



MDA

**Multicultural Development
Association**

**Review of the Domestic and Family Violence Protection
Act 1989**

Submission by the Multicultural Development Association Inc. (MDA)
31 May 2010



Review of the *Domestic and Family Violence Protection Act 1989*

Introduction

The Multicultural Development Association Inc. (MDA) is a lead specialist settlement, advocacy and community development organisation with highly respected credentials in the provision of services to refugees and a strong organisational track record in systemic advocacy for more than 10 years. We are currently part of a consortium with 4Walls (a community housing provider) and QPASTT (Queensland Program of Assistance to Survivors of Torture and Trauma) which delivers a range of settlement services to refugees and migrants.

MDA's Government and Community Advocacy Team (GCAT) is part of a state wide advocacy network that is largely funded by Multicultural Affairs Queensland (MAQ) through its Community Action for a Multicultural Society (CAMS) program. This network provides advocacy and community development work servicing culturally and linguistically diverse (CALD) communities across the entire state. MDA also engages with a wide number of communities, advocacy networks and working groups which uniquely positions us to identify emerging issues and trends for CALD communities.

In addition to this, MDA's advocacy is further informed by a dual process of data collection through an in-house case management system which allows us to identify key presenting issues for our clients. This is supported by an advocacy register which collects case studies of incidents or challenges which our clients are facing on a daily basis. This will be referred to further below in citing our case studies.

We welcome the opportunity to contribute to the review of the *Domestic and Family Violence Protection Act 1989* (herein after referred as the Act) and hope that this submission will assist in providing some backgrounding in regards to issues for culturally and linguistically diverse (CALD) communities when the Committee considers amendments to the Act.

As a settlement agency, MDA refers all issues of domestic and family violence to key agencies such as the Immigrant Women's Support Service (IWSS) and other providers. However, we continue to support our clients and their families in conjunction with these agencies to ensure their settlement needs are still being met. Our caseworkers specifically assist clients in developing safety plans which refers them to specialised services for domestic violence or family relationship support and counselling. This is further supported by providing couples and families with ongoing community education around domestic violence issues.

MDA endorses and supports the key findings and recommendations put forward by IWSS who are the lead agency providing support and assistance to CALD women and children who are victims of domestic or family violence. We understand that comments to this review should be confined to the operation of the legislation itself and not service delivery matters, however this submission seeks to outline issues that should be taken into consideration in the review of the Act.

Background

Currently, there are over 34 million refugees of interest to UNHCR with over 11 million in camps out of which 100,000 are resettled annually. Australia settled over 13,507 refugees in 2009-2010 and has committed to increasing that number to 13,750 in its 2009-2010 intake. MDA settles approximately 1,500 newly arrived refugees and works with over 3,500 refugees and migrants annually. The major percentages of MDA's current clients are predominantly from Africa, Asia and the Middle East.

Since MDA's internal case management system was implemented in 2007, there has been a rise in domestic violence issues. Currently, 10% of our clients present with domestic violence issues as indicated below.

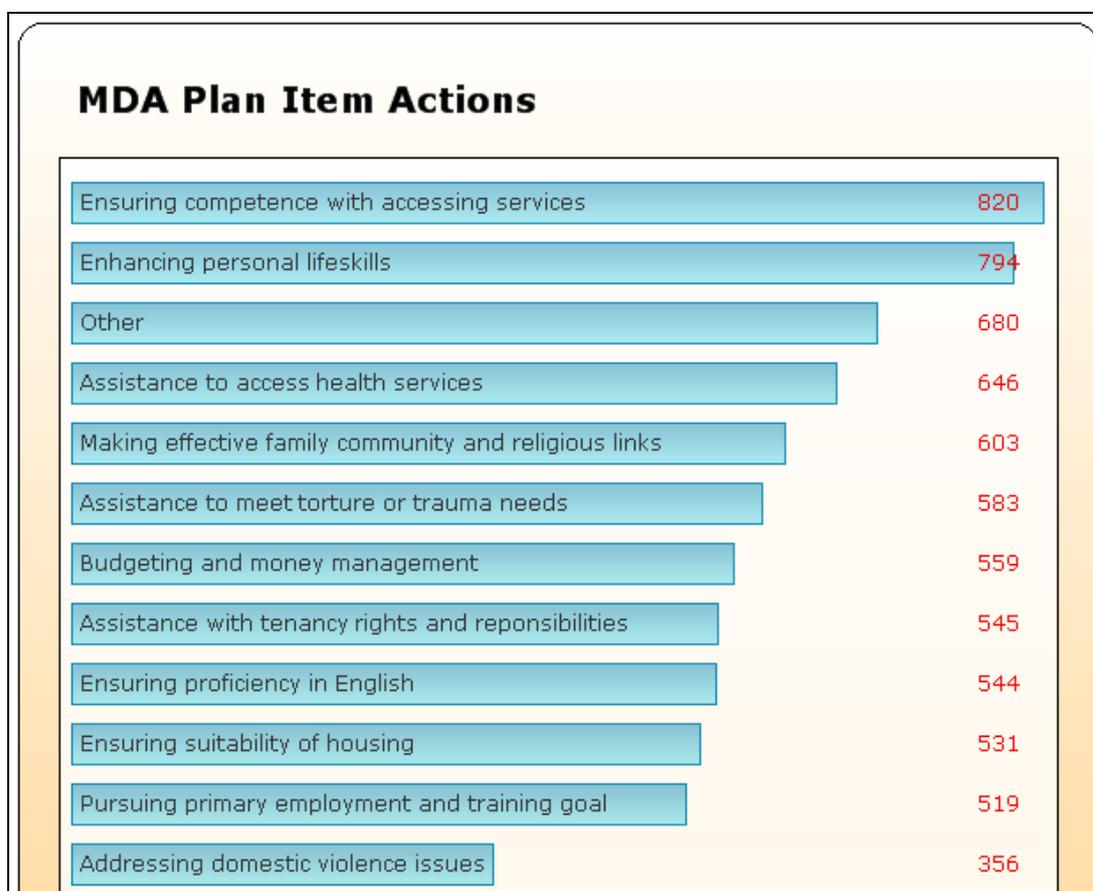


Figure 1. Reporting Period of MDA Presenting issues 2009 – 2010

The issues which influence incidents of domestic violence for many of our clients are varied. A large percentage of our clients have experienced long and protracted situations in refugee camps. These issues are compounded by the added stress of the settlement process in Australia along with the loss of culture, significant shifts in gender roles, family infrastructure, as well as social, political and economic status. Other influencing factors in the rise of instances reported above can be attributed to better reporting procedures at MDA as well as better community education for victims about what their rights are and how to seek assistance.

Areas which may impact on CALD communities are evident in all 5 sections of the review currently being undertaken:

1. Prevention
2. Civil and criminal approaches
3. Protection of victims
4. Perpetrator accountability
5. System planning and coordination

As stated in the beginning of this submission, we support the overall findings in IWSS's submission on the wider application of the Act. This submission does not intend to comment on the specific applications of the provisions however, we do wish to put forward additional comments that are relevant to MDA's work.

Widening the definition of what constitutes domestic and family violence

As correctly identified in the discussion paper, the Act currently limits the types of behaviour it recognises as domestic violence. Subversive types of abuse such as emotional and economic abuse are not recognised, nor is there recognition of sexual abuse or other forms of physical abuse which sit outside wilful injury.

We believe it is vital that serious consideration be given to broadening the definition of behaviours covered by the Act to include all those instances. In addition MDA believes that the definition should also encompass acts of community exclusion and isolation as a form of abuse.

This is due largely to the fact that the majority of CALD communities settled by MDA are traditionally communal and rely heavily on community members, elders and familial structures for support and care throughout the early stages of settlement and beyond. This also means that many live in close proximity of each other and there is often frequent interaction in the same circles - at schools, places of worship, social engagements and while accessing services. While this provides much needed support during the settlement period, it can make it very difficult for women and girls who are victims of continued abuse by family or community members.

By broadening the definition to include community exclusion and isolation, it should also address the forms of social harassment and perpetuation of rumours that occurs to silence the victim/s.

Case study 1

On 11 June 2009, a female client from a Burmese minority group and her children fled from their home after a life threatening situation. The family eventually reconciled eight (8) months later, however, the female client reported feeling substantial pressure from the community to reconcile with her husband.

We believe that widening the current ambit of behaviour to include those outlined above take into consideration the complexities involved in settlement needs for many CALD communities, in particular new and emerging refugee communities.

Ensuring the legislation protects at-risk parties

Access to interpreters

The use of interpreters must become consistent, especially if legislation aims to protect the party at-risk and intersects with all relevant government agencies as well as throughout the courts system for at-risk parties.

Case study 2

In January 2010, a 21 year old Burundi woman called police to attend her home as her partner was becoming increasingly aggressive and she felt unable to stop his violent behaviour towards her and her three children. In an earlier incident the police had attended another domestic violence incident between the couple and as result the respondent was issued a Domestic Violence Order with the condition of good behaviour. This order was still current when the police were called again to the home, after the respondent had begun smashing windows and threatening violence against the aggrieved.

Once the police arrived at the scene no interpreter employed. As the respondent was the only party to speak English the police proceeded to use the respondent as the main point of information and interpretation between the police and the two parties. The only engagement between the aggrieved and the police was when they asked the respondent to interpret the question “Do you feel safe?”, however the aggrieved later told her case worker that the only answer she could give was “yes”, because it was the respondent asking the question and who would interpret her answer back. The police left the home with no further action due to the nature of her response.

Case study 3

On 8 February 2010 a Burundian client needed to leave her accommodation due to family violence. Three emergency accommodation facilities refused to accept her due primarily to her complete lack of English and her age. The caseworker reminded the refuge of the fact that they were required to provide clients with access to interpreters. The relevant refuge said they were already aware of this requirement but because of ‘failed’ cases in the past with previous clients and a belief it ‘didn’t work’, the refuge

refused to accept the client. Another facility also said it would be too hard for someone who doesn't speak English to get along with the other women staying there.

These are not isolated or unique cases where vulnerable parties have been denied adequate protection or support. While we accept that these are service delivery issues rather than legislation focused, we believe that it should be taken into consideration.

Women at Risk

Another vulnerable subset that should not be forgotten are single women or those who have arrived on Women at Risk visas and are reliant on external community relationships for support and are potentially at greater risk of exploitation by community members. This is especially pertinent in cultures which are predominantly patriarchal and rely on traditional family structures for protection, status or daily subsistence.

Removal of perpetrators

MDA would also like to note that the legislation currently does not provide sufficient protection in regards to the removal of perpetrators. This is a significant challenge for women and children who are also dealing with ongoing settlement issues at the same time and is particularly difficult for new and emerging communities.

How can the Act provide assistance and support to CALD communities?

The following are a range of initiatives that may assist in providing community education and support for CALD communities:

- Establishment of community consultation committees with elders of CALD communities. To allow more space for community mediation to take place more formally, but as a recognised function of the court proceedings;
- Ensuring that further trauma is not caused by forcing women to attend family mediation and court hearing without the provision of appropriate information and cultural support;
- Establishing programs with men and boys as well as with community elders to educate and inform them about domestic and family violence issues and its impacts on their families and communities;
- Better sharing of information across government agencies where there is an intersection of cases that involve domestic violence, child protection and child support issues;
- Stronger move on powers for perpetrators from the family home.

Conclusion

CALD communities are faced with a wide range of challenges in their settlement; practical challenges such as obtaining and securing appropriate housing, long-term employment and education, interact with many social concerns that arise throughout the settlement process. Coping with changing roles and responsibilities can be very



challenging for many CALD communities, especially when coming from societies that have very set and defined gender roles.

While most references in the cases and instances above have been made to women and girls, it is also important to recognise that men are also vulnerable to domestic and family violence and should not be excluded in the consideration of support strategies.

We hope that this submission has assisted in providing the review with backgrounding issues that affect CALD communities that may influence the outcomes of the Act.