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FAMILY VIOLENCE **COUNSELLING** SERVICE



Access to justice for migrant and refugee women impacted by violence:
The experiences, barriers and national framework to improve
accessibility to Australian courts and tribunals

Presenters: Maria Dimopoulos and Magistrate Anne Goldsbrough

Maria Dimopoulos – Managing Director at Myriad International Consulting Services

Maria Dimopoulos will provide some context regarding the work of the **Judicial Council on Cultural Diversity** in improving access to justice for migrant and refugee women. She will discuss the national consultations that took place in 2015, resulting in the report: *The Path to Justice: Migrant and Refugee Women’s Experience of the Courts*. The key findings regarding the barriers to access to justice for migrant and refugee women will also be covered.

Magistrate Anne Goldsbrough – Magistrates Court of Victoria

Magistrate Goldsbrough will speak about the objectives of the *National Framework to Improve Accessibility to Australian Courts for Aboriginal and Torres Strait Islander Women and Migrant and Refugee Women*, produced by the **Judicial Council on Cultural Diversity** in 2016. She will also outline the proposed actions in the National Framework and how the implementation of these actions will improve access to justice for migrant and refugee women impacted by violence.

Maria Dimopoulos

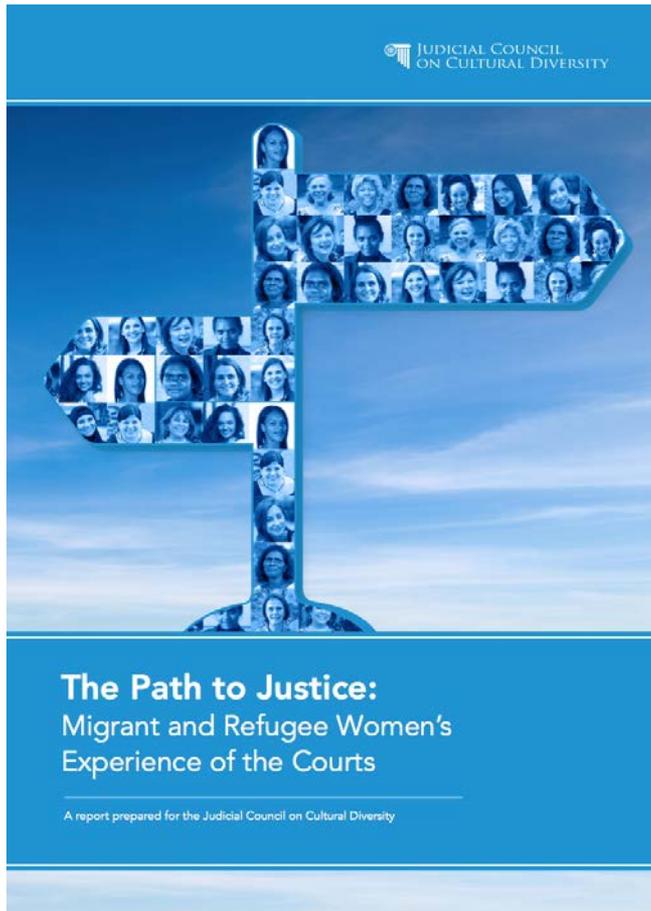
*The Path to Justice: Migrant and Refugee Women's
Experience of the Courts*

CONTEXT

- Australia is one of the most ethnically, culturally and linguistically diverse countries in the world:
 - Nearly 7 million Australians were born overseas;
 - 5 million people in Australia speak a language other than English at home;
 - over 600,000 people have very limited or no English language proficiency; and
 - over 300 languages are spoken in Australian households.
- While Australia benefits enormously from this diversity, it also presents some challenges, particularly in relation to access to justice.
- The **Judicial Council on Cultural Diversity (JCCD)** was established in 2014 in the recognition of these challenges, and with the purpose of developing a framework to support procedural fairness and equality of treatment for all court users and to promote public trust and confidence in Australian courts and the judiciary.

JCCD NATIONAL CONSULTATIONS

- The JCCD recognised the fundamental importance of giving women the opportunity to be heard by the judiciary.
- In 2015, the JCCD held focus groups with women from a range of ethnic, cultural and religious backgrounds.
 - This was the first time that the courts held consultations with migrant and refugee women at a national level.
- The JCCD also held state roundtables with stakeholders from legal services, settlement services and domestic violence services.
- The focus of the consultations was on women's experience of the courts and actions courts can take to improve access to justice.



- The findings from these consultations were documented in: *The Path to Justice: Migrant and Refugee Women's Experience of the courts.*
- The consultations identified a number of barriers that migrant and refugee women face when they reach court.
- A clear finding was that there are also a number of barriers that migrant and refugee women face before they ever reach court.
- Some of the barriers affect migrant and refugee women exclusively, while others are issues that affect many women experiencing family violence.

BARRIERS TO REPORTING FAMILY VIOLENCE

- The key pre-court barriers consistently raised were:
 - lack of knowledge of legal rights;
 - lack of financial independence;
 - the importance of integrated support services;
 - the impact of poor police responses;
 - the impact of pre-arrival experiences and traumatic backgrounds;
 - community pressure on women seeking to protect themselves and their children;
 - uncertainty about immigration status and fear of deportation; and
 - the cost of engagement with the legal system.

COMMUNICATION BARRIERS

- Language is one of the greatest barriers faced by migrant and refugee women using the court system. Limited English proficiency impacts upon women's ability to engage with the legal system at every stage:
 - dealing with police;
 - engaging support services;
 - completing forms and understanding paperwork;
 - communicating with court staff;
 - participating in court proceedings; and
 - understanding court orders.
- The provision of professional, appropriate and skilled interpreters is crucial if the legal system is to respond to the needs of migrant and refugee women.
 - If and how interpreters were engaged, and the appropriateness (or otherwise) of interpreters who were engaged, were key issues.

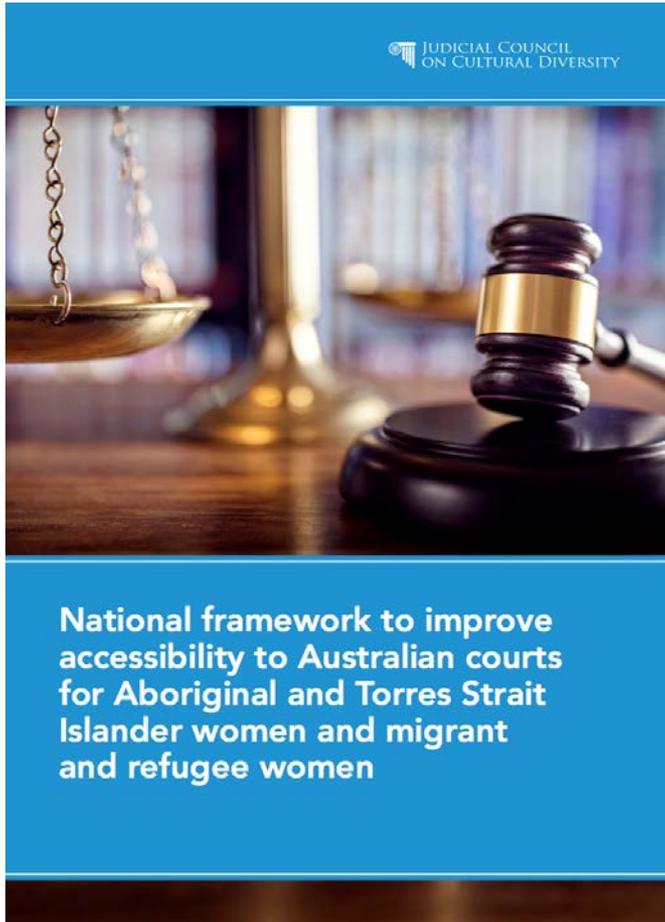
BARRIERS TO FULL PARTICIPATION IN COURT PROCEEDINGS

- A women's experience of going to court could positively or negatively impact her overall recovery from the trauma of family violence or family breakdown.
- The consultations revealed a range of factors regarding the court experience that posed barriers for migrant and refugee women:
 - the intimidating process of arriving at court;
 - safety while waiting at court;
 - lack of understanding of court processes;
 - difficulty understanding forms, charges, orders and judgements;
 - courtroom dynamics;
 - the impact of attitudes and actions of judicial officers;
 - the need for judicial officers to receive cultural competency training;
 - lack of availability of men's behaviour change programs; and
 - abuse of court processes by perpetrators.

Magistrate Anne Goldsbrough

*National Framework to Improve Accessibility to
Australian Courts for Aboriginal and Torres Strait
Islander Women and Migrant and Refugee Women*

JCCD NATIONAL FRAMEWORK



- The JCCD drew on the findings of the consultations with migrant and refugee women, and similar consultations with Aboriginal and Torres Strait Islander women, to develop the *National Framework for Improving Accessibility to Australian Courts for Aboriginal and Torres Strait Islander Women and Migrant and Refugee Women*.
- The National Framework is intended to serve as an aspirational set of principles and best practice guidelines for Australian courts around operational actions they can take to improve accessibility.
- The National Framework has been endorsed by the Council of Chief Justices.

JCCD NATIONAL FRAMEWORK – VALUES AND PRINCIPLES

- The Framework is based on core values to which Australian courts should strive:

Equal justice	Integrity
Fairness	Transparency
Impartiality	Accessibility
Independence of decision-making	Timeliness
Competence	Certainty

- Equal justice** for all court users – regardless of their sex, race, religion, language, or national or ethnic origin – means:
 - culturally diverse women are able to understand and be understood in legal proceedings and having sufficient awareness and understanding of the role of the justice system, how courts work and what protections the law offers them; and
 - courts, judicial officers and staff are free from unconscious bias and discrimination, and have cultural awareness, and an understanding of gendered inequality, gendered violence and the impact of trauma.

JCCD NATIONAL FRAMEWORK – APPROACH

- The National Framework outlines **seven action areas**, based on the Core Values and Court Activity in *The International Framework for Court Excellence* (produced by the International Consortium for Court Excellence):
 - Court Leadership and Management;
 - Court Planning and Policies;
 - Court Resources (human, material, and financial);
 - Court Proceedings and Processes;
 - Client Needs and Satisfaction;
 - Affordable and Accessible Court Services; and
 - Public Trust and Confidence.
- The National Framework's **Proposed Actions** can be grouped into three categories:
 - community engagement and public information;
 - logistics, support and coordination; and
 - judicial education.

COMMUNITY ENGAGEMENT AND PUBLIC INFORMATION

Proposed actions for courts and tribunals include:

- open days and tours for service providers and community organisations;
- community education forums and education sessions for women from migrant and refugee backgrounds on specific issues or court processes;
- regular meetings or court-user forums with key stakeholders;
- regular community visits program; and
- celebrating days of cultural significance.

LOGISTICS, SUPPORT AND COORDINATION

Proposed actions for courts and tribunals include:

- reviewing layout of court, security measures and signage, to improve safety and accessibility;
- encouraging on-site legal services and other support services by relevant agencies;
- separate waiting area for women attending court for family violence matters;
- court forms and brochures available in plain English;
- participation in hearings via video-link available, where requested and feasible;
- engagement of Cultural Court Liaison Officers;
- recruitment of staff from diverse backgrounds;
- establishing a cultural diversity committee;
- collecting data on the demographics of court users;
- assessing court-user satisfaction levels; and
- daily coordination meetings.

Proposed actions for courts and tribunals include:

- Ongoing training for judicial officers and registry and court staff on
 - cultural awareness;
 - core family violence training;
 - jurisdiction-specific family violence training;
 - trauma-informed practice; and
 - working with interpreters.

CONCLUSION

- In summary, the JCCD's National Framework is focused on adapting court policies, procedures and resources, with the aim of improving access to justice and equality before the law for women from culturally and linguistically diverse backgrounds, particularly in the context of family violence and family breakdown.
- Enabling cultural considerations for diverse court users does not provide advantage, rather it provides an assurance that all people in Australia receive equal justice and have equal access to justice.
- For further information, please contact:

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Questions?

THANK YOU FOR YOUR TIME TODAY



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