



**NATIONAL ETHNIC
DISABILITY ALLIANCE**

***Perspectives of
People with Disability
from non-English
Speaking
Backgrounds Living
in Australia (2012)***



This publication has been prepared by National Ethnic Disability Alliance Inc. for the Australian Government, represented by the Department of Families, Housing, Community Services and Indigenous Affairs. The views expressed in this publication are those of National Ethnic Disability Alliance Inc. and do not necessarily represent the views of the Australian Government.

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Abbreviations:

CRPD – UN Convention on the Rights of Persons with Disabilities

PWD – People with Disability

NESB – non-English speaking background

1. Introduction

NEDA estimates that people from non-English speaking background (NESB) with disability comprise 1 in 20 Australians, or approximately 1 million people. This estimate was based on the assumption that 1 in every 4 Australians with disability is a person of either first or second generation NESB. According to the broad finding from Survey on Disability and Aged Care (SDAC), there are approximately 4 million people with disability in Australia. Following this, NEDA's estimation of 1 million people from NESB with disability comprises of one quarter of all Australians with disability. This makes people with disability from NESB the second largest cohort of people with disability, after women.

People from NESB with disability sometimes experience multiple layers of discrimination resulting in isolation and exclusion. They may also face some significant barriers such as a lack of information regarding their human rights, availability of support services and misconceptions in the general community.

During the preparation of this report, NEDA conducted human rights education workshops nationally. The workshops were initiated to identify the needs of people from NESB with disability, make contact with the communities, and to obtain feedback from them in order to understand their needs. This report outlines the findings and recommendations from the research and consultations processes during the workshops and; represents the perspectives of the workshop participants. NEDA obtained funding from the Commonwealth Attorney-General's Department to facilitate the human rights education workshops across Australia in 2011 for people from NESB with disability.

The purpose of this paper is to:

- Highlight the perspectives of people from NESB with disability;
- Identify ways and strategies to implement and increase their participation and;
- Better understand and manage social and cultural factors affecting people from NESB with disability.

1.1 About NEDA

The National Ethnic Disability Alliance (NEDA) is the national peak organisation representing the rights and interests of people from NESB with disability, their families and carers throughout Australia. NEDA is funded by the Commonwealth Department of Families, Community Services and Indigenous Affairs (FACSI) to provide policy advice to the

Australian government and other agencies on national issues affecting people from NESB with disability, their families and carers.

NEDA actively promotes the equal participation of people from NESB with disability in all aspects of Australian society. In states and territories where no NESB disability advocacy agency exists, NEDA undertakes development work to establish a structure that can support people from NESB with disability, their families and carers.

1.2 Background

A total of 52 participants attended the workshops across Australia. While this is a relatively good turnout, NEDA feels that the participation rate could have been higher. However, this was limited by time and finance, and great effort and time were needed to reach people from NESB with disability.

Participants included people with physical and intellectual disability, people with vision impairments or who are blind, people who are deaf or have hearing impairments, people with psychosocial disabilities (mental illness), people with acquired brain injury or who have HIV/Aids. All age groups, newly arrived migrants, families, service providers, community representatives and advocates were welcome.

1.3 Objectives of Workshops

The main objective of the human rights education workshops was to provide information on human rights with emphasis on articles of the *UN Convention on the Rights of Persons with Disabilities (CRPD)* relevant to people from NESB with disability; and to relate to positive and negative life experiences of people from NESB with disability. Many participants cited living in Australia as one of their best experiences. They felt they were much better off in Australia than they would have been in their home country. While life is not perfect in Australia many participants felt their rights were better recognised and they were more respected than in their former country of origin.

However, legal issues relating to safety and security were raised. Inadequate housing was another recurring predicament raised throughout the workshops.

Discussion topics for the workshops were developed by reference to the CRPD on the assumption that they were relevant to people from NESB with disability and their carers, family and community. These topics include:

Article 5 - Equality and Non-Discrimination

Article 19 - Living independently & being included in the Community

Article 23 - Respect for Home & the Family

Article 24 - Education

Article 25 - Health

Article 27 - Work and Employment

Article 28 - Adequate Standard of Living & Social Protection

Article 29 - Participation in Political & Public Life

Article 30 - Participation in Cultural Life, Recreation, Leisure & Sport

To make sure that important issues other than those mentioned through the *UN Convention on the Rights of Persons with Disabilities (CRPD)* were captured at the workshops, participants were encouraged to start discussions and the facilitators asked them to share their positive and negative experiences.

In February 2012 NEDA submitted a response to the *National Disability Strategy 2010-2020: Report to the Council of Australian Governments 2012: Laying the Groundwork 2011-2014* report. This report was drafted as an Implementation Plan for the first four years of the National Disability Strategy and it highlights initiatives in six areas of policy action: inclusive and accessible communities; rights protection; justice and legislations; economic security; personal and community support; learning and skills; and health and wellbeing. This report marked the first time in which it was suggested that social inclusion be incorporated into a specific policy strategy and targeted outcomes for each population group throughout every policy area.

NEDA's key recommendation was to promote and encourage the inclusion of people from NESB with disability. In doing so, these workshops were important to promote the social inclusion of people from NESB with disability and their active engagement in the policy development process.

Throughout the workshops, participants were encouraged to raise their experiences by reference to the above topics and indicate how the full and effective participation and inclusion of people with disabilities can be achieved.

Overarching the sections covered in the CRPD is Article 3 – General Principles which details the following:

- a. Respect for inherent dignity, individual autonomy including the freedom to make one's own choices, and independence of persons;
- b. Non-discrimination;
- c. Full and effective participation and inclusion in society

- d. Respect for difference and acceptance of persons with disabilities as part of human diversity and humanity;
- e. Equality of opportunity;
- f. Accessibility;
- g. Equality between men and women; and
- h. Respect for the evolving capacities of children with disabilities and respect for the right of children with disabilities to preserve their identities.

2. Article 5 – Equality and non-discrimination

This section recognises the rights to equality and non-discrimination for people from NESB with disability, as provided for in Article 5 of the CRPD. This Article obliges signatory countries to grant people with disability equality ‘before and under the law’, and ensure legal and effective protection against discrimination on the basis of disability and the assurance of equality.

People from NESB with disability may face barriers to the full enjoyment of human rights. In order to evaluate how people from NESB with disability felt they were being treated, and if their rights were protected adequately and equally, workshop facilitators asked the participants “Do you feel you were treated fairly?”

The majority of participants responded by recalling incidents where they were unfairly treated. Others related incidents of discrimination and unfair treatment when they were detailing their positive and negative experiences.

2.1 Violation of Respect and Dignity

According to workshop participants, Australia has a long way to go to achieve equality and non-discrimination for people with disability. Participants reported significant violation of respect and dignity, leaving them feeling undervalued, “under-utilized” or their talents and skills unrecognised.

A common sentiment expressed by workshop participants was that “people assume that you are mentally incapacitated because you have a physical disability” and tended to ignore and behave in a patronising manner to them.

Another participant with physical disability and speech impairment expressed that potential employers assumed he lacked intellectual capacity and offered only basic manual jobs “such as fitting screws into holes”. Despite completing a degree at university, the participant felt demoralised and devalued.

Participants living with deafness reported of being isolated and having no access to the general community. For example, their needs are often not considered when it is necessary to publically broadcast information, such as for emergency warnings and airline announcements.

They further commented that deafness is still strongly viewed in the health services sector as an illness. They cited an example where a Businesswoman of the Year award winner likened deafness to a “scourge like polio” in her acceptance speech. Participants suggested that the award be withdrawn and an official complaint be submitted with Australian Human Rights Commission.

Some participants with disability and their carers/ family members also felt discriminated due to their skin colour and/ or lack of English proficiency.

- A person from NESB with hearing and speech impairment was temporarily arrested for failing to follow instructions of a train ticket inspector. The person in question was in possession of a valid ticket and pensioner card at the time. This demonstrates a complete lack of insight and good will by the inspector.
- One participant was mistaken for a drug dealer in Sydney. He was approached by 2 police who conducted a body search on him at the bus stop while he was waiting for a bus, without any consideration of his privacy in which he was later taken into custody.
- Another participant revealed that he was beaten at a bus stop. Hospital staff advised him that they would not file a report to police on his behalf as they assumed he was drunk at the time. The participant felt that hospital staff came to this conclusion due to his speech impairment, a result of his disability; he also has a strong African accent.

These experiences have left an unforgettable mark on the some of the participants who reported that they continue to suffer from anxiety and post-traumatic stress disorders long after the event. This is inconsistent with Policy Direction 2 under Outcome 2 of the *National Disability Strategy (2010-20)*, which strives to “remove societal barriers preventing people with disability from participating as equal citizens”.

To make matters worse, participants who reported such incidents felt powerless and felt that nobody had listened to their needs and concerns. Some participants expressed they lacked an understanding of the legal system due to their limited English skills and low level of education, some refugees that they were fearful of the police and the legal system given their previous experiences from their home lands and travels.

2.2 Recommendation 1: Promoting the rights of people with disabilities

Throughout the workshops participants continually emphasised that “education was key to alleviate discrimination on the basis of disability.” The education process needs to be suited for people with disability but also for the wider Australian community. People with disability need to be educated about their rights and entitlements.

Disability rights education should be taught using formats, languages, material and methods appropriate to various disability types. For instance, disability rights can be taught using pictures and icons; also specific situations can be acted out and role-played for people with an intellectual or cognitive disability. These above mentioned processes and formats have been widely used and assessed as appropriate forms of communication as represented and used by the Australian Electoral Commission.

Discussion sessions and information in braille or large print would be suitable for people who are blind or vision impaired. Interpreters need to be provided to assist a person from NESB with limited English proficiency to learn about their rights, as for people who are deaf and people from indigenous backgrounds.

A participant from the Perth workshop asserted that people with disability need to learn human rights values to defend themselves against incorrect assumptions and perceptions of disability that are widespread in society.

Most participants at workshops felt their rights were largely taken into consideration by the Australian society attributed this success to their high level of knowledge about their rights. They maintained that knowledge of their rights provided them the power and strength to stand up for their rights.

When promoting the rights of people with disabilities, disability awareness must be taught at primary and secondary schools and incorporated into higher education courses such as at technical colleges and universities. It is important for people to understand disabilities to have better knowledge about people with disabilities and foster positive attitudes. It is also suggested that university courses, particularly for legal and health related studies, should include disability awareness and training as a core unit.

While the movement towards ethics studies within some public secondary schools is to be applauded, greater work needs to be done within the education sector. In particular, regard needs to be had to the allocation of resources and the training of staff to deal with people from NESB with disability and to create cultural sensitivity within schools, for both students and teachers alike. NEDA would also welcome an expanding of the English as a second language programme within TAFE colleges and secondary schools nationwide.

The disability pages on the Australian Human Rights Commission website provide information and educational materials for schools; and educational materials specific to people with disability. Visit <http://www.hreoc.gov.au/education/index.html>

NEDA understands that disability education at schools is currently at the teacher's discretion, however NEDA argues that it should be compulsory as we are all subject to acquiring a disability or having a child with disability.

2.3 Recommendation 2: Incorporating needs of people from NESB with disability

NEDA acknowledges that education is already included as part of 'Area for Future Action' but emphasizes the needs of people from NESB to be considered. Incidents raised by participants in this paper demonstrate that the needs of people from NESB with disability are not adequately addressed; their carers and/or family members are not considered satisfactorily in any of the 'Areas For Future Action in Outcome 2' of the National Disability Strategy 2010-2020.

To better protect the rights of people from NESB with disability, NEDA suggests the following:

- to ensure that people from NESB with disability are aware of the role of the Australian Human Rights Commission in resolving complaints, in which they provide foreign language interpreters for people from NESB wanting to learn about their rights or seeking redress for wrongful acts done to them;
- better use of ethnic media to promote disability rights; and
- a more diverse use of the previously mentioned communication tools ie: easy-English, pictograms and the like in order to better inform those people with a disability from NESB.

2.4 Recommendation 3: Advocating for people from NESB with disability

It is very difficult for people with disability, particularly those from NESB, to make a complaint under the Disability Discrimination Act 1992 (DDA). This is made worse by the lack of confidence in the legal system, difficulties in gaining access to legal services and information. These factors contribute to the inaccessibility of the complaints system for people from NESB with disability.

It was mentioned earlier in this section that some participants who experienced serious violation of their rights and dignity could not get their voices heard and were discouraged from taking action. People from NESB with disability need to know what their rights are and to realise that systematic advocacy is available to get their issues heard and resolved.

NEDA recognises that the Australian Government does fund a number of disability advocacy agencies to provide legal advocacy for their clients, and funds a number of legal aid services. However, while disability advocacy agencies are able to educate individuals on self-advocacy and their human rights and self, refer them to legal aid organisations that may better support them, it was noted that advocates are too often inundated with work and the lack of time to provide necessary support for people with NESB with disability.

NEDA strongly recommends that disability advocacy agencies provide legal advocacy for their clients, particularly for organisations supporting people from NESB with disability. Some participants felt that because they are from a different race or country, they are not taken into consideration by advocates and authorities in Australia.

Advocates should be permitted to submit complaints on behalf of people from NESB with disability and other disadvantaged groups. Some participants whose rights were violated, mentioned that submitting a complaint was too stressful as they either did not possess English proficiency or did not know the legal system in Australia; and felt that the issues they faced were not of importance.

Finally it is widely reported that many people with disability live in poverty and they are unable to afford to hire a lawyer to represent them if their case goes to court. A media release published by Price Waterhouse Coopers (PWC) Australia in November 2011 claims that “Currently almost one in two people with a disability in Australia live in or near poverty (45%)”. Source available at <http://www.pwc.com.au/media-centre/2011/disability-in-australia-nov11.htm>

Legal aid centres, community legal centres and citizens' bureaus provide low cost and free legal advice and advocacy services but often do not have the capacity and resources to assist all individuals. However, often the services provided are limited to a specific field, such as family or immigration law assistance, and are often restricted by having only a limited number of legal professionals available to assist.

Legal representation is important in order to get a fair hearing. A good example is the case of Jetstar Airlines refusing a customer, Mrs King, who is a wheelchair user to board the flight. The airline company justified its refusal by claiming unjustifiable hardship as the company has a two-wheelchair policy where it could only carry two wheelchair users per flight. Details of this incident can be found on <http://www.disabilitydirectory.net.au/blog/2012/01/16/fact-and-fiction-in-king-v-jetstar-airways>

Although unsubstantiated, Jetstar used arguments and data to successfully demonstrate to the court that carrying more than two wheelchair passengers on flights poses an unjustifiable hardship as it causes the flights to delay and thus results in a loss of profit of up to 72%.

On the other hand, Mrs King was assumed to only bear the costs of \$40.00 if she had agreed to book another flight. Yet the cost of Mrs King forgoing the particular flight she had booked was not taken into consideration. Nor was the fact that low cost airline companies in Europe and the US do not have a two-wheelchair policy on each aircraft. Instead she was reprimanded for not ticking the box for 'special needs' when booking the flight online. In contesting for her case, Mrs King engaged a legal adviser. From this incident, NEDA recommends that the Australian Government provide legal representation for people with disability at an affordable cost or free of charge.

2.5 The Treatment of People with Disability in Australia's Migration System

The treatment of people with disability under the Australia's migration system was another issue raised by many participants. People from NESB with disability feel they do not enjoy the same human rights as others in the community. In Australia's migration system, migrants with disability and their family members are routinely rejected and refused entry into Australia due to potential costs associated with the disability. In this sense the Australian government's laws and policies openly discriminate against migrants with disability and their family members.

Some participants who were parents and carers of a child with disability and who had arrived in Australia on a visa with work rights raised these inequities in the immigration system. In spite of both parents working, paying their taxes and being good citizens, their children with disability were refused access to those government funded or subsidised support services necessary to develop their child's life skills or education. Instead they were required to personally finance their child's education, support services, healthcare, and other needs. This placed great pressure on the parents and the financial pressures meant both parents were forced to work as opposed to one remaining in a carer role.

Some respondents felt that the working conditions for parents with dependent children with disability are unacceptable by Australian standards. Both parents are often required to work long hours and often on the weekends to meet their financial commitments. These parents

get no respite and no time for themselves due to the difficulties that they face when they leave their children with challenging behaviours in the care of neighbours or babysitters.

They also felt that their working situation was further compromised by their family obligations and the complications caused by English being a second language, this made it difficult for them to explain their situation to their employer.

Many skilled migrants obtain their permanent residency in Australia and most go on to become valued Australian citizens. However, individuals with disability and families who have one or more members with disability must satisfy strict health criteria that discriminate against persons with disability. For some health criteria the officer at the Department of Immigration and Citizenship (DIAC) has a discretion to waive certain health requirements but as a general rule this is only exercised in rare circumstances. The only option for someone that fails this requirement is to appeal to the Minister personally to exercise his discretion to grant the person a visa despite this. This can be a very long and complex process for the individual concerned with a great deal of uncertainty given the very low prospects of success.

For this reason, visa applicants with disability or family members with disability require strong advocacy and a high level of migration/legal advice in order to overcome this threshold. Not all individuals have access to these resources and as a consequence many individuals are refused permanent visas for reason of them or their family members not meeting the health criteria. These factors make the immigration system unduly discriminatory.

One participant with disability recounted his endeavours to obtain permanent residency in Australia. He arrived as a student and became the first blind person to be employed as a teacher in South Australia. However, his application for a permanent residency visa was declined due his disability being assessed to be too costly for the Australian government and community. There were no considerations of his skills and contributions. Meantime, his nephew who had arrived in Australia around the same time and completed his studies was granted permanent residency. Dr T was given a removal notice that was withdrawn as a result of public pressure. Growing public attention through media coverage on popular news and current affairs programs eventually culminated in Dr T being granted a temporary work visa.

Dr T has been continually employed since he obtained his temporary work visa. He has no option but to work not only in order to purchase his basic needs such as food and accommodation, but also to buy the assistive technology he requires to perform his employment duties. Only permanent residents after their first 10 years of residence in Australia, and Australian citizens with disability, are entitled to Access Employment Funds (AEF) to purchase equipment and support the person with disability requires to carry out his/her role. Further, as his visa is only temporary he is unable to secure permanent work.

Although Dr T is heavily involved in various community organisations, enjoys his work and is passionately determined to improve the lives of people experiencing disadvantage, this carries little weight in his endeavours to obtain permanent residency in Australia. To make matters worse, Dr T has also been denied unification with his children. Subclass 457

temporary work visa holders who do not have disability are often permitted to bring their dependents to Australia, but this right has not been extended to Dr T.

Blatant discrimination such as this that Dr T has stated as experiencing leaves him feeling unvalued and disrespected. By this process he is further isolated from his family and offered little hope; causing him much angst, loneliness and a greater feeling of loss via his separation; all of this impacts on his health and further and compromises his ability to live well.

In spite of his educational achievements, voluntary work and employment, in the eyes of the Australian immigration system, Dr T's disability is fatal to his desire to settle permanently in Australia and prevents him from being considered an equal to other visa applicants.

The health criteria in the migration legislation view all forms of disability as a burden regardless of the abilities of the person. This is justified by scarcity of resources and an assumption that a disability will be an exorbitant cost to the country without consideration of the gains to the community.

In 2008 NEDA sought legal advice on the consistency between the CRPD and key issues affecting refugees and migrants with disability. The advice was provided by human rights barrister Dr Ben Saul, Director, Sydney Centre for International Law. The advice provided as follows:

Health requirements under migration law are permissible under human rights law in order to safeguard scarce medical resources.

However, it is clear that the current health assessment may give rise to unjustifiable indirect discrimination against refugees and migrants with disability.

Indirect discrimination against refugees and migrants with disability may occur because the threshold of the health test is set too low to adequately balance the interests of non-discrimination against people with disability with the preservation of scarce health resources. The threshold is set at \$21,000, which is a very low level, and arguably not threatening to the health system over the lifetime of the individual.

Indirect discrimination against refugees and migrants with disability may also occur because the evidentiary requirements are not sufficiently strong, for example in relation to quantifying the future costs to the community of illness or disability.

Finally, indirect discrimination against refugees and migrants with disability may occur by inadequate procedures to take into account an applicant's ability to pay for the costs of their own disability or illness.

NEDA calls for individuals with disability to be treated fairly under the Australian migration system by extending the application of the *Disability Discrimination Act 1992* (DDA), or any other equivalent Act that may replace the DDA in future, to the *Migration Act of 1958* and Migration Regulations 1994 and the recognition in legislation of the interpretive clause imposed on Article 18 of the CRPD.

Minister Chris Bowen and the Department of Immigration and Citizenship has relaxed the health requirement assessment and made recent changes in immigration law by introducing the net benefit approach in November 2012. NEDA acknowledges the Government's efforts in addressing and responding to the recommendations made by the Committee, but we believe that there still needs to be rigorous investigation on the feasibility of these reforms.

2.6 The treatment of newly arrived migrants and permanent residents with a disability, through the ten-year qualification gap for eligibility to the Disability Services Pension (DSP)

Except for those migrating on humanitarian grounds, all migrants to Australia must wait two years before they can access income support. However, migrants with disability have to wait for the “10 years qualifying Australian residence” specified by the *Social Security Act 1991* (s.94) in order to access the Disability Support Pension (DSP).

Once again NEDA refers to the CRPD to highlight this discriminatory practice. Legal advice released by NEDA in July 2008 provides that the ten-year qualifying period for the Disability Support Pension creates:

- a barrier to social and economic participation; and
- a barrier to services

A Lebanese participant who attended the workshop in Adelaide told of her situation having not yet completed her ten years residence in Australia. Because she is ineligible for the DSP and related services, she has no income and is unable to access a Disability Employment Service (DES) to assist her in seeking employment. She relies on her sister and brother-in-law, with whom she resides, to transport her to the hospital and other appointments, as she cannot register for the Home and Community Care (HACC) transport services. The participant has no social network other than her sister, is isolated and is mostly confined to her room, and hence has no social inclusion.

The 10 year waiting period for the Disability Support Pension interferes with the human rights of: an adequate standard of living and social protection under article 28 of the CRPD; the right to health under article 25; and in certain circumstances may be contrary to inhuman and degrading treatment provisions in article 15. In regards to this, NEDA recommends for the Australian social security system remains fair and equitable for individuals from NESB backgrounds with a disability.

NEDA has released a report entitled ‘Migrants with Disability and the 10-Year Qualifying Residence Period for the Disability Support Pension’ based on Australian Bureau of Statistics data in which it is estimated there is unlikely to be more than 5000 migrants with disability in Australia who have been excluded from DSP entitlement as a result of the 10 year eligibility period. This is a relatively small number and represents only a small proportion of the total expenditure by the Australian Government on the more than 700,000 Australians who currently receive the DSP.

While there is a 10-year qualifying residence period, NEDA acknowledges that if the disability occurred in Australia while the person was a holder of a permanent visa, the

person is exempt from the 10-year qualifying residence requirement for the DSP. However, NEDA still believes that the 10-year qualifying residence requirement for the DSP remains unequitable.

3. Article 29 - Participation in Political and Public Life

This article grants people with disability the right to full participation in political decision-making such as voting and “free expression of the will of persons with disabilities as electors”. It also extends to the right of persons with disability to join and participate in organisations of their choice including those supporting people with disability.

Participants with a good command of English reported to fully enjoying their right to vote in Australian state and federal elections. They obtain relevant information from television, newspapers and the Internet. They said they were actively involved in Australia’s political and public life through activities including:

- Voting at State and Federal elections
- Volunteering at community organisations
- Employment and Study

On the other hand, participants who had limited or no English skills admitted that they did not feel included in Australia’s political life. Some participants at the Adelaide workshop were not aware of the Telephone Interpreter Service that is available for free during Federal elections. They also felt that political parties were unapproachable unless there is an election.

While some participants felt safe to join political groups and community organisations, many lacked the confidence or were not made welcome to do so. For instance, one participant was asked to leave a socialist party meeting in Carlton because of a “difference in opinion”.

Some participants felt that their voices were not being heard and when it is, it is not taken into consideration. Those who approach authorities like their local parliamentarians, reported of being disposed to other people and organisations and not having community access or participation.

Individuals reported that they receive a better understanding through advocacy bodies and yearned to be treated with respect as an individual with disability.

3.1 Recommendation 6: Solidarity of ethnic and disability groups and organisations.

Currently, ethnic and disability groups work in isolation and networking between organisations is limited. Participants highlighted the lack of unity between the ethnicity and disability sectors, and further emphasized that they do not receive legal assistance and information on disability/ethnicity support services.

It is suggested that a collaborative relationship between ethnic and disability groups sharing resources and information will render both the disability and ethnicity sectors to be more effective in the delivery of supports and services to clients.

Participants emphasised that ethnic communities need to be more supportive towards people with disability and in their fight for availability of public information in accessible formats such as braille, audio and alternative languages.

Likewise, the disability sector needs to advocate for the inclusion of people from NESB with disability, particularly in data collection. Currently data on ethnicity is largely deduced by a person's country of birth. However, given the low number of people with disability permitted to migrate to Australia, this measure is not very reliable. Many people from NESB with disability are born in Australia but their needs are not recognised because they are not recorded as being from an NESB. It is recommended that recording the parents' place of birth would provide a better representation of people from NESB with disability.

NEDA has been lobbying for the Australian Government and its various instruments, such as the Australian Bureau of Statistics (ABS) for better collection of data pertaining to people from NESB with disability. Participation of disability and ethnic organisation is recommended too.

3.2 Recommendation 7: The Australian Government to conduct research in ways to encourage and maintain participation in civil life.

These days, there is plenty of information available in alternative languages on the Internet. However, participants at the workshops noted that not everyone has access to the Internet and suggested that the government better utilise ethnic media to convey information about important developments in the community.

NEDA maintains that research needs to be conducted into good practises where people from NESB with disability enjoy full participation, as well as in ways to disseminate information to people from NESB with disability.

The inclusion and participation of people from NESB with disability in civil life would help to build more inclusive and diverse communities, and break down barriers and promote better understanding.

3.3 Recommendation 8: The Australian Government recognises and fund peer support groups of people from NESB with disability

Many people with disability who are also disadvantaged by nature of their cultural and linguistic diversity, indigenous background and socio-economic state tend to have lower self-esteem and are less likely to have the motivation to participate and contribute to their communities. However, encouragement in a supportive, non-threatening and friendly environment where people with disability can get together can help to build a person's self-esteem and confidence. This in turn makes them more amenable to becoming part of their cultural, linguistic and other communities.

Evidence would suggest that including linguistic support in funding programmes is another important means of ensuring people from NESB with disability take up services and are encouraged to participate in the wider Australian community. Linguistic support is also vital for people who are deaf and indigenous Australians.

An unpublished evaluation report commissioned by the Ethnic Link Services (ELS) in Adelaide on the Spanish speaking groups found that these groups benefited their members significantly. The Northern Spanish speaking group comprised 25 participants and the benefits of the group to members by members were ranked as follows:

- “I am more active in the community and get involved in things – 17 responses”
- “I feel happier – 15 responses”
- “I have learnt new things – 14 responses”
- “I feel more confident – 13 responses”
- “I feel less lonely – 12 responses”
- “I feel physically better – 11 responses”

This is a clear indication that well-run peer support groups are a platform from which disadvantaged people, in this case through low English proficiency, age and disability, can benefit in many ways physically, mentally and socially. In turn, group members are inspired and encouraged to participate in their communities.

The success of this group is further augmented by the participation rate, “23 of the 25 or 92% (of participants) indicated that they attended every session of the fortnightly group meetings in the North”. The most valued outcome cited by participants was “being able to speak in one’s own language and the exchange between Spanish speaking friends, especially the sharing of ideas and opinions”.

The ELS also runs a group for African women. This group is not language-specific but their geographic commonality brings the women together. These benefits to group members have spurred ELS to continue funding the group in spite of difficulty.

4. Article 30: Participation in Cultural Life, Recreation, Leisure and Sport

This article relates mainly to sports, recreation and the arts. Section 4 of Article 30 asserts “Persons with disabilities shall be entitled, on an equal basis with others, to recognition and support of their specific cultural and linguistic identity, including sign languages and deaf culture.” Further support for cultural diversity is mentioned in Section D of Article 3, which demands “Respect for difference and acceptance of persons with disabilities as part of human diversity and humanity”.

Workshop participants defined cultural participation as:

- Being understood
- Opportunity to establish links with one's own culture
- Freedom to access an interpreter when and as required
- Knowledge of where to go, "Who to approach when you need anything".

At the workshops, people from NESB with disability reported that they are not able to fully participate in their cultural/linguistic community due to the following reasons:

- Information is not available in alternative formats or in alternative languages.
- Cultural venues are not accessible for people with disability to access buildings where cultural activities occur.

While some cultures are accepting of disability, others are not. There is a lack of awareness and information about disability in these cultural groups. In such cultures, the attitude toward disability is negative and people with disability lack confidence, self-esteem and self-worth.

However, some participants felt that Australia is less accepting of disability than their country of origin. One Filipino couple reported that they felt included when they attended church in the Philippines.

They could take their son with them, who has autism, and the priest would be accommodating towards their son. On the other hand, in Australia, they feel that the church officials are not accommodating. This frustrates the autistic child who responds with behaviour that is disruptive to church goers during the mass. As a result, the parents feel embarrassed and church activities are no longer enjoyable to them and they now refrain from going to church to avoid 'embarrassing' situations.

The parents also reported that people in the Philippines had more acceptance and tolerance for their son in public places, such as supermarkets. For instance, when he grabbed an item from the shelf or screamed, shopkeepers would be alarmed, but when they were aware of his autism, they were undisturbed by his behaviour and even offered him chocolates. Here in Australia, the parents feel that people show a lack of understanding when they are informed of the child's disability, and they treat him with disdain and suspicion until he leaves the supermarket.

Participants from Somalia at the Brisbane workshop demonstrated a strong sense of community. People with disability were taking on roles in Somalian community organisations. The president of the Somalia organisation, who did not have a disability, was also present at the workshop. This rarely occurs at an NESB/CALD disability event, but it reflects the support that the community has towards disability organisations. For example, a Sudanese participant at the Alice Springs workshop reported that Sudanese music plays a motivating role in his life. He plays music with the Salvation Army and finds it very helpful in coping with his mental illness.

People from the African communities commented that it was difficult for them to socialise outside their ethnic group due to discrimination and racism that they face. This often meant

they are unable to gain access to information about life in Australia. While some participants felt they had good awareness of advocacy services, others felt that they had a serious lack of information in areas such as respite care.

Likewise, some participants felt they had good awareness of advocacy services but others felt a serious lack of information in areas such as respite care.

Some participants raised the importance of the availability of interpreting services for political, public, community and cultural affairs etc. One participant remarked, "I cannot survive without them [interpreters] in certain situations".

4.1 Recommendation 9: Compile an information kit about disability services and ethnic groups existing in Australia.

For many people from NESB with disability, accessing information about disability services can be problematic. The introduction of an information kit will be useful and can be used by both newly arrived migrants and refugees; and it would contain disability-specific information about life in Australia and where to seek supports and services.

Introducing an information kit can help to remove language and structural barriers that people from NESB with disability face in gaining access to disability support services. It is recommended that a range of media such as ethnic radio, press, and information workshops be used.

Participants advised that people from NESB with disability must be consulted in this initiative. Often governments make decisions without consulting the community, rendering the projects largely unsuccessful.

4.2 The Australian Government needs to extend free English lessons

Several participants at workshops reported that they were unable to benefit from the free English lessons, as they required more time. DIAC currently provides the Adult Migrant English Program, one of which is *The Language, Literacy and Numeracy Program (LLNP)* that provides up to 800 hours of language, literacy and numeracy training over two years to those having difficulties finding employment due to low literacy or English language competency.

NEDA strongly suggests for DIAC and the Department of Education, Employment and Work Relations (DEEWR) work together in raising awareness to the resources that are available for NESB migrants to learn English that will be beneficial to them for future employment opportunities.

5. Article 19: Living independently and being included in the community

Discussions around community living focussed on Article 19 of the CRPD 'Living independently and being included in the community' and Article 23 'Respect for home and the family' are presented.

Participants were asked what independence meant to them and whether they enjoyed their independence. The responses varied, ranging from those who received the support to be independent in their community feeling satisfied with their lives to those who depended on others being largely unsatisfied.

One participant defined her understanding of independence as “freedom to perform life skills with dignity and with the sense of satisfaction that I’m not completely useless or that I don’t need everything done for me, and to control one’s life and to rely as little on my family as possible.”

People who rely heavily on friends and family said they needed help in order to be independent, but felt that they had to give up their rights as a result.

Family, friends and support workers sometimes restrict a person’s choices. One woman at the Cairns workshop reported feeling isolated in her family and from the rest of her community due to her family’s negative attitudes toward her disability. They leave her at home to look after her grandchildren when they go out to social events. Also, when she commenced further education to find employment, her family was not supportive of her goals.

Yet for people from NESB with disability, family is very important. The balance of independence and interdependence is difficult to sustain. One participant at the Perth workshop stated that her understanding of independence is that she can live as a couple with her partner.

5.1 Recommendation 10: To ensure that the right to live in the community by people from NESB with disability is exercised

It is suggested that advocacy organisations provide disability awareness training for families of people from NESB with disability.

While participants felt that the restriction from their family on their lives was more a way to protect the individual with disability, they emphasised the importance of disability awareness training and how it will help them develop their knowledge and understanding of disability.

It is important for local communities to ensure that people from NESB with disabilities live in their communities as equal citizens and they are provided with the support that they need to participate in everyday life, to ensure that they have the same choices and freedom as any other citizen. In doing so, it is recommended that people from NESB with disability have access to community support services to prevent isolation from the community.

6. Article 25 and 28: Health, adequate standard of living and social protection

People with disability must enjoy equal level of health and standard of living as their non-disabled counterparts. Participants at workshops were positive that the health system is improving in its treatment and understanding of disability. However, the following issues were raised:

- Some participants felt the health system discriminated against them. For instance, they cited the two year waiting period for eligibility to a Health Care card for certain types of visa holders.
- Doctors charge a higher fee for people using interpreters at consultations as this makes the consultations longer.
- Pensioners often spend their weekly payment on medical treatment and medication. While Medicare reimburses some of the expenditure, individuals and families in this situation were under stress as they had little money to spend on food and other expenses until they received their reimbursement.
- Concerns around accessibility of doctors, waiting time, doctor's awareness of types of disability and bulk-billing options were raised.
- Some participants reported feeling intimidated by health professionals, and this often caused them to refrain from asking important questions.
- People from NESB with disability do not know what kind of information is available and how to access it.
- There is a long waiting list with the DHS for registration for support workers and specialised equipment.

One participant said that her Disability Pension was linked to her husband's income and was terminated when he commenced employment. This put an immense strain on the family as they battled to pay the participant's medication and eroded her independence.

Therefore, the Australian government should strive to guarantee people from NESB with disability the full enjoyment of rights to health, adequate standard of living and social protection.

6.1 Recommendation: Health professionals must be provided with disability awareness and cultural competence training

Raising awareness regarding disability amongst health professionals is a key component to not only creating a more inclusive and welcoming environment for people from NESB with disability, but also to reduce the barriers that they face. Health professionals and providers need to understand disability as more than a physical dysfunction.

Disability awareness and culture competency training will significantly reduce the stereotypes held by health professionals regarding people with disability and people from NESB. This will encourage better communication between doctor and patient, and render people's experience with the health system more positive. Good communication and rapport will eventually enhance the delivery of quality care and an accurate assessment of the needs of people from NESB with disability.

In addition, cultural competence training is necessary to ensure cultural appropriateness in service delivery for people from NESB with disability. This will promote cultural awareness, knowledge and practices needed by health professionals in order to meet culturally unique needs.

It is suggested for courses on disability awareness and cultural competence training to be updated regularly. In addition, they must be made compulsory in order to improve health professionals' understanding of the needs of people from NESB with disability and provide appropriate care.

Therefore, these steps for improving disability awareness and cultural competence amongst health professionals in the disability sector are recommended by NEDA to ensure culturally sensitive service is provided for people from NESB with disability, and racial and health disparities are reduced.

7. Conclusion

This report highlights the perspectives of people from NESB with disability in order to better understand and manage social and cultural factors affecting them, and to address current issues affecting them and their carers. From the human rights education workshops that were conducted by NEDA, it is evident from the participants' feedback that there is a pressing need for disability-related support services to be culturally sensitive and appropriate for people from NESB with disability. The varied issues raised by people from NESB with disability were lack of information and accessibility to support services, lack of participation in the community, language and cultural barriers, and the multiple layers of discrimination that they face.

These difficulties experienced are further exacerbated by communication difficulties and cultural, including a lack of information about services in plain English, lack of information in ethnic media and lack of culturally sensitive health professionals. In order to face current barriers and challenges experienced by people from NESB with disability, the following actions were recommended:

- Disability rights education for people from NESB with disability;
- Incorporating the rights of people from NESB with disability;
- Encouraging participation of people from NESB with disability in civil life;
- Compile an information kit about disability services and ethnic groups existing in Australia;
- Better immigration laws and processes and;
- Disability awareness and cultural competence training for health professionals.

As outlined above, people from NESB with disability face double disadvantage as they not only face barriers related to disability when trying to gain access to disability support services, but also language and cultural barriers. These barriers need to be addressed by providing equitable access to all services and culturally appropriate service delivery for people from NESB with disability.

NEDA emphasises on the involvement and participation of people from NESB with disability at all levels of decision-making, actively involving people from NESB with disability and their families in relevant policy areas, and to ensure that their rights are fully exercised. NEDA

believes that this can be achieved if ethnic and disability organisations work collaboratively in order to strengthen the accessibility of disability services for people from NESB with disability, through a human rights-based approach that addresses the perspectives and experiences of people from NESB with disability.

8. Postscript: proposed changes to certain health criteria for migrants

The National Ethnic Disability Alliance (NEDA) applauds Minister Chris Bowen media release of 31 October 2012 titled **“A fairer approach to migration for people with disability”**, which refers to a revision of the health criteria for migrants to Australia who have a disability or health issues. This proposed approach by the Minister would see a more flexible and individualised approach for potential migrants with disability.

NEDA is committed to ensuring that any kind of discrimination is removed against individuals with disabilities from current immigration processes and laws. The current policy and legal regime of refusing these permanent visa applicants fails to take into account the reality of their circumstances, such as if they have their own financial means and social networks to meet their care needs, and basis its rejection solely on a hypothetical costing model based on the assumption that they would require 100% publically funded care and support. NEDA continues to call for:

- The application of the Disability Discrimination Act (1992) to the *Migration Act 1958*;
- The withdrawal of the Interpretive Clause in the UN CRPD by which Australia retains its right to discriminate against people with disability entering the country, and;
- The Australian government to assess the eligibility for the Disability Support Pension (DSP) and specific support services for migrants with disability.

This redevelopment announced by Minister Chris Bowen concerning the above mentioned **“A fairer approach to migration for people with disability”** this will go some way to ensuring that the government will act to guarantee fairer treatment towards prospective migrants with disability, as well as the legal and effective against discrimination on the basis of disability and the assurance of equality for them.

While this paper represents the views of participants at the workshops held by NEDA, for information regarding immigration policy, please refer to the following links:

- Overview of visas, immigration and refugees: <http://www.immi.gov.au/immigration/>
- Health waivers and the health waiver process: <http://www.immi.gov.au/allforms/health-requirements/health-waivers.htm>
- Ministerial intervention: http://www.immi.gov.au/refugee/ministerial_intervention.htm
- Temporary visa's and Specialist entry visas: <http://www.immi.gov.au/skilled/specialist-entry/visa-options.htm>

NEDA would like to acknowledge this media release by the Minister of Immigration and Citizenship as an important and valuable impact in removing discrimination that exists in current immigration laws and processes; and NEDA also welcomes a more individualised

approach by the Australian government in assessing prospective migrants with disability against the health requirement criteria.

In November 2012, DIAC responded to the recommendations made by the Joint Standing Committee on Migration's report, *Enabling Australia: Inquiry into the Migration Treatment of Disability*, and the following changes have been made:

- increasing the Significant Cost Threshold to \$35,000;
- off-shore humanitarian applicants no longer have health waivers assessed against cost and;
- it is proposed for a “Net Benefit Approach” be applied – that is if an applicant (and their family) is able to outweigh the costs of their health condition through net economic and social contributions, they would be considered to be of “net benefit” to Australia and satisfy the health requirement.

We at NEDA feel that this a positive move for those people mentioned within the Ministers reform but that further development and a greater relaxation of the rule need to be actioned in-order to remove the barriers that people from NESB backgrounds with a disability face.

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This publication has been prepared by National Ethnic Disability Alliance Inc. for the Australian Government, represented by the Department of Families, Housing, Community Services and Indigenous Affairs. The views expressed in this publication are those of National Ethnic Disability Alliance Inc. and do not necessarily represent the views of the Australian Government.