

No Licence to Abuse in Anyone's Culture, Are We Equal Before the Law

Thao Tran, Marrickville Legal Centre

The myth that violence against women is more likely to occur in some cultures, rather than others, was dispelled in a one day conference organised by the NSW Women's Domestic Violence Court Assistance Schemes' (WDVCAS) Cultural And Linguistically Diverse (CALD) Specialist Workers at Bankstown Town Hall on 30 May, 2007. The need for the conference arose because WDVCAS specialist workers noted an increase in public comments which framed violence against women within a cultural reference; rather than as a global issue which pervades all cultural, religious and socio economic backgrounds.

The No Licence to Abuse in Anyone's Culture conference was well received by the close to 200 attendees. In addition to debunking the myths about racialised violence against women, the conference also addressed the barriers women from culturally diverse backgrounds faced in seeking help. Strategies to combat the traditional, present and emerging trends were then considered in light of these barriers.

Addressing Racism

Dr Christina Ho, a Social Inquiry lecturer at the University of Technology, Sydney questioned the Australian media's portrayal of violence against women as a racial issue. She noted the particular focus on Muslim communities since the 11 September acts of terrorism in the United States and argued that domestic violence transcended all cultures, with no one community having a monopoly on misogyny. Dr Ho warned that by focusing on racial factors, women will often feel reluctant to speak out, for fear of negatively affecting their communities:

When defending women's rights becomes so tightly bound up with an anti-Muslim sentiment in public debate, Muslim women are obviously going to have second thoughts when speaking out about gendered violence because they know that it can simply fall into the hands of racists. It can simply lead to more attacks on their community.

In order to have this free discussion, we really need to reclaim the language of women's rights back from conservative politicians and commentators and try to break the link they have created between defending women on the one hand and demonising cultures on the other.

She called for more responsibility, awareness and open discussion in dispelling these dangerous myths.

The conference also addressed the cultural stereotyping of domestic violence in Indigenous communities and noted that it was a factor in deterring Indigenous women from reporting domestic violence.

Rachel Martin, principal solicitor from the Wirringa Baiya Aboriginal Women's Legal Centre, noted:

What concerns us, is that if this perception continues to inform government policy, service provision and media coverage, and therefore general community views, Aboriginal women will

not talk about the violence they may be experiencing for fear of feeding into the racist assumption that all Aboriginal men are violent.

Overcoming Legal Barriers

One of the aims of the conference was to explore the court's interpretation of cultural difference and the impact this might have on victims of domestic violence. Penny Crofts, senior lecturer in the University of Technology, Sydney Faculty of Law discussed the legal principles of the cultural defence in domestic violence cases, focusing on the partial defence of provocation. She questioned how far cultural differences should be taken into account as a defence to violence against women. She pointed out:

In provocation cases, there appears to be a stark question of choice between recognition of minority cultures and the lives of women [...] legal systems are set up so we can choose between competing values. However when you are talking about recognition of cultural difference, and the choice between that and bodily integrity, you should perhaps choose bodily integrity.

Ms Crofts also argued that the legal system needed to recognise the difficulties faced by minority cultures if violence against women can ever be given justice before the courts:

Minority cultural defences must be situated within a majority framework, which suffers its own inadequacies in response to violence against women [...] Rather than focusing solely on the minority cultures, you also have to look at the dominant culture and perhaps rather than looking outside, we should look inside and have an overall aim of protecting the bodily integrity of women

Another major feature of the conference was identifying barriers faced by women of culturally diverse background when accessing the law and addressing strategies to overcome those barriers. Janet Loughman, Principal solicitor from the Women's Legal Services NSW presented the findings from a recent review of the then ground breaking report, *Quarter Way to Equal* (1994) published by the Women's Legal Resource Centre. The report identified the specific barriers faced by migrant women's access to legal services; and made recommendations to redress such barriers.

Whilst Ms Loughman observed that many of the 53 recommendations from the 1994 Report were being implemented, she said that many of the barriers identified were still prevalent during the 2005 consultative review. Lack of knowledge of the legal system, limited access to interpreters, lack of information about rights and the legal system, financial difficulties and low literacy levels were all identified as continuing barriers faced by the group.

In addition, even though the 2005 review identified that over half of the recommendations had been implemented, Ms Loughman stressed that many of the projects were one off with little follow up. She argued: "The legal system continues to demonstrate little sensitivity to the needs of these women, either in the provision of culturally appropriate services or in the dissemination of information about the legal system and how to access those services."

Emerging Trends and Strategies

Keeping to the theme of addressing access barriers, the conference also held a panel discussion consisting of six members from various organisations including the NSW Police; Indigenous Legal Services; the NSW Community Relations Commission; the NSW Violence Against Women's Unit; NSW court services and community groups.

The aim of the panel was to recognise the achievements of their organisations in the past five years in helping women survivors of domestic violence from culturally diverse backgrounds overcome the legal barriers they faced. The panel also aimed to tackle the difficult question of determining the plans needed to address the new and emerging trends over the next few years.

The issue of non-reporting of domestic violence by women from diverse cultural backgrounds was raised by Amnesty International speaker, Coral Dixon. Ms Dixon, highlighted how emerging migrant groups for example, from the Sudan and Sierra Leone had been subjected to violence associated with war as well as domestic violence:

Women from these and other countries bring with them an expectation that men, that officialdom, that family, that law, may not protect them. [...] they must wonder what sort of protection will come to them if they seek help from the legal system here in Australia.

Another access barrier often faced by organisations, such as the courts and police was the lack of available interpreters who spoke languages from new and emerging communities.

Frances Breen, registrar from Hornsby Local Court noted: 'constant evaluation of the need for translated material to match client group needs is always a challenge'. Ms Breen identified Farsi, Somali, Swahili, Kurain and Pushto as emerging languages where interpreting services were often limited. She said: 'Along with changing language trends comes the emergence of different cultural awareness needs, the recognition of continuing education of groups and the identification of needs of service providers to be educated about domestic violence issues.' In particular, Ms Breen said that Hornsby Court staff have been establishing links with the local Migrant Resource Centre to assist in organising information sessions for the emerging Afghan community in the area.

Despite the common awareness of the difficulties faced by women from minority groups, the panel identified the lack of funding and resources as an ongoing issue.

For many women from Aboriginal communities, lack of resources has been a constant barrier to access to justice. Women's legal centres such as Wirringa Baiya, which is a state wide service, are only able to employ five workers; three of whom are part time. Ms Martin pointed out:

While we assert that more money needs to be invested into Aboriginal-owned and managed services to tackle violence, please don't assume that Aboriginal services and workers have magical quick-fix solutions to stopping domestic and sexual violence [...] The focus of these programs must have long-term goals, with long-term funding, not pilot program with the life of one or two years.

Other strategies identified as being useful in redressing legal access barriers for women from diverse linguistic and cultural backgrounds included running awareness campaigns such as “Stop Violence Against Women Week” and “White Ribbon Day”. Resource projects aimed at educating new communities, such as the “Safe Families Kit” and the “Family Harmony Project” developed by the NSW Strategy to Reduce Violence Against Women were also useful in assisting newly arrived migrants learn about Australian laws.

Concluding Comments

The final presentation of the day was delivered by the Assistant Commissioner of NSW Police, Reg Mahoney. He introduced the new NSW State Plan as a ten year initiative, where for the first time, police would become a lead agency in driving down domestic and family violence. He said:

I think the State Plan gives me a lot of optimism. It's not just a paper, it's a ten year plan. [...] I know we all get frustrated and we can blame the system and everything about the system. But what's the good in that? I look at the future very optimistically because people like you are here

Whilst all panel members recognised more long-term focused improvements were needed in their organisations, they remained optimistic and implored groups and funding bodies to assist them in meeting this goal.

Organisers and sponsors

The No Licence to Abuse Forum was organised by the NSW WDVCAS Training and Resource Unit and the CALD Specialist Workers from the Bankstown; Liverpool; Burwood and Marrickville areas of Sydney. The organisers take this opportunity to recognise the financial assistance and support of the Bankstown Council; the NSW Strategy to Reduce Violence Against Women; the WDVCA Unit at the NSW Legal Aid Commission; Women's Legal Services NSW; Creating Links Co-operative; Marrickville Legal Centre; the Burwood Community Welfare Centre and South West Sydney Legal Centre.

Conference organisers are preparing a report about the forum, which will include participatory analysis, speaker presentations and recommendations for future development. An executive summary will also be published and distributed widely in early 2008. For further information about the forum or report please contact Toni Brown, WDVCAS CALD Specialist Worker Marrickville Legal Centre on phone (02) 9559 2899.