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Working with CALD and Refugee Clients

This fact sheet summarises the Ask LOIS webinar on this topic, produced and presented by Maha Najjarine of Legal Aid NSW, Family Law Early Intervention Unit. This webinar can be downloaded for free at www.asklois.org.au/webinars/past-webinars.

This fact sheet covers:



- General tips on working with CALD and Refugee clients
- How your client may have entered Australia
- Refugee Adjustment
- How CALD and refugee women are controlled and abused
- Islamic divorce
- Property and parenting arrangements
- Working with interpreters
- Resources

General Tips

- Although CALD communities may share a common birthplace, they are often diverse in their ethnicity, languages and religion
- It may take longer to build rapport and trust with clients. Be patient
- Be clear and use plain English; English may be your client's third or fourth language
- Use words, not gestures to explain meanings. Gestures can be misinterpreted
- Do not use colloquialisms or jokes – they do not translate, and are hard for non-native speakers to understand. Humour is culture based
- Where possible, use interpreters, case workers, counsellors, lawyers, health professionals, etc of the same gender as the client
- There may be cultural reluctance to discuss certain topics such as domestic violence or sexual assault – particularly if a worker or interpreter is not the same gender as client
- Men and women don't generally shake hands in conservative cultures – particularly in Muslim communities
- Hugging is a standard greeting in some CALD communities
- Ask your client whether it is appropriate to close the door of a room
- Respect age and use people's titles
- Explain the reason for your questions and procedures, they may be confused why there is so much paperwork and a need for so much information about them
- Gifts are important in some CALD communities and the refusal of gifts can be highly offensive and break your rapport with your client. Talk to your manager about your policy on accepting gifts from clients
- Network with local organisations and groups to tell them about your services and attend their cultural or religious events if appropriate
- If you work with a variety of nationalities, learn more about their language, rituals, holidays, etc.

Possible ways of entering Australia

CALD and refugee clients can legally enter Australia in one of three ways:

- Refugee and Special Humanitarian Program
- Business and Skilled Migrants (many are fleeing persecution or violence but are fortunate enough to have a skill to assist them to enter Australia)
- Family Reunion Visa, which may be linked to one of the above categories

Many migrants are forced to move to Australia out of necessity rather than choice. Some move out a combination of choice and compulsion. Some catalysts for forced migration are:

- War or civil unrest
- Persecution
- Economic hardship
- Environmental degradation



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If your client has migrated to Australia for one of these reasons, you should keep in mind that they may have experienced a great deal of trauma and violence.

If forced from their country, they have had to lodge a claim for refugee status with the United Nations to then seek asylum in Australia. It is not uncommon for people to wait at poorly resourced refugee camps for up to ten years waiting for a solution.

Refugee Adjustment

When your client first arrives to Australia, they are likely to be greatly relieved and they may have been made unrealistic promises of what life in Australia would be like. Once reality sets in they will begin to face challenges.

Challenges CALD and Refugee clients face can include:

- Skills unrecognised in Australia that were recognised in their home country
- Unemployment
- Accommodation difficulties
- Financial difficulties
- Generational differences
- Separation
- Blended Families
- Challenges to Men's role
- Challenges and changes to both men and women's roles
- Lack of recreational pursuits
- Expectations of their families back 'home', eg, for sponsorship or money
- Trauma as a result of the war, poverty and violence experienced
- Untreated mental health
- Women unaware of options and services available to report domestic violence
- Alienation
- Marginalisation

How CALD and refugee women are controlled, abused and isolated in their relationships

It is important to be aware of the different techniques that may be used by men to control or abuse CALD or refugee women. These include:

- Not allowing a woman to learn English or learn how to drive
- Not allowing a woman to see her family or members of the community
- Not allowing a woman to practice her religion or get involved in community projects
- Not allowing a woman to dress as she wants to; she may be pressured to stop or continue dressing in traditional/religious dress codes
- Threats to spread rumours that a woman is an "adulteress"
- Threats to cancel a woman's visa or file for divorce
- Threats to take the children back "home"
- Threats to harm her family back "home"
- Use of derogatory terms against a woman, eg "pig"
- Attacking a woman's physical appearance, for example, by cutting her hair or throwing liquids in her face

Barriers to escaping violence

For a printable diagram on barriers, see <http://www.asklois.org.au/dv-services-nsw/cald-services/barriers-mind-map>

CALD and refugee women may face additional barriers in escaping from domestic violence. These include:

- Incorrect knowledge of the law or cannot relate to system – many rely on the perpetrator or the perpetrator's family for information on the law
- Lack of knowledge about what services are available
- Cannot speak or read English
- Isolation; cannot drive, do not know how to catch public transport



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- Police or legal professionals may not be supportive of their story or situation
- May not trust police or government because of corruption back "home"
- Wanting to avoid bringing shame on the perpetrator and/or the community
- Concerned about racism and discrimination and that if the perpetrator is charged, he may be forced to go to a detention centre or be sent back "home"
- Financial dependence on perpetrator
- Community and family pressure to not break up the family
- Belief that people can change easily; especially violent partners
- Self-blaming when problems or negative experiences happen
- Shame and embarrassment when talking to outsiders about their problems or difficulties
- Consider domestic violence as a private family matter
- May use religion as a way to deal with conflict without confronting the conflict itself

Accessing the Australian legal system -

For many women from CALD and refugee backgrounds, accessing legal services is a difficult task. Many are dealing with the general stressors associated with migration such as language difficulties, unemployment, poverty, racial discrimination, family issues and trauma.

Your client may not realise that more than one appointment may be necessary to assist their problem and you may need to explain the system of consecutive appointments.

CALD and refugee clients face the following barriers when trying to access the Australian legal system:

- Lack of accessible information about services
- Lack of bilingual staff
- Lack of interpreters
- Cultural irrelevance of programs
- Lack of understanding of cross cultural issues
- Lack of trust in the system and "government officials" if there was corruption back "home"

Islamic Divorce for Australian Muslims

Islam is not made up of one school of thought; there are many variations in beliefs and interpretations amongst followers.

Muslims in Australia generally get married under Islamic (Sharia) law through their local Imams or Sheikhs (Muslim leaders); many also register their marriage under the Australian civil law system.

Although divorce is allowed in Islamic law, it is seen as undesirable, with the Prophet Mohammad noting there is nothing God dislikes more than divorce.

Under Islamic law, divorce follows a different legal path depending on whether the man or the woman wants the divorce.

- A man can declare divorce unilaterally (talaq) and the wife must accept this. Talaq divorce requires no cause or fault to be established and does not typically require court approval though registration may be required. There is a 3-month period in which a reconciliation can occur and after this time has passed he can remarry.
- A woman can also declare divorce unilaterally, however some sheikhs discourage this and some women do not know this is an option due to misinformation about their own religion. A woman can end her marriage in one of the following ways:
 - "Khula" – where the wife returns her dowry, buying her way out of the marriage
 - "Ta'liq or Talaq-i-Tafwid" – where the husband has breached a condition of the marriage contract
 - "Fasakh" – where the wife must establish fault in one of the recognised categories, eg, abuse
- Some Sheikhs will automatically deem the marriage to be dissolved under Islamic law if a divorce has been granted under Australian civil law.

Marriage agreements under Islamic law have been accepted by Australian courts as valid contracts (see *Mohamed v Mohamed* [2012] NSWSC 852 where the court ordered the husband pay the wife \$50,000 to end the marriage in accordance with the marriage agreement).



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If a person has been married under Australian civil law but only gets divorced under Islamic law, they cannot remarry under Australian civil law until they have been granted a divorce by the Family Court.

Under Islamic law, the presumption after separation is that the child/ren should be with the mother. A mother can lose custody in situations where she mistreats a child, remarries, converts out of Islam or makes it difficult for the father to have contact with his children. Once the child/ren hit puberty, they are deemed old enough to decide which parent they want to live with.

Property and Parenting Arrangements

In many CALD and refugee communities, people are encouraged to meet with community leaders to help resolve property and parenting disputes. It is a good idea to encourage your clients to go through the Australian court system instead.

It is important to inform your client that:

- They are not legally required to attend meetings with these community leaders
- Any agreements made in these meetings are not legally binding or enforceable
- The Australian courts may override any agreements made if an application is filed in court
- If an application is filed in court, the court may consider the previous agreement that was made and the circumstances of the agreement

Working with Interpreters

Refusing to use an interpreter

Sometimes, people refuse to use an interpreter. You should try to find out why so you can resolve the issue. Reasons for refusing an interpreter can include:

- Inappropriate gender
- Ethnicity and language skills of interpreter
- Anxiety about cost (paying for the interpreter)
- Concerns about confidentiality and privacy

Ethnicity and language

Do not make any assumptions based on your client's country of birth. For instance, the client may speak a dialect, may have been a displaced person or born in a refugee camp. Ask the client to specify the language, and if possible, the preferred ethnicity, of the required interpreter.

Confidentiality/privacy

Privacy and confidentiality are serious concerns for some people, especially for people from smaller communities where the chances of the client and interpreter knowing each other are higher. Assure people that accredited interpreters are professionals and will respect confidentiality.

Using friends or family members to interpret:

Friends and family members should not be used as interpreters. People who are not qualified interpreters/translators may not interpret information accurately or may lack proficiency in both languages. It also negates your client's right to privacy and confidentiality.

Further Resources

- To find out more about specific cultures see <http://www.culturaldiversity.com.au/practice-guides/cultural-awareness>
- The Department of Immigration and Citizenship has developed Community Profiles to assist service providers to better understand the backgrounds and needs of Humanitarian Programme arrivals. See www.immi.gov.au/living-in-australia/delivering-assistance/index.htm
- For more resources on CALD and refugee clients including fact sheets, brochures and videos, visit <http://www.asklois.org.au/library/diversity/cald-and-refugees>