and linguistically diverse communities
- (b) promote the ability of individuals to make informed choices
- (c) promote understanding of how to access and comply with the Australian legal system among culturally and linguistically diverse communities
- (d) document best practice guidelines (following a process of consultation, community participation and evaluation) for use by the Commission and other agencies in similar projects.



1.2.2 In delivering objectives (a), (b) and (c), the program provides communities with the opportunity to receive information on a range of matters, including:

- an overview of the Australian legal system
- the principles of the *Family Law Act 1975* in relation to divorce, children and property settlement (and, where relevant, the *De Facto Relationships Act 1996*)
- legal aid
- legal advice and assistance
- primary dispute resolution/mediation
- child support
- child protection
- family violence

A premise of the program is that the issues of family law, child protection and family violence are relevant among culturally and linguistically diverse communities, just as they are in the Australian community as a whole.

1.2.3 A secondary intended outcome of the program is that the information shared by culturally and linguistically diverse communities regarding their own cultural, legal and social backgrounds, their perceptions of the Australian legal system and perceived barriers to accessing the legal system will be available to legal advisors and practitioners and other interested persons to inform their work and enhance their capacity to work with CALD communities.

2 Project Overview



3 Stakeholder Needs

3.1 Strategic Partnership Organisations

Three strategic partner organisations came together to create this project: the Legal Services Commission, the Migrant Resource Centre and the Multicultural Communities Council.

The Legal Services Commission (the Commission)

The Legal Services Commission has a long history of working with CALD communities in South Australia, having held a series of CALD community consultations and training programs in 1992-3. This work continues through both its education and training work and the Migration Advice and Assistance Program. The Commission has provided bi-monthly family law information sessions to the community, face to face and by video conference, since 1996 and has a family violence prevention focus through community legal education. As an independent statutory authority, the Commission has well established links with other government agencies, and is part of the SA government interagency committee 'Justice Senior Officers Group on Domestic Violence and Indigenous Family Violence'. The Commission provides advice and representation in family law and criminal matters to both family violence victims and perpetrators, has a domestic violence policy and dedicated staff to assist those experiencing family violence. It has delivered training on family violence to the judiciary, magistrates, the legal profession and police. This project reflects the Commission's commitment to work for a safe and informed community.

The Migrant Resource Centre (the MRC)

The Migrant Resource Centre works directly with people mainly from newly arrived CALD communities. The MRC's services can be summarised as: settlement assistance for newly arrived migrants, particularly refugees, including immigration and employment advice and on-arrival accommodation; information and referral; provision of meeting and activity space; and support for other agencies in assisting migrants. The MRC actively promotes an understanding of the Australian legal system to CALD communities in other programs on a smaller scale and brings a wealth of experience and expertise to this project.

The Multicultural Communities Council (the MCC)

The MCC is the peak organisation reflecting, representing and advocating on behalf of CALD communities in South Australia, for the achievement of a peaceful, harmonious and prosperous multicultural Australia. Current membership is in excess of 200 organisations and individuals, with growing representation from the smaller and emerging communities. Members of the MCC management committee are allocated portfolios on key areas such as ageing, women's issues, racism, training, reconciliation and youth. The MCC regularly consults with its members on behalf of government agencies such as the Department of Human Services, Child Support Agency and the

Department of Immigration and Multicultural Affairs. It has a wealth of experience and strong ties to the very communities that this project aims to assist.

3.2 Project Management

A project team of Legal Services Commission staff with experience in family law, legal education and project management guided the project. There was close liaison between the project team and the project partners. In March 2004 one half time education officer was appointed to the project.

3.3 Reference Group

A Reference Group was formed in April 2004 by inviting representatives from key stakeholders: the Multicultural Communities Council, the Migrant Resource Centre, Multicultural SA, Migrant Women's Support and Accommodation Service, Survivors of Torture and Trauma Assistance and Rehabilitation Service, the Family Court of Australia (Adelaide Registry) and Child Youth and Family Services (formerly FAYS).

The role of the Reference Group was to:

- provide advice and support to the project worker
- assist the project worker to ascertain which communities should initially be invited to participate in the project
- assist the project worker to set up appropriate processes of consultation with these communities
- facilitate communication between the project worker and the communities.

The Reference Group identified the African, Middle Eastern and Asian communities based in metropolitan Adelaide as those with the greatest need for information on family law. It has been recognised that there are many groups and subgroups within each of these communities, even within a common geographical location. Accordingly reference is made to the plural, for example African communities rather than the African community.

Close working relationships have been developed between the Family Court SA Registry staff and the staff of the Family Law and CALD Communities Project at the Commission.

3.4 Research

The project team conducted research by traditional library and internet means to:

- identify any similar projects conducted in Australia and internationally
- identify family law resources already developed for culturally and linguistically diverse communities
- identify any relevant publications and research papers.



3.4 **Research** *continued*

A wealth of materials was uncovered on the legal system, family law and multicultural communities in Australia. Search headings included *ethnic, non English speaking, migrant, multicultural, refugee, culturally and linguistically diverse, new and emerging communities*, as well as by the names of specific communities. Research has continued for materials on specific topics of interest to enhance the cultural awareness of staff regarding particular groups and to locate supporting materials for particular talks.

Research indicated that there appeared to be no published specific legal training programs on family law developed especially for use with culturally and linguistically diverse communities.

Publications on Australian family law, translated into a number of languages, were located as well as many reports and papers written regarding multicultural communities and the law.

Some organisations like the Family Court of Australia have well developed policies and a National Cultural Diversity plan to foster links with CALD communities.

http://www.familycourt.gov.au/presence/connect/www/home/about/cultural_diversity/

The Family Court has been funded by DIMA for a Harmony Program with new and emerging communities. Information about this program nationally can be located on http://www.familycourt.gov.au/presence/connect/www/home/about/cultural_diversity/cultural_diversity_Law_in_aust_newsletter

Some other publications which have been useful to the project are:

“Why didn’t you tell us?” “Because you didn’t ask?” Consulting with culturally and linguistically diverse communities. A guide for South Australian government agencies; Division of Multicultural Affairs, Department of the Premier & Cabinet, 2001

Building Resilience & Sharing Journeys: A group therapy model for working with newly arrived refugee women, Women’s Health Statewide, Pennington Terrace, North Adelaide SA 5006

http://www.whs.sa.gov.au/pub/Building_Resilience_Sharing_Journeys.pdf

Women’s Safety Strategy for South Australia, Office for Women, South Australia 2005

http://www.cywhs.sa.gov.au/library/Strategy_End_Violence.pdf

From Horror to Hope: A training kit addressing family violence among refugee families who have settled in Australia, Dr Eileen Pittaway, ANCORW/ Centre for Refugee Research, School of Social Work, UNSW Sydney NSW ISBN 1 8765658 4 5

A Best Practice Framework for Discrete Task Services provided at the Workshop of the National Legal Aid Best Practice Conference, Adelaide, 16 September 2005

3.5. Consultations

Comprehensive consultations were conducted with relevant community workers and community leaders from the African, Middle Eastern and Asian communities identified by the Reference Group. Consultations were conducted in English and interpreters were present to assist participants with limited English. The purpose of the consultations was to obtain information from participants about their traditional means of dealing with various family law situations, taking into consideration cultural, religious and community issues. A story of a fictitious family was used at each consultation to stimulate discussion in order to collect the required information. The attendance by people from these communities at the consultations was particularly generous as they gave information about their cultures and religions with only the promise of future training sessions as a potential benefit.

Consultations were undertaken in three communities to identify:

- the current level of understanding about Australian family law
- cultural and language issues
- the legal information needs of each community
- the most appropriate means of addressing the issues and information needs and resources required for each community (including the need for interpreters, gender and number of presenters, venue and session times)
- whether, and if so how, the education programs could include multiple communities.

During the consultations it became evident that traditional communication methods inviting participation needed supplementing.

While it was important to follow standard protocols by circulating letters introducing the project, developing flyers to promote activities and sending them to relevant agencies and community organisations, it became clear that face-to-face meetings and follow-up telephone calls were invaluable tools to achieve optimum outcomes. Follow-up contact from a community worker who is known by people in the specific community was often necessary to ensure attendance at sessions. There is a need for community members to know and trust the people who are inviting them to be involved in any kind of activity.

One explanation for this is that these communities prefer oral communication (preferably in their own language) rather than written materials used by mainstream services. Another explanation is that many participants, especially those from African and Middle Eastern communities, are dealing with issues of resettlement in an alien culture without the family or social supports they are accustomed to. Finding and maintaining accommodation, shopping, learning English, seeking training opportunities or work are daily challenges in the resettlement process and attendance at a legal training session may not rank as an individual's most immediate need. Community activities have a very important social element that should be taken into consideration – and consultation and training sessions can be framed as such opportunities.



3.5.1 Key findings

For a full account of each of the three consultations, please see: *8 Resources*

Please note: *it must be recognised that the following findings cannot adequately reflect the great diversity among and within different groups, in terms of religion, language, levels of education, culture, demography and experience. Differences in the participants' educational background were considerable, with some participants having formal education and others having none whatsoever. Participants' life experiences prior to arriving in Australia varied widely and included both short and lengthy stays in detention centres, refugee camps, war and rebellious uprisings, oppressive governments, torture and the death of family members through persecution, injury or disease. It is also acknowledged that the issues raised in the consultations are by no means a full representation of the views of the various communities in South Australia.*

Many participants felt that:

- mainstream services may not respect the views of minority cultures
- mainstream Australia tends to group 'Asians', 'Africans' or 'Middle Easterners' homogenously, without thought for individual needs and the complexities of groups in general – the participants were keen to explain the many differences within their cultures, countries and religions
- mainstream institutions (including courts, mediation and counselling services, the Commission and private legal practitioners) have no concept of the beliefs, culture and practices and little interest in exploring the diversity and complexity of CALD communities
- conflict may exist between Australian law and a CALD community's understanding of family law, family violence and child protection. For example, physical discipline of children, circumstances which allow for divorce, financial and property settlement rights upon divorce, contact and residence with children
- a general fear of government and its entities may exist in CALD communities because of the culture of oppression by governments and police in their homeland – with the possible effect of driving families in crisis further underground
- misconceptions may exist about the concepts of counselling and mediation and their scope, reach and influence on family relationships
- community workers, leaders or members need to know and to trust the presenters especially when dealing with sensitive topics like child abuse and family violence.

Some CALD community workers were concerned that mainstream services are keen to consult and collect information about them, but less enthusiastic to provide ongoing appropriate services once a project has finished.

4 The Training Program

4.1 Building Relationships

A key finding from the community consultations, reinforced by feedback from course participants, is the importance of building trust between presenter and participants. Family law topics involve many sensitive subjects, often considered “taboo” in the participating CALD communities. A training session may be the first time that participants discuss such issues – either outside of the home, or at all. As such, an important part of the project has been building relationships and trust through personal contact through the strategic partners and other CALD community workers and through them to their client groups. There has been frequent contact through meetings, telephone and email to support close working relationships to fulfil the aims of the project. Relationships have also been developed with the staff and management committees of the African Communities Council and the Middle Eastern Communities Council. These organisations also assisted the project by issuing personal invitations to community members to attend the consultations.

The Commission built upon existing relationships with interpreters from many communities and with other organisations that provide services to multicultural communities in South Australia. Contacts have been made with Uniting Care Wesley, Lutheran Community Care and special programs like the Female Genital Mutilation Program that run social and health related groups for people from these communities. Offers have been made to provide appropriate legal training to these groups on an ongoing basis to meet the needs determined by the consultation.

During the community consultations it became appropriate to sometimes provide a contribution towards the expenses of hosting groups. This may include funding for transport for community members to attend or an honorarium to the organisation who act as information brokers. Where possible people acting as interpreters to their communities were encouraged to be registered with interpreting agencies so they could be paid.

4.2 Methodology

The range of needs identified and the reservations expressed by the communities at the consultation stage, necessitated the use of innovative methodologies to develop and deliver training to CALD communities on complex and sensitive legal topics such as divorce, property settlement, family violence and child protection.

Key features of this methodology are:

- the use of a story about a fictional CALD community family to present the content as oral communication through a narrative which was identified as a culturally appropriate mode of learning and more effective than a formal lecture on the law



4.2 **Methodology** *continued*

- brainstorming where the participants have the chance to generate options for each member of the hypothetical family, including both culturally traditional solutions and those available in South Australia.
- presented in an interactive style, designed to match the language skills and educational background of the group, with the assistance of experienced paid interpreters via an interpreter agency when English language ability was an issue (not all communities have NAATI accredited interpreters available to them)
- where appropriate and possible, tailored to all male or all female participants with the same gender presenter.

Stories help foster privacy and confidentiality of the group members by deflecting issues away from a particular person's own problems and allows safe discussion of topics which are personal in nature while ensuring that no group member's own experience is discussed in public. Should personal issues be raised general answers are given, with a specific referral to individual, confidential and free legal advice.

4.3 **Content**

Tailor-made family law training sessions were designed, informed by the consultation findings, continual liaison with community workers and members and the above methodologies. The broad range of religious, cultural and educational backgrounds of participants requires customisation of every training session to the specific needs of each community group. No two presentations are ever the same.

The training program is designed to progress from least to most confronting subject matter. Conducting training about sensitive topics requires trusting relationships where people feel safe to speak and where the presenter understands something of a community's culture and values.

Introduction to Family Law is the core module of this training program. It is wide ranging, yet designed to be tailored to the participants' particular areas of interest. For this reason, it has been very well received.

The **Family Violence** and **Child Protection** modules follow. Child Protection and Family Violence are considered particularly sensitive topics and are presented to CALD communities only after close consultation with community workers or leaders and when a level of trust in the presenter's tact and cultural sensitivity has been established.

See: *8.2 Resources* for the modules.

5 Project Evaluation

The success of the project was measured by:

- responses by community workers to publicity about consultations
- development of relationships with key community workers and building of communication networks
- in depth consultation with three groups of communities, and the subsequent documentation of their views in the reports
- the development of the training module **Introduction to Family Law** which was tested and evaluated through presentations with key community workers before its delivery in training sessions with CALD community participants
- invitations to run training sessions
- attendance numbers at training sessions
- numbers of requests for further training sessions from identified groups
- surveys of key community workers
- high demand for applications for 15 CALD scholarships in the 2006 Law for Community Workers course (TafeSA Certificate 4 in Justice Studies).

An evaluation sheet was trialed asking participants to complete a written survey following an information session. This was not a successful means of evaluation due to language and cultural barriers even when an interpreter was used. The participants were too polite, when asked to assess the session, to be anything but appreciative. Requests for further training are a useful measure but could also indicate the demand for more information rather than successful culturally appropriate training.

A more useful mode of evaluation was a telephone survey of community workers who had arranged sessions for their communities. The survey was conducted by a staff member who had not themselves attended or presented the sessions. Each community worker was asked the same set of questions and given the opportunity to comment on the program and the particular session they attended.

The telephone survey was time consuming, but received a 100% response and elicited valuable information. This method enabled community members to respond without the embarrassment of criticising a guest presenter. The most common survey response was the need for the close relationships between the Legal Services Commission and CALD communities to be maintained, with an ongoing commitment to the legal training.

The education and training staff of the Commission look forward to the relationships and networks developed during the project being extended to other CALD communities in South Australia. For example to Spanish speaking, Eastern European and those CALD communities in rural and regional areas.

See: *8.3.1 Major Achievements* for details of training sessions held.

6 Best Practice Guide

- Acknowledge and articulate the context in which the project is operating and the underlying assumptions that are being made.
- Identify key stakeholders – existing and potential.
- Identify needs in collaboration with key stakeholders - this may be an ongoing process as it may take time and trust in the process for a community to be able and willing to identify needs and priorities.
- Develop and document a clear and agreed vision of desired outcomes in collaboration with key stakeholders.
- Develop and document a clear and agreed vision of desired content in collaboration with key stakeholders.
- Design appropriate methods and techniques of service delivery in collaboration with key stakeholders - the methods and techniques presented here may not be appropriate for others.
- Conduct consultations with each group of communities, being aware of the diversity within broad groups even from geographically close countries of origin - these consultations evaluate the chosen outcomes, content and methods of service delivery and provide the cultural framework for the information sessions.
- In conducting consultations and training sessions:
 - be responsive to the needs of the communities
 - be sensitive to and respectful of the diverse belief systems both between and within communities
 - be aware of what you are learning and of what you need to learn in order to contribute effectively to the desired outcomes.
- Revise outcomes, content, method and techniques following the consultations, and in collaboration with key stakeholders.
- Design service delivery processes in collaboration with key stakeholders to ensure broad participation from the selected communities
 - including, where relevant, the use of interpreters.
- Use NAATI accredited interpreters or those registered with interpreting agencies.
- Design service delivery processes to integrate and work with existing structures where practicable.
- Customise service delivery to the cultural, linguistic and educational backgrounds of the participants.
- Be committed to long term, evolving and collaborative relationships with participating communities.
- Regularly evaluate and revise the content and processes of the project.

7 Acknowledgements

The success of this project would not have been possible without the commitment of many people who provided invaluable support to the project:

- The Director, Hamish Gilmore, who enthusiastically took up Deborah McCulloch's (then Commissioner of the Legal Services Commission) suggestion that we undertake a special project to inform newly arrived communities about Australian family law.
- The Law Foundation of South Australia who, together with the Commission, provided funding to the project.
- The project reference group set up to guide and support the project, with representatives from the Legal Services Commission and external agencies including the Multicultural Communities Council, the Migrant Resource Centre, Multicultural SA, Migrant Women's Support and Accommodation Service, Survivors of Torture and Trauma Assistance and Rehabilitation Service, and the Family Court of Australia - Adelaide Registry.
- Liz Ahern, Legal Training Officer, who developed the project and managed it from the start by securing funding, staff and most importantly, the goodwill of many CALD communities.
- Staff of the Legal Services Commission including Gabrielle Canny, Manager of Access Services and Graham Russell, Manager of Family Law Division, Jenny Arezina, Devrim Ayik, George Hatzirodos, Kate Howard, Catherine Irving, Sasha Lowes, Kelly Muraya, Sorna Nachiappan, Simonne Price, Tara Simpson and Hwee Ling Yeo.
- Our thanks also extend to the many members of CALD communities and community workers who attended the consultation and information sessions to share their knowledge and experience and provide feedback and suggestions about the project.

8 Resources

8.1 Consultation Reports

8.2 Modules

8.2.1 Introduction to Family Law

8.2.2 Family Violence

8.2.3 Child Protection

8.2.4 Referrals

8.2.5 Evaluation

8.3 Appendix

8.3.1 Major Achievements

