National Access to Justice and Pro Bono Conference 2010

Vulnerable Communities and Clients in the Child Protection System

Acknowledgement of Country

40,000 years of cultural, ethnic and linguistic diversity
“There can be no keener revelation of a society’s soul than the way it treats its children.”

Nelson Mandela

**Background**

- This paper draws on consultations conducted in partnership with the Justice for Refugees Program in Victoria.

- The consultations were conducted as part of a review by VLRC into child protection applications in the Family Division of the Children’s Court.

- They included consultations with client groups from the following communities:
  - South Sudanese
  - Somali
  - Afghani
Introduction & Background

Australia’s population is increasingly becoming more diverse, whereby Australian Bureau of Statistics (ABS) reported in 2006:

- Over the past 5 years Australia has settled approx 180000 of humanitarian refugee entrants from war torn countries (Sudan, Burma, Afghanistan, Iraq, Congo)
- Australia is one of most linguistically diverse countries in the world, some 400 languages are spoken
- Inevitably professionals working in child protection authorities will come into contact with families from CALD backgrounds

Emerging Issues

- 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)
Background to the Participating Communities

Somali Communities

- Somalis are among the largest African communities in Victoria.
- 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).
- 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.
- Clan groups are likely to have their own community organisations and welfare associations (Jupp, 2001).
- The vast majority of Somalis are practicing Sunni Muslims
- Elders are given respect but do not usually have outright decision making powers (Kemp and Rasbridge, 2004).

Issues for South Sudanese

- 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.
- 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
  - Choli community
  - Nuba community
  - Darfur community
  - Luo community
  - Anyuak community
Issues for Afghan Communities

The first Afghan immigrants to Australia (1859) worked as camel drivers for the early explorers and numbered about 300.

- Between 1980 and 1992 - second wave of migration and the number of Afghan immigrants mostly from Pashtu 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.
- 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 %

Summary of Consultations Findings

- Many do not understand the legislation

- 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. This is often not perceived to be taken into account by child protection

- Definition of child protection across cultures varies, with considerable differences in understanding concepts such as the ‘best interests of the child’
Consultation Findings

• 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.

Consultation Findings

• 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.
Consultation Findings

- 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
- 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.

Some Quotes

- “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.”
Some Quotes

• “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”

• “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”

A Note about Culture as a Defence
What is Culture? Or How to Tell if your Neighbour is Greek

Culture is not determinative.
- Different people take on and respond to the same cultural expectations in different way
- Assumptions therefore cannot be made about individuals based on a specific aspect of their cultural experience and identity.

Cultural “differences” are complicated by differences in status and power between cultures.
- When one cultural group has more power and status, the norms of that culture permeate the institutions of society as the “right” way.
- Cultures of less status and power become seen as “other,” or even deviant and deficient.
Culture and Abuse – the Abuse of Culture

Violence against children is never justifiable. Nor is it inevitable. If its underlying causes are identified and addressed, violence against children is entirely preventable.

Children’s Rights are Human Rights