



# Families and the Law in Australia

## Family Court of Australia

This project also relates to:

-  Families
-  Education

This project represents one of four strategies the Family Court of Australia piloted in various locations around Australia to work with new and emerging communities. The Australian Government Department of Immigration and Citizenship funded the pilots under the *Living in Harmony* partnerships program. The full title of the initiative is *Families and the law in Australia – the Family Court working together with new and emerging communities*. A report on the project is available at [www.familycourt.gov.au](http://www.familycourt.gov.au).

The Parramatta strategy involved a multi-agency approach working with community facilitators around the concept of 'the best interests of the child'. The strategy aimed to reduce misunderstandings through practical information provided to each community about family law and how different agencies deal with difficult family issues. The information was provided to the communities at a series of meetings run by bilingual facilitators.

The settlement process for many newly arrived refugees can place enormous stress on families, resulting in problems with the law. Power dynamics in families shift and refugee men can feel disempowered as they move from a situation where they had full responsibility for their family and a degree of power within their local community, to one where they struggle to find work, do not speak the language and have few social networks. By contrast, women may not experience the same sense of loss of power as they often have continuity of occupation, through their role as family carer. In some cases, women's power within the new environment increases.

The strain on families can therefore be quite profound and may lead to domestic violence, family breakdown and child protection concerns. The confusion among refugee families about Australia's legal institutions results in significant distress when police or government officials

intervene in what many refugees see as private family matters.

In the absence of traditional support structures and processes, problems within families can deteriorate to the point of police involvement.

Newly arrived families are often unaware of the role of the police and the New South Wales Department of Community Services. They may not understand that, in cases of domestic violence, a report must be made to the police, and the Department of Community Services may become involved. The way Australian law deals with family breakdown or difficulties is a concept many new and emerging communities struggle to deal with.

The Family Court's Parramatta Registry worked in close partnership with the Baulkham Hills Holroyd Parramatta Migrant Resource Centre, the New South Wales Department of Community Services, New South Wales Police and Legal Aid to implement this project.

Other agencies involved in developing the Sydney project's parameters were the New South Wales Department of Education and Training, the New South Wales Department of Health, the New South Wales Attorney-General's Department Community Justice Centres, the Service for the Treatment and Rehabilitation of Survivors of Torture and Trauma and Auburn and Blacktown Migrant Resource Centres.

### Identifying a need through statistical information

The Family Court of Australia has focused on improving services to culturally and linguistically diverse clients over many years. The Court conducted an audit in 2001 with the assistance of the Baulkham Hills Holroyd Parramatta Migrant Resource Centre which facilitated meetings with the community. The results of the audit, a roundtable discussion held in 2003, and a Cultural Diversity Plan developed in 2004 informed the improvements in services that have been made. The Cultural Diversity Plan identified the opportunity to develop a proposal for a *Living in Harmony* partnership.

In 2004, Centrelink provided statistics to the Family Court indicating an increase in family breakdown in the Afghani, Eritrean, Ethiopian, Iraqi, Somali and Sudanese communities living in Sydney's Parramatta, Blacktown and Auburn areas. The Court initiated discussions around the project in late 2004 and began consultations with these communities in conjunction with local Migrant Resource Centres and other stakeholders.

The Court decided to focus the project on the Parramatta area and the Baulkham Hills Holroyd Parramatta Migrant Resource Centre became an invaluable project partner.

### Consulting the community

The Court approached the Baulkham Hills Holroyd Parramatta Migrant Resource Centre to organise consultations with the communities identified by the statistics to strengthen relations between those communities and the Court. The consultations that took place in early 2005 led to this two-year project.

Participants in the consultations identified their lack of understanding of:

- the role of police
- the role of the New South Wales Department of Community Services
- the differences between the Family Court and local courts
- where they might get legal advice.

The consultations highlighted the need for an education and engagement project to help the target communities better understand the purpose and role of different agencies in a family law context.

### Rationale for using bilingual facilitators

Recent research has highlighted the benefits of using community bilingual educators as cultural facilitators. While interpreters can be useful as objective mediums through which information is simply translated, without cultural context this information is of limited effectiveness for clients. Many new and emerging communities have oral traditions and prefer verbal explanations to written material. Literacy may be an issue for some community members and concepts around family law should be translated within the context of the communities' culture.

Bilingual/bicultural facilitators are able to discuss how culture affects family and interpersonal

relationships and identify the differences between the perceptions of service providers and their clients in relation to family and family wellbeing. They can teach service providers to bridge cultural differences by providing strategies to ensure the integration of cultural considerations into service provision.

### The project

The project's aims were to:

- reduce community confusion about Australian laws that impact on families
- reduce confusion about the distinct roles of participating agencies
- increase understanding within each agency of the cultural issues that may have an impact on communities' experiences of the family law system
- improve communities' trust in legal and other government organisations and their confidence in using them
- enhance communities' long-term capacity to navigate their way around various legal pathways as they may relate to the best interests of the child
- make clearer to communities that agencies are responsible and accountable for providing services.

### Training bilingual facilitators

The Baulkham Hills Holroyd Parramatta Migrant Resource Centre identified 15 bilingual community facilitators (nine men and six women) who were asked to represent the Afghani, Eritrean, Ethiopian, Iraqi, Somali and Sudanese communities.

Agency partners provided an education program for the bilingual workers, which included on-site visits and training over a three-month period. The workers were trained on how New South Wales Police, the Department of Community Services, Legal Aid and the Family Court deal with issues of family disharmony, child protection and safety. Each agency provided information on its roles and responsibilities, and its specific legal requirements with the concept of 'the best interests of the child' as the focal point.

Each community facilitator received a Certificate of Recognition from the Chief Justice of the Family Court of Australia upon completion of the education program.

### Community meetings

Twenty-five community meetings were held and the strategies employed revolved around the concept of 'the best interests of the child'. The bilingual educators facilitated the development of knowledge, awareness, trust and acceptance of family law in Australia among new and emerging refugee communities from Afghanistan, Iraq, Eritrea, Ethiopia, Sudan, South Sudan and Somalia.

At the meetings, the facilitators provided the participants with explanations of various aspects of the law, an overview of state and federal laws and agencies, and an outline of the roles of the Family Court, the Local Court, the Department of Community Services and New South Wales Police in relation to family breakdown or difficulties. Agency partners also provided representatives at each meeting.

Facilitators used a generic case study based on the journey of a family experiencing conflict and eventually violence to demonstrate how different agencies might respond to a case. Meetings were conducted verbally to counter any issues of poor literacy. Bilingual community educators disseminated information they had acquired in the community's own language.

Many of the refugees had been accustomed to significant support from extended family members and especially from community elders in their countries of origin. Without these support networks they experienced feelings of isolation. This stress contributed to a high incidence of family violence and increased intergenerational conflict, divorce and dropping out of school.



photo > Baulkham Hills Holroyd Parramatta Migrant Resource Centre project staff

**Front row:** Melissa Monteiro (Manager) Maeve Brown (African project worker), Suzan Majok (African generalist worker)

**Back row:** Geoffrey Mangwi Mugi (Community Access and Resource worker), Aurelia Rahman (Community Capacity Building Coordinator), Jama Mohamed (Somali worker)

Many refugee parents were struggling with discipline and child welfare issues, again compounded by the pressures of settling in a new country. Parents were often less informed than their children about their legal rights and responsibilities in a family law context. A member of the Iraqi women's association who attended one of the community information sessions, Maha, said:

I'm working with the Iraqi community and concepts about family law. The perception was that the police take the woman and the children or arrest them and the police were feared. The seminars were very good because families now know what steps they need to take in a family dispute situation.

There was a desperate need for more community awareness to build trust in the role of the police and the Department of Community Services because community members were not accustomed to the rule of law.

### Evaluating the project

The project was assessed using the following methodology:

- a debrief meeting with partner agencies
- a debrief meeting with bilingual educators
- individual interviews with staff at the Baulkham Hills Holroyd Parramatta Migrant Resource Centre
- select interviews with community members participating in sessions
- follow-up meetings with Court staff, including the Registry Manager
- a roundtable meeting with senior representatives of participating agencies
- interviews with external agencies, including the Community Relations Commission For a multicultural NSW.

All those consulted were asked what the key strengths, challenges and the benefits of the approach were, and what the implications were for future community engagement strategies.

The Family Court is still working in partnership with the Baulkham Hills Holroyd Parramatta Migrant Resource Centre to gauge community response to the initiative and improvement in the communities' ability to trust the court system.

The Court continues to consult the communities when developing policies that affect them.

### Achievements

Bilingual facilitators were able, in a culturally sensitive way, to reduce confusion about legal services available to communities and increase understanding of federal and state legislation relating to 'the best interests of the child' in particular and family law in general.

One of the Sudanese bilingual facilitators, Geoffrey Mangwi Mugi, witnessed an enormous shift in community perception of the various agencies after facilitating meetings with his community. During the early stages of the project, it was difficult to mobilise community members to attend the meetings. However, as time went on people were happy to attend.

The meetings facilitated stronger networking between the bilingual community educators, community members and government agencies that participated. The bilingual educators became very well known among the partner agencies and began being invited to important functions.

Fifteen facilitators were trained and awarded Certificates of Recognition by the Chief Justice of the Family Court of Australia. A large number of community members were briefed by them. As a result of the community meetings, rights and responsibilities within the family setting are now better understood. Geoffrey Mangwi Mugi said:

Anything to do with the Courts was taken the wrong way before. What is so amazing now is that people have the courage to report domestic violence that did not used to be reported. It has really brought harmony to families and people are living happier lives.

There's a much clearer understanding of what family law means. For instance, people now understand that the custom of polygamy is not allowed in Australia and you must go through a process of divorce before you marry again.

A far stronger relationship was established between the Family Court and communities that were given easier access to information about family law. The project increased networking within communities, and between communities and agencies, resulting in an increased capacity to deal with family law issues by everyone concerned.



## Profile > Cheman

**Cheman** is an Iraqi Kurd who came to Australia in 2000 with her husband and two children.

In 1999 she was forced to flee Iraq because of her activism work with an independent women's organisation. She and her family crossed the border by bus into Turkey where they sought asylum. Life in Turkey was difficult and the family only stayed there for a short time before the United Nations High Commissioner for Refugees granted them refugee status. The Australian Government accepted the family as refugees.

The Family Court project has not only given Cheman much additional information about government services but has also enabled her to help a fellow Iraqi woman living in a difficult family situation. Cheman said:

One woman we're still in contact with is going through a Family Court situation. She's benefited greatly from our assistance. Now we understand how the system works and so we can help her.

photo > **Front row:** Maryam Popal (Afghani worker) Idil Abdullahi (Somali worker), Daniel and Cheman (project participants)

**Back row:** Ahmad, Khadije, Habiba and Maha (project participants)

Partnerships have been enhanced with several universities and international organisations due to presentations at conferences about the project. These included a conference on Refugee Resettlement by the Refugee Research Unit at the University of New South Wales and in South Africa at the World Congress on Children's and Family Rights.

## Challenges

Clarifying the bilingual facilitator's role was difficult as it changed at times from facilitator to interpreter. This problem may have occurred because agency representatives were inadequately briefed on the role of the facilitators.

Many bilingual facilitators found the training process an emotional journey that exposed them to specific legal information and meetings with managers of government agencies for the first time. They commented that there is a need for agencies to think more closely about their own organisations and the need to ensure mutual change. For instance, some groups only respond to oral information and so there is a need for agencies to think beyond merely reading out a PowerPoint presentation.

The biggest hurdle for the Baulkham Hills Holroyd Parramatta Migrant Resource Centre staff was the lack of human resources support and funding. The voluntary involvement of the bilingual workers is not sustainable and funding is needed for a longer-term community education program.

Many materials used in the project had not been translated for all the community languages used in the community education sessions. The project would be improved with more funding spent on translations.

Anecdotally, the men involved have said that it was difficult to accept the differing positions of men and women in Australian society. Traditionally, community elders are consulted and, if something 'bad' happens it is often not discussed as it might affect the family's and the community's reputation.

It is important to make the purpose of the meetings clear. Some participants wanted to challenge particular aspects of the law and did not understand that the Family Court was not in a position to make such changes.

Attendance at some sessions was low and one session was cancelled. Punctuality was an issue because of different cultural concepts of time. However, cost effectiveness can be complex to

measure. A small number of attendees may not necessarily mean the session is wasted if those attending are community gatekeepers.

## Key factors in the project's success

Bilingual workers are often the leaders and gatekeepers in their community and as such play a vital role in encouraging community involvement. They have the trust of their communities and know what the issues are for those communities.

Some of the bilingual facilitators were existing Baulkham Hills Holroyd Parramatta Migrant Resource Centre staff. The profiles of the facilitators were also critical to the success of the project. They included nine men and six women from a mixture of Christian and Muslim backgrounds.

The strong relationships built between the Family Court of Australia and communities through the community consultations were crucial to the project's success, as were the strong partnerships that developed between each agency involved.

## Key messages and advice for setting up a similar project

When setting up a similar project it is imperative to:

- obtain firm funding commitments
- develop strong partnerships with partner organisations and a solid project framework before the project begins
- ensure community workers are well supported
- adjust information delivery to suit age, gender and a preference for oral delivery
- ensure all documents are translated into as many languages as are needed
- simplify some information to make it accessible, as many of the concepts involved are very culturally alien.

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