

QCOSS

Queensland Council
of Social Service

Dealing with cross-cultural issues and bias in the courts



March 2015

About QCOSS

The Queensland Council of Social Service (QCOSS) is the state-wide peak body for individuals and organisations working in the social and community service sector.

For more than 50 years, QCOSS has been a leading force for social change to build social and economic wellbeing for all. With almost 600 members, QCOSS supports a strong community service sector.

QCOSS, together with our members continues to play a crucial lobbying and advocacy role in a broad number of areas including:

- sector capacity building and support
- homelessness and housing issues
- early intervention and prevention
- multiculturalism
- cost of living pressures including low income energy concessions and improved consumer protections in the electricity, gas and water markets
- energy efficiency support for culturally and linguistically diverse (CALD) people
- early childhood support for Aboriginal and Torres Strait Islander and CALD peoples.

QCOSS is part of the national network of Councils of Social Service lending support and gaining essential insight to national and other state issues.

QCOSS is supported by the vice-regal patronage of His Excellency the Honourable Paul de Jersey AC, Governor of Queensland.

Some additional reading materials regarding multicultural relations developed by QCOSS include:

- *Inclusive Policies - A guide for analysing the impact of policies on culturally diverse communities* September 2014
- *Issues Paper - Developing a framework for the implementation in Queensland of the Australian Government's regional dispersal policies for the re-settlement of refugees in regional Australia* October 2014
- *Multicultural Data Index - Migrant and refugee communities in Queensland* October 2014
- *Blueprint for a Queensland Language Service provider* October 2014 (in partnership with the Queensland Accessing Interpreters Working Group)
- *Multicultural Resource Book for disability service providers* November 2014 (in partnership with AMPARO Advocacy)

These resources are all available on the QCOSS website.

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Introduction

One in five Queenslanders are born overseas, more than a third are either overseas born or have at least one parent born overseas, Queenslanders speak more than 220 languages and approximately one in 10 speaks a language other than English at home.

Overseas migration continues to be the largest contributor to the state's growing population. In 2013-14, Queensland received 10,610 permanent settlers from countries where English is a second language. From 2011 to June 2014, almost 7000 new humanitarian entrants have settled in the state. (Department of Immigration and Border Protection, 2014).

Queensland is also home to an estimate 203,000 persons of Aboriginal and Torres Strait Islander backgrounds, with many residing in regional and remote communities where they retain their own language.

Taking all this into context, including cross cultural issues and bias for jurists and legal officers, Australia's justice system presents a unique and challenging environment.

How do the courts respond when the main language and culture of defendants, victims and witnesses are not of the dominant culture? It is not only a question that goes to the relevance of multiculturalism in Australian social policy but more importantly to equal access to the law and equality before the law.

The need for law reform in an increasingly multicultural society is not a new concept. In 1992, the Australian Law Reform Commission made numerous recommendations to improve access to and equality before the law for a multicultural Australia.

Cultural differences in attitudes to crime and punishment, rights and the rule of the law cannot be easily resolved through quick legislative reform. Multiculturalism as a social policy does not translate simply into the criminal justice system in Australia **(Burley 1996)**.

This paper deals with some of these cross cultural issues taking into account the particular issues for courts in relation to Aboriginality and in relation to migrant and refugee cultures.

Key messages

This seminar paper addresses some of the issues for equality before the law for ethnic and cultural minorities participating in courts and tribunals. The following key messages emerge from the consideration of issues.

1. Where a defendant, witness or victim has a low level of proficiency in English, a credentialed and trained interpreter should be used in the court.
2. Interpreters should not be expected to act simply as a “translation machine” as this may in fact adversely influence adversarial court proceedings.
3. Presiding officers should make clear to interpreters if they expect interpreters to raise any issues of cross-cultural misunderstandings.
4. Mental health practitioners preparing clinical reports for the courts in relation to Aboriginal, Torres Strait Islander and non-English speaking background defendants, should have proven cross-cultural competence to ensure cross-cultural validity of psychiatric and psychological reports.
5. To recognise that there are cultural differences amongst the actors in the court is a first step. But just acknowledging the difference does not, of itself, effect a solution. The court needs to be made aware of the specifics of the differences.
6. Legal practitioners should participate in cross-cultural awareness and communication training as well as training in how to work with interpreters.
7. Culture encapsulates more than ethnicity and it is the intersection of ethnicity with gender and socio-economic status that shapes the lived experience of the individual.
8. Western countries receiving large numbers of immigrants must give consideration to the complex cultural issues that can present as mitigating factors in criminal matters, impacting on severity of the punishment.
9. There is a need for judicial education and the dissemination of papers to judicial officers on cultural matters, individual communities and related issues.
10. There is no one story that can reflect the culture and lived experience of all refugee communities. The evidence must be sought in relation to each individual and their community.

Equal access to the law and equality before the law

The concept of equal access to the law and equality before the law is fundamental and based on the principles of non-discrimination and equal treatment.

There are many ways that discrimination and unequal treatment can be measured in the criminal justice system.

For example:

- by the number of socially and financially disadvantaged offenders who receive disproportionately harsher sanctions and penalties than their wealthy counterparts, thus imposing unequal economic burden across offenders

or

- by the number of alleged offenders and victims of crime who cannot understand the language of legal procedure and court process when their level of proficiency in English is low and they are not afforded free access to credentialed interpreters in criminal or civil courts

or

- by sentencing decisions that do not give some weight to the lived experience of decades of economic deprivation or extreme social dislocation linked to racial, ethnic and cultural background.

The development of special consideration courts across Australia which deal with matters in relation to specific disadvantaged and vulnerable population groups, including indigenous community sentencing mechanisms and the family court, recognises the influence of social scientists and their research into the realms of judicial decision-making.

This paper notes that in many courts and tribunals the manner in which decisions are written, made and communicated is influenced by empirical evidence from the fields of social science. In such a context, if the quality of the social science research is blighted by lack of reliability, integrity and trustworthiness, by criticism of controversial research findings, or spoiled by lack of recency, the decision-making process may be compromised.

This paper also highlights that in courts dealing with cross-cultural issues, if there is limited cultural competence applied in the preparation of reports for the court and in the way communication is conducted in the court, equality before the law for some individuals will be compromised.

While this paper is not able to provide direction or guidelines on the way that social science information should be used in courts and tribunals, it does provide some examples of research studies that may at the very least provide some insight into the lives of refugees through their experience of torture, displacement, seeking asylum, living in camps, immigration and resettlement. These studies highlight the effects of traumatic experiences on the mental health and well-being of individuals, family life and the pressures of resettlement on men, women and children. They provide assistance in presenting background factors that may be given weight in the determination of appropriate sentencing and rehabilitation options.

Using interpreters in the courts

1. Where a defendant, witness or victim has a low level of proficiency in English, a credentialed and trained interpreter should be used in the court.
2. Interpreters should not be expected to act simply as a “translation machine” as this may in fact adversely influence adversarial court proceedings.
3. Presiding officers should make clear to interpreters if they expect interpreters to raise any issues of cross-cultural misunderstandings.

The Queensland Police Service has increasingly over the last few years improved its responsiveness to working with migrant and refugee communities, developing and implementing policies and procedures for language services and the engagement of interpreters as is required by the Queensland Government’s Language Services Policy. The Department of Justice and Attorney-General is also subject to the Government’s Language Services Policy and has taken steps to develop the required procedures.

The Queensland Courts are not subject to the Queensland Government’s Language Services Policy, although there has been consistent discussion in both the public and community services sector of the critical need for the use of credentialed interpreters in the courts as a matter of equity and equality before the law. The Courts have been slow to take up the use of interpreters but there appears to be keen interest from some members of the judiciary and court registrars to progress this.

It is essential that courts use only credentialed and trained court interpreters given the demands of interpreting in a legal context. Professor Hale, an expert in court interpreting, has published widely on the challenges of court interpreting (**Hale 2007**). Hale speaks of the complexity at hand for the court interpreter who must consider not only the grammatical content but also the cultural conventions of expression before analysing and deciding how best to render the words. She summarises this analysis in the following questions:

*What is the propositional content of the utterance?
What is the intention behind this content? Does the speaker intend to be
sarcastic, offensive, uncooperative, impolite?
What is the force of the utterance? How is it delivered? What is the manner of
the presentation?
What is the likely effect of the utterance on the listener of the original
language? (p. 199)*

Studies show that there are a number of complexities surrounding cross-cultural misunderstandings when interpreting in the courts and that often there are no clear protocols given about when and how interpreters can raise such potential differences (**Hale 2014**). This raises the issue of the need for presiding officers to provide guidelines to interpreters according to their expectations in the court room.

The Australasian Institute of Judicial Administration funded a survey of judicial officers, tribunal members and court interpreters in 2010 on cross-cultural issues in interpreting. According to the survey a little over half of the interpreters, particularly the more experienced interpreters working in the higher courts, advised the court if and when they felt there had been cross-cultural misunderstanding. Many interpreters did not offer cultural insights and some believed that it was not

appropriate for interpreters to do so. Significantly, the difference between what judicial officers and tribunal members expected and what interpreters report doing was considerable.

A recent study by Lee drawing on the analysis of the discourse of witness examinations in Australian court proceeding posits that in the absence of cultural and/or linguistic explanations by the interpreter, evidence given by witnesses from CALD backgrounds may not be accurately or fully interpreted. He argues that this can have potentially serious consequences for the witness in an adversarial context (**Lee 2009**). The study highlights the significance of interpreters' disclosure of linguistic and cultural issues which are related to the accuracy of interpreting during courtroom examination. It suggests that "conduit" interpreters who act simply as a "translation machine" may in fact adversely influence adversarial court proceedings.

In 2015, the Report of the Queensland Taskforce on Domestic and Family Violence made a number of strong recommendations in relation to the use of interpreters by police and in the criminal and civil courts.

(113) The Queensland Police Service strengthens policy and guideline documents to ensure the use of interpreters for victims of domestic and family violence and their families, where required.

(114) The Queensland Police Service and the Department of Justice and Attorney-General ensure that applicants, including police and private, for a protection order or a variation of a protection order, have indicated either "yes" or "no" to interpreter requirements on each application filed.

(115) The Chief Magistrate issues a practice direction to require the court to engage an interpreter, where a party has difficulty communicating in English, at the first mention for all domestic and family violence civil proceedings before the Magistrates Court.

(116) The Department of Justice and Attorney-General identifies opportunities to streamline systems for engagement of interpreters for civil domestic and family violence court proceedings to ensure best practice.

(138) The Queensland Police Service facilitates an external independent audit and review of training packages currently available to officers, with a view to assessing the appropriateness and frequency of compulsory professional development opportunities relevant to domestic and family violence. Components for enhancement of officers' conceptual understanding of dynamics of domestic and family violence, communication skills, as well as cultural awareness and sensitivities should be assessed.

Cross-cultural competence of experts preparing court reports

4. Mental health practitioners preparing clinical reports for the courts in relation to Aboriginal, Torres Strait Islander and non-English speaking background defendants, should have proven cross-cultural competence to ensure cross-cultural validity of psychiatric and psychological reports.

Court reports by psychiatrists and psychologists are a valuable tool to inform capacity to stand trial, state of mind of the alleged offender at the time of the offence, and sentencing where the defendant is found guilty. In cases where the defendant is from a minority culture, the clinical assessment is a complex task that demands clinical competence in cross-cultural settings. This is especially true in cases where the defendant has low level proficiency in English and where an interpreter is required as part of the assessment.

An analysis of more than 20,000 pre-trial psychiatric reports requested by the Dutch Courts, between 2000 and 2006, has led researchers to express concern at the role of these reports in contributing to the over-representation of black and minority ethnic populations in penitentiary hospitals and psychiatric facilities (**Vinkers 2010**). The results of this study reinforced that forensic mental health experts were experiencing difficulty understanding the subtle distinctions in degrees of accountability in persons of foreign origin. The study recommended the need to increase the validity of the pre-trial psychiatric evaluations by improving culturally competent assessment of defendants from black and ethnic minority populations through provision of more information on the groups' history of migration and social circumstances.

Racial and ethnic disparities in psychiatric diagnosis have been confirmed by numerous studies. Some studies find that a lack of cross-cultural expertise in clinical decision-making can also mistakenly inflate rates of disorders among some minority groups. The reasons offered to explain problems in cross-cultural assessments include:

- biased and ethnocentric diagnostic criteria
- differential attribution and weighting of symptoms in making diagnostic decisions across groups
- weak therapeutic alliance between patient and clinician due to cultural mistrust of the medical system or ineffective and poor communication skills in the language of assessment
- clinicians' cultural misunderstandings and racial and ethnic stereotypes.

Differential diagnosis which may be based on stereotypes can be reflected in findings in relation to "perceived dangerousness", which can have a multitude of implications for the use of physical and chemical restraint and containment of the individual in the short term by mental health practitioners, and for the longer term if this finding is similarly considered by the court (**Perry 2013**).

In an article examining a range of topics that impact on cross-cultural validity in psychological assessments, with a particular attention to forensic assessment, recommendations were put forward for best practice in forensic assessment with persons from CALD backgrounds (**Weiss 2012**). These include:

1. *Consider one's own cultural competence prior to accepting a referral.*
2. *Level of acculturation should be considered when administering psychological tests to an individual from another culture. Question the*

evaluatee's understanding of culturally relevant language, customs and beliefs.

3. *If interpreters are used they must be objective, well-trained, and provide a verbatim translation of the evaluatee's responses.*
4. *Evaluators must consider the reliability and validity of measures used with respect to an evaluatee's group membership.*
5. *The evaluator must acknowledge when the psychometric challenges for use of a measure are insurmountable (such as no data or rationale existing to support the validity of the measure in the evaluatee's ethnic or cultural group. If the lack of reliable and valid data prohibit the use of a measure, the evaluator may be forced to rely on other sources (for example, clinical and collateral interviews, medical and criminal justice records). (p. 239)*

Effective cross-cultural communication in the courts

5. To recognise that there are cultural differences amongst the actors in the court is a first step. But just acknowledging the difference does not, of itself, effect a solution. The court needs to be made aware of the specifics of the differences.
6. Legal practitioners should participate in cross-cultural awareness and communication training as well as training in how to work with interpreters.

There are many tools for dealing effectively with cross-cultural communication issues in the courts. The Queensland Supreme Court's *Equal Treatment Benchbook, 2005*, provides information on dealing with racial, ethnic, linguistic and religious diversity in the courts. It also contains detailed information on the use of interpreters in civil and criminal courts.

http://www.courts.qld.gov.au/data/assets/pdf_file/0004/94054/s-etbb.pdf

A great deal of research and development has been undertaken particularly with regard to Aboriginal English, especially through the work of Eades and Cooke. It becomes clear from the studies in this area that communication issues contribute to the significant over-representation of Aboriginal Australians in prison.

The Aboriginal Benchbook for Western Australian Courts is a good resource. In particular Chapter 5 on *Languages and Communication* which provides specific details on cross-cultural communication in cases where Aboriginal English and Aboriginal languages are the main languages of participants in the courts.

With respect to cross-cultural communication in relation to engaging effectively with migrant and refugee communities in Australia, many cross-cultural awareness and communication training programs have been developed. The Ethnic Communities Council of Queensland offers the Partners in Cultural Competence program as a one-stop shop for the delivery of cross-cultural training and consultancy services.

Definition of culture

7. Culture encapsulates more than ethnicity and it is the intersection of ethnicity with gender and socio-economic status that shapes the lived experience of the individual.

Increasingly in the social sciences, an understanding of ethnicity is examined within the more complex reality of its intersection with gender, culture and class. This is particularly pertinent to violent juvenile delinquency. Many empirical studies in this area are throwing light on independent effects of these factors as well as on the interplay between the different factors. Most studies on intersectionality confirm that ethnicity intersects with other social factors in explaining crime motivation, and specifically in severe violent offending (**Lahlah 2013**).

The discussion below draws predominantly from the area of Australian provocation law and provides examples of cases where culture is determined by the intersection of gender and ethnicity.

It is in the High Court decision relating to the Masciantonio case examining provocation (1990, 183, CLR 58, 74), that the dissenting McHugh J made a statement that appeared to simplify a definition of culture to “ethnicity”.

McHugh J stated that:

Unless the ethnic or cultural background of the accused is attributed to the ordinary person, the objective test of self-control results in inequality before the law. Real equality before the law cannot exist when ethnic or cultural minorities are convicted or acquitted of murder according to a standard that reflects the values of the dominant class but does not reflect the values of those minorities.

The judge’s view around the issue of provocation and self-control in a cross-cultural context is discussed further by De Pasquale (**De Pasquale 2002**) and Detmold (**Detmold 1997**).

In two Australian cases (**R. v. Dincer 1983**, and **Masciantonio V. R. 1985**) defence claimed that the alleged offenders’ violence was provoked and that cultural obligations required their swift retribution. In both cases The High Court of Australia held that ethnicity is not to be taken into consideration when determining the level of self-control of the “ordinary man”. However, as Hallevy reflects, the test of the “reasonable man” is culturally oriented, based on the dominant culture (**Hallevy 2009**).

Considering culture and ethnicity in sentencing

8. Western countries receiving large numbers of immigrants must give consideration to the complex cultural issues that can present as mitigating factors in criminal matters, impacting on severity of the punishment.
9. There is a need for judicial education and the dissemination of papers to judicial officers on cultural matters, individual communities and related issues.

Norrish, J, QC of the District Court of New South Wales in a paper presented in October 2013 to the Judicial Conference of Australia Colloquium, takes up issue of cultural matters which may mitigate sentence. In his Paper, Justice Norrish argues that within current legislative constraints and legitimate sentencing discretion:

1. *more extensive use of judicial notice is required to be taken of both objective and subjective circumstances of offending and offenders and this will enhance "individualised justice"; and*
2. *such action by judicial officers would have a substantial impact on the length of sentences imposed and the structure of sentences of imprisonment, particularly in cases where personal deterrence and protection of society are not significantly prominent (p. 3).*

In his paper, Norrish J acknowledges the "significant, widespread and common underlying issues to offending by Aboriginal people" (3) as they were identified through the Royal Commission into Aboriginal Deaths in Custody and the relevance of systemic disadvantage to the circumstances of Aboriginal offenders.

Norrish J recommends the need for judicial education and the dissemination of papers to judicial officers on cultural matters, individual communities and related issues.

Albeit from a US paper, the points raised by Professor Hallevy on the complex issues in considering statements of mitigation in criminal matters based on cultural difference are worthy of consideration by western democratic countries receiving large numbers of immigrants (**Hallevy 2009**).

Hallevy's paper addresses the issue of immigrants who are alleged to have committed a criminal offence in the receiving country while the same conduct is not considered as such in the immigrants' country of origin. He provides a number of examples of the issue (pp14-15).

A person educated in a society in which killing for family honour is legitimate, and does not constitute a criminal offence in that society (refer to the Australian case of **R. v. Dincer, (1983)**, 1 V.R. 461)

A person educated in a society where the use of drugs is accepted, but he migrates to a society in which use of drugs is completely outlawed (refer to M. Adrian, *Substance Abuse and Multiculturalism*, 31, *Substance Abuse and Misuse* 1459 (1996)

A person educated in a society where sexual contact with family members is accepted, but he migrates to society in which such contact is forbidden, either

within or outside the marital framework (refer to Frederic P. Stroke, *The incestuous marriage: Relic of the past*, 36 U. COLO. L. Rev. 473 1964)

A person educated in a society where a high intake of alcohol is acceptable, but he moves to a society in which alcohol consumption is prohibited in certain circumstances (refer to Andrew Sherratt, *Alcohol and its Alternatives: Symbol and Substance in pre-industrial cultures*, 1995).

Annotated bibliography on the refugee experience

10. There is no one story that can reflect the culture and lived experience of all refugee communities. The evidence must be sought in relation to each individual and their community.

Bartels, L, 2011, *Crime prevention programs for culturally and linguistically diverse communities in Australia* (Criminology Research Council, Report Number 18)

A study of crime prevention programs for CALD communities in Australia includes a consideration of effective strategies in Queensland. Australian studies have shown that adult migrants from New Zealand, Lebanon, Vietnam, Turkey and Romania have been identified as having a higher involvement in criminal activity than the Australian-born population. Juveniles from Lebanese, Turkish, Vietnamese, Indo-Chinese and New Zealand backgrounds were more highly represented in the criminal justice system than their Australian-born counterparts (Bauer, 2006). However, it is also noted by researchers that socio-demographic factors and social disadvantage can better explain criminality than membership in the identified ethnic group. Key risk factors include limited English language proficiency, acculturative stress, racism and discrimination, disrupted education and cultural isolation. Protective factors are feelings of safety and support in the community. Identified as promising initiatives in Queensland are: Burmese refugee (Karen/Chin) police information sessions; Queensland Police Service and ethnic community sports tournaments; Muslim Women's Days; the development of ready reference guides for police to be aware of cultural aspects of different communities; information for police on how to contact interpreters; and cross cultural training for police.

Dawes, G, 2013, *Sudanese "lost boys" and their interactions with the Criminal Justice System in Queensland, Australia*, (International Journal of Social Inquiry, 6(1), 73-89)

A Queensland study examined the challenges faced by Sudanese youth in the criminal justice system. Many of these young people were displaced or orphaned during the Sudanese civil war. Studies during the past few years have raised concerns about the criminalisation and demonisation of refugees in Australia and the need to consider complex factors when analysing social integration of refugees. African young people congregating in public spaces are more likely to come into contact with police which in a number of cases has led to troublesome relationships. However, there is little knowledge about young Sudanese people's involvement with the criminal justice system. This particular study conducted surveys of 380 Sudanese youths across three cities in Queensland. Focus groups with young Sudanese and police data was analysed relating to arrests and charges where victim data pertained to Sudanese from 2000 to 2009. The data reinforces that young Sudanese are the victims of negative media reports, have perceptions of being victims of police

harassment or attention because of their racial characteristics and collective practices, and experience inadequate representation in the courts.

Fazel, M, et al, 2012, *Mental health of displaced and refugee children in high-income countries: risk and protective factors*, (The Lancet, 379.9812, 266-282)

This article presents information that reinforces that, for this group, exposure to violence has been shown to be a key risk factor for mental health. Stable settlement and social support in the host country has been shown to have a positive effect on the child's psychological functioning. Children and adolescents who flee persecution and re-settle in high-income countries often endure great physical and mental challenges during displacement, and suffer continuing hardships after arrival.

The process of sociocultural adaptation is shown to be gradual. Refugees integrate to different extents with the host community. Children with disrupted or minimal school education are suddenly immersed in new education systems. Racial discrimination and bullying, exacerbated by policies to accommodate asylum seekers in already impoverished and disadvantaged areas, are widespread. Immigration policies for dispersal and detention can negatively affect refugees' attempts to settle in their host community.

In this review, the authors draw attention to the specific risk and protective factors that affect the psychological well-being of children. The authors provide detailed discussion of risk and protective factors in the following areas:

- effects of displacement
- exposure to violence
- physical, psychological or developmental disorders
- family bereavement
- parental ill-health
- household economic and financial stress
- parental education
- social and community integration
- ideological and religious contexts
- ethnic origin
- resettlement location
- time since displacement
- immigration process.

The evidence lends support to the idea of spirals of loss and to the cumulative adversities that worsen health outcomes. The most harmful pathways are those that involve exposure to violence for both behavioural and emotional mental health outcomes. The study concludes that professionals need to assess the multiplicity of ongoing challenges to the well-being of refugees.

Fisher, C, 2013, *Changed and Changing Gender and Family Roles and Domestic Violence in African Refugee Background Communities Post-Settlement in Perth, Australia*, (Violence Against Women, 19(7), 833-847)

The importance of understanding experiences of domestic violence (DV) within the context of cultural transition is highlighted in this article. In this study, DV in five African refugee background communities post settlement in Perth is investigated-specifically, the inter-relationship between experiences of DV, and changed and changing gender roles and responsibilities. Three key dimensions of this inter-relationship are discussed:

- Male loss of breadwinner role and status
- Financial independence
- Mismatch between formal response and expectations.

The impact of Western legal and social systems on changed and changing gender and family roles was dominant in the discussions with study participants. Most notably was the role of Centrelink which provided social security benefits to families to assist with the cost of raising children directly to the bank accounts of the women. This was a cause of great angst for many men in the study as it was seen as undermining and usurping their provider role and handing it to women. The tension that this created as men struggled to retain their traditional role and status was seen as manifesting in DV in many families. From the data, it appears that complex dynamics are occurring in families around the receipt of Centrelink payments. For many women, this was the first time in their lives that they have had access to money and they may not want to give it to the man. The situation becomes more complicated if one of the partners obtains employment and the other loses Centrelink money, and/or the children reach the age of 16 and are eligible to receive their own payments. For many who came from countries that did not have welfare security systems, the Western system is alien.

In addition, the Western legal system (police and judiciary) and social support systems that respond on behalf of the victims of DV were likewise seen as complicit in changing gender and family roles. The Australian response to DV is very different from the response, or nonresponse, most were familiar with prior to settlement in Australia. However, not all participants considered the impact of the legal and social systems negatively.

The study concludes that the challenge for service providers is to ensure that their services are culturally relevant and secure, that locally recruited staff are aware of the context of women's lives prior to settlement, and that staff have the skills and knowledge to understand DV within the context of cultural transition.

Huemer, J, et al, 2009, *Mental health issues in unaccompanied refugee minors*, (Child and Adolescent Psychiatry and Mental Health, 3(13))

This study recognises that unaccompanied refugee minors are a particularly hard to reach but vulnerable population group. Considerable literature has emphasised the assessment of post-traumatic stress disorder (PTSD) symptoms in this group. The vulnerability of the group is evidenced by the group's mental health status. This US study indicates that while six per cent of refugee children with families have witnessed the killing of parents, living on the streets or being kidnapped and living with rebels, this compared to 25 per cent of unaccompanied refugee minors. Sixty-three per cent of unaccompanied refugee minors were more likely to have experienced four or more traumatic events compared to 16 per cent of refugee children and adolescents with families. Unaccompanied refugee minors showed a significantly higher prevalence of depressive disorder, borderline personality disorder and psychosis when being compared to minors with families.

This study concludes that there is a need to broaden the perspective by integrating models of coping with stress, personality profiles, long term outcomes, resilience and the examination of the full range of psychopathology in this vulnerable population group. The authors reference the study by Goodman (2004) which identifies four key themes in coping strategies:

- Collectivity and the communal self - the adolescents described themselves as part of the group of refugees and stressed the importance of mutual support to endure their situation
- Suppression and distraction - these defence mechanisms were described as a means to forget about the stressful past - their narratives of past events were told with little detail and little emotion
- Creating meaning - the idea that God is in power and that God's will is predominant in deciding about your life and dying was present in most of the stories
- Emerging from hopelessness to hope - youth in the study contrasted the stressful past with the prospect of a more fortunate life in the future.

James, K, 2010, *Domestic Violence within refugee families: Intersecting patriarchal culture and the refugee experience*, (The Australian and New Zealand Journal of Family Therapy, 31(3), 275-284)

This article examines the stages of the refugee journey and the intersections of DV and culture, trauma, resettlement and masculinity. Arguing that therapists must challenge aspects of culture that promote violations of women's human rights while understanding the unique situation of refugee families, the article concludes by identifying principles for therapeutic and community based interventions.

The article explains that given the complex reasons for DV in refugee communities, intervention is not straightforward. The authors put forward several principles for working with refugees in a therapeutic context around the concepts of trust, confidentiality, flexibility, client self-determination and empowerment.

The authors conclude that the greatest traction in reducing violence in refugee communities will be gained by focusing on a defined community and working with men's and women's groups and their identified leaders. They stress the need for responses to DV that honour cultural differences while challenging abuse.

Lukunka, B, 2012, *New Big Men: Refugee Emasculation as Human Security Issue*, (International Migration, 50(5), 130-141)

This study examines the situation of Burundian men and women in camps in Tanzania and argues that poor socio-psychological well-being actually explains the manifestations of violence against women in refugee camps. The study illustrates how the loss of control over their lives in refugee camps affected men who experienced socio-psychological crisis that took the form of a gender identity crisis, and led to refugee men engaging in gender-based violence. The paper puts forward the case for greater focus on and investment in addressing the socio-psycho needs for identity of individuals especially in regards to the individual's need for recognition, participation and autonomy.

The paper provides a detailed analysis of life in the refugee camp for Burundians and outlines a range of strategies for addressing socio-psychological issues for life in the camp and post camp settlement. While most of the recommended actions are directed to aid agencies working in refugee camps, settlement services in new countries of Burundian resettlement will find this information critical to their planning and staff training.

Nilsson, J, E, et al, 2008, *Acculturation, Partner Violence, and Psychological Distress in Refugee Women from Somalia* (Journal of Interpersonal Violence, 23(11), 1654-1663)

This US study examined the relations among acculturation, DV and mental health in 62 married refugee women from Somalia. In designing this study the authors drew on the literature which indicated that DV may be initiated by resettlement stressors, such as language barriers and cultural differences. In general, other studies have found that the greater the cultural difference between native and new cultures, the more stress. One common stressor is changes in gender roles brought about when refugee women have to work outside the home and bring home more money than their male partners. For men, resettlement can lead to unemployment, and loss of power and status. However, the impact of DV on Somali women's mental health is largely unknown with few studies in this area.

The results of this study indicated that women with greater proficiency in speaking English were more likely to experience both psychological abuse and physical aggression from their partners. It is possible that such language ability is associated with women being more engaged in the community, more acculturated to new social values and beliefs, more independent, and possibly have greater likelihood of being employed. Greater intimate partner violence was associated with increased psychological distress, and more instances of DV. As refugee Somali women become more acculturated and proficient in speaking English, they may be at continued, even greater, risk of abuse.

The study reinforces that to intervene in culturally sensitive and more effective ways, service agencies must familiarise themselves with the culture and the struggles of their Somali clients.

Pacione, L, Measham, T, Rousseau, C, 2013, *Refugee Children: Mental Health and Effective Interventions*, (Current Psychiatry Rep, 15, 341)

This review focuses on the mental health of refugee children who have fled war and outlines strategies and recent developments in the field to both prevent and treat adverse mental health outcomes. Authors describe the child refugee's experiences pre-migration, migration experiences and post migration experiences.

Post migration experiences for refugee children may include:

- stress related to the family's adaptation
- difficulties with education in a new language
- acculturation including shifts in ethnic and religious identity
- gender role conflicts
- intergenerational conflict within the family
- experiences of discrimination and social exclusion
- dealing with the impacts of what they experienced in the refugee camps which could include malnutrition, sexual abuse.

A discussion of effective interventions for war-affected refugee children is summarised in this review through a table which presents key aspects of the tiered collaborative care model in youth mental health assessment process for refugee children and their families. This approach to tiered prevention and treatment models begins with emphasis on better support for primary care and community-based professionals providing general psychosocial support through local community based

health and social service providers either in clinics, their homes or schools leading up to specialised mental health treatment.

Pulvirenti, M, Mason, G, 2011, *Resilience and Survival: Refugee Women and Violence*, (Current Issues in Criminal Justice, 23(1), 37-52)

Many refugee women have experienced torture, violence and intimidation in their countries of origin, during flight across borders, in refugee camps or detention and during resettlement.

This study was undertaken with service providers in Victoria and South Australia to consider the ways in which refugee women can be seen to be resilient, the significance of understanding resilience as a process rather than as an individual trait, and the importance of appreciating that the process of resilience can only materialise if responsibility for it is shared collectively.

The study draws on previous research that argues for a move away from identifying protective factors or resilient individuals per se towards thinking about resilience as a process between the individual, family and social environment. In the context of refugee women, the role of community, particularly through the extended family and wider social networks, are seen in the literature as crucial to maintaining and building resilience-enabling women to re-orient their lives in resettlement.

The article emphasises that resilience in refugee women is not automatic, rather that it is built through external support, provided through a range of programs and services as a necessary ingredient in the transformations indicative of resilience. This process of transformation does not rest with the women alone to “bounce back” from violence.

The authors reflect from the service providers’ input to the study that resilience should not be used as a rationale for the abrogation of state and social responsibility and subsequent reduction of resources. The study finds that, based on the input from the service providers, resilience is possible for refugee women who have extensive histories of extreme violence and who may also be currently living in DV situations.

The study concludes, however, that in resettlement, refugee women have low expectations of their environments and that they do not expect to be safe either within or outside the home. But a high tolerance level of violence does not suggest that violence is acceptable, even if violence has become normative for these women.

Rees, S, Pease, B, 2007, *Domestic Violence in Refugee Families in Australia: Rethinking Settlement Policy and Practice*, (Journal of Immigrant and Refugee Studies, 5(2))

This study presents the findings from research into the significance of traumatic history, social and economic context, cultural differences and changed gender identities on the perceptions and experiences of DV in refugee families. The study was undertaken with a sample of men and women from Iraq, Ethiopia, Sudan, Serbia, Bosnia and Croatia.

The study has underscored the importance of thinking about refugee communities, settlement and DV in more complex ways than has previously been evidenced in Australia. The complexity and intersectionality of social and cultural values that people use to make sense of their world need to be taken into account.

This study provides insight into the experience of DV and isolation by refugee women in resettlement. Isolation was experienced in many different ways:

- DV and the strategic isolation of women
- separation from family and isolation from family support
- implications of living with refugee status
- social withdrawal associated with post-traumatic stress disorder
- fear of racial violence and intimidation
- inadequate English language skills preventing poor social integration
- inadequate public transport
- poverty preventing social outings.

Unemployment affecting men was correlated with family conflict and DV, as was mental health issues experienced by men as a result of past trauma. The research established that education and awareness of mainstream Australian society, cultures and worldview were important factors in preventing violence in families.

The general view from some of the men and women in this study was that many women had become more aware of their rights and more empowered and felt protected from DV in Australia, however many women also remained isolated. It is important that refugee communities are not approached in a general or universal way and that service providers be aware of the multiple experiences for refugee women during resettlement.

Wakefield, S, et al, 2014, *Perceptions and profiles of interviews with interpreters: a police survey, 0(0), 1-20*

A research study into police perceptions of working with interpreters was undertaken in Queensland. It examined why police may be reluctant to use interpreters, the challenges for police working with them and the effects of interpreters on police interviewing. The study details the considerations by police when having to decide whether an interpreter is considered a necessary requirement in obtaining evidence. The study also assessed organisational preparedness for interpreted interviews. Findings from this study support a number of concerns held about police use of interpreting services. The study contributes to a plan for increasing and improving the use of interpreters not only in more serious crimes but in a wider range of offence types. It also points to ways that a more consistent approach to the use of interpreters could be developed through training, policy and guidelines development.

Zannettino, L, 2012, “...*There is no war here; it is only the relationship that makes us scared*”: *Factors having impact on Domestic Violence in Liberian refugee communities in South Australia, (Violence Against Women, 18(7), 807-828)*

The findings from this study suggest that disruption to traditional gender roles has an impact on DV at the cultural, socio-economic, familial, and individual levels and that women’s experience of DV must be understood in relation to the acute and prolonged stressors of war, loss, and displacement.

This study presents detailed consideration of the nested ecological theory of DV (Dutton 2001) highlighting:

- culture specific factors
- disruption to traditional gender roles

- beliefs surrounding rape in marriage
- the acceptability of using violence within the family for child discipline and chastisement
- the belief that parenting is women's responsibility
- socio-economic factors
- the gendered allocation of welfare payments
- fears about the police and the legal system
- family and the impact on family dynamics of trauma
- the impact of war and conflict on family functioning
- the belief that seeking help for DV will hurt men and bring shame to family and community
- the belief that seeking help for DV will lead to family breakdown
- the effects of PTSD on individuals
- the trauma of war and conflict.

The author draws conclusions in the form of implications for practice that should focus not only on gender as a central factor, but also on other structural determinants in refugee women's experience of DV.

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ISBN: 978-1-876025-68-7