CALD_Cover_PRINT.pdf 25/9/09 12:30:32 PM

Australia and my Family:
What are the Laws?

An educational resource for services assisting CALD Communities

Northern Territory Legal Aid Commission

Domestic Violence Legal Service

melaleuca REFUGEE CENTRE
Torture and Trauma Survivors Service of the NT Inc.

LAW SOCIETY PUBLIC PURPOSES TRUST NORTHERN TERRITORY

Northern Territory Legal Aid Commission

CALD Families Project

Report

June 2009

melaleuca REFUGEE CENTRE

Torture and Trauma Survivors Service of the NT Inc.

CALD_Module1_V4.indd 1 1/10/09 2:39:35 PM

*The project team wishes to acknowledge the commitment and support provided to this project by the **NT Legal Aid Commission** and **Melaleuca Refugee Centre** and funding provided by the **Law Society Public Purposes Trust**.*

Northern Territory Legal Aid Commission

melaleuca REFUGEE CENTRE
Torture and Trauma Survivors Service of the NT Inc.

LAW SOCIETY PUBLIC PURPOSES TRUST NORTHERN TERRITORY

CALD_Module1_V4.indd 2 1/10/09 2:39:36 PM

Contents

Project History and Rationale 3

Acknowledgements 4

Methodology and Philosophy Underpinning Project 5

Research 6

Service Provider Reference Group 7

Community Member Reference Group 8

Key Achievements and Impacts 9

Education Sessions and Trials 9

Evaluation.....11

Challenges and Opportunities 12

Community Collaboration 12

Project Timeframe.....13

Staffing and Logistics 13

Representation by Community Groups 14

Organisational Development for Services.....14

Conclusion 15

CALD_Module1_V4.indd 1 1/10/09 2:39:36 PM

Project History and Rationale

The CALD Families Project was initiated as a response to the need to develop culturally appropriate and targeted legal education materials for use with members of newly arrived and migrant communities.

The project was adapted from a similar project originally undertaken by the Legal Services Commission of South Australia (LSCSA) to develop a Legal Education Kit to enhance access to and promote understanding of Australian Family Law among people from Culturally and Linguistically Diverse (CALD) backgrounds.

The SA project recognised the recent influx of arrivals from war torn countries, many on humanitarian entry programs, and refugees seeking a new life. That project demonstrated that the kit is a valuable tool for the delivery of legal education to newly arrived groups. It provided a mechanism for discussing important and sensitive issues such as family violence and child protection.

Similarly, the NT Legal Aid Commission (Legal Aid) and several other refugee support services in Darwin highlighted the need to enhance access to legal information and legal services among the increasing number of migrants in the NT. While the project was based on the model used in South Australia, there was a clear understanding from the outset that the Northern Territory needed a resource tailored to the needs of newly arrived and migrant communities living here.

Legal Aid and Melaleuca Refugee Centre (Melaleuca) developed the project proposal in partnership. To fund the project, an application was made to the Law Society Public Purposes Trust. The objectives of the Trust are to:

- *advance the education of the community, and any section of it, with respect to the law;*
- *advance the collection, assessment and dissemination to the community, and any section of it, of information relating to the law; and*
- *improve the access of the community, and any section of it, to legal services.*

The objectives of the CALD Families Project clearly matched these funding criteria. The CALD project envisioned to:

- advance the legal education of the refugee community, in particular in relation to foundational issues of the Australian legal system and Family Law, through the development of a Kit which is a tangible resource for future educational needs;
- advance the dissemination of information to the refugee community relating to the Australian legal system and Family Law through the enhanced exposure of the refugee community to legal issues and services and through the development of a Kit which is a tangible resource for future educational needs; and
- an indirect impact of the project has been the greater awareness among the refugee community of legal services available to them. Conversely, Legal Aid has a greater appreciation of the needs of this client group and endeavours to accommodate those needs. Therefore, improved access to legal services among this group should be an improved outcome.

CALD_Module1_V4.indd 2 1/10/09 2:39:36 PM

Acknowledgments

This project has relied heavily on the generosity of the many people who have volunteered their time and expertise to assist us.

We would like to thank all the community members who have participated in the community member reference group meetings, education trials or AMEP classes that have helped to shape the project.

We thank in particular:

Fatuma Ahmed Ali
Thyra Ou
Hassan Kulmiye
Louis Kristopher
Kate Packer
Kosala Selvaratnam
Judy Monkhouse
Julietta Moffatt
Edouard Ndjamba Ndjoku

for attending so many meetings, contributing so many great ideas and sharing your culture and knowledge with us so generously.

We would like to thank all service providers who have attended service provider reference group meetings, edited and assisted with the education kit and helped us with organising education sessions.

We thank in particular:

Nic Borgese
Juliana Lobo de Queiroz
Conor Fox
Anthea Burns
Frederica Gaskell
Rebecca Lowe
Del Jones
Tonya Armstrong
Bong Ramilo
Danial Kelly
Kaz Phillips
Jill Kaye
Leonie Cramer

We would like to thank the staff at LSCSA, particularly Kate Howard, John Mugabushaka and Liz Ahern for inviting us to spend time with them, for sharing their ideas and for allowing us to learn from their experience in community legal education.

CALD_Module1_V4.indd 3 1/10/09 2:39:36 PM

Methodology and Philosophy Underpinning Project

The CALD Families Project sought to follow community development and participatory planning principles. The project stressed the importance of understanding the cultural, religious and community views relevant to the various CALD groups, as previously highlighted by the SA experience. Consulting with various ethnic groups, particularly around family law issues, is a precursor to the delivery of community legal education to this target group.

Key features of our methodology include:

- A focus on community development and consultation – *communities know better about the legal issues or problems that their families face. Community members know what methods of providing legal education are more appropriate for their communities*.
- Education based on sharing ideas and informal discussion rather than traditional teacher/pupil models – *participatory methods in education are more effective than plain information transfer*.
- An understanding that the purpose of the education is to increase access to legal services and promote understanding of the law in Australia – *it is not our role to impose a change in attitude or challenge culture*.
- Building relationships and developing trust with community groups – *the use of the same Legal Aid staff to hold meetings, attend functions and work with communities*.
- Valuing the process of education and not just the production of a kit – *each discussion with a community member and meeting of the community group is an opportunity for mutual learning and informal education. This process is at least as important as the production of a kit and the success of that kit is dependant on the process that has gone before it*.

CALD_Module1_V4.indd 4 1/10/09 2:39:36 PM

Research

In developing our own resource and considering education and community development models, we researched extensively. The purpose of this research was to learn from the lessons of others, to consider the most appropriate ways to engage with communities and to look at effective models for providing education to adults, particularly those from newly arrived and migrant communities.

There are many helpful resources available that we gained information, inspiration and guidance from. Some of the reports, kits and guides that we gained assistance from include:

- *Family Law and Culturally and Linguistically Diverse Communities Project* Legal Education Kit (Legal Services Commission of South Australia)
- *Raising Children in Australia* A resource kit for early childhood services working with parents from African backgrounds (Victorian Foundation for Survivors of Torture Inc and the Horn of Africa Communities Network Inc)
- *From Horror to Hope* addressing domestic violence in refugee families resettled in Australia (Centre for Refugee Research, NSW)
- *Families and the law in Australia* The Family Court working together with new and emerging communities (Family Court of Australia and Department of Immigration and Citizenship)
- *Families in Cultural Transition* (FICT) a program designed to improve newly arrived refugee families' understanding and participation in Australian society. Participants learn, clarify and discuss a range of issues, including family relationships, parenting, legal issues and social participation. The program also links participants to mainstream service providers and facilitates the establishment of links and networks between community and service providers in Darwin.

Consistent themes about working with new and migrant community members emerged from these resources. The need to consult genuinely with people, actively listen, share ideas, and respond to community needs were all common themes of these resources. The use of a culturally appropriate and relevant case scenario as an education tool was also common to many of the resources and reported on as an effective way to promote discussion about a range of sensitive legal issues.

The project team explored effective and culturally appropriate ways of providing legal education through general research and consulting with professionals working in the area of adult education.

Some concepts and theories that helped inform the project's methodology include Mezirow's *Transformative Learning Theory*, and Freire's *Pedagogy of the Oppressed*.

Drawing from these resources, the project aspired to the following principles in providing legal education:

- We build from the communities' meaning perspectives and foster safe spaces for self-learning.
- We create common meaning about the law with communities through interactive processes and shared experience.
- Community members empower themselves.

CALD_Module1_V4.indd 5 1/10/09 2:39:36 PM

Service Provider Reference Group

A service provider reference group was established prior to the recruitment of project employees. To form this group, invitations were sent to service providers working with newly arrived communities (such as the Multicultural Council of the NT (MCNT), Melaleuca and Anglicare), legal services (such as the Top End Women's Legal Service) and services that assist families (such as Relationships Australia, NT Families and Children (NTFC) and the Family Relationship Centre (FRC)).

As the project progressed, other service providers including the NT police, and Adult Migrant English Program (AMEP) staff and Darwin Community Arts (DCA) have become involved in the reference group.

The role of this group was to support the project team, provide assistance with engaging with newly arrived and migrant communities and, where appropriate, be involved in the delivery of education and the development of the education kit.

This group met once every two months. The project team met regularly with different service providers outside of these meetings to seek assistance with different aspects of the project.

Much positive collaboration has resulted from the service provider reference group. Organisations including DCA and MCNT have invited Legal Aid to be involved in related projects such as "My Sisters' Kitchen" and the "Multicultural Solutions Project". Involvement in these projects has assisted in promoting the project to a wider network of service providers and raised awareness amongst such service providers of the broader role of Legal Aid.

CALD_Module1_V4.indd 6 1/10/09 2:39:36 PM

Community Member Reference Group

One of the first tasks of the project team was to form a reference group made up of members of the various newly arrived and migrant communities in the NT. It was envisioned that community consultations would be held within this reference group, thus, ensuring community steering and ownership. Service providers that work closely with newly arrived and migrant communities assisted in forming this group.

Initially, we wrote to each of the established community and cultural groups that we were provided contacts for, introducing the project and inviting participants to attend an initial meeting. We followed these letters up with phone calls. Other participants were recruited by organisations such as Melaleuca and the Multicultural Council of the Northern Territory (MCNT) as the project progressed.

An introductory meeting was held at Melaleuca on Saturday 16 August 2008. This meeting was attended by approximately 15 community leaders and representatives. There was a mix of community members from emerging and more established communities. These communities included Sudanese, Congolese, Cambodian, Vietnamese and Thai. The initial meeting was dominated by a discussion about Legal Aid and the difficulties with the legal system and legal services encountered by newly arrived people.

Since the initial meeting, we have held monthly gatherings of the community member reference group. The meetings have been a process of education with us learning and sharing ideas with each other.

Early on, the group outlined their own role of promoting the project amongst communities, identifying family law issues faced by communities, looking at ways of running education trials and identifying ways of educating communities. The perspectives provided by the community members in the group have been invaluable in shaping the project and the kit. Much of the information provided by this group has been elicited through discussions about the law and the difficulties facing families when they arrive in Australia.

In addition to mobilising their communities, organising education sessions, and inviting us to pre-planned functions, the members of the reference group have also made us aware of cultural issues to be conscious of and taught us about the law and culture in their countries of origin.

All formal meetings of this group were held at Melaleuca and Melaleuca provided us with a van to pick up community members for meetings. The make up of the group varies, with a core group of about five members who have attended most meetings. All meetings have taken place on weekends or after work hours, with many community members who are already working fulltime and volunteering for other projects, giving up valuable family time to attend. Some group members have welcomed us to their homes and spent time with us teaching us about their countries.

Face to face meetings with community members have proved the most valuable way of communicating. We have also communicated by email, post and telephone when required. The relationships that we have developed with this group have been crucial to the success of the project.

CALD_Module1_V4.indd 7 1/10/09 2:39:36 PM

Key Achievements and Impacts

Improved access to legal services among the refugee community is an expected outcome of this project. While the aim of the project is to produce a legal education kit, an indirect impact of the project has been the greater awareness among the refugee community of legal services available to them. Conversely, the Legal Aid Commission has a greater appreciation of the needs of this client group and endeavours to accommodate those needs.

Education Sessions and Trials

The project team spent the period from January to April 2009 trialling the draft education kit with community groups. To get a real indication about how useful such a kit will be in the long term, we hoped to trial the kit in a variety of ways and with a range of facilitators. Ideas for trialling the kit included:

- facilitation by the project team
- facilitation by service providers with support from the project team
- trialling of the kit as part of the AMEP certificate 3 curriculum
- facilitation by members of the community member reference group.

Unfortunately, time constraints have led to less comprehensive trials than we had planned. It is anticipated that with ongoing funding, further methods of providing education could be explored in more detail. To date, the kit has been trialled using facilitation by the project team (with assistance from other service providers) and as part of the AMEP curriculum.

The process of education and trialling has not been limited to the January to April 2009 trial time allowed for in the schedule. From the outset, the process has been one of continuing education. It is this process rather than the production of a "kit" that the project team considers to be a real strength and value of the project. Each community member reference group meeting has been an opportunity for informal and formal community legal education.

These meetings have been a combination of informal discussion and working through activities and ideas to include in the kit. Meetings included identifying family law issues likely to impact on newly arrived and migrant communities and seeking views from members about traditional and customary responses to deal with those issues. Through this discussion we were able to introduce concepts about the Australian legal system and it's response to family law issues. It was through the ideas generated at these meetings that we developed a case scenario and many of the activities contained in the kit.

The relationships that we have developed with the community leaders and members who have attended these meetings have enabled us to trial the education amongst broader community member groups. We have held education sessions with other groups whenever invited. The Somali community trials held in April 2009, for example, were organised by members of our community member reference group. Our group members contacted and invited the other community members, assisted us to organise child care, advised us on any cultural issues that may arise and worked with us to develop materials to present, based on community needs. Their support of the project and standing in their community meant that people attended and saw value in the education.

CALD_Module1_V4.indd 8 1/10/09 2:39:36 PM

Similarly, the trial and information session held with the Cambodian community was only made possible by the hard work and initiative of a member of our community member reference group. She invited us to an existing event at the Buddhist temple, introduced us to the community members present and acted as interpreter for the session.

AMEP was considered an ideal way to provide education to a broad cross section of newly arrived community members. The AMEP program is attended by many people from CALD communities when they first arrive in Australia. The AMEP classes are streamed at Certificate 1, 2 and 3 level. In our early discussions with AMEP staff we were advised that our education would be most appropriate for trial with the Certificate 3 students as these are the students with the highest level of English. Because the classes are mixed with students from a variety of countries and language groups, it would not be feasible to use interpreters. Given that the main purpose of the classes is to teach English the use of interpreters would also seem counterproductive.

On 6 May 2009 we attended the AMEP and participated in a Certificate 3 level class. There were approximately 12 students in the class. We were invited to the class at a point when the students had already had some preliminary lessons about the legal system in Australia. We began with the Introduction to the Legal System activity and went on to explore the laws about marriage and the case scenario about stress on families and separation. The class was interactive and the students engaged well.

We were given feedback by the teacher that the information was useful and pitched at an appropriate level. AMEP is a great avenue for providing ongoing legal education to newly arrived and migrant communities. We should consider exploring the possibility of working with AMEP to include this education in the regular curriculum.

Throughout the project we have considered how to most effectively deliver community legal education to newly arrived and migrant communities. Various models have been considered, including training community members to deliver education to their own communities. While this capacity building model is surely an ideal and something to be aimed for in the future, we do not consider that it is realistic at this time.

Most of the community members that we have worked with on our reference group have lived in Australia for several years and can speak English well. However, even amongst this group there are many gaps in knowledge about the Australian legal system and about the general principles that underpin it.

Furthermore, members of newly arrived and migrant communities in the NT are continuing to operate from their cultural context. For example, many community members are strongly opposed to things such as separation and the breakdown of the family unit.

If we were to advocate a model that utilised community members to educate their own communities, we would need to work closely with those community members to ensure that they were able to provide information about the law and options that exist in relation to family law in Australia, without allowing their own values to unduly influence the way that the information is provided. This is a continuing challenge and requires further exploration. Currently we consider that any legal education that is provided to communities needs to be provided by, or in conjunction with legal services staff.

CALD_Module1_V4.indd 9 1/10/09 2:39:37 PM

Evaluation

There has not been a formal evaluation process at the conclusion of education sessions. There are a number of reasons for this, the primary one being that much of the education has taken place in an extremely informal, discussion based way. As stated previously, many of our community member reference group meetings are an informal education process.

Often, much of a meeting will be spent with community members explaining the difficulties and frustrations that their communities face negotiating the Australian legal system and encountering various service providers in their everyday lives. Time will then be spent discussing ways to deal with these issues and dispelling many of the misconceptions about the law in Australia. Obviously it is not appropriate or practical for us to produce an evaluation form at the end of this discussion and ask our community member group to rate how effective our education was.

We have undertaken informal evaluation in a variety of ways. Most of this has been in feedback provided to us or others by participants in our groups. This feedback has generally been very positive and we have had many comments about how important it is to educate communities about the law.

At our community member reference group meeting held on 19 May 2009 we asked our members whether and how community legal education should be provided in the future. The response was clear. It is very important to continue to use community leaders and respected members of communities as a conduit between Legal Aid and communities.

Legal Aid can also continue to play an important role at linking other service providers with communities. Many people have expressed an interest in meeting, speaking and listening to other service providers in the same way that they have been able to meet with Legal Aid staff. There is a clear need to improve communication between a wide range of service providers and community members and Legal Aid can play an important part in facilitating this.

We have been advised that people need education on a broad range of legal issues. The information introducing the legal system in Australia to community members has been very well received. Family law, domestic violence and child protection are clearly areas that we need to continue to provide education about. Our discussions with people have also highlighted many other areas of need. We have been told that people would like information about wills, motor vehicle laws, rights when dealing with the police, consumer protection, discrimination and general complaints mechanisms. General information about understanding and asserting your rights when dealing with government departments, agencies and service providers is also important and needed.

CALD_Module1_V4.indd 10 1/10/09 2:39:37 PM

Challenges and Opportunities

We consider that this project has produced many positive outcomes. As with any project there are, on reflection, always things that we could have improved or that we could learn from.

Community Collaboration

This project has been a great opportunity for Legal Aid to strengthen its relationships with other service providers and to develop networks within the many new and emerging communities in Darwin. We have sought guidance from and worked closely with community leaders and service providers who assist newly arrived and migrant communities. This collaboration has worked very well.

A real strength has been the development of strong relationships between Legal Aid staff and the community members who have attended our reference group meetings and been involved in the project for its duration. These relationships have only developed through a large investment of time and energy by all involved. It is crucial that this investment is continued if Legal Aid is to continue to provide education in a way that is effective and appropriate.

For future projects, we would suggest that visibility in the community would further assist in building relationships with community members. Working from the 5th floor of an office building in the city is not likely to provide as many opportunities for relationship development as other ideas such as working, at least part time, from Melaleuca or the community space in Malak would.

Project Time-Frame

The project was funded to run for approximately 12 months. This meant that we were required to move at a pace that was at times out of step with the communities. Neither of the project team members had existing relationships with community members so we were required to spend a lot of the initial time building up relationships with people.

While there has been a clearly articulated need for education about family law, particularly the law around domestic violence and child protection voiced by many of the community members we have spoken to, there is also a distrust of organisations such as the police, child protection services and Legal Aid amongst many community members. A crucial element of our approach has been community engagement. We do not want to force people to discuss sensitive topics until they request this discussion. Relationships take time to develop and we consider that for a part time project, such as this, 12 months can only ever lay the foundation for future work. Most of the effective engagement with community members has only just begun to come to fruition. It is important that the project not be allowed to lapse and that Legal Aid continues to be responsive to the requests to provide education that are beginning to be made by community groups.

CALD_Module1_V4.indd 11 1/10/09 2:39:37 PM

Staffing and Logistics

The project employed two paid staff – a project officer and a multicultural facilitator. The project officer position was funded as a 0.5 position and the multicultural facilitator as a 0.2. This meant that there was much less emphasis on community engagement, consultation and relationship building at the commencement of the project than there would have been had the two positions been allocated equal time.

At the beginning of 2009 a proposal was presented and accepted by Legal Aid to allocate some unexpended funds from the budget to increasing the multicultural facilitator position to 0.4. This has enabled the project team to focus much more on improving our promotion of the project amongst community groups and developing relationships. For future projects we would recommend allocating as much time to the role of multicultural worker as is allocated to the role of legal worker.

It is also important that recognition is given to the commitment to after hours and weekend work that is required for a project such as this. Staff members are necessarily required to work at times that are suitable to communities. Time in lieu and flexible work arrangements should, where possible, be offered to staff in these circumstances. The need to ensure staff are able to maintain appropriate work/life balance is very important.

Transportation arrangements are also essential for more effective community engagement and visibility. The project has benefited from the vehicles provided by Melaleuca for consulting community members and conducting education sessions.

Overall, we consider that this project has assisted to change the way that outreach work is viewed within Legal Aid. Some of the infrastructure is now in place to ensure that future projects can enjoy greater mobility and flexibility. This is a great outcome in itself and should be built upon in any future outreach projects.

Representation by Community Groups

Although the project team has developed strong relationships with the community members who have regularly attended meetings and been involved in the project, we recognise that there are relatively few communities actually represented at these meetings. Future projects should consider more effective ways of reaching a broader cross section of community groups. It is likely that more time and effort would need to be put into meeting with these groups and leaders in the early stages of the project to cement support from the outset. Unfortunately writing letters and following up with phone calls was a relatively ineffective way of engaging community leaders and members. Future project workers could consider putting more emphasis on attending existing functions and meetings held with community members at places such as Melaleuca and MCNT. Stronger relationships with these organisations in the initial stages of the project may have assisted to achieve this.

CALD_Module1_V4.indd 12 1/10/09 2:39:37 PM

Organisational Development for Services

The discussions with the various community groups in Darwin pinpointed some misconceptions about some government agencies such as the Police, NT Families and Children and legal services. This project has the potential to clarify some of the community perceptions. There is also an opportunity to inform service providers of these community inputs, which could improve systems and procedures for dealing with CALD communities appropriately and sensitively. Legal Aid has, where appropriate, attempted to include other service providers in the delivery of education to community groups. This collaboration should be built upon in future projects and through future education opportunities.

CALD_Module1_V4.indd 13 1/10/09 2:39:37 PM

Conclusion

This project to create a legal education kit is only the first step towards improving access to legal services and providing a better understanding of the law in Australia to newly arrived and migrant communities.

The strength of the project has been the process of education and the relationships that have been built between Legal Aid, other service providers and community members. While the Kit is a useful resource for future education targeted at newly arrived and migrant communities, we do not consider that this is a resource that can or should stand alone. We believe that future education should be provided with the assistance of and in conjunction with legal services.

There is a real opportunity for Legal Aid to work in conjunction with other legal services that are undertaking similar projects. The Top End Women's Legal Service (TEWLS) for example, is also developing a CALD project specifically targeting women from newly arrived and migrant communities. Legal Aid has an excellent opportunity to work with TEWLS on this project, and to encourage TEWLS to consider implementing the Kit as part of its education.

There is also the potential for other legal services such as Darwin Community Legal Service (DCLS) and North Australian Aboriginal Justice Agency (NAAJA) to adapt the activities and information contained in the Kit for use in educating their own client groups. The flexibility of the Kit as an education resource is a strength of the project and an opportunity for the future.

In order to maximise the usefulness of the Kit as a resource, we recommend that Legal Aid promote it and other education opportunities amongst service providers and community groups, to build on the progress that has been made to date

Project Team:

Bethany Lohmeyer – Project Officer

Gener Lapina – Multicultural Facilitator

CALD_Module1_V4.indd 14 1/10/09 2:39:37 PM

Introduction

Why conduct legal education for CALD communities?

In the period between 2004 and 2009, over 4000 migrants settled in the Northern Territory, contributing to the increasing number of culturally and linguistically diverse communities of Darwin. Out of the total migrants over the five year period, nearly 15 percent were humanitarian entrants. Refugees and migrants under the humanitarian program are particularly more vulnerable to the challenges of resettlement; finding work, housing, social support, accessing services, and adjusting to the culture. Often, newly arrived refugees and migrants have misconceptions about government, their rights, and the legal system in general. Legal education for CALD communities facilitates access to legal services, as well as improving awareness of the law, and ultimately, empowering citizens.

Who is this legal education kit for?

The intended users of this kit are service providers and legal practitioners who engage with refugee and migrant families in the Northern Territory. The information is for newly arrived refugees and migrants, which includes those that have arrived within the last five years. Community members can have access to the legal education kit, however, in actual workshops it is recommended that a legal practitioner is present.

How does this kit work?

This legal education kit is made up of three modules. It is hoped that the information contained in the different sections will be flexible enough to allow community education to take place in many different ways. Each module contains suggested activity ideas, which can be modified to suit different situations. The important thing about providing this education is to go with what works and what participants respond to and are comfortable with. It is open for facilitators to provide education about some aspects of the module, without including the whole module; to hold one longer workshop or several shorter ones building on the work done at the previous sessions.

Simplified background legal information is written in text boxes labelled as ***Information for Facilitators***. It is not intended that this will be read out to the participants as a presentation. Rather, it is hoped that an understanding of this information will be shared with participants through the process of discussion and participating in the activities.

All materials such as Power Point files, Articles and Handouts are provided on the disc accompanying this Kit. The DVD "Family Problems: Your Rights When Things Go Wrong" is available from the NT Legal Aid Commission. Please contact the Community Legal Education section at the NT Legal Aid Commission on 8999 3000.

Disclaimer: *This content is provided as an information source only and is not legal advice. It is correct at the time of publication but laws change. If you have a legal problem, you should seek legal advice from a lawyer.*

CALD_Module1_V4.indd 16 1/10/09 2:39:37 PM

Australia and my Family: What are the Laws?

An educational resource for services assisting CALD Communities

Module 1: Introduction to family law

Northern Territory Legal Aid Commission

melaleuca REFUGEE CENTRE
Torture and Trauma Survivors Service of the NT Inc.

LAW SOCIETY PUBLIC PURPOSES TRUST NORTHERN TERRITORY

CALD_Module1_V4.indd 1 1/10/09 2:39:38 PM

Module 1: Introduction to family law

Objectives of this module

The purpose of this module is to give participants a basic understanding of:

1. where family law in Australia comes from
2. the law about marriage
3. separation and divorce
4. property settlement
5. children's issues

This section of the legal education kit contains seven activities that explore the key aspects of Family Law in Australia:

Activity: "Australian legal system" – power point presentation

- Where does the law come from?

Activity: "Guilty or not guilty" – Court room role play

- How does the court system work?

Activity: Good wife guide

- How can laws change as society transforms?

Activity: "laws about marriage" – story telling

- How do we get married in different countries?

Activity: "conflict in the family" – case scenario

- How can divorce and separation happen?

Activity: "property settlement principles" – you be the judge

- Who gets what after separation or divorce?

Activity: conflict in the family – role play

- What options or actions do we take?

CALD_Module1_V4.indd 2 1/10/09 2:39:38 PM

Australian Legal System

Information for facilitators

The Australian legal system is one of many legal systems in the world. It is not necessarily a better system or a worse system than other countries have. Many of the laws in Australia will be similar to laws that other countries have and some will be different. Laws change over time. Laws often change to reflect changes in community attitudes and values.

The law applies to everyone in Australia. All of us, including politicians, judges, the police and army, must obey the law. Government departments and corporations must follow the law. We can get into trouble for breaking the law even if we didn't know what the law was or didn't agree with the law.

The Constitution

Australia has a written Constitution which lists what kinds of laws the federal parliament and the state parliaments can make. It was written in 1901 when the different states joined together to form the Federation of Australia. It is this Constitution that gives the federal and state parliaments the power to make the kinds of laws that they make. The only way that the Constitution can be changed is by a referendum. A referendum means that all Australian citizens who are over 18 get to vote to say whether or not a change should be made.

There are two important parts of the Constitution when we are talking about the power to make laws:

- **First, there is the legislative power.** This means the power to make laws through Acts of parliament. Parliament is made up of elected members. Every Australian citizen who is over 18 gets to vote for these members. When they are elected they have the job of making laws through Acts of parliament. For example, the *Family Law Act* is a law that was made by the Federal Parliament.
- **Second, there is Judicial Power.** This is the power of the Court to listen to disagreements or disputes between people and decide what the best answer is to resolving the dispute. The court can make laws because of the decisions that it makes. The court also interprets the laws that the parliament makes. This means that sometimes the court has the job of deciding what the parliament meant when they made a law.

Executive power

The third power in the Constitution is the Executive power. This is the power to enforce or carry out laws and to make policies and procedures that assist in carrying out laws. This power is held by the different government departments, such as the Department of Immigration and Citizenship and the Attorney-General's Department.

CALD_Module1_V4.indd 3 1/10/09 2:39:38 PM

Federal system

We have a Federal system of Government in Australia. This means that the power to make laws is divided between the Federal Government (currently the Rudd Labor Government) and the different governments in each state and territory (in the NT, currently the Henderson Labor Government). The Federal Parliament makes laws about things that are spelled out in the Constitution. These are more likely to be national issues such as immigration, security, welfare, family law and trade with other countries.

The NT Parliament makes laws about the things that are not listed in the Constitution. These are more likely to be things that need to be different between Territories and States. The NT Parliament makes laws about things such as child protection, domestic violence and some criminal offences, such as assault and traffic offences.

Where does the law come from?

In the Australian legal system, there is not just one place where laws come from.

Legislation

The laws made by the Parliament are called Legislation. They are also called "Acts" or "Statutes". These are the written down laws. As we saw before, the Federal Parliament has the power to make laws about some things and the Northern Territory Parliament has the power to make laws about other things.

The Courts

The courts decide what the laws mean. The judge or magistrate has to make this decision. Sometimes a judge or magistrate has to make a decision about something that isn't clearly explained by a law of parliament. In these cases he or she can look at all the decisions made by other judges. These decisions which have been written down over hundreds of years, are called the common law. The parliament has the power to make legislation that will overrule the common law.

International Law

International law can influence Australian law but is not Australian law. A number of United Nations Declarations and Conventions have influenced Australian law such as the Universal Declaration of Human Rights, the Declaration on the Elimination of Violence Against Women and the Conventions relating to the Status of Refugees and the Rights of the Child.

Customary Law

For many thousands of years, Aboriginal and Torres Strait Islanders followed their own laws. These customary laws were mostly ignored by the Australian legal system. In 1992 the High Court, which is the highest court in Australia decided that native title – which is something like customary law – can be part of the law in our country.

In some parts of Australia, native title gives Indigenous Australians rights to do traditional things with areas of land or parts of the ocean, including hunting, fishing, holding ceremonies and caring for special places.

CALD_Module1_V4.indd 4 1/10/09 2:39:38 PM

Which Court deals with what?

There are different types of courts in Australia to deal with different types of laws. Each state and territory has their own courts to deal with issues that arise because of laws made by that state or territory parliament. For example, in the Northern Territory we have a Magistrates Court and a Supreme Court to deal with Northern Territory made laws.

The Magistrates Court deals with less serious crimes such as traffic offences, minor assaults and stealing. They also have a section to deal with other things such as domestic violence orders and child protection matters.

The Supreme Court deals with more serious crimes such as murder, rape and drug trafficking. Some matters start off in the Magistrates Court, before going to the Supreme Court.

Because the Federal Parliament also makes laws, there is a different court to deal with issues that arise because of those Federal laws. This court is called **the Federal Court**. The Federal Court has a section called the Family Court that just deals with family law matters. The Federal Court also deals with issues that arise because of immigration law, Centrelink disputes and terrorism laws.

The High Court is the court that has the most authority in Australia. If the judges in the High Court make a decision then the lower courts have to follow that decision. If a matter cannot be resolved in a lower court, or if someone wants to challenge or appeal the decision that a magistrate or judge in a lower court makes, the High Court is the final court that can make the decision.

CALD_Module1_V4.indd 5 1/10/09 2:39:38 PM

Activity 1: "Australian legal system" power point presentation

As part of the kit, the facilitator is provided with a power point presentation and accompanying speaking notes about the Australian legal system. This is just a brief overview about how laws are made and where the power to make laws comes from. The power point presentation should not go for longer than about 10 minutes and it is good if the facilitator gives people a chance to ask questions either throughout the presentation or at the end. The Australian legal system is very confusing. Many people who have lived in Australia for their whole lives struggle to understand the legal system.

The most important things that we want people to understand are:

- **The law applies to everyone in Australia. It doesn't matter if you are a politician, a police officer or if you have only lived here for a little while, the law applies to us all.**
- **You can get into trouble for breaking the law even if you didn't know that the law existed or you didn't understand it.**
- **It is very important to get legal advice as soon as possible if you have a legal problem.**

The speaker's notes and power point are just a guide. It is open for a facilitator to modify this power point to suit the audience. This power point has been a good starting point to begin a discussion about the law.

Activity 2: "Guilty or not guilty" Court room role play

As part of the kit, the facilitator is provided with a script for a mock court case. The script in the kit was used with a group of 9-12 year old newly arrived and migrant students. It could be modified to fit an older group, teenagers or even adults. The purpose of the role play is to introduce participants to the court system in a way that is fun and interactive. It introduces many of the key players in a court, including a Judge or Magistrate, the Prosecution and Defence lawyers and witnesses.

Activity 3: "Good wife guide"

The purpose of this activity is to highlight that the law is not a static thing but changes with community standards and expectations. Place a globe in the middle of the group. Tell participants that you are going to read out an extract from a particular time and place and you want them to tell you where you think it comes from. Read to the group from the article titled *The good wife guide, 1950's*. Ask participants for their views. Explain that the article is advice for women in Australia less than a generation ago.

CALD_Module1_V4.indd 6 1/10/09 2:39:38 PM

Marriage

Information for facilitators

Marriage is not likely to be a big issue for people settling in Australia, but it is a useful place to start when talking to people about family law. Through the activities and discussion in this section we want people to get the following information:

1. **The law about marriage is found in the *Marriage Act*.** The *Marriage Act* is law made by the federal government in Canberra. It is the law for the whole of Australia.
2. The definition of marriage is "**the union of a man and a woman to the exclusion of all others voluntarily entered into for life.**" This means that homosexual people cannot be legally married to each other in Australia. In Australia only one man can be married to one woman at any time.
3. **The law says that anyone who is 18 years old or older can get married.** People who are 16 or 17 years old can get married only if they have a court order to do so. This means a judge or magistrate has to give permission for them to get married. It is not enough just for their parents to give permission. People under 16 years old cannot get married in Australia.
4. **If you were married overseas, the Australian Law will recognise your marriage as legal** if you were married according to the laws of that country and the country was legally recognised as your home at the time of the marriage (and only if the marriage fits the other requirements in this section).
5. **Many people in Australia live together and have families together without getting married.** These relationships are often referred to as "**marriage like**" or **de facto** relationships. The laws about de facto relationships used to be made by the NT government. Very recently the NT government handed the power to deal with de facto relationships to the federal government. This means when de facto couples separate they are now dealt with in the same courts and generally under the same rules as when married couples separate. You should get legal advice from a qualified family lawyer if you need more information about this.

CALD_Module1_V4.indd 7 1/10/09 2:39:38 PM

Activity 4: "laws about marriage" Story telling

Every country has laws about marriage. The purpose of this activity is for participants to share their different understandings and experiences of laws about marriage.

Break into small groups of four or five people. It is best to get participants from different countries in each group. This will help people to recognise the similarities and differences in the laws from their country of origin.

> *"How can we get married in your country?"*

Explain that the law in Australia is just one law and that other countries may have different laws about marriage. Go through each of the points about marriage separately. Explain that this is the law in Australia and ask people to share what they know of the law from their country of origin. It is not important that people are accurate about the law in their country, and it is fine if participants relay a mixture of law and culture. The most important point of this exercise is for participants to feel comfortable in sharing their knowledge with each other. It is also good to get people to consider that the laws in Australia are similar in a lot of ways to the laws and customs in other countries.

CALD_Module1_V4.indd 8 1/10/09 2:39:38 PM

Separation and Divorce

Information for facilitators

There are many factors that can place stress on relationships. This stress can be even worse when a family has recently migrated or resettled in a foreign country. In this section we will explore the law about separation and divorce in Australia but also focus on who can help families and talk about things families can do to try and resolve conflict.

The Family Law Act

The *Family Law Act* is law made by the federal government in Canberra. This is the law for all states and territories of Australia, except for Western Australia. They have a different law about families.

The *Family Law Act* deals with:

1. **Breakdown of marriage.** The law about separation and divorce.
2. **How people can separate their property and money when their marriage is over.** The *Family Law Act* can now also deal with property settlement for people in de facto or marriage like relationships.
3. **Matters about children when their families can't agree with each other or live together anymore.** It doesn't matter if the parents were married, living together or never lived together, the *Family Law Act* can deal with all cases relating to children.

Separation and Divorce

People who are married in Australia can separate at any time. Just because people live apart for work or other reasons does not mean that they are legally separated. Separation means more than just living apart, it means that one or both of the partners intends to end the relationship and either or both partners act on that intention. If one partner wants to separate the other partner cannot get an order making their partner live with them again.

How long do you need to be separated for before you can apply for a divorce?

A married couple has to be separated for at least 12 months before they can apply for a divorce. This does not mean that the couple has to have been living in separate houses for 12 months.

For many different reasons, such as financial difficulties and caring for children, some couples stay in the same house for some time after they have separated from each other. They may sleep in different rooms or different beds. Sometimes people separate temporarily several times before they decide that they need to separate finally.

CALD_Module1_V4.indd 9 1/10/09 2:39:39 PM

What does it mean to be divorced?

A divorce is the legal end of a marriage. It means that each person is no longer married. This means that both people are then legally able to marry other people. A divorce can only be granted by a court. To get a divorce in Australia, one or both people need to apply to the court. In deciding whether or not to grant a divorce the only thing that a court will be interested in is that there has been an irretrievable breakdown of marriage. The only thing that people need to show to prove this is that they have been separated for 12 months. The court will not be interested in who is to blame for the breakdown of the marriage. This is called a "no fault" divorce system.

If a couple apply for a divorce when they have been married for less than two years they will need to go to a marriage counsellor before the court will make the divorce order.

Activity 5: "conflict in the family" – case scenario

This activity uses a fictional family situation to explore issues around divorce and separation and options for families who are going through a difficult situation.

Break participants into small groups of 4 or 5 people in each group. Read through the case scenario – stopping at the discussion points to work through the issues raised at each stage of the story. The objective of this exercise is to draw out the stresses and issues that may arise for families when they settle in a new country and to explore options for dealing with these issues.

These stresses are a reality for many families settling in Australia. It is important to acknowledge the level of adjustment required but to also acknowledge that it is not something that we can change. What we can do is educate people about the options they have for dealing with this stress in their new country. The facilitator in this exercise will have the job of letting participants discuss the issues, and explaining to participants the law about separation and divorce as well as options for getting help.

Record the discussion that your group has on a piece of butchers paper or a whiteboard, and if you have time at the end, share your discussion with the other participants.

Discussion 1

Mohammed and his wife Mary have just resettled in Darwin. They have brought with them their three children Lucia (15), Samuel (8) and Emma (2). They arrived in Australia on a humanitarian visa. They had no choice about which country they were to be resettled in but they want to make a fresh start and make the best of their new country.

When they arrive they are linked in with some support services. Mary is given Centrelink payments for the children and Mohammed and Mary are both placed on unemployment benefits until they are ready to begin work.

CALD_Module1_V4.indd 10 1/10/09 2:39:39 PM

Discussion points:

1. Settling in a new country requires a family to make a lot of adjustments – in your group list some of the changes that you think this family will face in their new country.
2. What are some ways that you can think of that this family will be able to deal with this stress?

Discussion 2

None of the family can speak English. The parents attend the Adult Migrant English Program (AMEP) through the Charles Darwin University (CDU), the two older children are enrolled in the Intensive English units at their schools.

Mohammed and Mary both eventually find jobs. Mohammed was an Engineer at home, but in Darwin he can only get a job pushing trolleys. He works long hours to make enough money to live. Mary has never worked out of the house before. In Australia she gets work at a community centre with a lot of other women. Mary quickly learns English and makes many friends at work.

Mary's job pays better than Mohammed's and because she is working full time she does not have as much time for housework and other chores. She tells Mohammed that he needs to start helping her with these things. Mary arranges some child care for Emma while she is at work. At other times, she asks the two older children to look after her. Mary says that if Mohammed is not working he too needs to help out with the children.

Discussion points:

1. Mohammed and Mary's roles in the family have changed in Australia. She is now making more money than him and has less time to do work around the house. She wants him to help with the children and housework, something he has never had to do before. How can these things cause stress in the family?
2. What are some ways that the family could deal with this stress?

CALD_Module1_V4.indd 11 1/10/09 2:39:39 PM

Discussion 3

Mary comes home from work one day to find the house a mess. Emma has a dirty nappy and is sitting on the floor screaming. Samuel has been trying to get dinner ready in the kitchen and dropped a plate, smashing it everywhere. Samuel tells her that Lucia has gone out with friends and that Mohammed left Samuel in charge while he went to the pub.

About half an hour later Mohammed comes home smelling of alcohol. Mary is fuming at him and tells him that she doesn't work hard so that he can spend their money on beer. She wants to know why he wasn't looking after the children properly and why he left an eight year old to cook dinner. Mohammed shouts back that he is the head of this house and she needs to respect him. He says that it is not his responsibility to look after the children or keep the house, that these are her jobs and that she is neglecting her duty.

The fight goes on for about half an hour. In the end Mary says she is sleeping in the children's room and goes to bed.

Discussion points:

1. This family is in trouble. Who could they go to for help to sort out their problems?
2. What do you think could happen to this family if they don't get help?

Discussion 4

Mohammed and Mary have more fights over the next couple of weeks. The fights get worse and Mary stays sleeping in the kid's room. Finally Mary says that she has had enough and she is going to stay with friends. Mohammed says "If you leave me you will get nothing". He tells her that she can take the girls but Samuel is his son and he is staying with him.

Discussion points:

1. What has happened to the family now?
2. What does it mean to be separated?
3. Under Australian law, can Mohammed make his wife stay with him?
4. What do Mohammed and Mary have to do if they want to get a divorce?

CALD_Module1_V4.indd 12 1/10/09 2:39:39 PM

Property Settlement

Information for facilitators

There are no simple or easy answers about family law in Australia. You should not try to get into giving any kind of legal advice in the sessions and stick to giving general information.

Property Settlement

Property settlement is about how people split up their property and their money when their relationship ends. It can be very complicated and the most important thing to remember is that it is a good idea to talk to a family lawyer before agreeing to or signing anything.

A property settlement will be different for each couple, depending on the following things:

1. How much property (including money, cars, furniture, superannuation and other "assets") the couple has.
2. How long the marriage or relationship was for.
3. Whether the couple was married or not (changes in the law mean this is not as important now).
4. Who made the contributions to the relationship. Contributions are things like income earned during the relationship, savings and property brought to the relationship and gifts or inheritances received. Non financial contributions are also considered. These are things like contributions made as a home maker and carer for children. They are also things like home improvements and landscaping work.
5. Things that will affect each of the couple in the future, such as how old they are, any long term illness or disability either of them has, how many children there are, their ages and who they will mainly live with.

Other things can be taken into consideration in different cases. For example, sometimes if one person in the relationship has been violent to the other person, or has a problem with gambling and has wasted a lot of money this will be taken into consideration. Your lawyer will be able to tell you more about the kinds of things that would be important in your case.

The main things to get across to participants about property settlement are:

1. People often assume that no matter what, property owned by a husband and wife will be divided 50/50 equally between them when they separate. This is not the case.
2. Property settlement is complex. It will depend very much on the facts of the case and those factors listed above. It is very important to speak to a lawyer before agreeing to anything.
3. The court will look at what is **just and equitable** in the circumstances.

CALD_Module1_V4.indd 13 1/10/09 2:39:39 PM

Activity 6: "property settlement principles" You be the judge

This activity uses and builds on the case scenario explored in the previous activity. Break participants into small groups, with 4 or 5 people in each group (or less depending on numbers). Read through the separation section of the case scenario with your group.

Give your group a list of assets and property (it doesn't really matter how much or how little there is) and ask participants to nominate what they think would be a fair distribution of the property between the husband and wife. (There could be cards as part of the kit that have pictures on them of a house, a car, some cash, furniture, pets, livestock, or some kind of worksheet listing the assets, either with diagrams or in writing, with the page split into two columns one for the wife and one for the husband – so that allocation can occur this way)

Ask participants to explain how they have distributed the property and why they decided to do it this way. What have they taken into account? Why have they taken this into account? List these criteria on a board or sheet.

Explain the factors that the court would take into account (listed as 1-5 on previous page) when deciding on a property settlement. The participants are not likely to have enough information based on the case scenario to know how the court would have split the property – that is okay as it helps to reinforce that there are no clear answers!

CALD_Module1_V4.indd 14 1/10/09 2:39:39 PM

Children

Information for facilitators

The Australian family law system says that it is better for people to try to agree with each other about how they are going to raise their children. It says that people should only go to a court to get the judge to decide for them if they really can't agree with each other, even though they have tried.

The family law says that the most important thing for people to consider is "**the best interests of their children**". This means that people should try to put aside the problems that they have had and think about what arrangements would be best for their children to grow up healthy and happy and stable. It is important to remember that what a child wants isn't always in their best interests. Children don't always know what is best for them, that is why the family law thinks that parents should try to decide what is best for their children.

The *Family Law Act* says the two most important things to consider when thinking about what is in the children's best interests are:

1. Having a meaningful relationship with each of their parents.
2. Making sure that children are protected from harm, abuse and neglect.

The idea of "**best interests of the child**" is something that many people will find new and different. It is a good idea to have a discussion about what this means. The law will put the interests of the child above those of either of the parents. This often requires parents to try and put aside the anger and hurt that they may feel at their ex-partner and to concentrate on what is best for the child. This can be very hard for people to do.

That law also says that in most cases the parents should try to make the decisions about their children together. Even if the children mainly live with one parent, the other parent also usually has responsibility for the children. This means that in most cases one parent should not make a big decision, such as moving interstate with the child unless the other parent agrees to this. It is very important that people get family law advice from a family lawyer before making any big decisions about the child.

CALD_Module1_V4.indd 15 1/10/09 2:39:39 PM

Children continued...

Activity 7: conflict in the family – role play

The purpose of this activity is to explore with participants what happens when families decide to separate and what some of their options are. The activity should be conducted after the case scenario has been read to participants and explored, so that it can pick up and build on the same themes.

Different participants should be recruited to play initially the roles of husband and wife. Pick up the story where the case scenario finished. You will need to add more players as the story moves on and depending what course it takes. Start by working through scenes such as:

- **The father seeks help from community elders**
- **The mother talks to a friend about the separation**
- **The mother goes to see a lawyer**
- **The father goes to see a lawyer**

It is difficult to predict whether this, as an activity will be effective in providing education. It is important that the facilitator has a good understanding of the different people who can help separating couples and the law about separation.

CALD_Module1_V4.indd 16 1/10/09 2:39:39 PM

Where can we get help?

Legal Advice and Advocacy

NT Legal Aid Commission	**8999 3000**
Legal Information Line	**1800 019 343**
Top End Women's Legal Service	8982 3000 1800 234 441
Family Law Courts	1300 352 000

Mediation and Counselling services

Family Relationship Centre	8923 1400 1800 650 276
Resolve – Anglicare NT	8946 4800
Relationships Australia NT	
Darwin	8923 4999
Alice Springs	8950 4100
CatholicCare NT	
Darwin	8944 2000
Palmerston	8932 9977
Alice Springs	8958 2400
Katherine	8971 0777
Tennant Creek	8962 3065
Somerville Community Services – Family Service	
Darwin	8920 4100
Palmerston	8935 1500 8931 6200
Katherine	8972 5100

Interpreter services

Interpreting and Translating Service NT	1800 676 254
Commonwealth Interpreter Service (TIS)	131 450

CALD_Module1_V4.indd 17 1/10/09 2:39:39 PM

Australia and my Family: What are the Laws?

An educational resource for services assisting CALD Communities

Australia and my Family: What are the Laws?

An educational resource for services assisting CALD Communities

Module 2: Domestic and family violence

Northern Territory Legal Aid Commission

melaleuca REFUGEE CENTRE
Torture and Trauma Survivors Service of the NT Inc.

LAW SOCIETY PUBLIC PURPOSES TRUST NORTHERN TERRITORY

CALD_Module2_V3.indd 1 7/10/09 8:01:16 AM

Module 2: Domestic & family violence

Objectives of this module

In the NT we have very high rates of domestic violence. The purpose of the domestic violence law is to keep all people safe and protected from domestic violence. The law aims to reduce and prevent violence and to make people who commit domestic violence take responsibility for their behaviour.

The purpose of the module is to increase understanding about the Northern Territory law on domestic and family violence. Through the use of a case scenario, role play, discussion, and other activities we will explore the following:

1. what kind of behaviour can constitute domestic or family violence?
2. what the law says about domestic or family violence?
3. what is a domestic relationship under the law?
4. what are the options to address domestic violence?

This module contains five activities that explore the laws on domestic violence and feeling safe at home;

Activity: "defining domestic violence" brainstorming

- What is domestic violence and what are the laws in our countries?

Activity: "who lives in my house?" brain storming

- What is a "domestic relationship"?

Activity: "talking about domestic violence" stories through images

- What are situations or behaviours that result in domestic violence?

Activity: "family problems: your rights when things go wrong" DVD presentation

- What legal actions can we take if we are in a violent relationship?

- What are domestic violence orders?

Activity: exploring legal and non legal options for dealing with domestic violence - Case scenario

- What non-legal actions can we take if we are experiencing violence in a relationship?

CALD_Module2_V3.indd 2 7/10/09 8:01:16 AM

What is domestic violence?

Information for facilitators

Many of the people from newly arrived and migrant communities who we have spoken to are surprised when they learn of the many different behaviours that are defined as domestic violence under NT law. Some behaviours are not against the law but will not be tolerated by society. A person may be able to take action on these things, such as obtaining a domestic violence order.

The laws about domestic violence are made by the Northern Territory Government. Each other state and the ACT have their own laws about domestic violence. The NT law about domestic violence is found in the *Domestic and Family Violence Act*.

The Act includes any of the following behaviours:

- **Conduct causing harm.** This includes hitting with an object, punching, slapping, pulling hair, biting, sexual assault;
- **Damaging property.** This includes causing injury to or the death of an animal;
- **Intimidation**. This includes a person causing another person to fear that domestic violence will/may be committed against them.
- **Harrassment.** This includes a person regularly contacting another person by email, phone, letters, text messages or in person when they have been asked/ told not to.
- **Stalking a person.** Stalking means deliberately following, watching or waiting for a person on at least two separate occasions with the intention of causing harm to the person or of causing the person to fear harm;
- **Economic abuse.** This means unreasonably doing things such as selling the other person's property without their consent, pressuring the person to hand over their credit card or money, or not letting the person have access to money.

Domestic violence also includes:

- Attempting to do any of these things; or
- threatening to do any of these things; or
- getting another person to do any of these things.

Is domestic violence a crime in the Northern Territory?

In the Northern Territory it is against the law to:

- Assault someone else or threaten to assault them.
- Sexually assault someone.
- Damage someone else's property or to cause the death or injury of their animal
- Threaten to assault or threaten to kill someone.
- Unlawfully stalk someone.

If anyone does any of these things to another person they can be arrested and charged with a criminal offence.

CALD_Module2_V3.indd 3 7/10/09 8:01:16 AM

Activity 1: "defining domestic violence" brainstorming

Break into small groups of 4 - 6 persons each (or you can do this activity as a whole group if there are not many participants).

Option 1:

On butchers paper or on a whiteboard, ask the group to list what kind of behaviours come to mind when they think or hear the words domestic violence. As an option for this activity, groups could draw an image to represent each idea (either on paper or on the white board). This may assist some participants who do not have a good grasp of written English.

Then, compare the list from the brainstorm activity, to the definitions from the Act and add any that are missing. This is also an opportunity for group sharing and discussion of what the provisions actually mean in real terms.

Some of the identified behaviours are against the law in the NT. This means that a person can be charged with a criminal offence. Ask the group to identify which of the behaviours they think would be against the law and why. Most of the behaviours that are against the law in Australia are likely to be against the law in other countries as well. It might be useful to have a discussion about this, comparing and contrasting Australian law to that in countries of origin.

Option 2:

Below you will find examples of different behaviours that can constitute domestic violence. Write these behaviours on sheets of paper for use in this activity. Break participants into small groups of no more than about 3 people and provide each with one of the sheets of paper. Ideally you will have 6 groups. If you have less than 6 groups you may need to give some groups two different sheets of paper.

EXAMPLE:

HURTING someone physically

HARRASSING someone repeatedly

DAMAGING someone's property

THREATENING someone verbally

TAKING someone's credit card

STALKING someone

Tell each group that they have 5 minutes to create a scene or short role play that is representative of the behaviour described on the card.

Each group is going to present their scene or short role play to the whole group. At the end of each scene or role play, we are going to discuss with the whole group the behaviour that was represented. Ask the viewers whether they think it is domestic violence? Does the group think it would be against the law? It is important to remember that some behaviours will constitute domestic violence in some circumstances but not in others. For example, it may not be unreasonable to withhold money from a spouse or partner who has a serious gambling addiction.

As with the above activity, the behaviours that are against the law in the NT are also likely to be against the law in other countries. It might be useful to have a discussion about this, comparing and contrasting Australian law to that in other countries.

CALD_Module2_V3.indd 4 7/10/09 8:01:17 AM

What is a domestic relationship?

Information for facilitators

One of the options for victims of domestic violence is to apply to the court for a domestic violence order. In order to be able to apply for a domestic violence order against someone you need to show that you are in a "domestic relationship" with them.

The meaning of domestic relationship under the Act is broad and includes the following sets of relationships both present and past:

- Family relationships including marriage, de facto relationships (including same sex relationships) and traditional marriage in accordance with Aboriginal or Torres Strait Islander custom.
- Relatives including mothers, fathers, sisters and brothers, aunts and uncles, cousins, step-parents and in-laws.
- Relatives according to Aboriginal tradition or contemporary social practice.
- People who are or have been dating or engaged to each other. They do not have to have had a sexual relationship and can be of the same or opposite sex to each other.
- People who live together or have lived together in the past. This includes housemates and former housemates. A person can also apply for a domestic violence order against someone in a family relationship with a person they have lived with, for example, the mother of a former housemate.
- People who are (or have been) in a carer's relationship. This means that one of the people is dependant on the ongoing paid or unpaid care of the other person, whether or not they live together.

CALD_Module2_V3.indd 5 7/10/09 8:01:17 AM

Activity 2: "who lives in my house?" brain storming

The purpose of this activity is to generate discussion about concepts of family and household. Through this discussion, the group can consider the many and varied types of households that exist. **This will be helpful later when we talk about domestic violence orders.**

On a white board or piece of butcher's paper draw a large, basic outline of a house. The participants could draw or write the relationship types that live together in the house. These are the people that live with us in the house.

The group could consider who else might be part of the household, for example; housemates, extended family, friends, etc. After the group finishes drawing or listing all the people in the household, try and define what **domestic relationship** could mean. With the use of the house image explain and draw or write the other relationships that are covered in the definition of domestic relationship.

Activity 3: "talking about domestic violence" through images

For this activity the facilitator needs to collect a range of images depicting scenes of possible domestic violence. These could be sourced from magazines, newspapers or the internet. These images may be obvious or suggestive of the threat of violence. For this activity we will be using these images to generate discussion about what kind of behaviour constitutes domestic violence and possible consequences of such actions.

In small groups of 4 - 6 persons each (or do this activity as a whole group if there are not many participants), try and analyse an image or photo that will be given to the group. Write the discussions on butchers paper with textas.

- **Start by asking the group to describe a possible story for the image.** This can be as simple as explaining what can be seen in the image and describing what it means. It is important for facilitators to let the participants shape the story and explore the image by asking leading questions. Examples of guide questions that a facilitator might ask the group are:

  "*What is happening in this picture?*"
  "*Who is involved here?*"

- **Ask the group to brainstorm about what they think might have led up to the scene in the image.** The scene will be of a physical confrontation (or threat of this) so we will consider the kinds of conflict and situations that could lead up to this. Examples of guide questions that a facilitator might ask the group are:

  "*What was happening before they got to this situation?*"
  "*Why are they in this situation?*"
  "*When does this situation happen?*"

- **Ask the group to consider what could follow on from the scene.** Explore the various consequences of physical confrontation and the potential options that may be available to both the victim and the perpetrator. Examples of guide questions that a facilitator might ask the group are:

  "*What might happen next?*"
  "*What would each character do immediately after this?*"
  "*How could this be prevented from happening again?*"
  "*How could this situation have been prevented from happening?*"

If time permits, a volunteer from each group could report back to the whole group about the discussion that they have had.

CALD_Module2_V3.indd 6 7/10/09 8:01:17 AM

Legal and non legal options for dealing with domestic violence

Information for facilitators

People who are experiencing domestic violence in their lives have various options for addressing that violence. There are many and varied reasons why people who experience domestic violence will choose to address (or not address) the violence in a particular way. It is important that education about each option is provided in an open and non-judgemental way.

Some legal words explained:

Applicant: The person who is applying for the domestic violence order. This is usually the person seeking the protection, but can sometimes be the police officer, or other person making an application on the person's behalf.

Protected Person: Once a domestic violence order is made, the person on whose behalf the order is made is known as the protected person. The protected person is also the person for whose protection the domestic violence order is sought.

Defendant: The person who the application/domestic violence order is made against.

Vary: Change the conditions of the order.

Revoke: Stop or get rid of the order.

Consent: Agree

Breach: Break or not follow the order

Adjourn: Put off a court matter to another day.

The police

For many people, particularly those living in remote communities, contacting the police is the only way or first opportunity to get legal assistance with domestic violence.

The police can take action to address domestic violence in the following ways:

1. For any of the behaviours that are against the law (see page 3) **the police can charge the defendant with a criminal offence**. The defendant will then have to go to court about the matter. If the person is found guilty by the court, they may face a range of punishments or consequences such as fines, good behaviour bonds, home detention or imprisonment.
2. For those behaviours that are against the law and those that aren't, **the police can make an application for a domestic violence order on behalf of the victim**. The police can make this application **even if the victim does not want them to.** Domestic violence orders will be covered in more detail over the page.

CALD_Module2_V3.indd 7 7/10/09 8:01:17 AM

3. Once a domestic violence order has been made (by the court or police) and a copy of this order has been given to the defendant, the police can charge the defendant with **a criminal offence if they break/breach (don't stick to) the order**.

Mandatory reporting

The NT government recently passed a new law that says that all adults in the Northern Territory have to tell the police if they believe that someone has been or is likely to be seriously injured or killed because of domestic violence. This is the law for the NT only and is very different from the law in all other states and the ACT.

Domestic violence order

A domestic violence order is a document made by the Magistrates Court, or in some cases the police. The order is to try and protect you, your property and in some cases your children, from domestic violence. The order sets out rules, or conditions that the defendant has to abide by.

Who can apply for a domestic violence order?

Any of the following people can apply to the court for a domestic violence order:

- An **adult or young person** who is in a "domestic relationship" with the defendant;
- An adult acting **on behalf** and with the **consent of another adult or child** who is in a "domestic relationship" with the defendant;
- A **police officer**.

A young person is someone between the ages of 15 and 18. The court will only allow a young person to apply for a domestic violence order on their own behalf if the court is satisfied that the young person understands what the order means and why they are applying for it.

What are the reasons for getting a domestic violence order?

The court or a police officer can only make a domestic violence order if there are reasonable grounds for a person to fear that the defendant will commit domestic violence against them.

This means that in the application the applicant needs to explain to the court why they believe that the defendant will commit domestic violence against them. They will need to give examples of things that the defendant has said or done that make them fear domestic violence.

Are there different types of domestic violence orders?

Yes, the court can make different types of domestic violence orders depending on your situation. It is important that you ask the police, your lawyer or the court for the type of order that you think will keep you safe or protect you from harm.

Some examples of the types of orders you can ask for are:

- That the defendant **must not contact** or approach you at all (this includes through text messages, letters or family members)

CALD_Module2_V3.indd 8 7/10/09 8:01:17 AM

- That the defendant must not act in a way that would amount to domestic violence, but **can still have contact** with you.
- That the defendant **must not contact or approach you** when he/she **has been drinking alcohol or taking drugs**.
- That the defendant **must not approach or contact you except through a third person** and then only to make arrangements to spend time with the children of the parties.
- That the defendant **must leave the family home** (this will only be made in some circumstances).
- That the defendant will **attend counselling or rehabilitation** (this order will only be made with the defendant's consent).

If you are making an application for a domestic violence order against the defendant and you have children together you need to think carefully about what orders you ask for.

The children have witnessed or been exposed to the violence

If your children have **witnessed** or been **exposed to domestic violence**, or if the defendant has been violent towards them, you can **include them** on the application for a domestic violence order. You will have to tell the court about why the children need the domestic violence order.

If the police are called to a domestic violence incident and your children are present, the police must take action to protect the children. This means that the police will need to:

(a) Check if you already have a domestic violence order in place that covers the children; or

(b) make an application for a domestic violence order on behalf of the children; and

(c) contact NT Families and Children so that they can investigate.

How do I get a domestic violence order?

There are different ways to get a domestic violence order.

Urgent

If your matter is urgent, for example there is an immediate risk that the defendant will hit or hurt you, you should call the police immediately. The police can make an order without having to apply to the court in some circumstances.

Not Urgent

In some cases, it will not be urgent, but it will still be important. You or your lawyer or the police can apply to the Magistrate's Court for a domestic violence order.

Your application must be in writing. There is a form available at the court. You do not have to include your address on the application if you don't want the defendant to know where you live.

CALD_Module2_V3.indd 9 7/10/09 8:01:17 AM

Once the order is in place, can I change or stop it?

Yes, but you must apply to the court, or contact the police to vary (change) or revoke (stop) the domestic violence order. It is very important to remember that until the order has been changed or stopped by the court, it is still in place, even if both you and the defendant don't want it anymore.

If the police helped you with the domestic violence order they will have a say in whether it is changed or stopped.

You may be required to explain to the court what has altered since the order was made and why you want it to be changed or stopped.

You can change the order to:

- **Add more conditions**, for example that the defendant cannot contact you at all
- **Remove conditions**, for example allow the defendant to have contact with you, but keep conditions that say they can't assault or threaten you
- **Extend the order** so that it is in place for longer.

It is a good idea to talk to a lawyer before making an application to change or stop a domestic violence order.

The defendant can also apply to have the order changed or stopped. The court will only decide to let the defendant proceed with their application to have the order changed or stopped if the court believes that the circumstances that existed when the order was made have changed significantly.

A domestic violence order has been made against me. Does this mean I now have a criminal record?

No. A domestic violence order is not a criminal offence. It does not form part of your criminal record. It is, however, a criminal offence to breach a domestic violence order.

Breaching a Domestic Violence Order

There are severe penalties for breaching a domestic violence order. For a first offence, the Magistrate can sentence you to a jail term of up to 2 years, or a fine of $44,000. If you are convicted of breaching a domestic violence order a second time or more, and the breach results in harm to the protected person, the Magistrate has to send you to jail for no less than 7 days and up to 2 years.

CALD_Module2_V3.indd 10 7/10/09 8:01:17 AM

Activity 4: "family problems: your rights when things go wrong" DVD presentation

If you have access to a DVD player and a television, it may be useful to show sections of the legal aid DVD "**family problems: your rights when things go wrong**" that forms part of the education kit. It is important to explain to the group that this DVD was created for use with Aboriginal people in the Tennant Creek region, but that the issues explored may occur in families throughout Australia and the world.

Stop the DVD after relevant sections and have a discussion about what has just occurred. Of particular use may be the images showing the:

- **Types of behaviour that the DVO can be used to prevent, and**
- **the fact that the police can apply for a DVO on someone's behalf whether they are supportive of this or not.**
- **That there are different ways to get a DVO, including police DVOs and DVOs through a lawyer.**
- **That legal services can help you to change a DVO to suit your situation.**

CALD_Module2_V3.indd 11 7/10/09 8:01:17 AM

Non Legal options

Information for facilitators

There are a range of other things that people can do to address domestic violence that do not involve the police or the legal system. Often the victim will use a combination of legal and non-legal options to address the domestic violence.

Some of the non-legal options are:

- Leave the relationship.
- Stay with a friend or family member for a time.
- Seek help from a crisis centre or safe house.
- Attend a relationship or domestic violence counsellor.
- Encourage the defendant to get help with their anger/drug/alcohol/ violence issues.
- Do nothing.

In many other countries domestic violence is illegal or not tolerated by society. Participants are likely to say that it is unacceptable or illegal. T**he main difference is likely to be the way that it is dealt with and the level of government involvement in addressing it.** For example, in some countries a woman's family will intervene where there is violence in a marriage, and the marriage will be effectively over. The woman will return to live with her family and the bridal price may be returned. In this context, the violence is considered unacceptable and is addressed.

What people may have much more trouble accepting is the idea that the police and courts will get involved and that the matter is dealt with in the public domain, with the involvement of the State or Territory. Having a discussion with people about the similarities and differences in the way that domestic violence is dealt with in Australia and in their countries of origin could be very useful in some cases.

CALD_Module2_V3.indd 12 7/10/09 8:01:17 AM

Activity 5: Case scenario – exploring legal and non legal options for dealing with domestic violence

Option 1:

Based on the information provided in the DVD and the discussions that have been held throughout the workshop so far, the group can begin to **work through the different options** available for dealing with the issues raised in the case scenario.

Do this by compiling a flow chart of legal and non-legal options as they are raised and explored by the group. This activity can be done in one big group or in smaller groups as long as there are enough facilitators available to assist in each small group.

Option 2:

Break participants into small groups and ask each group to consider the following questions and discussion points about the case scenario:

- **Things have changed for Mary and Mohammed now that they live in Australia, list some things that might be putting stress on their relationship.**
- **What sorts of things can people do to deal with stress before it gets out of hand?**
- **Do you think this situation is an example of domestic violence? Why or why not?**
- **What sorts of things could Mary do to deal with this situation?**
- **What sorts of things could Mohammed do to deal with this situation?**

Option 3:

Ask for volunteers from amongst the group to be involved in a role play exercise. To start with the group will just need the husband and the wife, but as the role play progresses you may need to include other participants such as neighbours, friends, police, lawyers and counsellors.

Starting where the case scenario left off work through a variety of versions of what might happen next including:

- **A neighbour hears the violence and calls the police**
- **the wife tells her friend what happened**
- **the husband tells a friend what happened**
- **one of the children tells a teacher what happened.**

Pause the role play after each of the above events to allow the group to discuss each scenario.

This activity will require a large amount of flexibility in the facilitator. The way it progresses will depend largely on the participants themselves but it will be important that the facilitator dispels any misunderstandings about the law that may emerge as the role play progresses.

CALD_Module2_V3.indd 13 7/10/09 8:01:17 AM

Case Scenario

(to be read out to participants – and handed out if participants have a good grasp of written English)

Mohammed and his wife Mary have just resettled in Darwin. They have brought with them their three children Lucia (15), Samuel (8) and Emma (2). They arrived in Australia on a humanitarian visa. They had no choice about the country they were to be resettled in but they want to make a fresh start and make the best of their new country.

When they arrive they are linked in with some support services. Mary is given Centrelink payments for the children and Mohammed and Mary are both placed on unemployment benefits until they are ready to begin work.

None of the family can speak English. The parents attend the Adult Migrant English Program (AMEP) through the Charles Darwin University (CDU) and the two older children are enrolled in the Intensive English units at their schools.

Mohammed and Mary both eventually find jobs. Mohammed was an Engineer at home, but in Darwin he can only get a job pushing trolleys. He works long hours to make enough money to live. Mary has never worked out of the house before. In Australia she gets work at a community centre with a lot of other women. Mary quickly learns English and makes many friends at work.

Mary's job pays better than Mohammed's and because she is working full time she does not have as much time for housework and other chores. She tells Mohammed that he needs to start helping her with these things. Mary arranges some child care for Emma while she is at work. At other times, she asks the two older children to look after her. Mary says that if Mohammed is not working he too needs to help out with the children.

Mohammed is angry that Mary is working so much outside of the house and not looking after the kids or house properly. He sees that she is making friends and he feels jealous that she is meeting so many new people and worried that they will be a bad influence on her.

Mary comes home from work one day to find the house a mess. Emma has a dirty nappy and is sitting on the floor screaming. Samuel has been trying to get dinner ready in the kitchen and dropped a plate, smashing it everywhere. Samuel tells her that Lucia has gone out with friends and that Mohammed left Samuel in charge while he went to the pub.

CALD_Module2_V3.indd 14 7/10/09 8:01:18 AM

About half an hour later Mohammed comes home smelling of alcohol. Mary is fuming at him and tells him that she doesn't work hard so that he can spend their money on beer. She wants to know why he wasn't looking after the children properly and why he left an eight year old to cook dinner. Mohammed shouts back that he is the head of this house and she needs to respect him. He says that it is not his responsibility to look after the children or keep the house, that these are her jobs and that she is neglecting her duty.

As they shout at each other, they start shoving and pushing each other. Mohammed punches Mary twice in the face causing her to fall to the ground. He then storms out of the house. Samuel helps his mum get cleaned up and puts her to bed. The next day Mohammed comes home with a bunch of flowers and tells Mary he is sorry and that it won't happen again.

CALD_Module2_V3.indd 15 7/10/09 8:01:18 AM

Where can we get help or advice?

Urgent Assistance

Police	**000**
Police Domestic Violence Unit	
Darwin	8999 0865
Katherine	8973 8116
Tennant Creek	8962 4374
Alice Springs	8951 8859
Lifeline	131 114

Legal Advice and Advocacy

NT Legal Aid Commission	**8999 3000**
Legal Information Line	1800 019 343
Domestic Violence Legal Service Darwin	8999 7977
Domestic Violence Legal Service Alice Springs	8952 1391
Top End Women's Legal Service	8982 3000
Katherine Women's Information Legal Service	8972 1712
Central Australian Women's Legal Service	1800 684 055

Counselling and Rehabilitation

Resolve – Anglicare NT	**8946 4800**
Relationships Australia	
Darwin	8923 4999
Alice Springs	8950 4100
Domestic Violence Counsellor	
Top End	8945 6200
East Arnhem	8987 0403
Jabiru	8979 9999
Tennant Creek	8962 3123
Alice Springs	8952 6048
CatholicCare NT	
Darwin	8944 2000
Palmerston	8932 9977
Alice Springs	8958 2400
Katherine	8971 0777
Tennant Creek	8962 3065
Somerville Community Services – Family Service	
Darwin	8920 4100
Palmerston	8935 1500 / 8931 6200
Katherine	8972 5100
Amity Community Services Darwin	1800 684 372
Salvation Army, Top End Drug & Alcohol Service	8981 4199
Banyan House Darwin	8947 0832

Interpreter services

Interpreting and Translating Service NT	**1800 676 254**
Commonwealth interpreter service (TIS)	131 450

CALD_Module2_V3.indd 16 7/10/09 8:01:18 AM

Australia and my Family: What are the Laws?

An educational resource for services assisting CALD Communities

Module 3: Child protection

Northern Territory Legal Aid Commission

melaleuca REFUGEE CENTRE
Torture and Trauma Survivors Service of the NT Inc.

LAW SOCIETY PUBLIC PURPOSES TRUST NORTHERN TERRITORY

CALD_Module3_V4.indd 1 1/10/09 12:04:43 PM

Module 3: Child protection

Objectives of this module

The purpose of this module is to give community members a good understanding of the child protection laws in the Northern Territory. Through the use of a case scenario, role play, discussion and other activities we hope to explore:

1. what is child protection law?
2. best interests of the child
3. what kind of things can cause harm to a child?
4. what is the role of NT Families & Children?

This module contains four activities that explore children's issues and laws on child protection:

Activity: "looking after children" story telling

- who looks after children, especially, when they need protection?

Activity: "best interests of the child" visioning exercise

- what do we want for our children? what do they need?

Activity: "harmful behaviours" case scenario

- what are behaviours that are harmful to children?

Activity: "NT Families & Children actions" case scenario

- what will NT Families & Children do if our children are in danger?

CALD_Module3_V4.indd 2 1/10/09 12:04:43 PM

What is child protection law?

Information for facilitators

Child protection law is something that causes many people anxiety when they first settle in Australia. The idea that the government has a responsibility to make sure children are safe and protected from harm is unheard of in a lot of countries. Different standards of what is appropriate in terms of physical discipline of children and different concepts of supervision and care can lead people to come into contact with child protection services.

These are sensitive issues to discuss and care needs to be taken when providing this education. It is very important to make it clear to people that whether or not they agree with the law, everyone who lives in the Northern Territory is bound by the law. You can get in trouble for breaking the law whether or not you agree with it or even understand it.

How does Child Protection law work?

In the Northern Territory, NT Families & Children has the job of making sure that children are safe. NT Families & Children has to follow the Northern Territory law in everything they do. The law about care and protection of children is found in written law called the *Care and Protection of Children Act*. This is law that has been made by the Northern Territory Government. It is only the law for the Northern Territory, the other states and territories have their own laws about child protection.

The law says that it is the job of the government to make sure that children are safe and to support families in their role to look after their children.

The law says that the family has the primary responsibility for caring for and bringing up the children and that the family should be able to bring up their children in any language or tradition and foster in the child any cultural, ethnic or religious values.

Overview of child protection laws in the Northern Territory

The most important points about child protection that we want to emphasise to participants are:

- In the Northern Territory everyone has a **responsibility** to make sure that children are safe and protected from harm. The law says that any adult in the Northern Territory must report to NT Families & Children or the police where they believe that a child has suffered or is suffering from harmful treatment. This is called **mandatory reporting**.
- **Harm includes physical abuse, emotional abuse, sexual abuse and neglect.** Harm can be caused by a parent or guardians' actions or failure to act to protect a child.
- **NT Families & Children** is the government department that has responsibility for making sure that children are safe and for investigating reports that a child has suffered from harm.

CALD_Module3_V4.indd 3 1/10/09 12:04:43 PM

- When NT Families & Children or the court makes a decision about a child's welfare their paramount or primary concern has to be the **best interests of the child**. This means that what is best for the child will come before everything else including what is best for the parents.
- **The law says that, where possible, children should be cared for by their immediate family.** If this is not possible then, as far as they can, children should be cared for by their extended family or people from their community or culture.

Activity 1: "looking after children" story telling

Children are important and valued by parents all over the world. Different people have different ideas about how children should be raised and whose responsibility it is to teach them, discipline them and care for them. This is an introductory activity to compare and contrast the way that child protection is dealt with in the NT to the way that it is dealt with in other countries and cultures.

Break the participants into small groups. If there are participants from several different countries, try and get a mix of countries in each group so you have a range of perspectives. Ask each group to select a facilitator and give each group butchers paper and textas.

Begin by explaining that the law in the NT is just one law, and it is not necessarily better or worse than the law in any other place.

Go through the overview of child protection laws in the NT with the group. Then in the groups we are going to talk about the law where we come from. Many people may say there is no law that says the government has a responsibility to look after children and there is not likely to be a government department focused on child protection. In these cases, explore with the group what ***happens in our country if a child is not safe or needs protection? Will family or community members help out? What do family and community members do to help?***

Record participant responses on the butchers paper and, if there is time, ask someone from each small group to present the group's responses to the whole group.

CALD_Module3_V4.indd 4 1/10/09 12:04:43 PM

Best Interests of the child

Information for facilitators

In all decisions that the law makes about children, the best interests of the child are the paramount or main concern. This means that what is in a child's best interests will be considered more important than anything else including any rights that parents have. Parents and, where appropriate, extended family should be included in making decisions about a child.

When trying to decide what is in the best interests of a child the court or NT Families & Children will look at many different things including:

- The need to protect the child from harm.
- The capacity and willingness of the family to care for the child.
- The relationship that the child has with family members and other people of significance in their life.
- The views and wishes of the child (these will be given more or less weight based on the maturity and understanding of the child).
- The need for stable living arrangements.
- The need for nurturing relationships.
- The child's physical, emotional, intellectual, spiritual, developmental and educational needs.
- The age, maturity, sexuality, cultural, ethnic and religious background of the child.

CALD_Module3_V4.indd 5 1/10/09 12:04:44 PM

Activity 2: "best interests of the child" visioning exercise

"What do we want for our children?"

As a whole group, or in smaller groups of 4-6 participants explore the following question:

"What do I want for my child?"

This discussion aims to get participants to explore concepts of best interests in an informal way. Consider and discuss what is wanted for our children. Also reflect on the following questions:

- **What are essential things that my child needs to live a good life?**
- **How can I make sure my child is safe, and getting the things that they need to have a good life?**
- **Who is responsible for making sure my child gets what they need?**
- **What sorts of things can stop my child from getting what they need?**
- **If I was unable to care for my child for some reason, what kind of supports or resources are available to help me? (this can include family, friends, community members, welfare organizations and other groups)**

Essentially the most important point to be drawn out in this discussion is recognition that children have essential needs, such as the need to be loved and nurtured beyond their immediate physical needs for food, protection and shelter. The other point that needs to be clearly made is that under Northern Territory child protection law, the best interests of the child are the most important consideration. This means that the needs and interests of a parent or other people with responsibility for children will be considered less important than the needs of the child.

CALD_Module3_V4.indd 6 1/10/09 12:04:44 PM

What kind of things can cause harm to the child?

Information for facilitators

Child protection law is about protecting children from harm. In the NT it is considered a responsibility of all people to make sure that children are kept safe from harm. The purpose of this section of the module is to explore what kind of things can cause harm to a child.

What does harm mean?

Child protection law is about making sure that children are kept safe from harm. **Harm is very broad and can include a lot of different things.** Generally, harm is something that has a serious negative impact on the wellbeing or development of the child. Harm can be caused by many actions including physical, emotional, psychological or sexual abuse of a child and neglect of a child. Harm can also be caused by a child witnessing violence (for example, violence between their parents).

Neglect:

Neglect occurs when a parent is unwilling or unable to provide for a child so that the child can develop normally. This can include a range of things such as:

- Not ensuring that the child has enough food to eat.
- Not providing medical treatment when a child is sick.
- Not providing supervision for young children or leaving them alone.
- When parents fail to remove dangerous things from the child's environment.
- Leaving a child with a person who may be a risk of causing harm to the child (for example someone who has been convicted of a child sex offence).
- Not sending the child to school or encouraging the child to learn.
- Not taking the time to listen to the child and give them some attention.

Physical abuse:

Physical abuse is when a child's body is hurt or injured. This can be through punching, hitting, beating, shaking, biting, burning or any actions which result in a child's body being harmed. Physical abuse often shows physical signs such as bruises, swelling, welts, burns, broken bones and in really extreme cases, death.

People are often worried that smacking a child or physically punishing them in other ways might be physical abuse. There is no clear answer to this, and the law will look at the circumstances of each case when considering whether or not something is physical abuse.

Physical punishment could be considered abuse if it is harmful to the child. This means, if it has a serious negative impact on the wellbeing or development of the child. It is against the law to assault any person in the Northern Territory and this includes assaulting a child.

CALD_Module3_V4.indd 7 1/10/09 12:04:44 PM

The law says that physical punishment is allowed as long as it is "moderate" and "reasonable". There are different views about what moderate and reasonable means. It might be helpful to think about things such as whether you would like the same punishment to be given to you, whether it is actually going to make a difference to the behaviour and whether you are angry and frustrated at the child and taking this frustration out on them.

Emotional abuse:

Emotional abuse is caused by repeated behaviour by an adult that makes a child feel embarrassed, ashamed, humiliated, put down or afraid. It can include things such as calling the child offensive or degrading names, putting the child down or criticising and teasing them, shouting at them and shaming them in front of other people. It can also include things such as constantly or repeatedly ignoring the child or depriving them of love and affection.

Children who experience these kind of behaviours can feel unloved, worthless and often lack self confidence. They may find it difficult to form positive relationships with other people.

Sexual abuse:

Sexual abuse happens in all countries and societies in the world. It is often very difficult for people to talk about and it can be hard for people to accept that it could happen to someone that they know and care about. Sexual abuse happens when someone older than a child, or an adult involves them in sexual activity.

It is very important to reinforce that all sexual abuse is harmful and all sexual abuse of a child is against the law in the Northern Territory.

Sexual abuse can include a wide range of sexual activities such as:

- Inappropriate touching of a child's genital or anal areas.
- Masturbating or performing sexual acts in front of the child.
- Encouraging a child to touch their own or someone else's genital or anal areas.
- Saying sexually suggestive things in front of the child or to the child.
- Showing pornographic magazines, movies or images to the child or in front of the child.
- Using children or young people in the production of pornographic or sexually explicit photographs, films or videos.
- Enticing a child to be involved in sexual activity for money or other reward.

CALD_Module3_V4.indd 8 1/10/09 12:04:44 PM

Activity 3: "harmful behaviours" case scenario

Through the use of a case scenario in this activity we hope to explore concepts of "harm" and situations that can lead a child to suffer from harm. It is not really necessary to explore all of the different kinds of harm in great detail. Sexual abuse is generally considered unacceptable by people in all countries of the world. This then is not an area that is likely to require a lot of focus. For issues such as sexual abuse, it is likely to be more important to provide participants with information about who they can contact for help to deal with these issues. It is important to reinforce that all sexual abuse is harmful.

It is more important to identify the areas about which people are more likely to have differing expectations about what is appropriate, and to focus education and discussion around these areas. For example, in some countries and circumstances, it is considered completely appropriate to use an implement such as a stick to physically discipline a child. We need to explain that this is not likely to be considered acceptable under NT child protection law and explore other options for disciplining a child.

Similarly, some people may consider that a child of 8 years is perfectly able to supervise and care for younger siblings for extended periods. Again, this is not likely to be considered acceptable under NT child protection law and so we need to explore this and alternative options.

Begin the activity by reading out the background information of the case scenario to the whole group.

Background to the case scenario – Mohammed and Mary's Story

Mohammed and his wife Mary have just resettled in Darwin. They have brought with them their three children Lucia (15), Samuel (8) and Emma (2). They arrived in Australia on a humanitarian visa. They had no choice about the country they were to be resettled in but they want to make a fresh start and make the best of their new country.

When they arrive they are linked in with some support services. Mary is given Centrelink payments for the children and Mohammed and Mary are both placed on unemployment benefits until they are ready to begin work.

None of the family can speak English. The parents attend the Adult Migrant English Program (AMEP) through the Charles Darwin University (CDU), the two older children are enrolled in the Intensive English units at their schools.

Mohammed and Mary both eventually find jobs. Mohammed was an Engineer at home, but in Darwin he can only get a job pushing trolleys. He works long hours to make enough money to live. Mary has never worked out of the house before. In Australia she gets work at a community centre with a lot of other women. Mary quickly learns English and makes many friends at work.

CALD_Module3_V4.indd 9 1/10/09 12:04:44 PM

Mary's job pays better than Mohammed's and because she is working full time she does not have as much time for housework and other chores. She tells Mohammed that he needs to start helping her with these things. Mary arranges some child care for Emma while she is at work. At other times, she asks the two older children to look after her. Mary says that if Mohammed is not working he too needs to help out with the children.

Mohammed and Mary both work during the day. Samuel and Lucia both go to school and Emma is placed in day care during school hours. Mohammed and Mary ask Lucia to look after the younger two children after school. She is supposed to pick Samuel up from his school and then pick Emma up from childcare and take them both home. She is told to make sure she is at home with them until her parents come home from work.

Lucia makes friends at school. Her friends don't have to look after their younger siblings and she feels angry that she is made to. She wants to have the same freedoms as the other children now that she is in Australia. She tells her brother that he is in charge of their little sister and goes out with her friends.

Option 1: Open discussion

Once the background information has been read to all participants you can break them into small groups and give each group a different aspect of the harmful behaviours from the case scenario to explore (eg one group gets the "**neglect**" section, one group gets the "**physical abuse**" section etc). Each group can select a facilitator to assist with discussion and to ensure that the activity flows.

The facilitator reads out their specific section of the case scenario to their group. They then ask their group to discuss the aspects of the case scenario such as:

- **Why do you think this situation could be harmful for the child?**
- **What do you think could happen next?**
- **What could the parents have done differently to avoid this situation?**

The most important aspects of this activity are to identify:

- **What types of behaviour can cause harm to a child?**
- **Why this could be harmful?**
- **What consequences could flow (serious injury to child, NT Families & Children involvement, police involvement etc)?**
- **What options do the parents have to avoid this harm in the future?**

Each group should then report back to the big group about the discussion that they had.

CALD_Module3_V4.indd 10 1/10/09 12:04:44 PM

Option 2: Open role play

Once the background information has been read to all participants you can break them into small groups and give each group a different aspect of the harmful behaviours from the case scenario to explore (eg one group gets the "**neglect**" section, one group gets the "**physical abuse**" section etc).

Each group will need a facilitator to assist with this activity. The facilitator will read their section of the case scenario to their group and ask different people in the group to participate in a role play of what would happen next. For the neglect scene, for example, you might start from where the child is sick at the hospital and the doctor is asking the mother about what happened. You will need to include more people in the role play as you go along. The doctor may be suspicious and notify NT Families & Children. What would happen next? It is very important that the facilitator has a good understanding of child protection laws in the Northern Territory and can dispel any misconceptions that participants have.

It is hard to predict how a role play will progress and the facilitator will need to allow a large degree of flexibility to let the group explore options. If there is time, each group should report back in some way to the larger group (this could be in the form of a short

Neglect

One afternoon Samuel is left at home with his little sister Emma. She is crying and hungry so he decides to cook her some rice. He is busy at the stove in the kitchen and does not notice that Emma has opened up a bottle of medicine that she found in the bathroom. Emma eats all of the medicine.

By the time Mary gets home from work Emma is turning blue and having trouble breathing. Mary rushes her to the hospital. At the hospital they ask what happened and Mary lies because she is worried that she will get into trouble.

Physical abuse

Mohammed is furious when he finds out that Lucia has been leaving her younger brother at home to look after her little sister. Lucia tells him that he can't tell her what to do because she is in Australia now and she has more rights. Mohammed hits Lucia six times on the back of her legs with a thin stick. At school the next day Lucia's teacher sees the marks on her leg and asks her what has happened. Lucia tells the teacher that her father hit her.

CALD_Module3_V4.indd 11 1/10/09 12:04:44 PM

What kind of things can cause harm to the child? continued...

Emotional abuse

Mohammed and Mary are arguing a lot. They are both shouting a lot at the children as well. It seems like nothing that the kids do is ever right. Lucia, in particular is always getting in trouble. Mary shouts at her at the drop of a hat and calls her names and tells her that she is "fat", "useless" and "ugly". Lucia becomes more withdrawn and jumpy. She flinches whenever her mother raises her voice and seems sulky whenever her mother

Sexual abuse

Because Mohammed and Mary are both busy in the evenings they arrange for the younger children to go to another child from schools house for a couple of hours each night. The mother at this house often works late and it is the father that mainly looks after the kids. Over time Samuel becomes more withdrawn and unhappy. He begins wetting the bed (something that he has not done for years) and becomes very angry and aggressive, picking on his younger sister. He tells his mum that he doesn't want to go to the friend's house anymore and says that the father is a bad man. Mary tells him not to be silly and says he has to go anyway. Samuel gets in trouble at school for exposing himself to another child. When the teacher asks him about it he tells her that he is just doing what the bad man does to him.

CALD_Module3_V4.indd 12 1/10/09 12:04:44 PM

What is the role of NT Families & Children?

Information for facilitators

NT Families & Children is the government department that has the responsibility of making sure that children are protected from harm. They usually become involved with families because someone has reported to them a concern that a child is in need of care and protection.

Mandatory Reporting

The law says that any adult in the Northern Territory must report to NT Families & Children or the police where they believe that a child has suffered or is suffering from harmful treatment. This includes physical and emotional abuse, sexual abuse and neglect. This is called 'mandatory reporting'.

The people who are most likely to report child abuse are doctors, teachers, school workers, police, neighbours or other family members. The name of the person reporting to NT Families & Children must be kept strictly secret by NT Families & Children and by the Court if the Court becomes involved.

NT Families & Children won't take a child away from their family just because a report is made to them. NT Families & Children can look into the report and make a decision about what should be done to help the family. Sometimes this will mean providing help and support to the family to make sure they are keeping the children safe and happy.

Northern Territory law says that NT Families & Children needs to look into a report to make a decision about whether a child is in need of care and protection.

When is a child in need of care and protection?

Northern Territory law says that a child is in need of care and protection when:

- **The child has suffered or is likely to suffer from harm** because of the way a parent of the child has acted or failed to act; or
- **The child has been abandoned** and no family members of the child are willing and able to care for the child; or
- **The parents of the child are dead or unable or unwilling to care for the child** and no other family member of the child is able and willing to do so; or
- **The child is not under the control of any person** and is engaged in conduct that causes or is likely to cause harm to the child or other persons.

What will NT Families & Children do if a child is in need of care and protection?

All reports that are made to NT Families & Children should be assessed. If NT Families & Children decides that the child is in need of care and protection, they can do a number of things. NT Families & Children might talk to the family of the child and work with them to find ways to make sure the children are safe and protected.

CALD_Module3_V4.indd 13 1/10/09 12:04:44 PM

Sometimes NT Families & Children will be so worried about the child they might decide that the child needs to be removed from where they are living for their own protection. Sometimes a child will be taken away from their family for a short time, so that NT Families & Children can properly investigate. Other times, NT Families & Children will apply to the Court to keep a child in NT Families & Children's care for a longer time – anywhere from a couple of months to a couple of years. If the matter is really serious then a child may be in NT Families & Children's care until they are 18.

Temporary placement agreement

In some cases, NT Families & Children will see if the parents of a child will agree for that child to be taken into NT Families & Children's care for a period of time. These agreements are short term and are usually for less than two months at a time, but can be extended for up to six months. These agreements might be put in place if the parents are having some problems or stress that they need to sort out and they are having trouble caring for the children at the same time.

At any time when an agreement is in place, either or both of the parents of the child can put a stop to the agreement and ask for NT Families & Children to return the children to them. It is best for any parent who is asked by NT Families & Children to sign an agreement to speak to a lawyer before signing or agreeing to anything. You should never sign anything if you don't understand what it says.

Mediation conference

NT Families & Children can arrange a meeting with parents and other carers and family members of a child to talk about the concerns that NT Families & Children has for a child's wellbeing and to try and reach an agreement about how the needs of the child can be protected. The meeting will be chaired or run by a convenor who is approved by the parents and who has the experience or knowledge required to run the meeting.

Application for court orders

If NT Families & Children reasonably believes that a child is in need of protection and that an order placing the child in NT Families & Children's care is urgently needed to safeguard the wellbeing of the child, they can apply to the court for a temporary protection order. It is up to the court to decide whether or not to make this order based on the information that NT Families & Children provides to them. The parents of the child will often not have a chance to have their say about whether or not the Temporary Protection Order should be made. NT Families & Children is in charge of looking after the child while the order is in place. This order is in place for 14 days.

NT Families & Children can apply for a Protection Order from the court that will last longer than 14 days if they reasonably believe that the child is (or would be were they not already in NT Families & Children's care) in need of protection. NT Families & Children can apply to the court for a Protection Order that says that NT Families & Children is in charge of looking after the child, and making decisions about the child's welfare for any period up to two years, or in some very serious cases, until the child is 18 years old.

CALD_Module3_V4.indd 14 1/10/09 12:04:45 PM

All applications for orders are heard in the **Family Matters Court**, which is held at the Local or Magistrates Court. NT Families & Children has to give evidence in the form of sworn statements about why they are asking for the orders. The parents or carers of the child have a chance to have their say and provide their own evidence to the court. The parents have a right to have a lawyer to represent them at court and give them legal advice. A lawyer will be appointed to represent what is in the best interests of the child.

The court will consider all of the evidence and decide whether or not to make the order that NT Families & Children are asking for. **The court is closed to the public.**

Any person who is given any papers by NT Families & Children should talk to a lawyer as soon as possible. **What you tell your lawyer is confidential (secret).**

Activity 4: "NT Families & Children actions" case scenario

This activity is building on the case scenario explored through discussion and role play in the last activity. Begin the activity in a large group. Explain to the group briefly the role of NT Families & Children, focusing on the mandatory reporting responsibility of all adults in the NT and touching on the different types of actions that NT Families & Children can take. These will then be explored in more detail in the small groups.

Break participants into four small groups. Each group is assigned a different harmful behaviour from the case scenario to explore. If possible, group members should be looking at a different harmful behaviour than they explored in the previous activity. Each group needs to have a facilitator that can help them work through the following questions:

- **If you were a neighbour or friend of this family and you knew about this situation what would you do?**
- **How do you think this situation would be dealt with in your country of origin?**
- **If NT Families & Children were made aware of this situation what kind of things do you think they would do?**
- **How could this family make sure that this situation was avoided in the future?**

Points to make really clear to participants are that:

- **Decisions are made depending on the particular circumstances of each case. We are exploring some actions that NT Families & Children could take but these are not absolutes.**
- **A parent has the right to speak to a lawyer at any time about child protection issues. If you don't understand something, or you are unsure of what is happening it is best to speak to a lawyer about it.**

CALD_Module3_V4.indd 15 1/10/09 12:04:45 PM

Where can we get help or advice?

NT Families & Children	**8999 2400** **1800 700 250**

Legal Advice and Advocacy

NT Legal Aid Commission	**8999 3000**
Legal Information Line	1800 019 343
Top End Women's Legal Service	8982 3000
Katherine Women's Information Legal Service	8972 1712
Central Australian Women's Legal Service	1800 684 055
Darwin Community Legal Service	8982 1111

Counselling and Rehabilitation

Resolve – Anglicare NT	**8946 4800**
Relationships Australia	
Darwin	8923 4999
Alice Springs	8950 4100
Domestic Violence Counsellor	
Top End	8945 6200
East Arnhem	8987 0403
Jabiru	8979 9999
Tennant Creek	8962 3123
Alice Springs	8952 6048
CatholicCare NT	
Darwin	8944 2000
Palmerston	8932 9977
Alice Springs	8958 2400
Katherine	8971 0777
Tennant Creek	8962 3065
Somerville Community Services – Family Service	
Darwin	8920 4100
Palmerston	8935 1500 / 8931 6200
Katherine	8972 5100
Amity Community Services Darwin	1800 684 372
Salvation Army, Top End Drug & Alcohol Service	8981 4199
Banyan House Darwin	8947 0832

Interpreter services

Interpreting and Translating Service NT	**1800 676 254**
Commonwealth interpreter service (TIS)	131 450

CALD_Module3_V4.indd 16 1/10/09 12:04:45 PM

Australia and my Family: What are the Laws?

An educational resource for services assisting CALD Communities

There are many laws that affect everyone in Australia

- Some laws are made by the Federal Parliament in Canberra, which **apply to all of Australia**.
- The Parliaments of each State and Territory can also make laws that will **apply only to** that **state** or **territory**.

Laws that apply to families all over Australia include:

- The ***Marriage Act***. These are laws about marriage in Australia. Some of these laws can be similar to rules about marriage in other countries.
- The ***Family Law Act*** deals with laws for couples who want to end their marriage, divide their property, or work out how much time their children will spend with them.

Laws that affect families in the Northern Territory include:

- The ***Domestic and Family Violence Act***. This law is about people being safe from violence.
- The ***Care and Protection of Children Act***. This law looks after the welfare of children so that they grow up healthy, happy, and strong.

Northern Territory Legal Aid Commission

Legal Aid can help with more information on
Freecall 1800 019 343 or
Call 8999 3000 to arrange community workshops and private and confidential appointments for legal advice

Australia and my Family: What are the Laws?

An educational resource for services assisting CALD Communities

It is against the law to harm or assault another person

In Australia, laws that keep everyone safe from violence also apply in the home

Everyone has a responsibility to prevent violence

Everyone has the right to seek safety and protection from violence

- Any **adult** or **young person** who needs protection from domestic violence can apply for a Domestic Violence Order. A **police officer** can also apply for a Domestic Violence Order for a person who needs protection.
- **Domestic Violence Orders (DVO)** are documents written by Police or courts to help protect people from harm.

You can decide what kind of conditions in a DVO would help you feel safe

Contact the police or the Domestic Violence Legal Service about this

In an emergency, call '000'

Northern Territory Legal Aid Commission

Legal Aid can help with more information on Freecall 1800 019 343 or

Call 8999 3000 to arrange community workshops and private and confidential appointments for legal advice

Australia and my Family: What are the Laws?

An educational resource for services assisting CALD Communities

The NT Government makes rules for the care and protection of children

In the NT, the law says that families have primary responsibility for caring for and bringing up children.

Families can bring up their children in any language or tradition and foster any cultural, ethnic or religious values.

However, when children are at risk of harm, the law says:

- It is the **role of government** to make sure that **children are safe** and **to support families** in looking after their children.
- **Physical** abuse, **emotional** abuse, **sexual** abuse and **neglect** are harmful behaviors. These behaviors badly affect a child's healthy development and growth.
- **NT Families & Children** is the government department that has responsibility for making sure that children are safe. They investigate any reports that a child may have suffered from harm.

Northern Territory Legal Aid Commission

Legal Aid can help with more information on
Freecall 1800 019 343 or
Call 8999 3000 to arrange community workshops and private and confidential appointments for legal advice