

**Submission  
No 100**

## **COERCIVE CONTROL IN DOMESTIC RELATIONSHIPS**

**Organisation:** Indian (Sub-Cont) Crisis & Support Agency

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# FORMAL SUBMISSION

JOINT SELECT COMMITTEE

COERCIVE CONTROL

**29 JAN 2021**

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## About ICSA

The Indian (Sub-Cont) Crisis & Support Agency (ICSA) was established in April 2014, following a review of systems and supports to the Indian Subcontinent communities over three years. The first remit for the organisation was to support Temporary Resident Migrants (TRM) and advocate for the demographic.

Support services were established in line with need and our delivery program began in 2014. From the onset, Domestic & Family Violence has been the highest need area. When we began our journey, there were no supports for TRM and to our surprise we encountered the wider community to be falling through the gaps across all disciplines.

Therefore, our client base is essentially the Gap Community and we now support other CALD clients as their issues have similarity and solution options are the same.

As an organisation with a quality set of data, we act as subject matter experts in a number of areas including bespoke matters in DFV such as Dowry Abuse.

We are a volunteer run organisation, registered charity and empanelled by the Indian Government. Our limited operating resources are from fee-based services.

## Attachments:

1. *House of representatives standing committee on social policy and legal affairs - inquiry into family, domestic and sexual violence 30 July 2020*
2. *Dowry Cultural Contexts – Practice of Dowry and Dowry Abuse in Australia – 2019*

Questions 11 – 15 are considered specialist legal questions, so are not responded to. Could the current legislative regime governing ADVOs better address coercive and controlling behaviour? How?

\* names have been changed

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## SUBMISSION

This submission is made by the Indian (Sub-Cont) Crisis & Support Agency (ICSA) from our own data, experience and observations through:

- Direct delivery of culturally appropriate domestic violence services including case management, counselling, family conciliation, language services, document drafting and court advocacy.
- Interpreting and mediation within all settings across domestic violence support, legal matters, custodianship, property settlement and guardianship
- Collaborations with interagencies in sharing experiences and developing strategies with other service providers
- Developing tailored culturally appropriate and acceptable systems and operating models that better fit the CALD demographic.
- Advocacy of emerging and relevant issues such as dowry abuse, addressing DFV in temporary residents and migrants, and advising on strategies to address failures or gaps in the system.
- Developing evidence based and tailored training drawn from our case & client workload, as well as research into systems in other countries that could be applicable to the Australian landscape.

ICSA clients are largely from Western Sydney in face to face services, but our client base extends across Australia through remote and online support services. The ICSA submission relates in the main to CALD or marginalised communities.

In making this submission we raise three issues for consideration:

1. Coercive Control beyond Domestic & Family Violence
2. Coercive Control impacting Culturally & Linguistically Diverse (CALD) communities.
3. CALD representation.

### COERCIVE CONTROL BEYOND DOMESTIC & FAMILY VIOLENCE

ICSA supports the introduction of legislation in coercive control and should align with Human Rights. This submission process is based around domestic & family violence, we consider it should consider the broader scale.

Coercive control occurs in various situations beyond DFV such as:

*Employers* – our client base has significant numbers of Temporary Resident Migrants (TRM), the level of control over these people who are already often desperate is considerable. They are subject to wages theft, violence, starvation, threats and intimidation. They are left with no autonomy or independence and many work in areas where they are constantly monitored by CCTV surveillance to ensure they don't take breaks and are working all the time in very long hour shifts.

*Migration Agents* – control people through various unnecessary visa pathways that are lucrative to them but through exploitation of the individual. The agents coerce people into paying fees that are not applicable, so creating debts and threat deportation. We have seen clients forced into sex slavery, religion changes and forced marriage through such processes.

*Authorities:* Coercive control (abuse of power) by authorities should also be considered in the legislation. While there are avenues such as employment laws and complaint processes; too often

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the damage done to an individual by such processes is considerable with lasting damage, most importantly could and should have been avoided.

Essentially those with power such as Government Departments, regulatory bodies and large employers use their power through bureaucratic processes to control individuals. The individual usually presents with the same symptoms and lasting effects of a victim of DFV.

The improper use of power over information to fabricate and manipulate a construction of wrongdoing or breach is too easy, the remedies through complaint processes are if anything more damaging. While processes offer hope, in reality they are controlled by self-regulators and authorities to investigate themselves. If there are any findings for the complainant usually with little impact, in terms of repercussions for the perpetrator or repair for the person.

People who are in power and use that power improperly are coercive controllers who are protected by the system and their position. While responsibility should be from the agency, this is often a moot point; as any agency is run by individuals who themselves administer the process and so should be held to account personally no different to any domestic abuser.

Coercive control is prevalent in so many spheres and is an underlying driver to issues like bullying, that it should not be considered only in terms of DFV. The correlation is that the impact, ramifications and symptoms for the victims are likely the same, while perpetration may come any number of sources.

#### COERCIVE CONTROL IN CALD COMMUNITIES.

In the wider sector there is limited understanding of DFV and in particular coercive control impacts Culturally & Linguistically Diverse (CALD) communities.

It is acknowledged that CALD communities have a lower rate of reporting abuse from the onset, victims think they will not be believed, their partners may be perceived to hold power over authorities and that they will be blamed for the abuse (not being a *good* enough wife).

Our experience from direct client management is that it is too often the case that CALD women experience more abuse after contacting the police. Bringing the police into the situation, not only threatens the perpetrator (making them more volatile) but is considered to bring shame to the family – for a woman to bring shame sets her against the rest of the family and the perpetrator becomes the victim in the family's eyes.

Therefore, it is hardly unusual for women not to seek help; given many face further harm and disempowerment after seeking help.

Where women are already in compromised circumstances such as having a disability, being on a temporary residency visa etc the risks to their safety and isolation are compounded. As such any sense of security in reporting can very quickly turn into an escalation of abuse.

Typically, in DFV there are no witnesses, the cultural norms are that a level of judgment on any such situation will be made and if the man is considered a good man in the community, it must therefore be the woman's fault and she is treated as such. The logic that if he was violent or abusive, others would see it.

Research has already shown that adversarial court proceedings can be used to extend coercive control, this is more easily achieved when the woman is illiterate, does not speak English or has little experience outside the house. Each and every aspect of a separation or addressing DFV is a whole new world, for which there are scant if any services to support such a victim.

Places like Sydney have a degree of better trained and culturally appropriate staff and there are volunteer groups who cover some of the bespoke support needed. The further out into rural areas the case, the less likely there is for any culturally appropriate support.

There has been a growth of CALD communities in regional areas over the last ten years; the consequence of enticement to an expanded regional migration program for new arrivals.

This presents key issues:

1. The new migrants are temporary residents, therefore largely outside any support system due to ineligibility.
2. There are no settlement services type of support on arrival
3. Social welfare services that do offer support have had little specialised guidance, advice or training. They are not even connected to other services in metropolitan cities services or processes to collaborate with.

Aside from the legal systems being used to extend coercive control, the Migration systems are more likely to provide avenues of coercive control in a domestic situation. Under a temporary visa situation, the victim considers many factors including losing residency for herself and her children if the husband loses his.

It wasn't until COVID-19 that temporary residents received any form of support and even then it was late and limited. Victims in situations of being a dependant have suffered quietly and in the knowledge their partner can withdraw his support any time, leaving the victim with little option but to return home poorer and in a broken relationship; casting doubt where the children may end up.

It is at times too easy to pin the word perpetrator on someone who exploits their situation and power, but it is important also to give due consideration to the systems that generate or facilitate that control.

*For example if a woman is a dependant on a temporary skilled visa, she has no options under the current system to claim DV in her migration process. She can report the abuse and even get support, but it will leave her with no option to remain in Australia unless she makes an independent application and is even eligible to any type of visa. Therefore the system of migration is what prevents her from reporting and also strengthening the partners ability to coercively control her.*

In introducing new legislation, due consideration is needed:

- Coercive control is likely higher in CALD communities as a cultural norm.
- Addressing the needs of CALD communities will need educating communities, appropriate enforcement and sustained support systems.
- Commitment for adequate and appropriate training and
- Support systems that are have the skills and adequately resourced to meet demand.

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## CALD REPRESENTATION.

It is usual to see CALD representation made by peaks, services and providers. There is no doubt great will and desire to improve and properly assist CALD communities, however recommendations are drawn from places far removed from the evidence base and lived experience. Therefore it is important to get representatives to give evidence on behalf of the lived experience, the individuals cannot do it themselves.

ICSA recognises the challenges of consulting with CALD communities, we too have those challenges but with the advantage that we do not attempt practice methods which we know even without research will not work.

There is an assumption that CALD communities advocate in the norms of Australian advocates, this is not the case and logically could never be. It takes year for migrants to understand local systems, notwithstanding there are generations of people in Australia who also do not understand systems.

Add to that the language differences. Many languages have different grammar so when a point is translated, it hasn't the impact of what is intended. Often the person making the point adds their own experience or analogy, the point is further diluted. In the end only a fraction of the issue is communicated.

The other challenge is the racism bias, for generations people of colour and from Non-English Speaking Backgrounds (NESB) have experienced racism, inferiority and discrimination. As such they often use qualifiers to drive their point and in doing so again lose the point.

*For example; it is a common occurrence in CALD consultations with any agency for someone to be asked to introduce themselves and their agency. What happens is that the person lists all their qualifications, achievements and positions (e.g. president of xx). So much so there really is no time for them to speak on the subject matter. The opportunity is lost.*

In light of some of these barriers, it may seem reasonable for others to advocate, in which case those advocates really need to be closer aligned to the lived experience and mentor the CALD advocates.

Since this submission process began, there has been an abundance of webinars, panels and 'research', mostly surveys. There is nothing wrong with this and the more information available the better. However from a CALD lens the information is not only third party but can be mitigated through the process of interpretation and unconscious bias.

It is the role of peak bodies to advocate; this advocacy however has a dated model, where the evidence base comes from service providers, past research and statistics. Service providers have varying experience, research is very limited for CALD communities particularly emerging communities and statistics can never capture the level or nature of non-reporting. As such the evidence base is again limited.

*We urge this committee to take evidence from those with lived experience or those supporting those with lived experience across NSW and not just the metropolitan area.*

In developing legislation that will address CALD communities, due consideration is needed in that:

1. CALD communities under report abuse to both police and services.



2. Statistics police, health or BOSCAR are missing a unique batch of data.
3. CALD communities fall into gaps, the gaps are their needs which are not captured so the issues are not tabled or addressed.

The means of representation for CALD communities is only part of the issue. The other is the part that is unpalatable. There are a variety of issues which present themselves in CALD communities which is simply dismissed by service providers.

*For example; It is undeniable that violence and abuse in Australia is perpetrated mostly by men. In CALD communities that is not the extent of it, coercive control is and can more often be led by women. Abuse is perpetrated by women (mother-in-law, sister-in-law), violence is provoked by women – to prove manhood usually. Women will defend the perpetrator over and beyond the victim wife. The isolation and character assassination of a victim begins and is most aggressively pursued by women.*

When a CALD organisation like ours speaks up about such issues, we are immediately dismissed as the issue's irrelevance in Australia or drowned out by a barrage of Australian statistics.

We do not disagree that it is mostly women who are the victims, but they are not always the victim at the hand of the partner alone; the family and community may be equal participants. If the act of abuse is by the partner and he is reported, then he may suffer the legal consequences, while the mother, father, priest all of whom may have pressured and provoked him will watch on with impunity.

We advocate that this legislation therefore looks at coercive control in its holistic form, it is too simple to consider one person exerts that level of control without support or help. We detail this issue in our submission for the Inquiry into Family & Domestic & Sexual Violence to the Federal Government and is attached to this submission as Attachment 1

## Questions

### 1. What should be an appropriate definition on Coercive Control?

An appropriate definition of Coercive Control should include:

- The acknowledgement that coercive control comes from a combination of repeated and range of behaviours. coercive control is not any isolated incident but can be a pattern of periodic incidents, which then represents repeated behaviour.
- Recognition that coercive control occurs and strengthens by a cumulative effect.
- The impact on the victim; e.g. isolated, fearful – coercive control too often dismissed as the victim does not behave like a victim; but seems detached and uncaring of the situation, which is likely a coping mechanism.

The law needs to be fully inclusive of CALD & First Nations people. To have effect there must be some will and resources to ensure the laws and consequences can be fully understood by all parties.

That process at the very least is two actions:

1. Develop the language. In multicultural communities often there are no words, definitions or equivalents in other languages. This must be addressed through co-design to develop a glossary and agreed translations.

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2. The second is to put the law into cultural context. There needs to be clarity around what are coercive controlling behaviours versus cultural norms. In any culture some women prefer to have the male partner control finances and make major decisions. In CALD communities this is more a norm, so clarity is needed as to where cultural norm is a cover for coercive control.

## 2. How should it distinguish between behaviours that may be present in ordinary relationships with those that taken together form a pattern of abuse?

The impact on the victim(s) is the key to distinguish between ordinary relationships and patterns of abuse. This is not to be confused with the victim being able to identify the abuse. Often it is a third party whether family, friend or professional that will detect and dissect the abuse pattern.

When a person has had control removed from them, they will frequently claim they are a willing participant and like their situation and the other party is taking care of them. It is not unusual for the victim to cooperate or even protect the abuser to avoid detection (possibly for shame or avoid abuse) and then after the abuse is identified denying it to be abuse. This is particularly obvious in situations where the victim attempts to prevent any criminal proceedings against the abuser and can be considered perverting the course of justice, lying or just unreliable.

In ICSA clients, our observation is that victims develop what can be considered [a form of] Stockholm Syndrome in the relationship; suffering similar symptoms of PTSD when they part from the abuser.

## 3. Does existing criminal and civil law provide the police and courts with sufficient powers to address domestic violence, including non-physical and physical forms of abuse?

The existing criminal and civil law (system) is flawed and broken, there is likely nobody that works in it that would disagree. The system essentially has such high thresholds that it is difficult to meet as a 'crime'. Even before that the system fails to have specific definitions and laws that the crimes should fit into. That is where there are actions such as violence the burden of proof in an environment which typically has no witnesses is difficult enough.

With non-violent actions such as stalking which do fit into a crime they are easily excluded as being a crime.

For most other non-violent crimes there really are no laws that sufficiently address the issues, for some there are civil options which are costly and require professional representation. Essentially these options are out of reach as the very nature of DFV and in particular coercive control usually leaves the victim without means.

It cannot be said there are no powers, or even insufficient powers but the way the legislation and burden of proof is tapered, means the power of the law requires more resourcing and dedicated specialists to address the issues.

*For example there may be evidence of physical abuse in medical reports, meetings with schools or other professionals. Too often the police have not followed up those avenues, if or when questioned by a magistrate we hear they haven't had enough resources, changes of shift and officer movements. While on the other hand the perpetrators lawyer (usually paid to) has done his work and got references for his client, witness statements to cast aspersions on the victim, produced materials that demonstrate a loving happy family etc.*

There is no way a victim can be properly represented in the current system where those working on behalf of the public prosecution do not have the means to effectively deliver justice, even where the law allows it. These complications become compounded and even more imbalanced where the victim:

- is from a CALD background
- is impacted by a disability
- may be affected by mental health
- is on a temporary residency
- does not speak English

#### 4. Could the current framework be improved to better address patterns of coercive and controlling behaviour? How?

The legal system in NSW has a matrix of legislation that covers DFV and needs to be overhauled to meet contemporary needs and more clarity into the existing legislation. We need legislation that covers all abusive behaviours which we now refer to as crime but not covered in law (such as non-violent abuse) that affects individuals in their personal circumstances.

This should be underpinned by laws or a charter on human rights.

#### 5. Does the law currently provide adequate ways for courts to receive evidence of coercive and controlling behaviour in civil and criminal proceedings?

Refer to No.3

#### 6. Does the law currently allow evidence of coercive control to be adequately taken into account in sentence proceedings?

From observation this is quite subjective depending on the court, the level and quality of representation and the magistrate themselves. Some do, much of the time we see a level of frustration when one party is unprepared or improperly represented, this can dilute the crime significantly and then be reflected in sentencing.

Some research is required in these cases, with dedicated resources to properly assess the degree and loopholes.

#### 7. What are the advantages and/or disadvantages of creating an offence of coercive control?

There are clear advantages of creating an offence of coercive control, but it needs to extend beyond the domestic situation as coercive control is perpetrated in many situations. The common denominator is that they are all abuses of human rights with elements of slavery or like behaviours.

Any law that is considered therefore needs to properly consider and apply the human rights lens and framework.

Coercive control is born out through the dynamics of everyday life and is not limited to the domestic situation, our client base has three common situations:

1. **Domestic & Family Violence:** *anything from between intimate partners to people in inner circles who can influence abuse but may not be related or living with the victim.*

2. **Commercial (Economic):** situations where there is a relationship between the parties (employer, agent, landlord, educator, lawyer etc), where the coercive control over an individual has pecuniary or other benefits (such as covering up criminal activity).
3. **Economic Domestic Violence:** This is the combination of DFV to coercively control an individual in pursuit of economic or commercial gain. Situations of People/Sex Trafficking, Dowry Abuse and sometimes in Forced Marriages.

**Commercial or Economic coercive control** is observed where a party coerces another initially by some form of deception (e.g., promise of visa, job etc), draws the victim into some form of illegal behaviour and then controls that person for their own economic benefit. The victim loses their autonomy, independence, decision making ability and become subservient and obedient in fear of the consequence if they don't comply.

*Case Study: Mick comes from Brazil to visit his brother in Australia. A friend offers him some cash work while he is here. Mick goes to work and then considers applying to stay in Australia. He continues to work, gets a migration agent who lodges a visa application. Mick is told he is not really eligible for any visa directly, so he will need to take an alternate pathway. His application is for a student visa.*

*Now he needs to pass an English test, pay fees and can only work 20 hours. He complies but cannot afford the costs on only 20 hours work a week. Towards the end of the study period, he looks forward to completing and looking at permanent residency. His agent tells him that's not possible and he can only go on a further study visa. Mick questions this and the agent tells him if he wants the authorities to know he has been working illegally and did even before his student visa to go ahead and try elsewhere.*

*Mick believes he has no option but to believe the agent and goes with his advice, by now he knows he is underpaid by the employer, he knows he is over charged by the educator, migration agent but has broken the law himself so has nowhere to turn. At each stage he has been threatened subtly by deportation, illegally working, failing to pay tax etc.*

*In this way he continues on various visas at the behest of others and continues to be controlled. Mick has been in Australia for 12 years and fearful of raising his head, his health is suffering but he cannot afford proper treatment. He has been a manual worker and struggles to maintain the original level of work, so is accruing a debt to educators and landlords who get him to do their bidding as part payment. He hasn't told his family any of this, they think he is happily living in Australia as a citizen, including his brother.*

**Economic Domestic Violence** coercive control is in play in slavery, trafficking and at times in forced marriages, it is most prolific in dowry abuse. This form of coercive control is where there is a personal relationship where violence or non-violent abuse takes place, but the expectations and outcome are greater and beyond just control, they are also for some pecuniary gain. There are many resources and materials around slavery, trafficking and forced marriages. What hasn't been properly defined and addressed is Dowry Abuse.

The definitions and issues of dowry are more fully covered in the attached Briefing Paper. As an overview dowry is money or economic advantage given at the time, during or after a wedding. Dowry

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in some cultures may be given male to female, in the Indian Subcontinent it is the female's family that gives dowry.

Dowry abuse is where the domestic & family violence is perpetrated in the pursuit of dowry (believed to be owed), demands for more dowry (in addition to what has already been paid) or ongoing dowry (expectations of payments or gifts periodically).

Often dowry abuse can be missed in DFV or coercive control as there may be a pattern, the demand followed by abuse or violence and then calm when the demands have been met. For some time after that there may be what seems like a normal happy family and no abuse. When the demands are made again, if not met immediately the abuse begins again. It is often subtle to start, periods of quiet or silence, then isolation, then removal of 'rights' e.g., finance, cancelling memberships; then it moves to verbal abuse and denigration, humiliation and then finally physical abuse. Dowry abuse is pernicious which can and does lead to fatalities; by perpetrated violence or by self harm – coerced suicide. In many cases the victim is just abandoned, usually with no means and no one to turn to.

Key in this situation is that the partner who is the perpetrator will move onto another marriage and start the process over again. The cycle continues and even if the family violence is detected the coercive control undetected, but financial or economic gains have been met (to some degree if not fully).

It is a folly to consider that Dowry Abuse is the same as financial or economic abuse, while some elements are common, this form of abuse is clearly for economic gain not just to control the victim.

Dowry abuse has other facets:

- Infanticide – the killing of a female child or aborting female foetus
- Coerced suicide – gaslighting and isolating (particularly from children) to the point of self harm being the only solution.
- Multiple forced marriages (for men)
- The abuse perpetrated by individuals who are not the partner.
- Shame and honour of the family will prevent any escape or indication of the abuse or demand
- The community or family may condone the abuse

*Case Study 1: Sunita\* lives in India with her parents. Her parents are approached with a marital match for her of a boy who is an Australian citizen. Her parents consider this boy to be a good match, he is well educated with a good job and lives with his parents in a jointly owned home. They agree, the marriage is expected to be grand, (also means the boys family expect significant expenditure on their family during the celebrations). The family obliged, they were then asked for car to be gifted they obliged there too. This is where the dowry demand is clearer, the boy and his family live in Australia, why would they need a car in India? They receive the car sell it and the money is theirs.*

*The boy takes Sunita on honeymoon, he likes rough sex but also tells her it can be different if he had his demands met in other ways. Through this way he coerces more expensive gifts of gold jewellery, payment of debts and gifts for his family. Essentially he rapes her brutally to gain financial advantage. She in turn says nothing of the abuse to her family as she is newly married and shamed to admit the nature or that she could be separated so soon. An abandoned woman is always to blame that is how society is.*

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*Following the honeymoon, he returns to Australia with his parents, takes enough money to cover expenses for Sunita's visa application, travel and support in Australia for the first few months. When in Australia he says he needs to pay a deposit on a unit and until he does there is nowhere for Sunita to come and live.*

*He receives about \$20,000 to cover the deposit and upon receiving it he blocks all contact with Sunita and her family. Sunita desperate to maintain her marriage tries all means of contact and goes to authorities only to receive notice that she is threatening him, stalking and harassing him.*

*She is left to pick up the pieces, her family is left with a debt as they didn't have the \$20,000 so borrowed it and she has no legal recourse or option to come to Australia. Even if she did it would be an immense struggle for her.*

*He on the other hand has brutally raped her over and over, in doing so gained a significant economic benefit and then coerced more money before leaving her destitute, with impunity.*

This case study demonstrates how easy it is to use coercive control via the migration system and exploit cultural norms. While most of the perpetration is done overseas, so out of jurisdiction, the last few were perpetrated in Australia and if there were laws of coercive control, there may at least be some recourse. Such a case to be prosecuted even once would have huge impact on the community as the lack of laws has meant more perpetrators turn to dowry gain and therefore engage in dowry abuse to coerce the family.

*Case Study: Deepti\* came to Australia on a partner visa, having married an Australian citizen. Soon after she arrived, her husband told her he wasn't happy with not having received enough dowry. He wasn't abusive, just matter of fact. At first he took her out and introduced her to friends and seemed to be a caring, attentive husband. After about three months he reminded her again of the dowry, she had not given it any more thought as she believed he hadn't been happy but that was the end of it.*

*Now he told her directly that he expected the dowry to be made up and she was to ask her father. The dowry he wanted was equivalent to approximately \$75,000, a large sum in Australia but significantly so in India. She explained her father didn't have that sort of money. He told her to get what she could. Her father's position was that dowry paid was to the expectation and demands made which were not small at the wedding and he was not prepared to meet any more demands. He also had concerns that if he tried to meet this one, then others would keep coming. The father advised his daughter to gently explain to her husband (who so far seemed a good one) that it was impossible.*

*This led to quiet and silence, only broken by have we received the money yet? By the time she had been in Australia for six months, she had no money, was not allowed out at times locked in with no contact with her family. The physical violence came in the form of throwing and breaking items, starting with her phone. When he realised there really was no money coming, he turned tact and said she had to earn it.*

*He then brought men home for her to have sex with, when she refused and it was clear to the visitors that she was not willing, when they left she received severe beatings. She was*

*left hungry. She begged him to let her get a job and pay him. For a while this worked, her salary went to him, but she was only allowed the privileges he allowed her. It was nearly a year since she had spoken to her family, so that treat was the most precious to her. He said she could speak to them if she asked for dowry. She did and her family realised something was very wrong especially as she said she hadn't had time to call them or answer their calls.*

*In this way he gained nearly \$40,000 from her over a year and a half, from time to time he would violently abuse her and then be very nice when she earned more money. She was deteriorating mentally and physically, so he then started to gaslight her and toying with her telling her for a young woman she was looking old and couldn't satisfy him.*

*She was desperate not to become a burden on her family, so did whatever she thought she had and to keep him happy and her married. After two years, the time came for her permanent residency to be finalised. He kept delaying the process, finally he made an ultimatum; \$50,000 in dowry and he would allow her to gain her residency. She told him it was impossible; she was already working as much as she could. He told her to make her father sell his land and pay him. When the father refused, the husband threw Deepti out and withdrew his sponsorship. Deepti was referred by a community member to ICSA and was supported to relocate, apply for her visa and is now divorced, in a good job and living independently as a permanent resident.*

In this case the client had some recourse to the violence and abuse, but it was impossible to make the case for any kind of prosecution. Coercive Control laws could have made the difference.

If there are disadvantages to creating an offence of coercive control, it will be in the ability to define all the variations of behaviour and the inability to define the perpetrator, each situation will be to some degree unique.

The other disadvantage is that coercive partners are already proficient at making the victim the problem (even the victim believe it). It will not be a leap to use the laws to make the victim the perpetrator and then re-victimise them again. We already see this when victims do finally lash out and they are then charged. The risk of this happening is very real.

## 8. How might the challenges of creating an offence of coercive control be overcome?

The challenges of creating an offence can be overcome in a number of ways. One is to identify perpetrators properly and the role they play. Few if any perpetrators coercively control without the condoning of family, friends, work colleagues who are in awe of the *difficult* partner they deal with.

The ICSA submission to the Family & Domestic & Sexual Violence to the Federal Government covers this in Part A and we refer to that as one of the means of overcoming the challenge.

Other challenges can be overcome by adopting and aligning to a Human Rights charter which brings behaviours including coercive control in any setting to be covered under the legislation.

In Australia there is a belief still that treating a partner or family member (especially seniors or people with a disability) is a personal and private matter. The behaviours should not be considered only in the context of situation or an isolated incident

**9. If an offence of coercive control were introduced in NSW, how should the scope of the offence be defined, what behaviours should it include and what other factors should be taken into account?**

The scope of the offence should be defined in relation to the impact or consequences to the victim, this may be in health or mental health (PTSD), financial, social connection, self confidence or economic gain (as in dowry abuse). The presence of these sort of outcomes, the intensity and degree time of recovery needs to be considered to define the offence and severity.

The type of behaviours that should be included as part of coercive control are but not limited to:

*i. Isolation of the person and any support system*

E.g.: shared phone and social media, moving far away from family/friends, fabricating stories about the person, monitoring all activity, fending off anyone that looks like intervening. Gaslighting to the point the person thinks everyone hate them anyway except the perpetrator.

*ii. Monitoring the activity all day (and night)*

Putting up security surveillance at home, in private parts of the home, spyware – using recordings to humiliate or control.

*iii. Denying any freedom or autonomy*

Choosing where the person works or if they can, limiting transport options, select all possessions

*iv. Gaslighting*

Making the person believe they are at fault, wrongdoing and the perpetrator is always right or the saviour. Threatening to take children away, or remove some other privilege such as a visa.

*v. Denigrations*

Name calling, even as pet names put forward as humour or affection but demeaning. Constant criticism, bullying, malicious or venomous tale telling in front of others.

*vi. Financial Control*

*vii. Enforced gender roles*

Even in same sex relationships, there can be a gendered role expected to be played.

*viii. Turning kids against the victim*

It is common to recruit children to reinforce the gaslighting or belief that this is care and love, so they will support the perpetrator even assist in things like monitoring.

*ix. Controlling healthcare and hygiene*

*x. Demanding sex as a right and determining sexual activity.*

*xi. Making jealous accusations or character destruction whether with other partners or just in spending time or giving attention to others.*

**10. Could the current legislative regime governing ADVOs better address coercive and controlling behaviour? How?**

No.

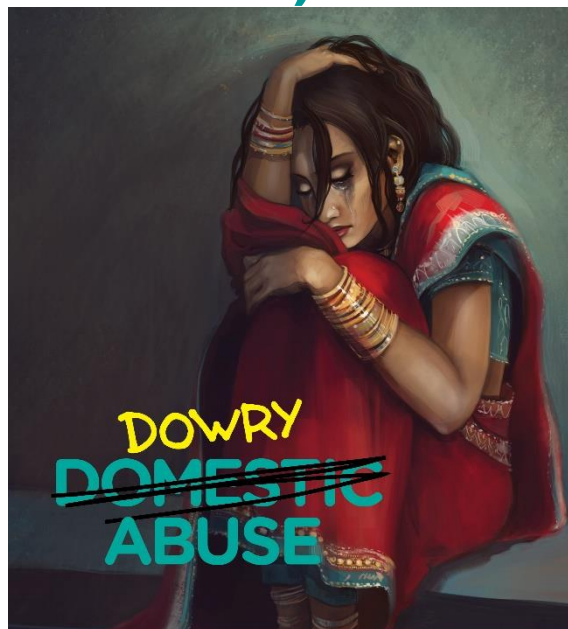




# CULTURAL CONTEXTS

## PRACTICE OF DOWRY & DOWRY RELATED ABUSE IN AUSTRALIA

### Indian Sub-Continent (South Asia) Community



#### Dowry leads to Domestic Abuse and Exploitation

Dowries are illegal in India and yet it is still happening within the Indian Sub-Continent community in Australia. The practice of dowry is a major contributor to abuse of women in our society. As Australia's first Indian Sub-Continent crisis and support agency, we are advocating to make dowry illegal. Please support us in our campaign to make this practice a crime by signing our petition, further details on [www.icsa.net.au](http://www.icsa.net.au)

ICSA - Indian Sub-Cont Crisis & Support Agency [@icsa\\_sydney](https://twitter.com/icsa_sydney)



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**Date:** Apr 2019  
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# THE PRACTICE OF DOWRY

## ARRANGED MARRIAGES

Dowry's are most commonly associated with arranged marriages, which are the most common form of marriage around the world today.

An arranged marriage is treated as a practical arrangement and a contract (which it is technically in law). The marriage is arranged between 'suitable' partners and their families with due consideration to factors such as social status, economics, education etc.

Emotions and attractions traditionally do not drive the agenda, family respect and honour do; it is assumed the couple will grow to love each other as they raise a family.

Marriages were traditionally arranged by brokers, who might be friends, relatives or neighbours. In recent times the rise in divorce rates means people are less willing to be involved. Arranged marriages require an introduction which nowadays is more likely to be through:

- Matrimonial Agencies
- Dating Sites
- Online Marriage sites
- Marriage brokers (businesses)
- Social Media

This is due to a need for some background check to be undertaken before entering into an commitment. Face to face or random meetings with a strangers to source a life partner is not considered respectable and too risky.

A fundamental part of an arranged marriage in some cultures is the agreement of a dowry to be paid.

## DOWRY PRACTICES

Dowry has a longstanding place in history across the world particularly before women had legal rights to property or divorce. In many countries dowry has just phased out. For most Indian Subcontinent nations some form of laws or regulation around dowry exist to make it illegal (India) or to control the levels (Pakistan) in spite of which the practice continues.

Recent reports are the trend shows the practice of dowry across India is growing, the younger generation are increasingly opting to include dowry in marital negotiations.

Outside of India the longer families are established in countries like Australia, the less likely it is that dowry will be a part of an arranged marriage in the next generations. This is likely linked to the rights of women, opportunities and their ability to be independent so more gender equality.

## WHAT IS DOWRY?

Dowry is a payment made by one party of a marriage to the other where one partner (or their family) gives dowry to the other partner (and their family).

In most Indian Subcontinent cultures it is the woman's family that pays the dowry to the man (and his family), some Muslim communities having a 'dowry' like payment from the man.

Dowry is still traditionally considered an essential requirement in securing a good home, family and husband for a woman so can be a key factor in the course of agreeing nuptials.

In Australia the direction of payment by gender can be reversed as it is the Australian resident observed to demand dowry. Payment can be in the form of anything with a financial or economic value; money, assets, jewellery etc. The key definitions about dowry is:

1. Dowry is **not a gift**
2. Dowry is the fulfilling (payment) of a **communicated demand**
3. Dowry is a fundamental part of the **marriage agreement** for the marriage to proceed

## DOWRY VALUE

There is no fixed structure to the value of a dowry. The transferred value is dependent on the social and economic circumstances of the families. Dowry is not related to an ability to pay, but to meet the demand is in the aim to secure a good home for a woman. As such dowry related debt is not uncommon.

The total value of dowry payments is complex as payments can be made prior to the wedding, at the wedding and in some cases consistently throughout the entire marriage.

In Australia dowry payment can be the cost of a visa, down payment on a property, business or an outright purchase of an asset. These days with large numbers of Temporary Resident Migrants (TRM) it is *big business*, so can be *major driving force* in choice of partner, domestic violence and separation. !

## DOWRY ABUSE

Where families give a dowry in any shape or form, the logical expectation is that their daughter will be looked after and treated well by her husband and his family and for many families this works out well.

For others, there will be further demands, the response to this can be to assume the demands to be opportunistic and so first is a refusal. If the man's family accept that, then likely things will settle into a married life.

If however the man's family do not accept the refusal, this initiates a pattern of abuse designed to pressure the girl's family to meet the demand.

- It starts with psychological abuse; silent treatment, exclusion and isolation,
- If this fails, then it moves to emotional and social abuse, overt and public taunting and humiliation, verbal abuse escalates with withdrawal of privileges (not allowing her to go out, limiting what she can eat etc)
- If this fails, then it moves to physical abuse starting with aggressive behaviour all the way to violent prolonged assaults.

Each of these stages is designed to get the woman to pressure her family to pay more dowry. Even when demands are met, the abuse can continue to escalate to ensure further demands are met without resistance.

Regardless of how many demands are met, this can be the pattern for the duration until the man's family decide there is no more to gain. At this point the abuse may stop and life settles into their routine, or she will be 'discarded' and divorced. In the worst case scenarios the situation is fatal for the woman.

In the past common ways of 'disposing' a wife was activities such as bride burning (usually explained away as an accident in the kitchen). That has evolved through prosecutions and now a common method is to pressure the woman into suicide or to make it look like suicide.

The man almost always moves on to marry again and likely the process of demanding dowry begins again with the new wife and her family.

In Australia, the common outcomes at the end of dowry extortion is abandonment of the spouse, return her to the home country and gaslighting to coerce her into suicide (or leave voluntarily).

## DOWRY LAWS

The **request, payment or acceptance** of dowry has been illegal in India since 1961 under the Dowry Prohibition Act. There are several categories of crime under the prohibition of dowry laws such as dowry death, cruelty by relatives etc however the laws or the penalties have not eradicated the practice. The laws can lead to charges that result in financial penalties, prison and legal means to recover dowry.

The statistics (example NCRB below) show changes in the way dowry related crime and death is recorded, is changing what was a dowry related crime is absorbed by other penal codes; cruelty by

husband was a crime until about 2013). Harassment of women that results in suicide is one explanation of the reduction dowry death numbers, when balanced with reports such as that in India Today (April 2017) that 21 dowry deaths are reported every day, but the conviction rate is less than 35%.

YEAR	DOWRY DEATHS	CRUELTY BY HUSBAND
2006	7618	63128
2009	8383	89546
2011	8618	99135
2014	8455	
2015	7634	
2016	7621	

*Figures from the Indian National Crime Records Bureau 2015-16*

The statistics alone do not really give an accurate or reliable picture. In countries across the Sub-Continent, the manner in which the laws are applied can easily have outcomes dictated by a penal system that is heavily influenced by money, political or tribal power.

In Pakistan there are dowry laws, limiting the amount of dowry allowed, alongside various Islamic laws that may also apply (not necessarily consistent with federal laws). The federal laws are moving to being diluted with recent amendments. The country has significant tribal and rural rulers who do not necessarily accept federal laws over their own laws/regulations and practices rendering the federal laws to be largely ineffective.

In Sri Lanka the law attaches dowry to property rights and inheritance and the laws in Bangladesh are similar to India but with monetary penalties taking priority over custodial sentences.

The penalties for dowry crimes can be fines, prison terms and for some the death penalty, so cannot to be dismissed lightly.

What is common about all the countries is that the laws exist to protect women and their families. The complexity of the legal and jurisdiction system with a heavy influence of external powers seriously compromise the intent.

Australia has no dowry laws nor (as yet) formal acknowledgement of dowry in domestic or family violence. Dowry recovery is absorbed into property settlements which has the complication of treating all assets belonging to both parties to be split, rather than the proper definition where it is largely provided by one party.

*The Victorian Royal Commission into Family Violence 2016 and The Senate referred enquiry to the Legal & Constitutional Affairs References Committee on the Practice of Dowry & The Incidence of Dowry Abuse in Australia 2019* have both recommended dowry and dowry abuse to enter the Australian system.

The Senate report released in February 2019 did not however recommend dowry to be criminalised in Australia. The twelve recommendations from the enquiry are covered in the next section of this summary.

## REVERSE DOWRY ABUSE

The laws prohibiting dowry can and do lead to false claims of dowry abuse (usually by women but not exclusively). The net effect of which is the laws fail to protect those most affected by dowry abuse given the low rate of conviction in terms of complaints. On the other hand there is a growing concern that misuse of the law to file false dowry cases is on the rise.

This is again likely linked to the way the law is applied and the power balance of power and influence held by the complainant and the lack of rights for women. All of which suggests the problem is wider than just dowry abuse, particularly taking into consideration the local laws and regulations still legally bind a woman to man such as a father/husband named in a passport, ration card (ID card) etc.

## ANTI-DOWRY CAMPAIGN IN AUSTRALIA

Dowry in Australia is not illegal, therefore it can be practiced with impunity. In the majority of cases women are the victims, but it is observed to happen in reverse with men as the victims. The abuse or outcome is no different for either gender, it is all about the partner who has the control and the extent to which they will use it.

The key issues around dowry in Australia are:

1. **Spousal visa**; the Australian resident makes demands to allow the other partner residency to go through. The closer to final grant of residency, the greater the demands and associated abuse as once residency is gained there is no leverage to demand dowry. Separation and withdrawal of the sponsorship is not uncommon just before residency is due leaving the spouse to their own devices to stay or return home.
2. **Remote Demands**: it is much easier to make demands in Australia for dowry to be received in cash back home. Nothing illegal in Australia and no detectable dowry crime back home.
3. **Bidding Value**: also known as the asking price. Permanent residency is a value in dowry, going up in line with education, employment, assets. Some call this the return on investment of raising a son and amounts of \$50k -\$100k is not uncommon.
4. **Dowry Marriages**: Australian residents marry only to acquire dowry, quickly dispensing with the marriage as soon as it is considered the opportunity has run dry. These residents marry multiple times as it is seen to be a 'get rich quick' scheme.
5. **Honour Based Violence**: honour based violence around dowry is where 'community' joins the family either to harass the victim, extort more dowry, or coercion to keep complaints at bay to avoid legal action back home.
6. **People Trafficking**: the vast sums of money that can be part of a bidding process for dowry works in exactly the same way as people trafficking. The person wanting a visa will pay a significant 'dowry'.

Australia has larger number of women who come on partner visas, therefore the victims of family violence and dowry abuse which has led to groups such as ICSA to seek changes in law. ICSA first started an anti-dowry campaign in 2015 (poster on cover).

Only Victoria has gone on to recognise dowry, the related abuse in an amendment to Section 6 of the Family Violence Protection Act (2006).

In New South Wales there has been little appetite from the State Government preferring to refer the issue as an economic or financial abuse; claiming existing laws already deal effectively with the issues. The evidence contradicts this.

Financial or economic abuse in family violence is already notoriously difficult for victims who often are already in a financially disadvantaged position so cannot afford the legal representation needed.

## CAMPAIGN AGAINST DOWRY-LAWS - AUSTRALIA

In Australia there exist in some CALD communities male groups who seek to undermine the rights afforded to women in this country. The leaders of the groups hold a common belief that women have too much power in this country and use it illegitimately against men, their families and the culture. A number of such groups are known about in and around Sydney in the Indian Subcontinent community.

While most of their activities are closeted, an ostensible example was experienced during the The Legal & Constitutional Affairs References Committee enquiry on The Practice Of Dowry & The Incidence Of Dowry Abuse In Australia.

After the enquiry closed submissions in August 2018, Upon realising there may be a possibility Australia would criminalise dowry a group mobilised themselves to prevent this. Using Social Media and closed whatsapp groups a campaign was launched to encourage men to write [their] stories of false dowry claims. Detailed instructions were given on how to write these and the enquiry received many of these as late submissions which also led them to give evidence – mostly closed.

This was a well organised campaign with effective use of social media (see picture inset) and the local radio news channels; their efforts succeeded in skewing the enquiry.



The group presented multiple cases and stories which resulted in balancing the number of victims across genders, even suggesting the real number of male victims were higher as men don't usually report. Their campaign accused any proposed changes to the law to be gender biased and would further disadvantage men. There is no basis for such a claim as the law in Australia would have applied to both gender.

Their point of *alleged disadvantage* However reveals the true motivation behind the action.

The cohort is made up of migrants who originally came as students or on temporary work visas; around that time (2007 onwards) the majority of arrivals was largely single men. They gained residency and then went back home to marry, with the lure of residency for the spouse to Australia as part of the package which then contributed to the value of dowry and usually received.

Any denial of this to be the case can be totally refuted by the vast numbers of matrimonial adverts in Indian newspapers (for over ten years) which offers residency as part of the marriage offer.

Men being the larger number of new migrants from around 2007, it logically follows that women form the larger number of spouse partners.

Therefore as dowry is in any case paid by the woman's family, rationally the larger number of victims affected by dowry abuse in Australia will be women, not men; this is simple maths. The submissions to the enquiry reported female victims also supports the rationale..

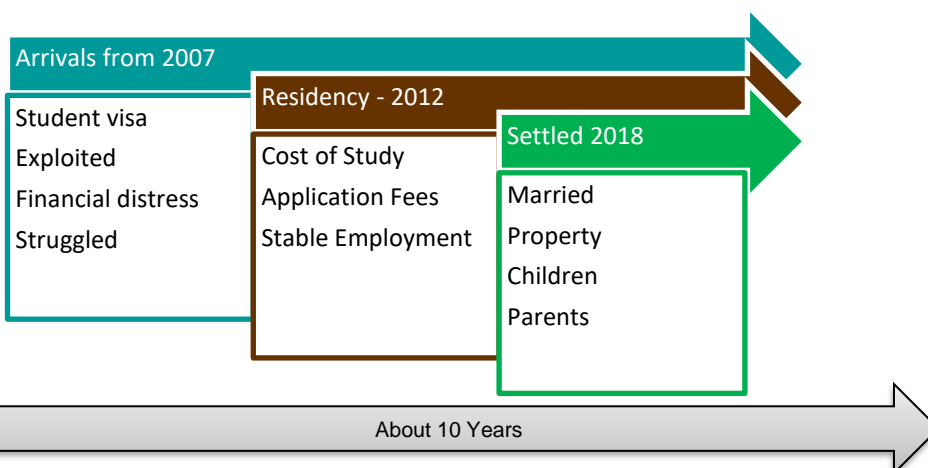
The male partner as the resident holds control over the spouse's residency with threats of deportation is not uncommon. The processing time for permanent residency is a period of risk and undetected abuse in the relationship for the woman which is a key issue that led to calls for changes in the laws.

So, the real question is what is the 'disadvantage' that the male cohort is so concerned about?

To understand that, it is necessary to look at the typical pathway for those students (work visas follow a similar pattern) that arrived from around 2007.

Upon arrival to Australia, most did not have the sufficient means to support themselves, most assuming they would work to support their education and needs. They were a group that were exploited by education institutes, landlords, employers and various agents. Many genuinely struggled, got into debt, fell foul of the law and led their families into debt.

The struggle was considered worth it as permanent residency (PR) was the target. After completing studies they found they incurred significant costs and delays before being granted PR, often doing long hours in poorly paid jobs or underpaid in cash based jobs. Once residency was achieved, they got married, after which they moved onto buying property, having families.



Over an average a ten year span men who started life in Australia, struggling to feed, clothe and accommodate themselves are today living a comfortable lifestyle, with most becoming property owners (even investors).

*When compared to the average Australian over the same time period this is quite remarkable.*

It would be indisputable that some of them had genuine family support to purchase property, it does beg the question why that didn't occur earlier. For many there was never any option of family support, so the real question is where did the money suddenly come from? The answer is the dowry they demanded and for some over multiple marriages.

Many of the men from this cohort of activists against dowry laws have themselves, their family or their friends only succeeded in becoming financially secure through dowry.

*A clear motivation to attempt to block the laws was the fear that their access to easy money would be compromised.* There is no doubt if laws were passed in Australia to criminalise dowry, they would be applied more stringently and there would definitely be less opportunity to buy political influence to direct legal decisions and outcomes.

The current status quo suits these men, who can now continue dowry abuse and dispensing partners quite lawfully in Australia. Or until the system catches up to reality.

## MOVING FORWARD

Even if the law changes do not occur,

1. Dowry Abuse must enter the common language and service provision when dealing with CALD clients who come from cultures where dowry is practiced.
2. Victim support must include awareness, training and clearer definition of dowry related issues for front line workers.

## NEXT STEPS

ICSA is running a Dowry Focus Group in August to look at the NSW response to:

- Clearer definitions on dowry and dowry related abuse
- Recommendations 3, 8, 9 and 11.

To progress the issues, ICSA will provide examples of dowry abuse (as per the case studies at the end) and discuss the methodology behind dowry assessment report. The latter have been prepared (legal purposes) for some years and while it will never be an exact science, two essential factors that can lead to the facts are to follow the:

1. MIGRATION PATHWAY
2. MONEY TRAIL...

## KEY DATES

- 2014 April– Anti Dowry Campaign ICSA
- 2016 – Victorian Royal Commission
- 2018 – Senate refers The practice of dowry & the incidence of dowry abuse to the the Legal & Constitutional Affairs References Committee
- 2019 – Report from the Committee
- 2019 – Feb Dowry Summit – Sydney

## REFERENCES

- Report – *The Constitutional Affairs References Committee on the Practice of Dowry & The Incidence of Dowry Abuse in Australia 2019*
- Summary & Recommendations *The Royal Commission into Family Violence 2016*



## SENATE ENQUIRY Report 2019

# PRACTICE OF DOWRY & THE INCIDENCE OF DOWRY ABUSE IN AUSTRALIA

Legal & Constitutional Affairs  
References Committee

## SENATE ENQUIRY

On 26 Jun 218, The Senate referred the Practice of dowry and the incidence of dowry abuse in Australia to ; Legal & Constitutional Affairs References Committee. The committee released the report of the enquiry in February 2019.

## OUTCOME

The committee decided not to criminalise dowry in Australia.

## RECOMMENDATIONS

There are twelve recommendations from The Senate; Legal & Constitutional Affairs References Committee: Practice of dowry and the incidence of dowry abuse in Australia.

### 1. ECONOMIC ABUSE

4.28 The committee recommends that the term 'economic abuse' is included as a form of family violence in subsection 4AB(2) of the Family Law Act 1975, and the subsection provide a non-exhaustive list of examples of economic abuse, including dowry abuse.

#### ICSA Response

*The term is similar to financial abuse which is already listed as a form of family violence. There is little difference between the two terms and will make no difference to the current difficulties faced by victims who are already financially disadvantaged:*

- *There is no police or enforcement action for clients who suffer this type of abuse.*
- *Any recovery requires investment (legal representation), putting potential for recovery out of reach.*
- *Dowry is frequently locked in assets, which may not include the victim in ownership. Once again there is legal recourse but at a cost, so putting it out of reach.*
- *Where recovery is subject to a property settlement, the victim may not be able to make an application in time as there are time constraints, so may lose the opportunity altogether.*

*The term alone will change little in the lives of those affected by dowry abuse, there is a need for accessible recovery and enforcement provisions.*

### 2. HARMONISE EXISTING LEGISLATION

4.51 The committee recommends that the Australian government work with the states and territories to harmonise existing legislation providing for intervention/violence orders to explicitly recognise dowry abuse as an example of family violence or economic abuse.

#### ICSA Response

*This recommendation is fully supported.*

### 3. LEGAL FRAMEWORKS IN PROPERTY SETTLEMENT

4.54 The committee recommends that the Australian government give further consideration to legal and decision making frameworks to ensure that victims of dowry abuse are not disadvantaged in family law property settlements, given the community concerns about inconsistent approaches under the current family law framework.

#### ICSA Response

*This recommendation is strongly supported.*

### 4. FAMILY VIOLENCE PROVISIONS IN MIGRATION REGULATIONS

5.31 The committee recommends that the Australian government:

- give further consideration to the recommendation of the Victorian Royal Commission into

Family Violence to broaden the definition of family violence in the Migration Regulations 1994; and

- ensure that those who are forced to marry their partner or experience family violence from their partner and/or their partner's family members are protected through the family violence provisions in the Migration Regulations 1994, such that the regulatory framework is consistent with the policy intention to protect victims of domestic or family violence within the migration context.

### ICSA Response

*Both recommendations are strongly supported.*

## 5. FAMILY VIOLENCE PROVISIONS FOR TEMP VISA HOLDERS

5.67 The committee recommends that the Australian government act to address the injustice whereby family violence protection is not available to victims on many temporary visas and consider:

- extending the family violence provisions in the Migration Regulations 1994 beyond temporary Partner visa holders, Prospective Marriage visa holders who have married their sponsor and dependent applicants for a Distinguished Talent visa, to apply to other family visa subclasses; and
- the creation of a temporary visa—for example a 'Woman at Risk in Australia' visa—to be available for non-family temporary visa holders who have suffered serious and proven family violence including dowry abuse.

### ICSA Response

*Both recommendations are strongly supported. The second should be expedited as the current situation sees victims be convinced to apply for a protection visa as there is no other option to stay in Australia and fight for their rights, court cases or property settlements. This particular visa leads them to being open to exploitation and will not (as many falsely believe) grant them residency to Australia.*

## 6. GENUINE RELATIONSHIP – VISA PROCESSING

5.71 The committee recommends that the Australian government ensure decision makers consider the nature of alleged family violence when making an assessment on whether the relationship was genuine prior to it ending.

### ICSA Response

*The recommendation is strongly supported, with the provision of family violence to be considered above the assessment of a genuine relationship.*

## 7. MULTIPLE SPONSORSHIP (PARTNER)

5.76 The committee recommends that the Australian government consider innovative use of the sponsorship mechanism and the new family sponsorship framework to prevent previous perpetrators from sponsoring multiple spouses, and by requiring sponsors to provide disclosures and give undertakings in relation to their circumstances and to dowry.

5.77 The committee also recommends that the Australian government look explicitly at ensuring that the work of the Department of Home Affairs is included in National Family Violence Prevention Strategies, not just from the point of view of access to visas, but also visa processing and assessment.

### ICSA Response

*Both recommendations are strongly supported, the first should include a financial statement similar to that produced in property settlement. Dowry abuse can be most effectively tested by following the money trail. Multiple offenders often start with no financial means and in a relatively short span enjoy a comfortable lifestyle but with no ostensible means of an equivalent earning capacity.*

## 8. EVIDENCE BASE ON INCIDENCE OF DOWRY ABUSE

6.27 The committee recommends that the Australian government, together with state and territory governments, work with culturally and linguistically diverse communities and service providers in order to determine ways in which to establish a firm evidence base on the incidence of dowry abuse.

### ICSA Response

*The recommendation is supported, the nature of disclosures and a lack of skill in assessing dowry will present challenges. There are few CALD specific services and even fewer frontline workers with the spectrum of knowledge or experience to fully contextualise the dowry aspects or consequences.*

## 9. DATA COLLECTION – FAMILY VIOLENCE

6.30 The committee recommends that the Australian government work with the States and Territories to improve and strengthen the governance of data collection practices and standards by implementing a system to capture and measure the extent and incidence of all forms of family violence in Australia, including dowry abuse as a form of economic abuse.

### ICSA Response

*The recommendation is supported, however this should include Temporary Resident Migrants as they often fall out of the usual data collection practices. There will be challenges to collect data across Australia and more complex for dowry abuse, as there is a higher incidence of non-reporting and an unwillingness to fully disclose due to cross jurisdictional complexities.*

## 10. DSS – SAFETY PACK IN LANGUAGE

6.63 The committee recommends the Department of Social Services Family Safety Pack is provided individually to all visa applicants in their first language, such as during the health examination required as a condition of their visa application.

### ICSA Response

*The recommendation is a good measure in general, but likely to make little difference to dowry abuse. The people who are demanding dowry and perpetrating dowry abuse are already Australian citizens or residents, it is that very residency that they leverage to perpetrate the abuse.*

## 11. TRAINING, AWARENESS - FRONTLINE

6.67 The committee recommends that the Australian, state and territory governments engage with stakeholders in order to develop ongoing education and awareness raising campaigns about family violence, including dowry abuse, in conjunction with the development of further training of frontline professionals including social workers, police, doctors, judges and decision makers in the Department of Home Affairs.

### ICSA Response

*The recommendation fails to consider that awareness has been effective with reporting on the increase, the issue is lack of services and skills to assist those who report and ongoing support.*

*Frontline professional training must be developed in context with practitioners, researchers and service providers with practice to map and scope the issues to establishing a level of credible training that can be applied across Australia including rural areas.*

## 12. EXPLOITATION

6.68 The committee recommends that the Australian government include dowry abuse as a possible indicator of exploitation for the purposes of divisions 270 and 271 of the Criminal Code Act 1995 and ensure that this is included in any training programs.

### ICSA Response

*The recommendation is fully supported.*

## CASE STUDY 1 – Dowry Abuse (marriage fraud)

Skilled migrant on work visa in Australia, applies for residency, upon getting PR returns to India to get married. He presents as an attractive prospect, educated, good job, own home and from a good family with strong religious beliefs.

A match is sought and found via matrimonial adverts, he selects a highly educated professional working girl from a well to do family with financial security. She is an only daughter. The marriage takes place in India, a reasonable dowry in the form of money and jewellery is agreed and paid (approximately AUD \$10,000). He returns to Australia promising a honey moon when she can travel to Australia.

Visa processing for spouse is approximately one year, he asks her to apply for a visitor visa and travel to be with him. She arrives but cannot work or earn on her visa restrictions. He complains this is putting pressure on him and convinces her to start drawing on her savings. She complies.

He then starts to tell her of his dreams of owning his own business and how much better their life would be, he claims the only thing stopping him is money as he put his money into the unit they were living in. He suggests they borrow it from her family, in any case she is to inherit her family's money.

She is reluctant, he starts to distance himself. She doesn't want to jeopardise the marriage so eventually agrees. The money (about AUD\$40,000) is transferred directly to him (as she is on a visitor visa) which he claims to put towards a deposit. He takes her to the office block where the business will run from and shows her operations that are impressive soon to be theirs.

The time comes when she is required to go "out of country" as per her visa conditions to be granted a spouse visa. He suggests she uses the opportunity to visit her family. She returns to India. Less than 24 hours later she receives a notice form Immigration that her visa sponsorship has been withdrawn.

With the cancellation of her sponsorship visa, her visitor visa is also cancelled. She tries to contact him, he blocks all calls and social media. She cannot get in touch with any of the 'mutual friends' he introduced her to and has no other contacts in Australia.

She spends months trying to return to Australia but all doors are closed. She and her family have lost over \$50,000 in cash as well as approximately \$25,000 spent on the wedding.

A year later she resigns herself to having been duped and without the financial means to take up a case for dowry fraud. He has obtained an ex-parte divorce and is engaged to marry again and it turned out he never owned the unit they lived in, he used her money to pay a deposit on one after she had returned to India which he now lives in with his new wife.

## CASE STUDY 2 – Dowry Abuse

Male student arrives in Australia on study visa, struggles to meet expenses. Returns home to marry, seeking dowry sufficient to cover his expenses until he reaches PR.

He finds a girl from a reasonably wealthy family, makes clear his intention to marry is genuine and will be a good partner. He tells the family he has little to offer until he finishes his studies and gets a good job. They are impressed with his honesty and agree.

They marry, she comes to Australia on a partner dependant visa. For about a year and a half the relationship appears normal without any issue. From time to time her father sends them money to top up the money she is earning to support them and his studies. Her father lends them money to purchase a joint property with his brother (avoid rent).

He completes his studies and moves to gain his residency, around the same time arguments start. He accuses her of having an affair, not earning enough money, not respecting his family. He starts to demand more money from her father.

One day he creates a huge argument having provoked her for weeks calling her family vulgar names. She reacts, he calls the police. He takes an AVO, then allows her back home. He then calls the police and asks her to be charged for breaching the AVO.

The relationship deteriorates further, particularly as he moves his siblings and parents into the home.

She feels constantly under attack by his family, they keep pointing the problems to her.

Things erupt again, this time she calls the police, charges are laid against him for assault and she is moved to a refuge. He and his family break all communication, at court the family and friends gave evidence on his behalf and the charges are dismissed.

Her calling the police is considered the final betrayal from her and the end of the marriage. He withdraws his sponsorship of her as a dependant. Shortly afterwards she finds out he has received his permanent residency (and she would have too if they were together) and that he is engaged to be married in India again, just waiting for their divorce.

This man used the woman and her family to finance his study and goal of residency, when it was within reach, he dispensed with her and moved onto a new partner (likely with more dowry).

To stay and rebuild her life she is on a study visa. After the divorce, she tried to recover the money her father lent for the property and jewellery (heirlooms from her grandmother to her mother). She was ineligible for legal aid and had no money to hire a lawyer. She got no property settlement at all.

Her father lodged a dowry claim in India, only to find the family had political influence, threats led to him withdrawing the claim. All up her family has expended over AUD\$150,000, is still supporting her financially and lost precious family heirlooms. He has attained his residency, got married, bought a property, has had his first child.

### **CASE STUDY 3 – False Dowry Claim**

A woman came from India on a partner visa, her husband a permanent resident. Four months after she had been in Australia, she was referred to ICSA for assistance; her husband had kicked her out of home. She had an AVO pending against her husband and claimed her family back home were in danger as her husband's family had threaten to kill them.

This client was supported for nearly two years by various agencies. After she was denied a visa a different reality emerged from evidence never mentioned before.

1. She had sourced a partner through advertising offering to pay up to \$50,000 to get her residency in Australia. Her marriage is what is commonly referred to as a contract marriage.
2. She had done her research before coming to Australia and was aware that by claiming DV, she could move out; as such would not need to live in the two year relationship that was required to get residency.
3. By moving out she decided she could renege on the financial agreement; the 'husband' was furious that he wasn't going to get his money. She used his fury, (messages, emails etc) to claim DV, try to get an AVO as well as lodge a case in the Indian courts for dowry demands.
4. Immediately she arrived in Australia she quickly approached various agencies to *register* her claims of domestic abuse; English classes, psychologist, GP, support agencies, Emergency etc.
5. She had all the documents ready, whenever she needed any evidence, eg letters, turned out even her photos were photoshopped.
6. She herself wrote false statutory declarations from people who did not even exist (she had the help of a local lawyer to do this).
7. She had always claimed she couldn't speak English but had remarkably good English when she presented to the Tribunal and without the help of any interpreter.

She was denied her visa to Australia but she is still appealing. In the meantime she has applied for divorce is already engaged to an Australian Resident (likely the spouse visa process starts again before the appeal is finalised).

She used marriage to try to gain residency in return for payment, then tried to avoid the financial obligation by using DV provisions. She used her own renege of agreement to make a false claim of dowry demands, back home.



# FORMAL SUBMISSION

HOUSE OF REPRESENTATIVES STANDING COMMITTEE ON  
SOCIAL POLICY AND LEGAL AFFAIRS

INQUIRY INTO FAMILY, DOMESTIC AND SEXUAL  
VIOLENCE

**30 Jul 2020**

INDIAN (SUB-CONT) CRISIS & SUPPORT AGENCY (ICSA)			
<b>To</b>	Committee Secretary		
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## PARLIAMENTARY INQUIRY INTO FAMILY, DOMESTIC & SEXUAL VIOLENCE

### TERMS OF REFERENCE

Through this inquiry the Committee will seek to inform the next *National Plan to Reduce Violence against Women and their Children*.

- a) Immediate and long-term measures to prevent violence against women and their children, and improve gender equality.
- b) Best practice and lessons learnt from international experience, ranging from prevention to early intervention and response, that could be considered in an Australian context.
- c) The level and impact of coordination, accountability for, and access to services and policy responses across the Commonwealth, state and territory governments, local governments, non government and community organisations, and business.
- d) The way that health, housing, access to services, including legal services, and women's economic independence impact on the ability of women to escape domestic violence.
- e) All forms of violence against women, including, but not limited to, coercive control and technology-facilitated abuse.
- f) The adequacy of the qualitative and quantitative evidence base around the prevalence of domestic and family violence and how to overcome limitations in the collection of nationally consistent and timely qualitative and quantitative data including, but not limited to, court, police, hospitalisation and housing.
- g) The efficacy of perpetrator intervention programs and support services for men to help them change their behaviour.
- h) The experiences of all women, including Aboriginal and Torres Strait Islander women, rural women, culturally and linguistically diverse women, LGBTQI women, women with a disability, and women on temporary visas.
- i) The impact of natural disasters and other significant events such as COVID-19, including health requirements such as staying at home, on the prevalence of domestic violence and provision of support services.
- j) The views and experiences of frontline services, advocacy groups and others throughout this unprecedented time.
- k) An audit of previous parliamentary reviews focussed on domestic and family violence.
- l) Any other related matters.

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## SUBMISSION

This submission is made by the Indian (Sub-Cont) Crisis & Support Agency (ICSA) from our own data, experience and observations through:

- Direct delivery of culturally appropriate domestic violence services including case management, counselling, family conciliation, language services, document drafting and court advocacy.
- Interpreting and mediation within all settings across domestic violence support, legal matters, custodianship, property settlement and guardianship
- Collaborations with interagencies in sharing experiences and developing strategies with other service providers
- Developing tailored culturally appropriate and acceptable systems and operating models that better fit the CALD demographic.
- Advocacy of emerging and relevant issues such as dowry abuse, addressing DFV in temporary residents and migrants, and advising on strategies to address failures or gaps in the system.
- Developing evidence based and tailored training drawn from our case & client workload, as well as research into systems in other countries that could be applicable to the Australian landscape.

This submission includes sections drawn from the Outer West Domestic Violence Network (OWDVN); DV Interagency and Community Resource Network (local peak body - Western Sydney).

ICSA clients are largely from Western Sydney in face to face services, but our client base extends across Australia through remote and online support services. The ICSA submission relates in the main to CALD or marginalised communities.

In this submission we use the terms Domestic Violence & Abuse (DVA) and Domestic & Family Violence (DFV) interchangeably; in recognition that such abuse is far wider spread and much less reported.

## About ICSA

The Indian (Sub-Cont) Crisis & Support Agency (ICSA) was established in April 2014, following a review of systems and supports to the Indian Subcontinent communities over three years. The first remit for the organisation was to support Temporary Resident Migrants (TRM) and advocate for the demographic.

Support services were established in line with need and our delivery program began in 2014. From the beginning, Domestic & Family Violence has been the highest need area. When we began our journey, there were no supports for TRM and surprisingly we found even the wider community fell through the gaps across all disciplines. Our client base is essentially the Gap Community and we support many other CALD clients as their issues have the same solution options.

As an organisation with a quality set of data, we act as subject matter experts in a number of areas including DFV.

We are a volunteer run organisation, registered charity and empanelled by the Indian Government. Our limited operating resources are from fee-based services.

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## A) IMMEDIATE AND LONG-TERM MEASURES TO PREVENT VIOLENCE AGAINST WOMEN AND THEIR CHILDREN AND IMPROVE GENDER EQUALITY.

The ICSA experience is that communities; Culturally & Linguistically Diverse (CALD) in particular, are disengaged from participating in any discussion on matters relating to DFV. In May 2020 in the Local Government Area of Blacktown, there were three DFV related fatalities; however there was a real lack of any ostensible community outrage and poor-quality media reporting.

This strongly indicates the extent of the challenge to develop measures for education or awareness programs about preventing violence.

It is our observation that people in the community generally have little awareness of DFV issues from their own personal experience. When any form of awareness initiatives or programs are organised that also include the wider community, we are repeatedly asked, 'Is it really that much of a problem?' Or 'I've never heard of any of this'. This was initially assumed to be from a low level of incidence in their experiences. However, our community intelligence based on five years of direct client management clearly indicates that people are aware of the issues and know that violence is wrong, the extent of damage it can do, and that it is a crime. Unfortunately DVA is so normalised and culturally embedded in traditional patriarchal systems that it is not recognised as an issue in the domestic situation, even when it undeniably should be.

The community's attitude to violence in general is a contributing factor. Violence at a personal, family and community level seems to pervade our society particularly due to its ubiquitous appearance in our entertainment, media consumption, games, online content and in music. This presents a contrary message to that of the National Plan, 'To Reduce Violence against women and their children 2010-2022'.

It is fair to say that nobody would willingly admit that it is okay to perpetrate violence towards women and children, so that lesson does not need teaching. However, adopting appropriate behaviour and responses to violence needs to be taught and learned until it becomes the norm.

Compounding this casual attitude towards violence against women and children is the lack of penalty or consequence when it does occur.

It is now considered normal to see violence, engage in online violence as entertainment and even have the odd fight. It only becomes a problem or crime when violence occurs between people who don't know each other, at which point it is prosecutable. The volume and diversity of convictions for assault or other types of violence is generally acknowledged, as are the penalties. In comparison, conviction rates for DFV are significantly low.

This tends to indicate that DFV is not a crime (or even wrong) in the real sense, as violence within your own family or domestic situation is not '*really*' considered to be criminal.

- i. In the immediate short term this committee should consider implementing a more appropriate structure for recognising, defining and prosecuting offences in the DFV context. See recommendations in this submission
- ii. In the longer term, it is necessary to commit to quality research into the effects of pervading violence in the community and all forms of violence (including bullying), and how this correlates to attitudes to DFV. These findings can result in developing informed projects that focus on better educating the community.

### RECOMMENDATIONS

- i. **Immediate measures to prevent violence against women & children and improve gender equality.**

For the immediate measure, ICSA recommends that violence in any domestic situation is treated at the same level and significance to any other form of violence; and enforcement applied should

be as an equal, if not a greater crime (as it is often perpetrated by the very person who should be responsible for safety and security).

ICSA proposes this should be done by changing laws and law enforcement procedures around Domestic & Family Violence.

ICSA seeks that this Committee should consider appropriate definitions that lead to recognition of perpetrator or perpetrator facilitative behaviour, to allow for criminal convictions and penalties. We propose two forms of definition to be considered for introduction.

### 1. Co-Perpetrators (Abusers)

We consider co-perpetrators or co-abusers to be those individuals who take some active part in the abuse of an individual either directly or indirectly, by provocation or any means of coercion.

- a. For many of our clients the perpetrator does not harass, intimidate or stalk the partner themselves; family, friends, peers or colleagues act on their behalf. Breaches and courts fail to recognise that the abuse is being perpetrated by a third party or that the victim has more than one abuser.

*Co-perpetrators should also be charged equally if they assist in what amounts to breaches of the AVO, given the actions are essentially undertaken by on behalf of the perpetrator.*

- b. We consider those who facilitate, manipulate or breach professional standards to be considered as co-perpetrators as active participants in helping a perpetrator avoid liability and so compounding the abuse for the victim.

*These people are usually professionals who actively manipulate the system with impunity or community members who assist with false testimony, provide false alibis, statutory declarations, which are already illegal acts, as aiding and abetting is a criminal act. However, such people are never considered as abusers or pursued within the legal system, and hold no record of conviction within a DFV situation.*

*Some of the people that fit into this category are those within the system of justice: lawyers, agents, police, property financiers, corrections officers, community members paid to provide testimony, accountants and family members.*

- c. Services or businesses that actively facilitate perpetration should also be considered as co-perpetrators. Such organisations are found to mislead victims by engaging them into a client relationship.

*This can lead to an unfair redistribution of property, assets or parenting orders in favour of the perpetrator by providing misleading or erroneous advice to the victim (by direct or indirect means) to put victims at a further disadvantage. We frequently see clients with overly complicated property ownership situations which they entered into 'voluntarily' by following the advice of a financial adviser, property developer, lawyers, even bankers. Once in it they don't have the means to challenge or recover the situation as it involves a costly legal process and they are inadvertently disadvantaged.*

*An example: A client, post-divorce and property settlement, was offered guidance by a financial advisor to 'invest' the property settlement funds (from a partner's superannuation). The funds were essentially transferred back to the estranged partner's superannuation account and the victim was left having entered the transaction voluntarily. The financier was found to be connected to her partner and had approached her via Whatsapp supposedly to help her secure her financial future.*

- d. Individuals who work around the victim to deter medical attention (therefore evidence), contact with services or try to coerce the victims also to be considered as co-perpetrators.

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*This is usually family members or close friends or someone who has close contact and influence over the victim.*

## **2. Allied Perpetrators (Abusers)**

We consider those who do not directly or actively participate in DFV cases but do *actively support the framework that protects and excuses perpetrator behaviour to be Allied Perpetrators.*

These are often people who advocate to women that they must 'know their place', 'obey their husbands' and be as subservient as needed, to 'never complain', to 'adjust and compromise' and put up with any kind of abuse.

Some of these people are priests, community leaders, academics, particular women's groups and random alleged domestic and violence service providers.

Community leaders and preachers are particularly pernicious in this area, on the public record, always seen to be committed to preventing and addressing DFV, however in private within the community it is often the reverse.

Included in this category are those who incite violence or abuse, as seen in the actions of family members such as mothers-in-law demanding sons put their wives 'in their place', or in peers or colleagues goading an individual to be a perpetrator.

ICSA recommends that in the same way as inciting or facilitating other activities such as racism are subject to prosecution, these activities should be placed on the same level and action taken against the allied perpetrators.

A good framework for addressing DFV&A is to have a fundamental framework where breaches are not only well defined but have some degree of consequence, penalty or exposure. Only then can *victims be prevented from being at more disadvantage from reporting and avoid further traumatisation by the system, in addition to the original abuse.*

These two categories of perpetrator are not to be confused with bystanders whom we consider to be people who are not actively or incidentally involved in any situation. Bystanders should still be encouraged through awareness programs to intervene appropriately.

### **ii. Longer term measures to prevent violence against women & children and improve gender equality.**

For some years now ICSA has strongly advocated that messaging around DFV and community education is ineffective as it is not in context (more detail in Part K). To fully understand something in context, it is important to first understand the community and its sentiment and attitude towards DFV, following the principle of speaking the language that is understood.

Firstly, we need to frame the attitudes towards violence in different communities. For example:

- Violence in refugee communities can be based on experience in fleeing violent situations, so needs a specific context when talking about domestic violence.
- We often talk about the cycle of violence, but it makes no sense when there is no history of violence or abuse in the family.
- We talk of substance abuse so how do we explain how a teetotaler, highly religious, pious vegan person claiming to be a peace-lover, perpetrates horrific abuse on his family?
- Is it a default response to stress, as some perpetrate violence on those they are supposed to protect. In Western cultures there is an overwhelming huge focus on the answer to any stress as having a drink first.

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Once we better understand the drivers and causes, we can look at more effective means of advocacy and community education. Our recommendation is to undertake research to:

- look at the context of violence in the community as a whole;
- consider where DFV sits in the framework;
- assess how different communities consider violence and DFV; and then
- develop contextual messaging that endorses the values to all families in the prevention of violence and thus promote gender equality.

#### **B) BEST PRACTICE AND LESSONS LEARNT FROM INTERNATIONAL EXPERIENCE, RANGING FROM PREVENTION TO EARLY INTERVENTION AND RESPONSE, THAT COULD BE CONSIDERED IN AN AUSTRALIAN CONTEXT.**

When established, the ICSA model of operations took learnings from other countries and adapted these to the local environment. We believe there is great value in accessing work from around the world but are cautious about adapting a cut and paste approach in application, as community evolution in CALD communities is unique to the Australian experience.

The establishment of our organisation was based on a three-year review into the local systems and support for CALD communities, with a particular focus on the Indian Subcontinent community. Our model was highly influenced by the work of a number of agencies across the UK, US and Canada. Our work was not intended and still isn't solely in the field of DV but is the highest demand and need for the community we serve.

The ICSA model for DV support is broad based to encapsulate all 'vulnerable' persons, as we recognised that the barriers and issues faced by people in trafficked situations, domestic servitude and various other forms of abuse had commonality, but mostly needed similar solutions such as safety, income, accommodation etc.

Two agencies we mirrored closely were the Southall Black Sisters and the Asian (term for Indian Subcontinent in the UK) Family Counselling Service in London, UK.

We modelled our best practice around the Independent Domestic Violence Advisors role in the UK *ref: Robinson, A (2009) Independent Domestic Advisors a process evaluation report. This is research by Cardiff University, with the assistance of University of Wolverhampton funded by The Home Office.*

Our response model is based on learnings from these sources which we adapted to the local environment and have constantly improved as our experience and local knowledge grows not only of the community, but also the support systems.

While our biggest challenge is our capacity, our strength is in the knowledge, experience and community intelligence we have gained through evidence-based service delivery, knowing we can deliver outcomes for our clients that are in line with their culture, decision making and personal concept of a healthy relationship.

We are now regularly sought out to contribute to sector development, policy reviews and actively participate in forums to consult on these matters.

Our ongoing learning from international experiences and research is implemented in our service development and constant improvement, which we test in an Australian context. However, there are some challenges in the local environment such as:

- i. The support systems are available in the overseas models and concepts do not exist in Australia or are poorly coordinated, so the effectiveness of the service delivery is lost or compromised.
- ii. DVF accountability is dispersed across so many disciplines, agencies and levels of government that the only outcome is that ultimately there is no accountability.

- iii. Prevention is considered in a project-based methodology. A good deal of effort is expended in small, unconnected and inconsistent undertakings.
- iv. Early intervention is sporadic and generally focussed around the victim only.
- v. Responses in Australia are framed around a form of clinical process that goes through an escalation path to be intermittently addressed as responses at its different points.
- vi. Response is primarily focussed on separation as a form of resolution and a hard line that all men are perpetrators only; but the ICSA experience is that working with the men is the best form of intervention.

**Prevention:** There are so many initiatives for prevention, including individual projects, local government, state government and federal government. There is no consistent message and at times can even appear to be conflicting or contrary. To be really consistent, messages around prevention must be integrated in everyday life and in all aspects. This includes education, healthy relationships, addressing bullying, addressing gender inequality in employment, pay etc, racism and the wide array of associated issues which encapsulate the same behaviours. Compartmentalisation and targeting one aspect is like a big stick approach, and one that we know doesn't work.

**Early Intervention.** Australia lacks any semblance of good early intervention processes and systems. This is where much of the quality work can be done, trauma avoided and the burden on law enforcement as the resolution lifted.

While we operate as a volunteer service, in all of our presentations and advocacy we have repeatedly stated that if we can get a referral early, often we can prevent or inhibit the escalation. There are a number of reasons why this is the case, but the fundamental one that is too frequently missed, is that we work with both or all parties. In most cases we notice that the victim is given the support, but the alleged perpetrator not only does not get support but is left to their own devices to work things out.

Our model is unconventional in the sense that we try to engage the perpetrator in most cases, working with them is the key to preventing the abuse, which is not to be confused with condoning their actions or excusing their behaviour.

Our community intelligence tells us that due to the nature of community, the family structure and common responsibility in CALD communities, men alone have never had the guidance or mentoring to take responsibility. When faced with multiple responsibilities they have no response mechanism or support to handle the stress, which then directly contributes to their resorting to violence.

The male role is also a key issue as they come from one that is fully defined to one they have never even been introduced to, that of equality. This aspect is key in our counselling model to explain that equality is not losing face or being emasculated.

Adding to this complexity is that women also know of these defined roles, but have difficulty finding the balance between expecting a man to 'be a man' and fulfilling all responsibilities (some of which would not have been his in the fuller family surrounds) while themselves having access to more independence and being an equal. These adaptations do not occur by a program, it takes work with the family.

**Response:** The concept that DFV is a process to be treated at various points misses the fundamental point which is that we are dealing with individuals who are invested in their relationships and are emotionally attached. The trauma of leaving a situation which you have invested in and in the most part want to make work can be equal or worse to losing a partner in death. This must be a factor in the responses offered.

For CALD communities often there is another level of investment - that of their family, community, society and social status. It is a poorly understood concept for services that women



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(or men) are perfectly happy to stay in a loveless relationship. Commitment to marriage and a family is not necessarily based on the 'I need to be happy', but on a 'I need to be in a decent respectable family structure' which can be more important for them.

In our experience clients want support to make their relationships better and healthier, and present a better example for their children. When they are presented with a solution of separation repeatedly from the Police, services, community education they then withdraw and the opportunity to improve their situation is missed. This is indicative also from the number of people who return to abusive relationships.

As one client stated, "My human rights are very important, but my children and their future is *much more* important."

The difficulty is that working to help families progress into healthier relationships is more challenging and needs good ongoing resourcing across all settlement pathways, not just humanitarian pathway (more detail at Section K).

#### RECOMMENDATION:

ICSA recommends:

- i. Domestic Violence Commission: Australia adopts a model where all aspects of DFV is gathered, authorised and developed. For example, the UK has a Domestic Violence Commissioner. Under the current fragmented and unaccountable systemic approach in Australia, a Commissioner would be a good move, operating with a framework of consistent good practice and shared learning in preventing domestic abuse.
- ii. Under a Commissioner, central coordination of research to reduce duplication and get more mileage from research done can be a positive outcome. Agencies such as ANROWS could take the lead on capturing research being conducted across Australia.
- iii. Consider a framework under the Commission for accredited DV work, training, skills recognition and organisation definition. (See Section C recommendations).
- iv. Under this framework, as first intervention is often with police, this intervention regardless of what action the police pursue, should include a default referral to a local service that can undertake an initial assessment and make appropriate follow on referrals for the victim.
- v. Ensure the funding model considers all levels of support, to ensure there is a support framework and infrastructure from the first contact. At present funding is being allocated to helplines [which are essential], however there is a lack of services and a fragmented sector that fails to support the client. Further details in Section D.

## C) THE LEVEL AND IMPACT OF COORDINATION, ACCOUNTABILITY FOR, AND ACCESS TO SERVICES AND POLICY RESPONSES ACROSS THE COMMONWEALTH, STATE AND TERRITORY GOVERNMENTS, LOCAL GOVERNMENTS, NON-GOVERNMENT AND COMMUNITY ORGANISATIONS, AND BUSINESS.

*Indian (Sub-Cont) Crisis & Support Agency (ICSA)*

ICSA is a volunteer led and run organisation, and one of our first challenges was to understand the sector and how it worked. Our team was diverse from a range of professions and initially struggled to fit it together.

As a client-centric service delivery model, we started by following the client's journey across disciplines and needs, which few services get to do. We had to draw up our own service delivery referral pathways, as so many of our clients did not fit the criteria to get support from local services.

What we now know is that navigating the sector and understanding referral pathways can be a significant challenge even to services that have been in operation for years.

*Section from: Community Resource Network Inc (CRN)*

### The Sector

There is a common incorrect perception that the 'community', 'health' or 'human services' sector is the traditional public or not-for-profit industry and in reality; this has never really been the case. Client-centric service delivery and support generally needs one or more element of a paid, private or ancillary service.

Ostensibly the community sector is believed to be services delivered by a public or publicly funded organisation in the form of a

- ◆ Not-for-Profit (NFP)
- ◆ Non-Government Organisation (NGO)
- ◆ Charity
- ◆ Government Department
- ◆ Community Groups
- ◆ Volunteer organisations

However, commercial or paid services have always been part of the overall support package and comes largely from sole traders or *small or independent businesses*:

- ◆ Lawyers – DFV, Family law
- ◆ Dentists – basic health
- ◆ Chiropractor – specialist health
- ◆ Psychologists – mental health
- ◆ Real Estate – Homeless services

With funding to the community sector consistently being reduced; recent years have seen the growth of *pay-as-you-go* services within sector organisations and through new 'business' models:

- ◆ Paid services alongside funded (free) services
- ◆ Social enterprises
- ◆ For purpose organisations
- ◆ Fully commercial (NDIS/Aged Care/Social Housing)

Essential to enable the operational needs of any *community sector*

organisation are ancillary services that come from across industry through *Business & Retail*: local organisations will usually be first preference, so we rely on *local suppliers* in their *local areas*. EG

- ◆ Trade –everything from a cleaner to an electrician for client or the organisation's needs.
- ◆ Taxi – emergency transport to NDIS/Aged Care provision



- ◆ Specialist equipment manufacturers
- ◆ Start-up packs, emergency relief packs, food hampers etc
- ◆ Corporate programs eg Commonwealth Bank Australia provides new phones and cash cards to DV clients.

Understanding the sector is no small feat, further complicated by dynamic changes from Government, policy changes and small project-based funding packets and programs. Adding further complexity is navigating for clients due to time consuming and incredibly frustrating issues such as:

- eligibility requirements
- operating within geographical limitation
- lack of capacity
- inability to deal with client barriers (such as a lack of transport, childminding).

Overall, this structure and framework compromises access to services even where the service is available. Such a framework delineates and diffuses any accountability so while services can be failing, it would be difficult to apportion accountability as they will most likely be one cog in the wheel.

Policy responses are therefore in line with a fragment of the framework, but not in line with client centric needs and outcomes. Expand this to across Australia, the differing state laws, systems, procedures (eg AVO in NSW, Intervention order in VIC), for clients that choose to leave or have partners that have parenting rights across borders, simply navigating the system can cause extreme distress.

### **Sector Coordination & Collaboration**

When we look at the level and impact of coordination, the system fragmentation is compounded by a lack of connectedness and collaboration that is further disadvantaging clients.

Funding requirements can mandate the collaboration between agencies however, a competitive funding models dictates otherwise and contributes to considerable wastage.

While some aspects may benefit from competitive tender, DFV services need ongoing sustainability to perform effectively.

Services avoid collaboration as they need to focus on their own delivery to justify their funding. Many thousands of hours are spent on small to medium grants to supplement funding gaps. This is a particular cost ineffective activity as the time, skill and resources needed to apply, administer, report on and acquit small grant agreements renders the outcomes of the project negligible and detract from main service provision. Services can be deflected from core activities entirely to fit into some funding streams.

The situation is quite absurd as services are encouraged to focus on evidence and needs based services and outcomes. The reality is that many funding pools are wasted on projects invented to meet the criteria of funding released based on project ideas and outcomes which do not integrate into the overall delivery framework. The system is set up to fail.

### **Reliable Resources and Referral Pathways**

The fundamental issue to improve level and impact of coordination came to light in a very real sense through the COVID-19 lockdown. This really brought out the value of some of these projects and services.

CRN has maintained Agency Contact Lists (ACL) for Blacktown & The Hills Shire in Sydney for nearly twenty years. In COVID-19 lockdown this year, it was one of the few reliable resources to identify **who** was doing **what** and **where**, and to what **level**. It is reliable as it is validated each year for currency.

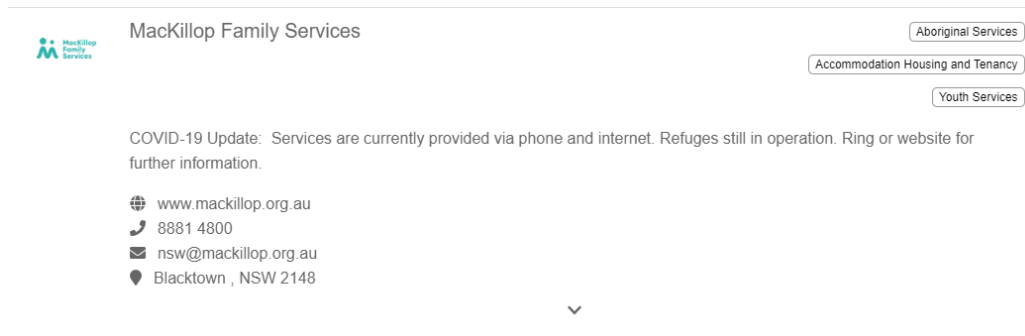
We saw the deficiency as a number of councils and Government Agencies started their own directories, some were quite comprehensive, others were simply tokenistic. On one LGA listing for DV services during COVID-19, an organisation listed that its service was to 'provide referrals to other services'. The question we should ask is why not list those services in the first place.

This type of grandstanding and overstatement of being a service provider presents risks to clients. It can add to the risk as a client comes to believe that the 'help' and support is just a framework of going from touchpoint to touchpoint but offering no real assistance. So the client simply gives up or in the time it has taken to navigate, their situation has deteriorated.

As service providers we have had the experience of going from agency to agency before finding specific support, and while we pursue this for our clients, they are generally willing to give up after the second or third attempt.

While noting the efforts in setting up resources to be commonly available, the issues around maintaining directories is the difference between being effective and lost opportunity due to:

- Services defining their own agency, services and expertise. Eg organisations claim to deliver DV support and allocate one worker with a few hours a week, a setup which means clients that approach are unlikely to receive appropriate attention or support. The CRN ACL is **validated** by a worker who categorises services according to client needs or is clear about the level of support.



- Self registration can lead to all sorts of misrepresentation of what is actually been delivered and there is no difference between highly skilled, regulated providers and community groups.
- Appropriate services are nowhere in the location stated, most providers need a local service to refer clients to.
- Some listings have become a Facebook type of posting where daily regular posts are received each time an update is made. Some of this is just networking or training, so detracts from the purpose of the list – to find an agency that can deliver a particular service for a client.
- Most online directories have little in the way of moderation and can lose traction.
- The lack of structure around what is and isn't a DV service makes it difficult to categorise and therefore access the right or relevant type of support.
- No tracking of referrals or their effectiveness.

CRN produces sub directories including DV services, and while doing a more detailed validation recently, 32 services as listed were contacted. It came as a surprise that some of the agency staff contacted were not even aware that they delivered DV services.

CRN regularly tests other directories as there is always a need to capture any new services. In preparation for this submission, a search for counselling on the 1800 RESPECT directory, revealed a surprising result of refugee services. The link into the website and annotated page, revealed three helplines. See Appendix 1

If they are to be kept at all, directories need to be validated, which is a time intensive activity but eventually provides a reliable resource. From this we need to build referral pathways, which are always changing as services change and evolve, so that also absorbs time and effort in supporting a client.

A coordinated project and funding for directories to avoid multiplication, maintain accuracy & currency. The directories such as the ones for Blacktown & Hills by Community Resource Network are highly sought after as either the worker or the client will look at what is local. These should be available for all areas across Australia, accessible on line, particularly where clients or partner move and ongoing support is needed and services to refer to sought.

### **Client Centric Delivery & Accountability**

The final failure of the system is a lack of tracking and accountability of referrals and connections to the services. There is no means of knowing how many times a client or other service tries to connect with a specific service which ultimately fails the client.

At ICSA we insist on referrals from other services, not so much from community members. Our remit is to support the service in managing their client or client base. We consult, advocate and offer cultural interpretation as well as language support.

Our referrals consistently grow from funded services, but the disturbing trend is that funded services rather than supporting the client, sometimes simply hand over the client to us, a volunteer run service. No doubt those services include that client in their reporting as an outcome.

When in reality, the real work has been done by a volunteer organisation. To add further insult after delegating the work to us, is that large organisations while using our services and referring clients will attempt to dismiss the work we do and the value of our contribution.

At ICSA we keep records of the origin of referrals and the actions we take, and at least 30% are issues that could have been addressed. On one occasion a client was simply looking to understand how to connect to Centrelink, she spoke English, so it is confounding that she was referred to us for support by an agency funded to support clients.

It has to be said that there is much room for improvement

Cumberland Council undertook a DFV review in 2019, one of the outcomes was that at least 40% of support for DFV came from volunteers and volunteer organisations. This adds another dimension to the overall support model and the lack of funding.

In summary the situation is:

- i. There are not enough services in the first place
- ii. The services that are available are at different parts of the spectrum in relation to 'providing effective and culturally appropriate' DV support. This erodes the volume that is already in deficit.
- iii. There is a diversity of service provision which is collated to offer that 'help is out there'. But that 'help' needs have a qualitative categorisation to properly refer clients or where people can seek help for themselves.
- iv. Compounding the primary point of a lack of services, then the lack of clarity on what those services do is the maze of referral pathways to access support from those services.
- v. A lack of reliable resources that properly identifies the framework and support available. Accurate listings, proper service categorisation and identification of support & needs addressed.
- vi. No audit trail or accountability to indicate how effective the referral or connection may be.

So we have to ask, why are so many small volunteer groups who have no experience of intersections in the sector, called upon to consult on how to improve systems.

This inevitably impacts on the level of coordination in the sector, diminishes accountability and liability. The real loss is to the community in need as access is seriously compromised. As such, policy responses are compartmentalised and commoditised. Where there is an issue, the agency in governance puts into place a policy or procedure to address the issue but without due regard to the impact on other areas. For example, DV charges crossing over into family court and there is a lack of consistency or consideration which can and often does result in more abuse or higher risk to the victim.

Human and Community Services while compartmentalised into specialisations of housing, mental health etc, must be looked at as part of the overall needs of an individual or family.

The overall impact, access and policy response is missed as we do not consider this in relation to an individual who is trying to live their life without violence which involves addressing many overlapping issues, complexities and intersections. Instead we have a system which will look at a victim's needs in part forms, which may be addressed by any number of agencies and support mechanisms.

## RECOMMENDATIONS

The sector and support in DFV would significantly gain efficiencies and effectiveness with a framework and accreditation system for services to be endorsed as DFV providers at various levels of service provision and having appropriate level mandatory training. This follows the recommendations in Section B in overarching responsibility and accountability.

- i. **Best Practice** -Improved Assessment Guidelines: a better and simpler way to assess DFV to quickly get to the right type of support.

- ii. **Service Accreditation** that identifies the level and skill of the service or program and clearly identify services from advocacy. Often advocacy groups can claim to know and only have some recent survey (highly unreliable) to base their knowledge on. Eg claiming 87% of xxx when only 42 responses have been received. This needs perspective on the true scope of the advocacy being undertaken.
1. Triage – eg helplines, drop in centres, support clinics (could be held as pop ups)
  2. Initial assessment – up to developing case plans including referrals
  3. Case management – all aspects
  4. Individual support services such as counselling,
  5. Allied services eg provide accommodation only
  6. Refuge, accommodation and full case management.
  7. Ongoing support; as clients get more independent and need less case management, a point of ongoing checks to support and encourage safe and healthy living. Eg group work.

- iii. **Formal Accredited Training Pathways** to ensure anyone working with DV clients has the knowledge, training and skills to deal with DFV at the appropriate level.

A minimum of training/experience or qualification to undertake DFV support either in an established organisation or as an independent volunteer. An induction training course should be an absolute minimum, taking into consideration the legal framework, the systems in place, understanding of DFV and referral pathways.

- iv. **Services Identification:** All organisations providing DFV services should be mandated through a clear framework to clearly define their services and in accordance with B & C above be recognisable of their experience, knowledge. Organisations should have some form of program brief or program logic on their program and services in DFV and outcomes.

It is all too common to see [mostly community] organisations allege they provide DFV services when at most they hold a set of numbers for national hotlines or simply refer on. The clients should get to support in the shortest and most direct method possible. It also presents a false impression of the level and volume of support and help available.

- v. **Reliable Endorsed Resources** for understanding the services framework that includes all aspects of private, public, benevolent, volunteer services and organisations etc. A review be conducted on existing directories and their accuracy, efficiency and usage. Dedicated resources on services and pathways by local areas should provide a full and comprehensive listing of support available.

#### D) THE WAY THAT HEALTH, HOUSING, ACCESS TO SERVICES, INCLUDING LEGAL SERVICES, AND WOMEN'S ECONOMIC INDEPENDENCE IMPACT ON THE ABILITY OF WOMEN TO ESCAPE DOMESTIC VIOLENCE.

This term of reference presumes that all women seek to leave domestic violence which is simply not the case. Many women (maybe most) first seek to address the problems in their relationship and where that fails, they move towards leaving.

When we discuss domestic violence in these narratives, there is also the presumption that all domestic violence is physical violence and therefore physical escape is needed or desired. While they are uncomfortable truths, our work informs us that:

- Non-physical abuse, is the precursor to physical violence.
- Non-physical abuse is far more prevalent than physical violence, with financial abuse most probably the epidemic. *Reporting is very low in this area of DFV and little in the way of solutions in the current environment.*
- Separation is not necessarily the preferred outcome for victims, it is just the most common option available. *We cannot ignore the high level of clients that return after a period of separation.*

- Services are designed and funded for physical violence over and above any other form of DFV. *Seeking help in such circumstances can and does lead to further deterioration of the situation for clients as service provision is simply not dedicated to non-violence abuse. Escaping DFV that is non-violent is therefore not a real option.*

## Escaping Violence

To best appreciate the ability of women to escape DFV, we submit a case study attached at Appendix 2. This case study is quite a typical pathway for a woman trying to leave a coercive, manipulative violent partner. The client is Australian, there are no residency issues, was employed and had family locally. This case study highlights:

1. Over the course of this experience the client's health, from physical injuries, psychological and emotional trauma has consistently deteriorated, now with and long term mental health issues. Timely and appropriate action could have prevented much of this. As the perpetrator can re-enter her life at any time, her condition will each time be exacerbated. We see physical injuries do tend to be attended with reasonable ease, however the mental health, emotional and psychological abuse is not so easily addressed.
2. Access to services is a challenge, in addition to the usual perceived barriers. This case raises concerns when putting public messages of offering the message of 'get help' or 'help is out there', as it may need more context, as so many women either do not get support or it may not be there.
3. Legal services are lacking in many ways and the system is on the record of being well overdue for reform. In addition to those presented in the case study, the control and manipulation over property is increasingly used for ongoing abuse. Where clients are asset rich and cash poor they get little to no access to support services or assistance in getting their rightful entitlements. They don't have the resources to make the legal applications. We see clients descend into homelessness even when they own multiple properties with their partner, as they are not able to break leases, or be allowed to live in one of the properties.
4. Where women have to keep moving, or take on expensive legal proceedings, this seriously compromises their economic independence. As it is, most women are financially at a disadvantage in the first place.

The issues covered in the case study are systemic failures, some which requires law reform, process reform and systemic change to be improved for an integrated system. Too frequently we see reforms, changes, or innovation but in isolation of its ramifications or impact on other areas that will ultimately affect the client and may compromise their ability to escape violence.

Once we apply the complexity of CALD intersectionality, the availability, access and effectiveness of services have a downward trajectory on the ability of women trying to leave violence or address the non-violent abuse they are facing.

## Support Mechanisms

We observe that awareness and primary prevention work is often based around the perception that interventions *are there if needed*, encouraging victims to get help.

We hear a lot in media and around the sector that we lack services and funding to existing services. The situation as it is encourages women to seek support and get help, when the infrastructure for help and support is sadly very lacking.

The net result of this is frequently women find themselves in a worse situation from attempting to seek help.

A typical example is: clients suffering financial abuse who don't have money for essentials such as food, will go to the police to report the DV as in financial abuse (as learned from awareness materials). The police do nothing and can do nothing, so client then has to deal with an abusive partner who is angry at her for going to the police. Furthermore he has just had his position

strengthened as she got nowhere, if he does escalate to violence, she will likely not go to the police again.

There is a fundamental issue to be resolved in addressing the funding situation and that is to get the service system to be properly recognised and working at its peak, fund the gaps as well as properly resource all levels of support.

### **Service Mapping - Blacktown**

To illustrate the true nature of support/help out there, the Community Resource Network (CRN) did a service mapping in the Local Government Area (LGA) of Blacktown in May 2020. This is represented in graphic form at Appendix 2. CRN have maintained agency contact lists for nearly twenty years for the Blacktown LGA.

For context: Blacktown in NSW an area of about 247 square kilometres, with a population of 336,962 according to the 2016 census, 395,000 according to the local council website (as at July 2020), but as some reports claim more likely to be near 500,000 taking into consideration the 16 new suburbs and is estimated to grow to over 600,500 (Blacktown City Council Social Plan 2020). This is the second most populous area in Sydney and is growing rapidly.

The Appendix shows:

1. 32 services listed – *any service can ask to be listed and there are more on the Agency Contact List (ACL). For this exercise services were called to confirm what services they provided that supported victims or perpetrators of DFV.*
2. Of these 12 actively undertake any form of case management, everything from full refuge & case management or DV specific such as court advocacy.
3. 6 services are physically located in the Blacktown LGA.
4. 16 or half of the services listed are phone lines. *While helplines are essential, the fact remains they triage the clients and **need** to refer to one of the other services that does case management or at the very least initial assessment. Without that next step referral, the line is inadequate.*

We already know services are few on the ground, but this really puts it into perspective of how little help there is out there to help women who want to escape violence and to some degree explains the constant system failures that clients experience.

### **Referral Pathway - Blacktown**

CRN has performed a referral pathway check on five different case studies including the one in the appendix. Only one had an uninterrupted and connected referral pathway for a client reporting an assault by her partner and an Apprehended Violence Order issued. Notwithstanding, the client would need either good referrals from the first point on to the next or understanding the system and services to access the next level.

The remaining four fell at the second or third referral (or need) point. What this indicates is that services are not only few and far between, but inconsistent with need. For example, we have a lot of services in Blacktown that offer counselling, but not enough that that assist with common issues such as leases, finances or children's needs such as autism.

In both the number and pathway, once the CALD and intersectionality is applied the system fails to look like a system and represents what the true nature is – a serious lack of support services in the first place, and significantly lacking within those available to be in cultural context.

One key area that this is notable in is in Mental Health services and the 'one size fits all' approach is most notable in this area of high need, exposed more thoroughly due to COVID-19.

### **CALD Community Organisations**

ICSA often has clients who have been in the hands of community or cultural organisations that profess to support CALD women and work in the DFV space.



We have found clients have been advised contrary to the laws of Australia and in their version of cultural expertise is a means of pushing the women (or male victims) into silence and ongoing suffering.

This directly prevents and intervenes in women (and men) from leaving violence or getting support they need.

For others who are genuine in their intent, it is often found they have little knowledge of the systems in place, are unaware of the national plans and their poor understanding misguides clients and at times puts them at further risk.

Volunteers in self established organisations enter what is a complex area of support with risks to clients, vulnerable families and themselves. Particularly when they realise they may end up being part of a court process, confronted by a perpetrator, or realise they are related to one of the parties.

ICSA has been approached by such volunteers and we observe they are undergoing vicarious trauma, burn out and other mental health issues because they are poorly prepared and wholly inadequate to cope with the confronting issues.

There is a need to include the role and contribution made by volunteers as part of the overall DFV support system and to ensure they are properly equipped and protected.

## RECOMMENDATIONS

- i. Consider strategies and solutions for non-violence based DFV.
- ii. Advocate for more mediation and conciliation-based outcomes, as quicker and a cost-effective alternatives for all parties limiting damage to parties, dependants, pets.
- iii. Expedite law reforms that affect DFV and family law matters.
- iv. Consider the introduction of DFV arbitrators in property and parenting matters, leading up to than full hearing proceedings.
- v. Include volunteer contributions either by organisations or individuals as part of the formal support mechanism infrastructure.

Other recommendations are in Section C.

## E) ALL FORMS OF VIOLENCE AGAINST WOMEN, INCLUDING, BUT NOT LIMITED TO, COERCIVE CONTROL AND TECHNOLOGY-FACILITATED ABUSE.

From our client base the forms of violence that are frequently missed or dealt with appropriately are:

- 1) Dowry Abuse
- 2) Cross country legal proceedings against an individual in Australia or their families back home.
- 3) Violence or threats of violence from back home
- 4) Political situation of the home country.

For dowry abuse we refer to report from the Senate Legal & Constitutional Affairs References Committee of February 2019. ICSA made a submission to this inquiry and gave evidence. We are currently working and advocating to bring about the implementations of the recommendations from that report.

Notwithstanding the complexities of cross-country jurisdictions and agreements, it is without doubt that matters of family violence in Australia are aggravated by practices and legal matters from overseas.

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We regularly have clients who make their decisions, particularly in giving up on any support from services or police, based on threats made to their families back home.

The political standing of a perpetrator or his family have a significant impact on a victim in Australia as this puts their family in danger if they take any action. Regardless of migration processes, some individuals living in Australia have serious criminal offences back home or affiliations with organised crime.

## RECOMMENDATIONS

- i. The recommendations of the Senate report of February 2019 be expedited to be implemented across Federal and State laws and systems.
- ii. These implementations have consistency across states.
- iii. Steps are taken to come to agreements with Governments of other countries such as those in the Indian Sub-Continent to address matters such as legal, child custody, child support and property matters that cross countries to be settled in one of those countries as a final solution. It is rather absurd that two people run separate matters back home, while going through the motions in Australia too.

## F) THE ADEQUACY OF THE QUALITATIVE AND QUANTITATIVE EVIDENCE BASE AROUND THE PREVALENCE OF DOMESTIC AND FAMILY VIOLENCE AND HOW TO OVERCOME LIMITATIONS IN THE COLLECTION OF NATIONALLY CONSISTENT AND TIMELY QUALITATIVE AND QUANTITATIVE DATA INCLUDING, BUT NOT LIMITED TO, COURT, POLICE, HOSPITALISATION AND HOUSING.

There is no collective means of gathering quality and meaningful data. It is therefore difficult to examine trends in DV issues as there is no clear point of reference. Services themselves do not maintain data for analysis, unless funded to do so; therefore much of the data collected via service delivery is inaccessible.

Currently data collection is for a specific purpose, for example how many clients have accessed homelessness for accommodation services. What we need is a broader understanding of, for example, how much DFV contributes to homelessness, what are the options, how accessible are they, what works best, where are the gaps (eg for clients with disability) and how we can improve accessibility. This would require collection of a broader set of data to then be analysed across the needs of clients.

At ICSA it is through our own data collection and analysis that we drew out issues such as dowry abuse. In the first six months of case management, 80% of our female clients disclosed some form of dowry abuse. Insufficient data across all services means emerging issues remain unidentified, issues cannot be properly prioritised and accountability cannot be apportioned.

A key challenge in evidence base on the prevalence of DFV is the lack of reporting or underreporting. Services such as ours often are approached by clients who do not wish to connect with any other service provider, the police or any part of the sector.

Outside of the connection with our services, it is to be noted that most such cases have 'reported' to someone - a family member, neighbour, colleague or a health service such as a GP.

It is therefore imperative to include all sources of reporting in some manner, even if it is limited to the issue and not detailed information as can be collected through case management.

## RECOMMENDATIONS

We strongly recommend:

- i. a central point of data collection across all service providers and agencies connected to service provision. A framework as recommended in Part B, C & K would allow better capture of data.
- ii. Data collection to include statistics on suicide and a mechanism to capture the level of suicide where there is a history of violence.

#### G) THE EFFICACY OF PERPETRATOR INTERVENTION PROGRAMS AND SUPPORT SERVICES FOR MEN TO HELP THEM CHANGE THEIR BEHAVIOUR.

The fundamental issue is there are insufficient programs and support services for men and little to measure their real effectiveness. One reason is possibly because perpetrator intervention programs are usually undertaken by a court order and the participant attends on a hostile basis.

As discussed in Part B, there is a lot of assumption around what men know, believe, or understand, the punitive system should be a relative response to not only the level and type of abuse, but in context with what can be expected from men.

We know just having laws is not the solution, but the framework. Men have few options in learning how to have healthy relationships, where the family support or community networks are not there.

There is a considerable level of conflict between the punitive manner of dealing with perpetrators and the CALD expectations imposed by culture.

Many of the situations for migrants (on any pathway) could be improved with access to settlement service support as and when they need it.

The reality is that early intervention and support for CALD men is usually other men who already are against the system and often can make money from the individual's situation.

We see many new migrant men who have never had any dealings with police or courts and are here as young couples and families, get their first experience in any matter of DFV with the Police. This, for anyone, is a very intimidating process.

For example, in the scenario of going to court for an Apprehended Violence Order (AVO), the woman (usually) is taken to a safe room, provided advice on the process, system and workings of a court. She may also be referred to a counsellor and local support services if she is eligible, and access to information about income, education, employment or moving out into other accommodation.

Her partner that is accused is often in court by himself, a situation that to him is already a position of being a criminal, nobody explains to him what will happen, how the court will proceed, where he can get help or what an AVO means. He is usually not aware that an AVO is not an indictment that he has committed any crime. He may have other issues that are further distressing him such as losing his visa, employment, enrolment in college, family pressure, financial obligations.

At most the man will be told to get a lawyer, if he gets a good one he may be relieved of some of his stress, if he gets a bad one the net outcome will incur more financial burden. As he doesn't fully comprehend what he has done wrong (particularly in non-violent situations), this further deteriorates the relationship and adds the propensity for the DFV to escalate.

In situations where we have engaged with men at this stage, we have been able to ensure he is aware of his situation and why he is in court, his options and to answer any of his questions. Many of his concerns can be allayed by the assurances around employment etc We then work with him to help him understand what brought him there and how to avoid it in future. Working with both parties and in line with what they both want, reconciliation, separation etc., they are assisted in reaching the outcome in a safe environment, and to the best degree, to their mutual satisfaction.

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## RECOMMENDATIONS

We recommend:

- i. Perpetrator intervention programs are in consideration of intersectional factors, including women too are perpetrators. Focus on gender based perpetrator programs do not appear to be effective, so we recommend a focus on what is perpetrating and how to recognise the behaviour by the individual.
- ii. Use culturally specific services to broker program delivery for particular groups and communities. The wider programs are often unrelatable and become less relevant.
- iii. To engage in some programs should be considered to be mandatory. For example, ICSA provides a service to individuals who have an AVO issued to them; to fully understand what it means and how to avoid a breach. This could be via a mandatory workshop to ensure those conditions are understood, what a breach is, the consequences and endorse the rights of the protected person. These are simple situations often aggravated for all parties and providers because the perpetrator doesn't fully comprehend their obligations and rights.
- iv. To use simple language in such programs. For example, we see a lot of situations (as in the above example), an AVO is not a crime – but how many people in the wider community fully understand every issue that may be a crime? The idea that the words alone are comprehended is presumptive, and programs need to address the basic benchmark before moving to drive the more complex behaviour change issues.

**H) THE EXPERIENCES OF ALL WOMEN, INCLUDING ABORIGINAL AND TORRES STRAIT ISLANDER WOMEN, RURAL WOMEN, CULTURALLY AND LINGUISTICALLY DIVERSE WOMEN, LGBTIQ WOMEN, WOMEN WITH A DISABILITY, AND WOMEN ON TEMPORARY VISAS.**

The ICSA DFV program has been running for over six years mostly in Sydney, however with clients across all states of Australia except Tasmania (yet). We have a significant database of casework and have developed effective models in supporting clients, male or female.

We have more than 500 cases over the last six years and until two years ago we only captured data for clients who we fully case managed. Now we attempt to record any kind of referral or enquiry, so that number is more than 1500. When we receive client queries from blocked numbers and who don't wish to identify themselves, these go into an alternative count.

### **Escalation of DFV in CALD Indian Subcontinent**

It is commonly known that much of DV is under reported; even that which is reported is untapped as there is no central repository of data or reliable data collection.

Supporting the anecdotal evidence, we can confirm the majority of CALD clients at ICSA have not had any interaction with the Police or any other service, so would not be captured in any statistics.

The Indian (Sub-Cont) Crisis & Support Agency (ICSA) is extremely concerned about the escalating incidences of Domestic Violence and Abuse (DVA) in CALD communities.

ICSA's growing caseload of clients reveals DFV is escalating, the violence is getting more extreme, the abuse is getting more aggravated and imaginative with perpetrators getting bolder. In Sydney, in the Indian community alone, five DFV related deaths have occurred:

1. 2013, 3 Dec **Parminder Kaur**
2. 2014, 3 Jan **Monika Chetty**
3. 2015, 7 Mar **Prabha Arun Kumar**
4. 2017, 7 Mar **Harjit Kaur**
5. 2020, 21 May **Kamaljit Sidhu**

Three of these dead women:

- lived less than a 15km radius apart in the Blacktown LGA of Western Sydney (Rouse Hill, Glenwood & Quakers Hill)
- are from the Punjabi Sikh community

There is no doubt that there is a high density of the Sikh Punjabi community around the area they lived, but at a population of less than 40,000 this is a very small community to have such a high rate of fatality from DFV.

Anecdotal evidence (court lists, family court matters & migration sponsorship withdrawals) show that violence in the Indian Subcontinent community is relatively high and these deaths are a testimony that it is an escalating trend.

What is missing from this is the issue of suicide and attempted suicide, as this is a significant problem in CALD communities. For the Indian Subcontinent community this has been raised in the past, but has been disregarded. In 2020 we saw that concerns were raised with the coroner for a suicide cluster of six deaths in the area of Whittlesea in Melbourne between 2018 and 2019. Ref: SBS News report 2 Jun 2020 by Lin Evlin.

Suicide is seen through a very different lens in the Indian Subcontinent community and one that can denote a noble way out. Suicides should be included for DV screening in all cases.

### **Lack of Support Systems**

The support system is a long way from providing appropriate support that is culturally in context or in sufficient quantity.

The fact remains that community members as volunteers have always filled these gaps. We established ICSA, to ensure we had robust processes not only to ensure a professional service but also to protect the volunteers. We have become the essential service to those who have little to no other option.

We have always been over capacity with numbers steadily growing, with no funding for our services, no brokerage where we support other organisations, no support for us or our volunteers, while funded services try to keep up.

Situations like the late Kamaljit Sidhu (international student died in Quakers Hill in May) are well out of the bounds of most services, so it would be a matter of luck if she connected to a service even like ours; even then we have limited capacity to fully support her. Had she been referred we could have offered her an intervention which may have saved her life.

### **Negative Systemic Development**

While the DFV problem grows across Australia, system and government responses remain the same. By now it is clear that traditional programs have done little to abate the attitude and practices of abuse and violence. Continuing along the same pathway with the same outcomes has no better prospect of any form of behaviour change or therefore addressing the core problems.

For example, it is a common theory that community leaders and the community itself can somehow solve the problems, but this is a theory that is flawed as they:

- are not aware of how the system really works (see Section C); it is a big ask to recommend improvement when you are not aware of the systemic failures in the first instance.
- Do not have a personal vested interest
- It is usually the people who want public profiles that generally come forward.
- These people generally have little or no training, knowledge or skills in the area.

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To really get solutions which rightly the community do hold, there must be a codesign approach for collective social impact, with those with the methodology running the process and a proper analysis using the appropriate lens.

The experiences of women in CALD communities is that the patriarchal system takes on a new dimension when the community leaders who engage in the consultations are also the abusers. Where women already fear reporting or seeking help, they are intimidated by the connections with politicians and hierarchy as that is how people are controlled in their home nations. In fact, it really works to strengthen the hierarchy as the men in those communities embolden perpetrators, because they get to know the system enough to know how to get around it. They know:

- a) how perpetrators can avoid being caught or detected
- b) how to manipulate the system to avoid conviction or change
- c) more professionals are recruited into keeping the community problems in the community, we know of cartels that get into action around a perpetrator to 'get him off'; often that involves continued harassment, intimidation and threats to the victim. We refer to Section A recommendations.
- d) how to more effectively scare away victims from seeking any help or reporting.

When we look at the case study at Appendix 2, this in itself is a horrific tale of how the system lets women down, and if we add the layers of patriarchy, cultural barriers and lack of support in the system, for CALD women it really is a recipe for disaster. We are already seeing disastrous examples in the statistics above and the suicides in Melbourne.

### **Filling Systemic Gaps**

We also draw attention to some CALD 'support' services that portray DFV service delivery, but many are voluntary. Services which contribute to a significant percentage in terms of overall support in DFV.

A considerable number of such services are equally hard on victims and encourage adjustment as a means of addressing family violence as a cultural norm. We know of delivering alleged training and awareness in DFV which in reality is coercing victims to follow the cultural norm of suppression and not complain.

### **Mental Health**

Our clients show signs of significant mental health issues, many of them say 'my brain doesn't work anymore', or 'I've been like this since he's been hitting my head against the wall'.

Others are clearly victims of gaslighting which has set in place a level of trauma. A consistent problem we have is finding the right kind of mental health support. Our clients do not respond to many of the counselling and conciliation models as they don't factor in the collective and intersectional needs of the cultural background.

The first issue we have is getting them to a practitioner for the referrals needed, and the bureaucracy is prohibitive. Even in finding one, availability is an issue; waiting six months or more is not helpful to the client in crisis. Limited sessions means the groundwork is not even laid before their entitlement runs out.

From interpreters we know that one of the most difficult area for interpreting is in mental health, as the firstly the terminology does not exist in other languages, then the closest interpretation can take away the context. For interpreters who are better in their own language than English, there is a real danger of the interpreter becoming the clinician.

While we have no data, we strongly believe the level of suicide and self-harm, has direct links to mental health which is a consequence of family violence. Particularly where mental health

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can be used against the victim in legal proceedings, in family matters of her no longer being able to fit the role of a wife and in parenting matters, making her an unfit mother.

We also see women at the wrong end of the justice system due to them missing dates, not having the appropriate documents and not knowing what is expected of them. It is no surprise that when they are already in crisis, often with some degree of a language barrier, they also suffer from anxiety and extreme fatigue.

The overarching complication in mental health is the attitude to mental health, it is a form of 'crazy', to most. It is used as such in conflicts and exploited in DFV.

We have been working on a model of our own over the last two years, with local providers and those trained in the methods from back home, and are trialling the model further in the coming months. We already know there is a much better and more effective means of meeting the needs of CALD clients, which is a more effective way to support clients.

A reason why we have been able to develop a working model so quickly is due to incorporating a level of common understanding about the meaning of mental health and addressing attitudes to mental health, as well as developing appropriate terminology. Language is carefully chosen to avoid the client declining support.

It is with this in mind that we ask the Government both at the Federal and State level to consider stricter and wider enforcements to include those who set up and maintain the framework that protects perpetrators and isolates the victim as per Section A.

Further consideration is needed on:

- A. Immigrant and refugee women (mostly CALD) face additional obstacles in leaving violent relationships to mainstream women.
  1. Many do not have the knowledge, skills or means to access Govt. or NFP services and their issues in finding protection are worsened by social isolation, which is often a part of the immigration experience.
  2. Lack of family and friends or a social network is regularly mentioned in the current literature as a large factor which is often used by the abuser to exert control over a woman, leading to increased social abuse. This further isolation limits any acquisition of knowledge relating to their legal rights and knowledge of available service. In fact a report by the Family Law Council in 2012 found that a lack of knowledge about the law and a lack of awareness of available services impeded immigrant women's access to the family law system.
- B. Additionally, to enhance the quality of domestic and family violence policies, we need to understand other inequalities are present besides gender, and these inequalities are connected to violence. The intersections of race, gender, ethnicity and immigration status are important matters which need to inform the conversation around and construction of DFV policies as applied to the migrant community  
If DFV policies are not constructed and considered from the intersectional (race, ethnicity, migration status) point of view, then it further complicates and fails to recognise the experiences of CALD women leading to their being excluded from, made invisible or having a lower chance of being protected from DFV  
DFV policies need to be responsive to the diversity and intersections of race, gender, ethnicity, religion, ability/disability given the nature and impacts of DFV are compounded by the marginalisation experienced by CALD women

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- C. For a policy to be inclusive it needs to take into account the inequalities and barriers facing marginalised groups.
  - D. CALD women also experience overt and covert racism and discrimination in their contacts with service providers. This has been found to be an added factor which deters many from seeking help.
 

It is widely known among new migrants and refugees to Australia that the broader community holds a negative view held about them, which may discourage them from trying to get help. This is often the case for Muslim women.
  - E. DFV policies have often been framed as an inherent part of 'other' cultures. This contributes to the vulnerabilities experienced by CALD women such as how DFV is named and defined, the different kinds of CALD-specific abuse such as immigration law-related violence and extended family abuse including forced marriages which can become barriers to seeking help.
  - F. Many CALD survivors experience DFV which is an intersection of their ethnicity and immigration status. They become the victims of multi-perpetrator violence (i.e. in-laws or extended family members)
  - G. Immigration-law related abuse is another form of abuse within DFV. Often the spouse is the source of information and knowingly misguides his partner, often controlling their immigration status and using threats of deportation to prevent them seeking help or reporting the abuse.
  - H. When Govt. reports and policy makers focus on culture i.e. just looking at the differences between majority and minority people, then other variables besides culture are minimised or the extra-cultural explanations which contribute to their DFV problems.
  - I. Just focusing on the culture of the victim or survivor fails to recognise that migrant women's subordination is not just derived from their culture of origin but also from mainstream structural factors such as racism and gaps in the Australian social system and Govt. policies.

## RECOMMENDATIONS

- i. Invest in appropriate development of CALD focussed mental health programs and models
- ii. Invest in interpreter training in Mental Health and/or grow the pool of bilingual clinicians.
- iii. As part of the overall framework, the volunteer component is acknowledged and integrated into the system. Whether someone seeks to provide a support group or case management they too should have access to being sufficiently skilled and knowledgeable in the system.
- iv. As per the recommendation in Part C volunteer or new organisations to comply with the minimum set of requirements and have clear definitions of the work they do that constitutes DFV, to ensure poor or erroneous guidance is not provided.
- v. Funding models need to consider funds to those grassroots organisations that are doing the work to develop appropriate services, build community intelligence on their specialisation and fit into the overall support system.
- vi. Funding streams in settlement services and bespoke organisations to be included in the overall funding programs to cover migrants of all pathways.



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## I) THE IMPACT OF NATURAL DISASTERS AND OTHER SIGNIFICANT EVENTS SUCH AS COVID-19, INCLUDING HEALTH REQUIREMENTS SUCH AS STAYING AT HOME, ON THE PREVALENCE OF DOMESTIC VIOLENCE AND PROVISION OF SUPPORT SERVICES.

Services such as ICSA are always at capacity due to the operating model and dependence on volunteers. Our work is strongly along the lines of assisting clients who generally do not have access to services and are socially isolated.

During COVID-19 we were significantly concerned as the usual manner of connection was removed and there was a resounding silence. As expected, referrals have increased as lockdown has lifted and the complexity has also increased.

This is the time when we are compromised in the work we can do and are willing to do by a lack of funding and the inefficiencies of the funding model. While there were multiple small grants released, this means dedicating limited time to applications and administration which is a deflection from the work that is needed.

The grants (understandably) were ad hoc projects based on rash decision-making so didn't really hit the mark in the outcomes. Most funding bodies already are aware of the work various groups do, and at times like this equally in an unprecedented manner it could have been advisable to allocate specific tasks to known organisations who have a demonstrated experience in delivering a particular service.

The reality is that in terms of meeting the needs there is still no real support for services such as ours that are supporting clients; once again these are the people who fall through the gaps and who have now been put into yet another gap.

We have a significant need for mental health services, we have an effective model, but once again this is compromised by trying to fit us into an existing box.

## RECOMMENDATIONS

We recommend:

- i. Community groups and organisations to be accredited or endorsed onto a panel that can be accessed in times of urgent need.
- ii. The endorsement process has an accountability framework which focuses on outcomes rather than organisations acting as platforms. We see too often the splintering of small organisations that have done good work, because one person will not allow the others any credit.
- iii. Fully funded organisations or Government agencies take on partnering with such groups to build the capacity of the group and to gain effective intel on the work they do within the agency.

## J) THE VIEWS AND EXPERIENCES OF FRONTLINE SERVICES, ADVOCACY GROUPS AND OTHERS THROUGHOUT THIS UNPRECEDENTED TIME.

Services such as ours are always at capacity due to the operating model and dependence on volunteers. During COVID-19 and at times of natural disaster such as the recent bushfires, we are at a significant disadvantage to assist the community as the need and demand significantly increases and there are new issues to deal with.

Through this time there was added pressure as Governments and agencies were in overdrive in trying to consult on how to address the needs of the community. It is understandable, but most were asking the same questions. More coordination from the government and agencies could have garnered a more quality and timely response. +

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As a frontline service we have as expected had more requests for help as the lockdown eases for COVID-19. We are seeing an increase in requests for legal support and a growing cohort of victims who are asset rich and cash poor struggling to cope with day to day needs.

### K) AN AUDIT OF PREVIOUS PARLIAMENTARY REVIEWS FOCUSSED ON DOMESTIC AND FAMILY VIOLENCE.

Previous reviews have fallen short, particularly in considering the CALD & Multicultural lens. There is far too much stereotyping in early reviews and current ones rely on data that does not comprehensively capture the community.

It is frustrating to consistently observe reviews, consultations and research based on preconceptions, assumptions and stereotypes.

#### Data Sources

As such, previous reviews do not effectively or fully consider the impacts of the intersectional aspects on CALD and other marginalised communities. The bulk of data for multicultural communities has traditionally drawn from migrant resource centres and refugee services, where there has been a captive market.

Fundamentally therefore data is based on the humanitarian entrant pathways and misses the mark on

- all the other migration pathways
- CALD communities that are not migrants (multi-generational) or
- long established migrants, where situations have significantly altered.

Until recently support for humanitarian entrants had considerable funding and settlement services dedicated to this cohort. In comparison other migrant streams essentially had to and most still do find their own way around settlement.

As such previous review data and research is strongly skewed toward the refugee and asylum seeker pathway.

In 2016, on ABC's Q & A<sup>1</sup>, this came to the fore with fact checking of claims around migration numbers (with some variation depending on the visa category inclusion) to be:

- 200,000 permanent entrants
- 800,000 temporary visa entrants
- 14,000 humanitarian & refugee entrants.

Humanitarian and refugee entrants amount to about 6-10% of Australia's overall annual permanent migration intake for nearly a decade, yet we still rely on this cohort to understand and determine most CALD issues. Not surprising, as this is a captive audience and data reporting does occur. Collecting data or consulting all the other cohorts would be more challenging and the longer communities are established, needs and issues evolve and change.

There is a strong need to expand from this data source in developing policies or strategies. In DFV, we have another layer of complexity as most research, analysis and conclusions are drawn from organisations that are largely serving women only or in the main. For CALD communities it is vital to include the family and it's structure and understand the community dynamics to really determine the underlying issues before collectively strategizing on how to address them. Similar to what is finally starting to happen with Aboriginal communities.

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<sup>1</sup> <https://theconversation.com/factcheck-qanda-what-are-the-real-numbers-on-refugees-and-other-migrants-coming-to-australia-66912>

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## Domestic & Family Violence Support Services

In FDV, there is further complexity in undertaking a full review as:

1. Access to service provision to many communities has numerous barriers
2. there are too many people excluded from the support services altogether (temporary resident migrants)
3. The percentage of non-violent abuse is overwhelmingly greater than the violent abuse, so is not reported or captured
4. CALD communities do not generally trust authorities that interfere in their personal matters, especially if it may break up families.
5. Community dynamics, power play and the patriarchy can dominate the messaging for consultations.
6. There are insufficient ethno-specific services that can provide real data, using Migrant based centres is once again dominated by the humanitarian entrants and many have never really offered DFV services until recently, so their experiences are new and catching up to offer better support.
7. Reviews are still taken largely from services dealing with clients, where there is a slowly improvement towards cultural competency further than using an interpreter. It is to be acknowledged that services have great good will and intention, but still use band aid solutions based on being informed through a small section of clients.

Further consideration therefore needs to be given on how we use past reviews by first putting them into context on how information was gathered and how reliable it is to be applied to the wider community.

### Research & Review Methodology

We are seeing better research and analysis that is hitting the mark, but research is still in its infancy when it comes to understanding DFV in the CALD communities as is the methodology.

One comment that is often heard in CALD communities is that while we are consulted and asked for our opinions, in the end *nobody is really listening* and we go back to the formerly tried and failed practices set up with a western lens or what might be the more accurate assessment of the problem is too big and will cost more than the Government is willing to commit to. Hence nothing really changes.

The recent report released by ANROWS *Prevention of violence against women and safer pathways to services for migrant and refugee communities*. The report provides ten research insights from CALD Projects with Action Research (CALD PAR). This research is part of the six national outcomes of the National Plan to Reduce Violence against Women & their Children 2010-2022 and addresses National Plan Outcome 1 – *Communities are safe and free from violence*.

Through the Department of Social Services, the project was run through two grant streams:

- Culturally and Linguistically Diverse Communities Leading Prevention – 18 projects
- Safer Pathways for Culturally and Linguistically Diverse Women – 8 projects

The projects were undertaken by 26 providers between Dec 2017 and concluded in Jun 2020.

ICSA submitted applications to both streams, the projects respectively being:

- A project to promote primary prevention through commonly used media; a tailored narrative that fit the community.
- As a remote and mobile case management service we had already built safer pathways for our clients with had solid experience of the pathways being effective. To the point of if it works for our clients which we term the 'gap community', then it works for others.

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Notwithstanding the significant number of gaps actually in the service sector that were overcome through community involvement.

While we were unsuccessful in our applications, with no option to any feedback as to why; we were immediately invited to join consultations, steering committees and working groups to four local projects for the first stream.

*It is not the first time we have been declined funding only to find those getting the funding then approach us for our expertise and experience to be undertaken on a voluntary basis.*

Community intelligence is built by organisations like ours who are on the ground and in the thick of not just the communities we represent but as in our case, the data, knowledge and skills we hold from actual service delivery.

While we make no critique on the projects themselves. We do however draw attention to the issues we cautioned against as part of the consultations in planning the projects were fundamentally ignored. This ended with what we already know from practical experience consultation attendances are poor; in one case only three people turned up. Some projects became so difficult they had to be aborted and started afresh with a more different and 'more achievable' outcome, such as the production of a video. This is not to say that some of the projects did produce some very good resources and do have some impact. These flaws could have been avoided and produce better quality results.

The report produces ten insights, at least seven conclude what we had put in our proposals as our demonstrated understanding and projected outcomes to be achieved. The insights were already there; it just took a few million dollars to get it into a report.

### **Client & Community led Reviews**

A preconception that clients can advise from their experience on how to improve the system is unfair, it is clear sector workers and students in social work cannot comprehend how the sector is mapped out fully and all the gaps, how could a client possibly facilitate further than what might have helped them.

While this is valuable information it should be put into context of how overall a system can be improved for all and intersectionality addressed.

### **RECOMMENDATION**

- i. Provide proper feedback on why grants are unsuccessful, as those organisations with the ideas have the answers, the ones with large infrastructure often don't.
- ii. Revisit former reviews to draw what lessons have been learnt from the previous review and establish the pros and cons.
- iii. Draw out the recommendations and put a measure on the outcomes, in particular where recommendations are not followed or implemented, it is not possible to examine what benefits were achieved. Either there is a solid business case for not implementing a recommendation or there is no case for going into any further review which will likely yield the same recommendation.
- iv. A strong recommendation is the make up of the groups for consultation. The most common form of consultation is seen to be and directed towards community leaders. In CALD community most of these people are men, so there is the first imbalance. Furthermore it should take into consideration facts such as:
  - a. Rape of women is the preferred form of attack in war zones, tribal disputes and in-country unrest.
  - b. More than 600 million women come from countries where domestic violence is not considered a crime.

- c. Every 18 minutes a woman is raped in India
- d. Life threatening attacks on women such as acid attacks are now legal.

All such situations are in countries where there are very strong patriarchal hierarchies, which serve the men well in their control. The idea that such attitudes change along with nicer housing, more stable employment and a better health system is naïve at best and a lazy assumption at worst. In reference to this submission at part a. these attitudes and cultural norms are at the base of what we seek to be now considered allied perpetration. The question that also needs to be asked is are these the people the community follows so true leaders or are they people who the community fears, so will not cross them.

To consult with such groups is possible but in a way and means that draws out factual information that can be used. Any consultations should be made with those who fully understand and appreciate what the issues are, have a positive attitude to real change and some experience of what is happening at the grass roots.

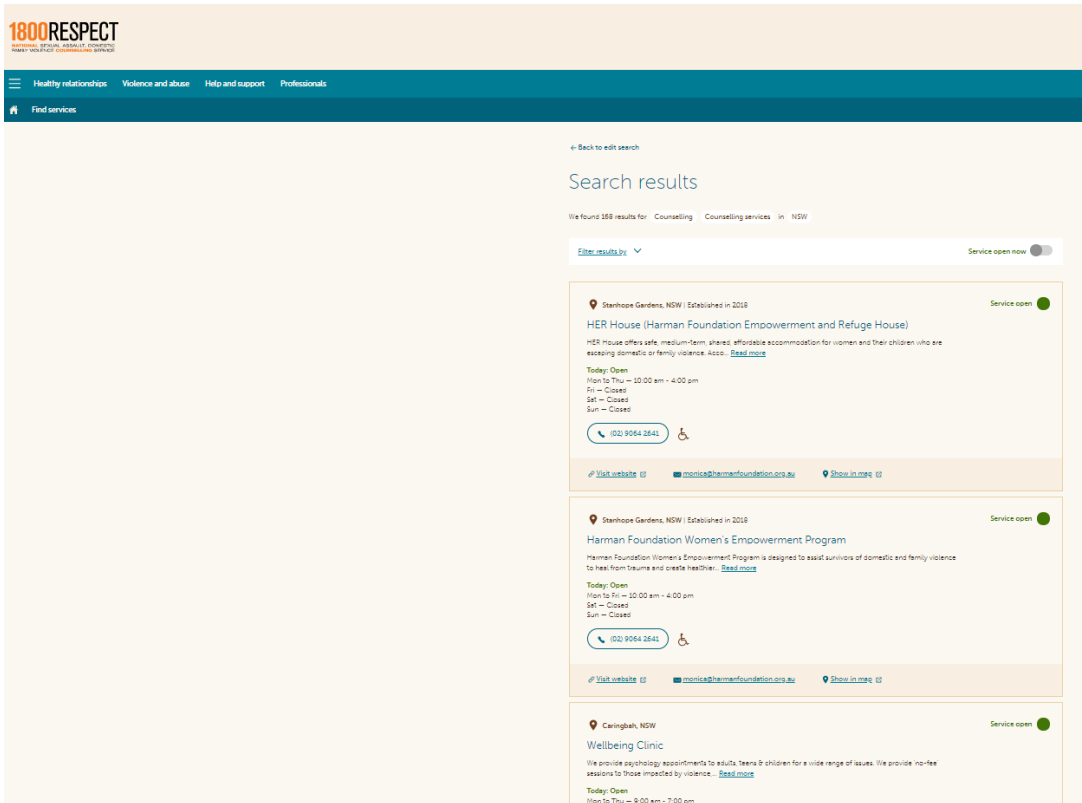
**L) ANY OTHER RELATED MATTERS.**

Nil submission

## Appendix 1 – Directories & Contact Lists

### Test Case - Directory

A search for counselling in 1800RESPECT directory yielded the following result:



**1800RESPECT**
  
 NATIONAL HELPLINE FOR DOMESTIC VIOLENCE

Healthy relationships Violence and abuse Help and support Professionals

Find services

← Back to edit search

### Search results

We found 168 results for Counselling Counselling services in NSW

Filter results by Service open now

Stanhope Gardens, NSW | Established in 2018 Service open

**HER House (Harman Foundation Empowerment and Refuge House)**

HER House offers safe, medium-term, shared, affordable accommodation for women and their children who are escaping domestic or family violence. Acco... [Read more](#)

**Today: Open**  
 Mon to Thu — 10:00 am - 4:00 pm  
 Fri — Closed  
 Sat — Closed  
 Sun — Closed

(02) 9064 2641

[Visit website](#) [monica@harmanfoundation.org.au](mailto:monica@harmanfoundation.org.au) [Show on map](#)

Stanhope Gardens, NSW | Established in 2018 Service open

**Harman Foundation Women's Empowerment Program**

Harman Foundation Women's Empowerment Program is designed to assist survivors of domestic and family violence to heal from trauma and create healthier... [Read more](#)

**Today: Open**  
 Mon to Thu — 10:00 am - 4:00 pm  
 Sat — Closed  
 Sun — Closed

(02) 9064 2641

[Visit website](#) [monica@harmanfoundation.org.au](mailto:monica@harmanfoundation.org.au) [Show on map](#)

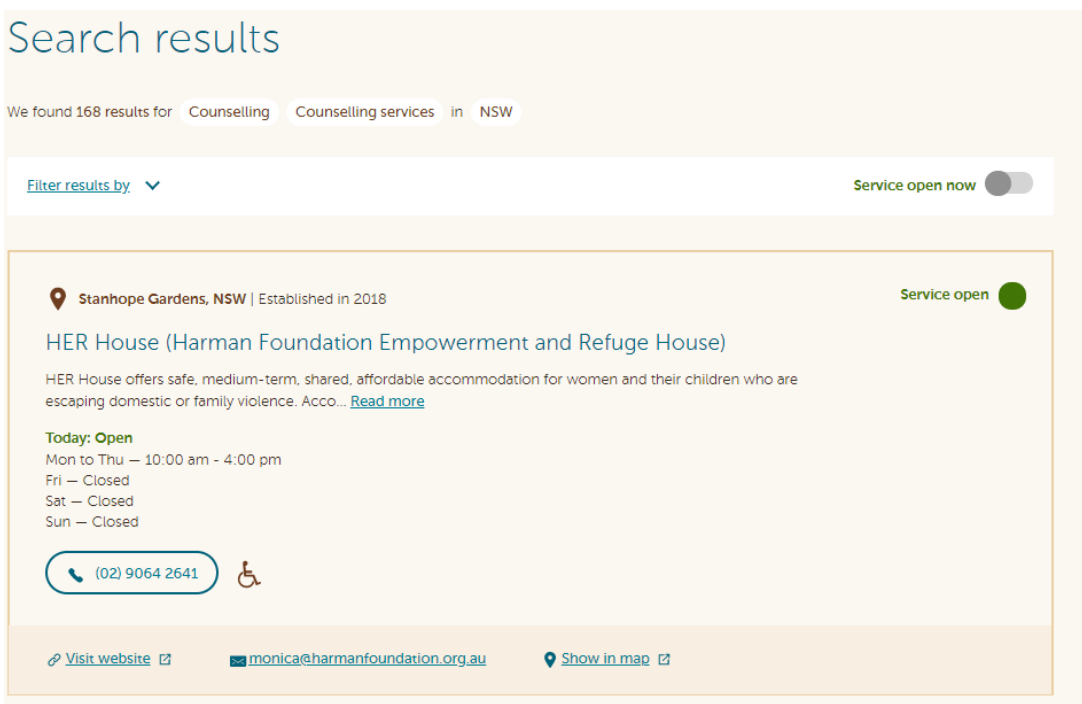
Caringbah, NSW Service open

**Wellbeing Clinic**

We provide psychology appointments to adults, teens & children for a wide range of issues. We provide no-fee sessions to those impacted by violence... [Read more](#)

**Today: Open**  
 Mon to Thu — 9:00 am - 7:00 pm

Zoomed in



### Search results

We found 168 results for Counselling Counselling services in NSW

Filter results by Service open now

Stanhope Gardens, NSW | Established in 2018 Service open

**HER House (Harman Foundation Empowerment and Refuge House)**

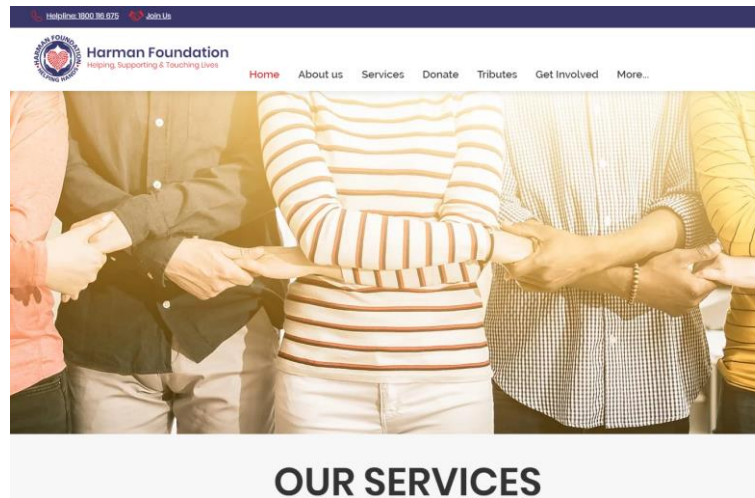
HER House offers safe, medium-term, shared, affordable accommodation for women and their children who are escaping domestic or family violence. Acco... [Read more](#)

**Today: Open**  
 Mon to Thu — 10:00 am - 4:00 pm  
 Fri — Closed  
 Sat — Closed  
 Sun — Closed

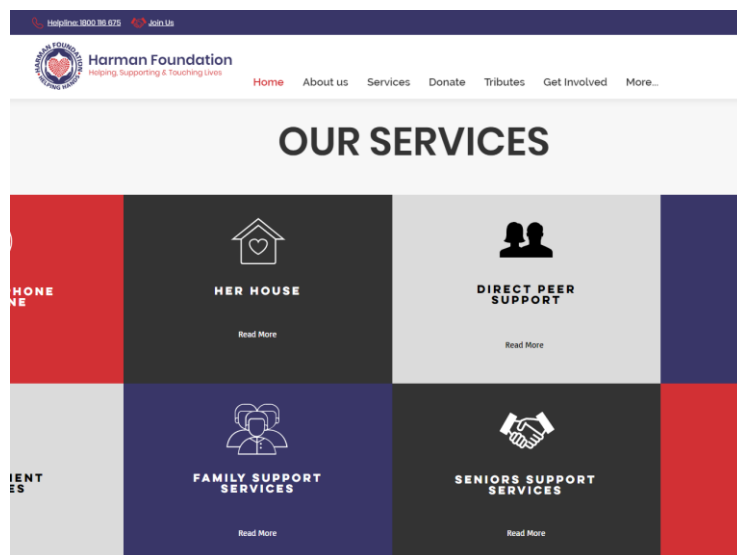
(02) 9064 2641

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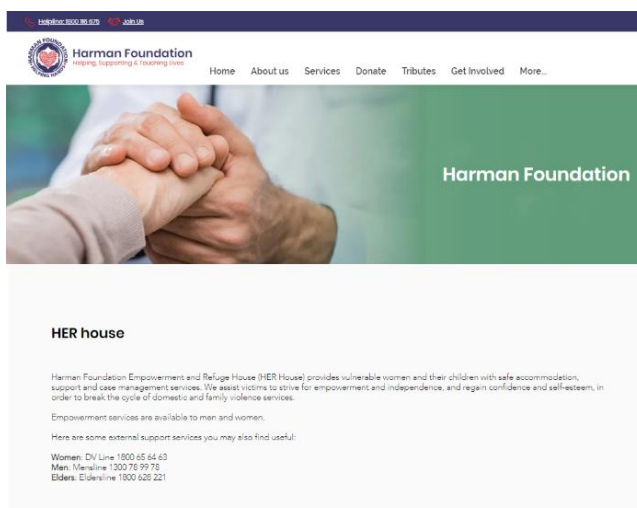
Click to Website



The link to the service mentioned



Click to HER House as per the listing



Starting to search for counselling services takes the client to an unrelated service allegedly for DV, but in detail there is no service, just numbers of national lines.

Among these were counselling services but you have to call them to actually find one that is:

1. In the area
2. Has availability
3. You are eligible to and
4. Culturally appropriate

## Appendix 2 – Case Study

Inquiry into family, domestic and sexual violence

Submission: The Indian (Sub-Cont) Crisis & Support Agency (ICSA)

Case study taken from Outer West Domestic Violence Network.

OWDVN



**STOP**  
**Domestic Violence**

### CASE STUDY:

Client in Western Sydney over a 5 year period, 2 years in a relationship, three after leaving.

Event	Systemic Failure & Gaps
Between 2011 and 2013, police contacted on numerous occasions relating to the DV, approximately 18 event numbers.	Police failure to act
Police then made an AVO application and left it to the client's discretion to pursue an AVO and did not pursue it themselves.	Police failure to act
Client could not make AVO due to feeling her safety was at risk if she went through with an AVO.	Systemic failure
Some instances where police attended home after a DV incident and said things like "well you're looking to move out so why can't you just behave and get along with him until you leave?"	Police failure to act and inappropriate behaviour Further abuse by system
Having prepared a Plan and when it was safe to leave, client left. Former partner (FP) returned to the property to check she had left and then contacted the police, who then called client at work to discuss charging her with taking her own furniture when she fled. They did not however pursue this.	Systemic failure Privacy breach System manipulation System abuse
FP threatened parent where client first fled to before securing own housing. FP eventually presented to the new home after many threats, constant phone calls and sending intimate photos of client to her family. Client reported multiple times but no action was taken.	Gap – no referral to any service or support
The police eventually placed an AVO on FP after he entered her home and broke her finger. Client drove herself to the hospital and had surgery on her hand. She lied to the hospital out of shame and fear of losing her children to FACS.	Gap – no referral No DV screening at the hospital. Lost opportunity to be referred to a social worker.
FP breached AVO multiple times after this, Police would come, take a statement, tell her they can't find him as such he never was charged or breached for any of those breaches.	Police failure to act on multiple occasions
On one such breach FP assaulted her while holding her baby in her arms, forcing the baby's head into the wall. The police did nothing and didn't seem to care, Client got	Police failure to act Systemic Failure child protection



<p>into trouble for recording this event on her phone hoping to provide evidence.</p>	<p>Child &amp; mother should have been screened by a Health service &amp; referred to a social worker. System manipulation Police CWU failure to act</p>
<p>FP would call her work and tell workplace he would set her on fire, police did not consider this to be enough evidence. FP threatened her family to coerce her to say she did not want an AVO when attending court. FP cut the brakes on her car causing her to be involved in a car accident.</p>	<p>Police failure to act</p>
<p>The police did not investigate as he had her car towed and crushed. This resulted in a significant insurance bill which she could not pay and was left without a car.</p>	<p>Police failure to act Gap – financial impositions from DFV. System failure: no recourse for financial abuse</p>
<p>Client contacted Brighter Futures but told they could not support her as it was at the time he was in jail and the risk was gone.</p>	<p>Systemic failure Brighter Futures could have referred to FRS</p>
<p>After release from prison, FP hired a lawyer to support him in threatening client with a recovery order if she moved out of the area, forcing her to stay closer to him rather than family and work as planned.</p>	<p>System manipulation Compound abuse: System perpetrated</p>
<p>On one occasion FP turned up at her home randomly, the police were called while she locked herself inside. The police escorted him to the mental health ward but took no action over the breach.</p>	<p>Police failure to act appropriately.</p>
<p>The Psychiatrist called client and asked if she feared for her safety. On being told she was petrified of him, given the broken finger plus years of mental, physical and emotional abuse, nothing was considered and he was released from the mental health ward the next day.</p>	<p>Systemic failure Systemic compounded abuse Disregard for client safety Gap – of no appropriate response or support to victim by Mental Health Services, no referrals for support.</p>
<p>Two days later FP broke into client's home while she and her children were asleep. Client woke up to being strangled, beaten, attacked with a knife, mattress set on fire to burn her and her kids alive.</p>	<p>Systemic failure – No support given to victim. No referral to a support service Client had medical treatment, but no screening, no referral, no evidence collected and no referral to a social worker.</p>
<p>Client had fingerprint marks all over her body, torn clothes. FP punched her so hard that she was covered in bruises and her jaw was out of alignment which still hurts many years later and she has scars on her face as a constant reminder. Following this incident, he was finally arrested!</p>	
<p>At court hearings she was</p>	
<p>▶ not given any support or prep from the prosecutor or any lawyers.</p>	<p>Systemic failure As a DV matter with history, she should have been allowed to give evidence remotely.</p>

<ul style="list-style-type: none"> <li>▶ put on the stand and cross examined by FP's barrister who blamed her for all the abuse, character assassinated her and cast aspersions on her professional ability (she works in the health sector).</li> </ul>	<p>Systemic abuse: compounding of abuse Systemic manipulation</p>
<ul style="list-style-type: none"> <li>▶ blamed for not being able to de-escalate his abusive behaviour.</li> </ul>	<p>Systemic abuse</p>
<ul style="list-style-type: none"> <li>▶ called a liar, and a participant in the abuse.</li> </ul>	<p>Systemic abuse</p>
<ul style="list-style-type: none"> <li>▶ forced to state her address in court when giving evidence which meant he knew where she lived after she had fled family home.</li> </ul>	<p>Systemic abuse Risk to safety</p>
<p>Once in prison FP started sending letters from jail. The jail blocked the letters on her behalf so he sent them to his father who would drop them to her home.</p>	<p>System manipulation Family (co-perpetrator) abuse</p>
<p>After his release, Client was petrified and constantly called the police in tears and 1800 RESPECT</p>	<p>System failure Corrections, parole &amp; Police failure to act</p>
<p>After prison despite him being told by the judge he was to reside with his father once released, he was allowed to move just 20 min from the client and she wasn't informed. The abuse quickly started again when he was living back in the area on parole. Parole did not take any of my fears or concerns seriously and let him breach his parole numerous times without punishment.</p>	
<p>Police wouldn't issue another AVO as the 1000 private number calls and abusive messages were not considered enough. He was seen to have apparently paid his dues so the history of abuse could not be taken into consideration for an AVO.</p>	<p>Police failure to act on multiple occasions</p>
<p>Client has changed her phone number several times, and called services, but no one would help.</p>	<p>Systemic failure</p>
<p>Her real estate wouldn't let her break the lease to enable her to move to a safer environment.</p>	<p>System framework deficiency</p>
<p>FP then made a private application to the court for an AVO and had his day in court. Client forced to attend; threatened with a warrant if she didn't show and face him despite him already being convicted of charges of which some were dropped as part of his plea deals. The charges include:</p>	<p>System manipulation Indictable offences including GBH, property damage, use of offensive weapon</p>
<ul style="list-style-type: none"> <li>○ Contravene prohibition/restriction in AVO x 2</li> </ul>	
<ul style="list-style-type: none"> <li>○ Use of offensive weapon with intent to commit indictable offence</li> </ul>	
<ul style="list-style-type: none"> <li>○ Threaten to destroy/damage other persons property</li> </ul>	
<ul style="list-style-type: none"> <li>○ Assault occasioning actual bodily harm</li> </ul>	

<ul style="list-style-type: none"> <li>o Aggravated break and enter was dropped as part of a plea deal and the assault was reduced to a lesser charge.</li> </ul>	
<p>Legal Aid couldn't represent or help her as she was the Person of Interest (POI) and they can't help POIs in AVO applications.</p>	<p>System failure</p>
<p>Women's legal service helped pro bono as they took on board her desperate appeals for help.</p>	<p>System workaround No referral to a support service</p>
<p>FP kept getting adjournments as he had no evidence to back his claims for the AVO. In between he would call and laugh at her, telling her he could not wait to see her in court so he can cross examine and humiliate her.</p>	<p>Systemic manipulation</p>
<p>This went on for a year despite having solid evidence that he was using the justice system to continue perpetrating abuse.</p>	
<p>The client's name is still on the justice system website as a perpetrator of abuse (AVO) despite the case being thrown out of court and it feels slanderous to her. Attempts to remove the listing have been rejected.</p>	<p>Systemic abuse</p>
<p>Through this FP made false statements to the police that client had fraudulently taken money out of his bank. The police came to her home and took her to the station in front of her kids to be interviewed. There was no evidence to substantiate the claims so the matter was dropped.</p>	<p>Systemic abuse Police failure to act appropriately</p>
<p>FP broke into her home and stole her key card and went on a spending spree. The money was never recovered and the police did not investigate this, claiming it to be a domestic. Police advised her to call the helpline even though it had been 2 years since her split from the FP.</p>	<p>Police failure to act Systemic abuse</p>
<p>Client tired, worn out and traumatised. She has no one to help her and felt he would kill her. FP kept stealing her mail and still stalking her. Once again she moved, though by this stage she was \$16,000 in debt. She had to borrow money to move as she had a job and was not eligible for housing support or Centrelink help.</p>	<p>Systemic failure Compounding financial abuse Loss of quality of life</p>
<p>When he found her she moved again this time with some assistance from SHLV and Anglicare.</p>	<p>Some support from NGO</p>
<p>Since moving, she has again changed her number, got off social media, changed schools, changed her children's names and been in hiding since. Client lives in fear of FP finding her and initiating a family court matter. She fears he will manipulate the system to either take the children away from her or that they be put into care.</p>	<p>Living incognito Living with PTSD Still living in fear of FP and fear of losing her children Financially and economically compromised Still trying to put her life back together.</p>

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## CASE MANAGEMENT – COMMON GAPS/FAILURES

1. Finding support for women who are leaving abusive men who may not have been physically abusive. Police do not and cannot provide assistance for women who are suffering severe and long term emotional, financial, psychological abuse which may also include tracking, stalking, harassment and verbal abuse.
2. Women (on single incomes) with mortgages are falling through the gaps as they cannot access Legal Aid or Support services that are means based e.g. housing, legal aid and Centrelink.

E.g. A client separated from a Person of Interest (POI). Partner withdrew \$500,000 from their joint account (both were working) and the client also had her name on his business. He sends her fake pay slips to impinge on her ability to access financial help through Services (e.g. Centrelink). She has no access to any of the money and cannot withdraw on the mortgage as this is in both names. She also cannot afford to pay for a lawyer. Programs such as Staying Home Leaving Violence cannot even implement security measures on a house with a mortgage.

Client with ex-partner who claimed to have earned \$187,000 in the last financial year (a sum he did not earn) has resulted in the client losing her Centrelink benefit due to a private child support arrangement which was set up.

3. Police attending victims' homes and not responding appropriately. The Police either dismiss the victim's fears or challenge them re the seriousness of the abuse. Police are not taking breaches seriously. It may seem to be just a text message but to the impacted women, it is a trigger and in the context of all other factors its harassment or at least 'gaslighting'. This is now impacting on clients who do not want to make any contact with police for further incidents and many feel they can only call the police if and when they are seriously injured, if not about to be murdered.
4. Courts are letting POI's out on bail without tracking devices for serious offences. One client was threatened with a loaded gun to her head and her partner is out on bail right now. Numerous POI's are on bail for strangulation, sexual assault and serious assault charges.
5. Women are not being notified of POIs being released in order to make arrangements for their own and their children's safety.
6. Lack of cooperation from other agencies e.g. attempts to implement a safety plan at a school for a woman who was being stalked and followed for weeks (tracking device found in her phone); the school was not interested. The POI's legal rights were put before her need for safety, even when an AVO was in place.
7. Increasing tracking seen on women's phones, computers and cars. No services are available for contact to have tracking removed. Replacing phones or computers puts additional financial strain on the women. Police do not investigate or look into tracking devices, even when such are found, the onus being on the women to prove it was the perpetrator.
8. POIs are submitting affidavits to the Family Court or prolonging their court ordered dates for submissions to drag out legal processes, thereby leading to increased financial strain and emotional turmoil on women. Affidavits are submitted by perpetrators with false allegations in order to humiliate, dismiss credibility and continue the abuse through the court system. Clients are forced to prove otherwise and are viewed and treated poorly by lawyers and judges. Many are called liars and the DV is dismissed or ignored.

Some clients are pressured to be silent about the abuse by lawyers and to allow access to the abuser using the women's fear of losing their kids if they don't do so.

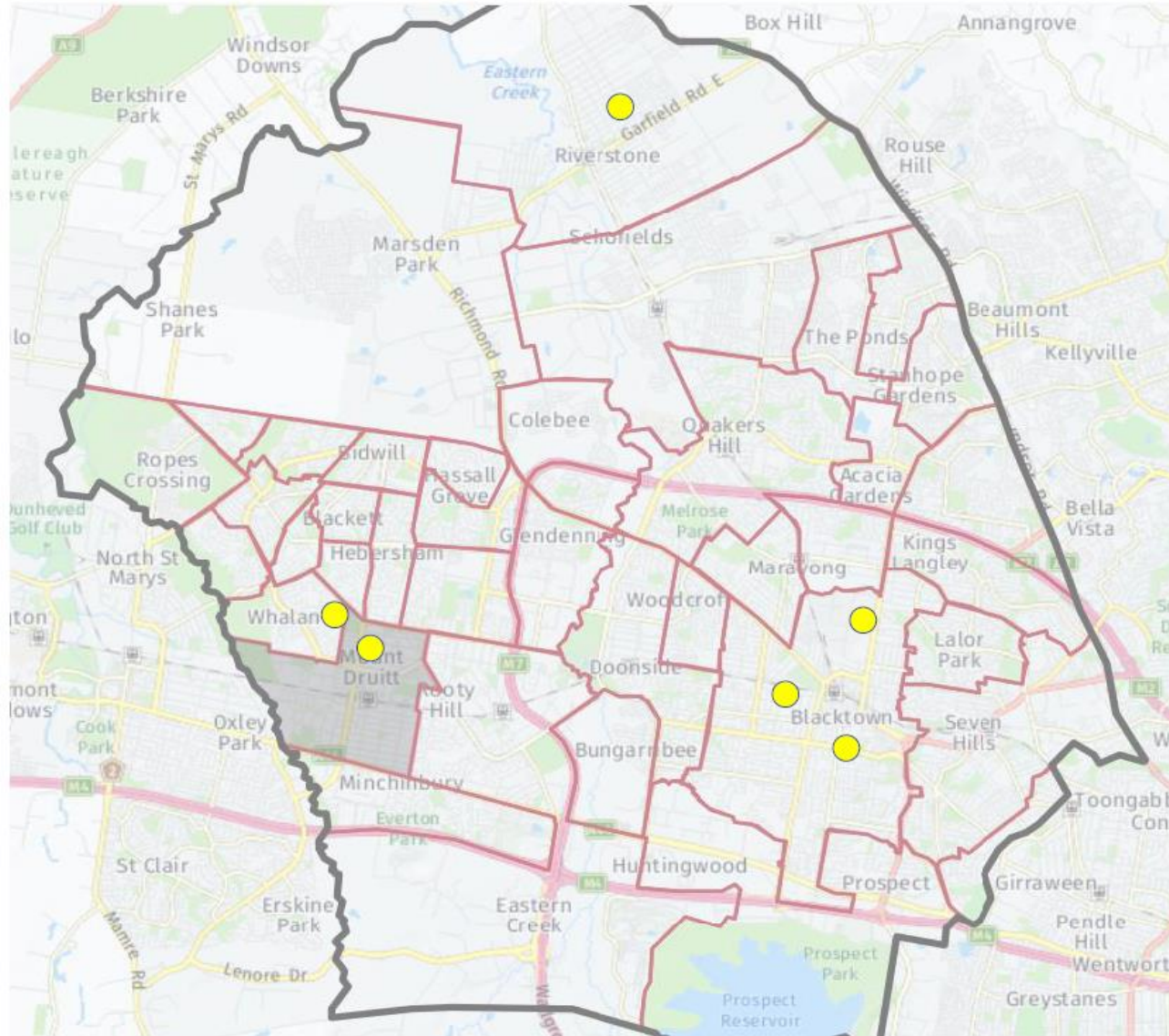
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Women's mental health is under scrutiny during court proceedings due to anxiety, depression and PTSD which are commonly the result of the abuse during and after the relationship. Their parenting capacity is also put into question.

9. Judges allow perpetrators access to children despite evidence of DV. Perpetrators continue to abuse clients during drop off or pick up of children, arguing and saying slanderous things about the mother during FaceTime calls with children and passing on messages to the mother through the children which are threatening, abusive and slanderous. Since it is court ordered the mother cannot protect herself from the abuse out of fear she will lose the children for breaching contact orders. Mothers' mental health is severely impacted as they feel they can't protect their children. This leads to mothers often returning to the perpetrator out of sheer exhaustion.
10. Sexual assault is not being taken seriously by the police. Police issue an AVO but don't lay charges for rape.
11. AVOs are being issued without condition 9 which allows perpetrators to continue approaching their victim. Children are not being added to the AVO.
12. Child protection services are removing children from mothers who are vulnerable and protective. Child protection services do not seem to have a proper education around the complexity of DV and view parents as not being protective when mothers are doing their best. There is a lot of pressure for mothers to leave the abuser without any support in place to ensure she can stay safe. Threats from the perpetrator to make allegations when child protection services are involved results in mothers seeming to be non-protective. Child protection services needing more education around DV and protecting of mothers children.
13. Some women have been put in a position where they have retaliated to abuse or moved to protect themselves from the perpetrator. The perpetrator records this on his phone and contacts the police to press charges.
14. There is an imbalance of power where perpetrators are able to fight the system with money. E.g. A client's partner was charged with assault with a weapon, strangulation and issued an AVO. He hired a barrister and all charges were eventually dropped. He is now working as a security officer under a false name and a fake licence. He often approaches the shopping centres she frequents and intimidates her.
15. Women on Spousal visas are not able to access services and fear contacting police/community services when they need them as they cannot support themselves without the abuser and abusers threaten to send them back to their home country.
16. Women suffering financial abuse will continue claiming single parenting due to threats, fear and inability to make ends meet with their kids while the perpetrator is taking the money. Perpetrators make threats to 'dob them in'. Women fear having a large debt so are apprehensive to seek help.
17. Some POIs are pleading guilty to lesser charges and getting minor sentences. Perpetrators are claiming drug and alcohol abuse and/or poor mental health to escape proper jail time. This is a failure of the system which allows him to continue to abuse with little consequence.

## Appendix 3 – Blacktown Services Mapping

DOMESTIC VIOLENCE SERVICE MAP – BLACKTOWN



**CASE MANAGEMENT/ DV Specific Services**

- 1 Family Referral Service Western Sydney
2. Blacktown Women's and Girls' Health Centre
- 3 Riverstone Neighbourhood Centre
- 4 The WASH House
- 5 DV West – location withheld
6. Catholic Care - West Syd & Blue Mtns – via hotline
7. Relationships Australia
8. Women's Domestic Violence Court Advocacy Service – Blacktown

**REMOTE/MOBILE – out of area servicing Blacktown**

- Warringa Baiya Aboriginal Women's Legal Centre - Marrickville
- Anglicare – via a hotline
- Immigrant Women's Speakout – Harris Park
- Indian (Sub-Cont) Crisis & Support Agency – Mobile

**LOCATED IN BLACKTOWN LGA some support services for DV**

- Blacktown Community Health Centre
- Doonside Community Health Centre
- Mt Druitt Community Health Centre
- Riverstone Neighbourhood centre

**Helplines**

1. 1800 RESPECT (24 hrs.)	1800 737 732
2. Domestic Violence Line (24 hrs.)	1800 656 463
3. Victim's Services	1800 656 463
4. Lifeline (24 hrs.)	13 11 14
5. Interpreting Service (24 hrs.)	13 14 50
6. Men's Referral Service (24 Hr.)	1300 766 491
7. Mensline Australia (24hrs)	1300 789 978
8. NSW Court Service Centre	1300 679 272
9. NSW Rape Crisis Line (24 hrs.)	1800 424 017
10. Child Protection Helpline (24 hrs.)	13 21 11
11. DV Legal Advice Line	1800 810 784
12. Women's Legal Advice Line	1800 801 501
13. Central Referral Service	1800 600 681
14. Indigenous Women's Legal	1800 639 784
15. Dads in Distress	1300 853 437
16. Anglicare Counselling Hotline	1300 651 728

**32 LISTED SERVICES**

12 undertake any form of case management or dv specific support, of which 6 are in fixed locations in the area.

16 are helplines, the remaining 8 have some form of support programs.