THE EXPERIENCES & PERSPECTIVES OF PEOPLE WITH DISABILITY

FROM CULTURALLY AND LINGUISTICALLY DIVERSE BACKGROUNDS

NEDA, PWDA AND FECCA'S JOINT SUBMISSION TO THE ROYAL COMMISSION INTO VIOLENCE, ABUSE, NEGLECT AND EXPLOITATION OF PEOPLE WITH DISABILITY

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NEDA
National Ethnic Disability Alliance

The Experiences & Perspectives of People with Disability

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NEDA, PWDA and FECCA's joint submission to the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability

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NEDA, PWDA and FECCA acknowledge and appreciate our members, allies and key partners in contributing to the development of this report.

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pwda PEOPLE WITH DISABILITY AUSTRALIA

FECCA
Federation of Ethnic Communities' Councils of Australia

END CHILD DETENTION COALITION

d+da
Diversity and Disability Alliance

Settlement Council of Australia

EDAC
ETHNIC DISABILITIES ADVOCACY CENTRE

MDAA
Multicultural Disability Advocacy Association of NSW

Contents

Introduction 12

About Us 13

Executive Summary 14

- Recommendation on Systems Navigation....16
- Recommendations on Women....16
- Recommendations on Children....16
- Recommendations on Education....17
- Recommendations on Mental Health....17
- Recommendations on Employment....18
- Recommendations on Disability Workers....19
- Recommendations on the NDIS....20
- Recommendations on Immigration....21
- Recommendations on Centrelink Services....21
- Recommendations on Transport Services....22
- Recommendations on Group Homes....22
- Recommendations on Housing Services....22
- Recommendations on Police and Legal Justice....23
- Recommendations on Health Services....23

CALD People and the Disability Royal Commission 24

Key Concepts and Definitions 26

Institutional and Residential Settings 26

Privilege, Ethnocentrism and Xenophobia in Defining and Understanding CALD 26

Role of the Academy in CALD Terminology 27

Forms of Violence, Abuse, Neglect and Exploitation Experienced by People with Disability from CALD Backgrounds 28

Cultural and Linguistic Diversity in Australia 29

Definitions of Disability Being Used by Different Australian Government Departments 32

Types of Disability Assessments Used in Australia 33

The United Nations Convention on the Rights of Persons with Disabilities 33

Intersectional Discrimination Against People with Disability from CALD Backgrounds 34

Statistics, Data Collection and Violence Against People with Disability from CALD Backgrounds 35

Reported Incidents Indicating Widespread Mistreatment of People with Disability 37

The National Disability Strategy and People with Disability from CALD Backgrounds 38

Perception of Disability in Diverse Cultures 39

Perceptions Case 1 40

Perceptions Case 2 40

CALD Women with Disability 41

Sexual Harassment 42

Family and Domestic Violence 43

FDV Case 1 44

FDV Case 2 44

FDV Case 3 44

Ability to Get Support in a Time of Crisis from Outside the Household *45*

Relationship to Perpetrator *45*

Recommendations 45

Children with Disability from CALD Backgrounds 46

Child protection 48

Recommendations 48

Abuse, Neglect and Exploitation of people with disability 49

Education services 49

Education Case 1 ..... *50*

Education Case 2 ..... *50*

Education Case 3 ..... *51*

Case analysis *51*

TAFE and University *52*

Education Case 4 ..... *52*

Education case 5 ..... *53*

Education Case 6 ..... *53*

Education Case 7 ..... *53*

Recommendations *54*

Mental Health Services 54

Psychosocial Case 1 ..... *55*

Psychosocial Case 2 ..... *55*

Self-harm *56*

Recommendations *58*

Employment 58

Employment Case 1 ..... *60*

Employment Case 2 ..... *60*

Employment Case 3 ..... *60*

Day Centres *61*

Employment Case 4 ..... *62*

Recommendations *62*

Disability Workers **63**
Increasing Diversity *63*
Vulnerabilities *64*
Unacknowledged Language Skills *64*
Training and Professional Development *65*
Factors Influencing Turnover *65*
Recommendations *66*

NDIS **67**
Participation Rates and Systems Navigation Issues *67*
NDIS Systems Navigation Case Study 1 ..... *69*
NDIS Systems Navigation Case Study 2 ..... *71*
NDIS and Data *73*
Reportable incidents under the NDIS – 1 July 2018 to 31 December 2019 ..... *74*
NDIS Experiences *74*
NDIS Case 1 ..... *75*
NDIS Case 2 ..... *75*
NDIS Case 3 ..... *75*
NDIS Case 4 ..... *76*
NDIS Case 5 ..... *76*
NDIS Case 6 ..... *76*
NDIS Case 7 ..... *78*
NDIS Case 8 ..... *78*
NDIS Case 9 ..... *79*
Analysis *79*
Recommendations *80*

Immigration System and Services **81**
Health Impacts of Restrictive Reception Policies for Asylum Seekers *82*
Health Needs and Services for People Held in Various Forms of Immigration Detention or on Temporary Visas in the Community *82*
Violence, Abuse and Neglect in Immigration Detention *84*
Immigration Case 1 ..... *85*
Immigration Case 2 ..... *85*
Immigration Case 3 ..... *86*
Children and Families in Immigration Detention *87*
Immigration Case 4 ..... *87*
Immigration Case 5 ..... *90*
Analysis *92*
Statistics *92*
Recommendations *98*

Centrelink Services **98**
Centrelink Case 1 ..... *99*
Centrelink Case 2 ..... *100*
Analysis *100*
Recommendations *101*

Transport Services **101**
Recommendations *103*

Group Homes **103**
Group Home Case 1 ..... *104*
Group Home Case 2 ..... *104*
Analysis *105*
Other Accommodation Arrangements *106*
Recommendations *107*
Housing Services **108**
Housing Case 1 ..... *108*
Analysis *108*
Housing Case 2 ..... *109*
Housing Case 3 ..... *109*
Recommendations *110*
Police and Legal Justice Services **110**
Policing Case 1 ..... *112*
Policing Case 2 ..... *113*
Policing Case 3 ..... *113*
Policing Case 4 ..... *114*
Recommendations *114*
Health Services **115**
Heath Case 1 ..... *116*
Habilitation and Rehabilitation *116*
Recommendations *117*

Conclusion **118**

Bibliography **119**

Appendices **126**

Appendix 1 – CRPD Shadow Report **126**
Appendix 2 – Need for Assistance Questions **126**
Appendix 3 – EDAC contribution **127**
Appendix 4 – MDAA's contribution **132**
Appendix 5 – DDA's contribution **138**

List of Tables

Table 1: Need for Assistance 2016 Census 31

Table 2: Intentional Self-harm 57

Table 3: Reportable Incidents NDIS 74

Table 4: SDAC Disabilities and Profoundly Limited in Core Activities 2003 to 2018 94

List of Figures

Figure 1: Fear of the Person 37

Figure 2: Sexual Harassment 42

Figure 3: Need for Assistance by Migration Stream 2016 Census 93

Figure 4: Need for Assistance by Migration Stream 95

Figure 5: Australian Census and Migrants
– Need for Assistance Persons per 1000 95

Figure 6: Need for Assistance Trend Lines 96

Figure 7: Permanent Migration to Australia 96

Figure 8: Temporary Migration Program 97

Figure 9: Australia's Permanent Migration Program Need for Assistance 97

Figure 10: Feeling Safe Using Public Transport 102

Figure 11: Homeless Operational Groups
Persons Under 65 by CALD Status 106

Figure 12: PSS 2018 CALD Perceptions of an Incident as a Crime 111

Figure 13: PSS 2018 Non-CALD Perceptions of an Incident as a Crime 111

Figure 14: Reason Not to Report the Incident to Police 112

Introduction

The National Ethnic Disability Alliance (NEDA), People with Disability Australia (PWDA) and the Federation of Ethnic Communities' Councils of Australia (FECCA) welcome the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability's (Disability Royal Commission's) enquiry into all forms of violence, abuse, neglect and exploitation of Australians with disabilities from culturally and linguistically diverse (CALD) backgrounds in institutional and residential settings.

This submission has been jointly prepared in partnership with these three national peak organisations, with support from our members, member organisations, allies and partners.

About Us

National Ethnic Disabilities Alliance is a national cross-disability disabled people's organisation (DPO) governed by and comprised of people with disability from CALD backgrounds. NEDA works to protect and advance the human rights of all people with disability from CALD backgrounds.

People with Disability Australia is a national disability rights, advocacy and representative organisation. PWDA is made up of, led and governed by people with disability.

The Federation of Ethnic Communities' Councils of Australia is the peak national body representing Australians from backgrounds. FECCA's role is to advocate and promote issues on be CALD half of its constituency to government, business and the broader community.

Executive Summary

This submission has been prepared jointly by National Ethnic Disability Alliance, People with Disability Australia and the Federation of Ethnic Communities' Councils of Australia. NEDA, PWDA and FECCA support the view that many people with disability of migrant and refugee background may not have access to the necessary support services or relevant information to independently or individually negotiate the extensive processes required to provide evidence to the Disability Royal Commission (DRC).

We accept the broad definitions of abuse, neglect and exploitation of people with disability from CALD backgrounds outlined in the inquiry terms of reference by the DRC for this submission.

Abuse, violence, neglect and exploitation are informed and driven by a broken system that discriminates against people with disability.

This submission is broad in reflecting many of the "settings or context" of abuse flagged in the DRC's terms of reference into violence, abuse, neglect and exploitation.

Our submission also reflects on several articles in the United Nations Convention on the Rights of Persons with Disabilities (CRPD) which Australia ratified in 2008. The CRPD is a key document outlining our international human rights and should be used as a basis for all laws in this country and all laws governing how people are treated in on our shores and in our territories.

We have aimed to tell the stories of people with disability from CALD within the United Nation's framework to reflect the rights-based social model of disability. The human rights model of disability and the social model both reflect our reality, that people are disabled by the society around them, especially when their human rights are ignored by the systems we encounter in society.

This report will highlight various issues and problems of systemic or societal abuse, neglect and exploitation of people with disability from CALD backgrounds, while sharing 46 personal stories and testimonies.

CALD people with disability, including people in institutional and residential settings, domestic and community settings, and mainstream workplaces and recreational settings experience intersectional discrimination that often has aggravating or compounding effects. Intersectional discrimination is where people face discrimination on more than one basis, for example, from being a migrant from a non-English speaking background who also has disability.

While intersectional discrimination exists in the Australian context, it is often not recognised or adequately addressed in legislation and policy frameworks that aim to prevent violence and advance the human rights of people.

The Australian immigration system requires almost all visa applicants to satisfy the health requirement to receive a visa, a requirement which has directly and indirectly discriminated against people with disability.

Migration laws and processes often treat people with disability solely as a cost burden. Children or family members with disability are considered a health risk, preventing them from migrating or remaining in Australia. The UN has found the nation's health requirement to be disability discrimination, yet it remains policy and practice.

When people emigrate to Australia and settle down, they usually bring with them their religious beliefs, cultural practices, and rituals crossing all intersectional lines; gender, ethnicity, LGBTIQ, refugee, skilled migrants, youth, asylum seekers, and aged, on welfare or employed etc. Sometimes, those religious beliefs and cultural practices may be a barrier for them, where they do not readily adapt to the new culture. In addition, there is a significant stigma around disabilities and mental health, which can be the primary cause of discrimination and exclusion for PWD. Those perceptions of disabilities in diverse cultures in Australia often impact PWD negatively and make their lives more difficult to navigate and improve.

The National Disability Strategy (NDS) – to be renamed the Australian Disability Strategy – provides the overarching policy framework for people with disability in Australia, and should be responsive to include people from CALD backgrounds. However, the NDS frameworks we have seen are not so inclusive of the voices of CALD people, and do not have a mechanism to allow people to set or inform the goals of the next iteration of the framework for a new decade.

In addition to the cultural and language barriers for people with disability from CALD backgrounds, the areas covered in the original NDS and the government's consultation papers of the past few years are sites of structural discrimination. This discrimination and affects people's participation in the community, and affects them as they try (or fail) to access the National Disability Insurance Scheme (NDIS), and in their employment and health and in healthcare and education settings. Yet, a critical federal government agency that has a significant effect on asylum seekers, and migrants and refugees with disability is the Department of Immigration, which is absent from the NDS, reflecting the national Migration Act 1958's exemption from the federal Disability Discrimination Act 1992. This submission will cover all the NDS action areas covered by the CRPD, which includes migration.

The CALD and disability sector stakeholders who have contributed to this submission thank the Disability Royal Commission for its interest and inclusion of CALD people with disability in its terms of reference, and its engagement with culturally and ethnically diverse communities across Australia.

Recommendation on Systems Navigation

- The Disability Royal Commission should respond to the difficulty people with disabilities have in navigating the various systems of government and back national recommendations on the importance of system navigation support. This is especially important given the refusal of the National Disability Insurance Agency (NDIA) to maintain the federal Community Coordinator program. The Royal Commission into Aged Care Quality and Safety recommended similar support for the aged care system which the Australian Government Department of Health has now funded.

Recommendations on Women

- The Australian Government should develop and enact national legislation on the prevention of all forms of gender-based violence.
- The Australian Government should ensure the *National Plan to Reduce Violence Against Women and their Children* is inclusive of all forms of gender-based violence, regardless of the setting and the perpetrators of such violence.
- Australia's governments should address the methodological restrictions in data collection instruments used to capture data on violence against women.
- Australia's governments should ensure gender-based violence services are inclusive of women and girls with disability from CALD backgrounds.
- Australia's governments should resource and support disabled people's organisations to develop and implement initiatives to address violence against women with disability.
- Australia's governments should adequately support organisations and networks of women with disability to engage in all initiatives to promote gender equality.
- Australia's governments should properly resource women's refuges to support women with disability from CALD backgrounds.
- All levels of government should enable the safe transfer or transformation of women's refuges into accessible and affordable accommodation.

Recommendations on Children

- Federal and state and territory courts, tribunals and people responsible for child protection services should be required to have disability awareness and cultural competency training as part of their employment conditions.
- Court/Tribunal professionals and departmental staff should always engage a professional interpreter if a parent is not fluent in the English language.
- Children's courts and child protection staff should check to ensure what informal supports the family already has, if any, before taking children off parents and placing them in the care of strangers who may not understand the children's language or cultural and religious needs.

Recommendations on Education

- Students should have access to information in alternative formats such as Auslan, Braille and electronic communication, or language interpreters should be made available.
- The Australian Institute for Teaching and School Leadership and state and territory teacher regulatory authorities must ensure accredited university degrees for teachers contain units about working effectively with interpreters, and cultural competency and disability awareness. State and territory governments and universities should also ensure this training is offered to all staff working at schools, TAFE colleges and universities, as professional development training.
- Australia's governments should ensure schools are funded to translate information into the language of students where needed.
- Australia's governments should work proactively towards building inclusive education opportunities for all children with disability.
- Australia's governments should ensure students have adequate access to disability-related supports in all educational settings.
- When people with disability from CALD backgrounds complete their tertiary studies in Australia and obtain their qualifications, the Australian Government Department of Home Affairs should not require the graduates to take and pass the International English Language Testing System exam to be eligible for a new visa.

Recommendations on Mental Health

- State and territory governments should fund a multicultural mental health service in their jurisdiction where people from CALD backgrounds can get culturally appropriate and sensitive supports and services.
- The Australian Government should ensure psychologists and mental health workers have access to the TIS National priority line for interpreters, like doctors currently do.
- The national Psychology Board, Australian Health Practitioner Regulation Agency (Ahpra) and AASW, the Australian Association of Social Workers, should ensure psychologists and mental health social workers are required to undertake cultural competency and disability awareness training as part of their professional training. Their training should include working effectively with professional interpreters.
- That Ahpra include mental health social workers as a recognised occupation for purposes of registration.
- The Australian Government should ensure the *National Mental Health and Suicide Prevention Plan* includes targeted measures for people with disability from CALD backgrounds.
- Australian universities, the Australian Medical Council, the Nursing and Midwifery Board of Australia, the national Psychology Board Ahpra and AASW, the Australian Association of Social Workers, should ensure health professionals' training includes education about the human rights of people with disability in respect to the right to life and access to proper care and treatment to sustain life.

Recommendations on Employment

- The Australian Government Department of Social Services and Centrelink should ensure people with disability have choice and control to take the same path as everyone else when seeking employment and not be restricted by employment providers. People with disability should be able to access all mainstream employment services, not just the digital mainstream employment services from 1 January 2022 or the Disability Employment Services scheme providers that they can already access by participating in the Disability Management Service for people with disability, injury or health conditions or the Employment Service for people with permanent disability.
- Australia's governments should implement the recommendations of the national *Willing to Work Inquiry*.
- Australia's governments should implement affirmative action in the employment of people with disability. For example, suppose two people, one with disability and one with no disability with similar work experience and skills, apply for the same job – in that case, the person with disability should have priority for employment.
- Australia's governments and employers must ensure employees with disability are given the same equal opportunities as other employees to receive professional development training, and act at higher duties while being given a chance to become permanent in the position.
- Australia's governments provide proper support for the CALD workforce and significant numbers of CALD workers, often on temporary visas and exploited, in the care workforce (aged care, disability care and child care).

Recommendations on Disability Workers

- Australia's governments should ensure any workforce reforms that are introduced to the disability sector will not impose additional barriers to CALD workers.
- Australia's governments should ensure the Aged Care Royal Commission recommendation that workers should have an appropriate standard of English proficiency is implemented by service providers, including NDIS registered and unregistered providers.
- The Australian Government Department of Home Affairs should ensure disability support workers on temporary visas can enjoy the same rights as other Australian residents, by providing secure pathways to permanent residency and security in working conditions.
- The Australian and New Zealand Standard Classification of Occupations (ANZSCO) should assess whether the disability support workers and personal care assistants' occupations should be graded higher than Level 4 in the ANZSCO system, based on the language skills and cultural understanding may workers are asked to draw on professionally.
- Disability support service providers and Australia's governments must ensure the disability support workforce, with its increasing numbers of people from CALD backgrounds, is trained and supported properly.
- Disability support service providers and Australia's governments should ensure workers from CALD backgrounds have tailored training to update, refine and challenge their understanding and respect for disability and disability rights, in keeping with the nation's local and federal laws, and international human rights obligations.
- Service providers and Australia's governments and departments, including the NDIA, must ensure disability support workers receive training and professional development to ensure they can deliver culturally competent, safe services without discrimination, neglect or abuse, in an anti-racist, trauma-informed way.
- Service providers and other people who choose support workers, such as participants or their supporters, should not assume people can deliver appropriate care to diverse service recipients just because they are from a CALD background. Instead, they should assess people's skills and actively improve them with appropriate professional development and training.

Recommendations on the NDIS

- The Australian Government NDIA should ensure the NDIS *Cultural and Linguistic Diversity Strategy* and the future updated strategy is implemented and given associated public timeframes, public accountability functions and equity targets.
- The NDIA should model its approach to the systems navigation for participants and people wanting to access the NDIS on the Commonwealth Department of Health's approach, including its support for a diversity group and community connector and navigator programs, and the EnCOMPASS multicultural aged care connector service currently being delivered by the FECCA.
- The NDIA must recommit to the National Community Connectors Program (NCCP) and resume the program and its community connectors support for people with disability from CALD backgrounds wanting to access the NDIS.
- The NDIA must ensure interpreter funding for Auslan and language interpreters is a separate line item, not included in the individual's NDIS plan.
- The National Accreditation Authority for Translators and Interpreters (NAATI) and training providers must ensure professional and certified interpreters are trained in the use of disability and mental health terminology, and the social model of disability in general.
- The NDIA must ensure its NDIS planners, NDIS local area coordinators and NDIS-registered disability service providers have had cultural competency training and training to work more effectively with professional interpreters, as part of their professional development training.
- The NDIA must ensure its NDIS planners are not allowed to request more than two functional assessment reports.
- The NDIA must ensure its NDIS plan reviews undertaken by its planners are conducted promptly for a person's specific reasonable and necessary needs.
- The NDIA must ensure all NDIS–related communications targeted at people with disability from CALD backgrounds should prioritise these people by being co-designed and co-delivered by people with disability from CALD backgrounds. This will ensure information and communications are accessible and comprehendible, and meet people's identified needs.
- The NDIA must ensure NDIS planners include funding for social and community participation in people's plans to help them develop their social skills. This will enable newly arrived people with disability from CALD backgrounds who do not have extended family supports, or who are isolated from their ethnic community, get disability respite or allow them to access the mainstream community.
- The NDIA must ensure NDIS planners automatically include an adequate level of support coordination in people's budgets to assist participants and their families who have little-to-no spoken English proficiency, unless it can be reasonably identified it is not required.

Recommendations on Immigration

- The Australian Government must strengthen the *Disability Discrimination Act 1992* to apply to the *Migration Act 1958* and associated regulations.
- The Australian Government must remove the exemption in the *Disability Discrimination Act 1992* as it applies to the *Migration Act 1958* to ensure that Australia's migration arrangements and treatment of people with disability satisfy the equal protection obligations under article 5 of the CRPD which Australia has ratified.
- The Australian Government and Department of Home Affairs must enhance consistency, transparency and administrative fairness for migrants and refugees with disability applying for an Australian visa.
- The Australian Government master program Centrelink must remove the 10-year qualifying period for migrants to access the Age Pension and Disability Support Pension (DSP).
- The Australian Government and Department of Home Affairs must end mandatory and indefinite detention of asylum seekers as a matter of urgency.

Recommendations on Centrelink Services

- The Australian Government master program Centrelink must remove the 10-year eligibility criteria for the Age Pension and DSP so people with disability from CALD backgrounds have equal eligibility requirements with people with disability born in Australia.
- Centrelink abolishes the no-more-than 28 days abroad criteria for receiving benefits while overseas as people with disability from CALD backgrounds may need to spend extended time with their families and friends while overseas, which is necessary for their mental health and wellbeing.
- Centrelink stops its practice of cutting off people's DSP just because people's diagnosis or diagnoses are too old.
- Centrelink gives people with disability a choice to receive their Centrelink application forms in electronical format. An employee of Centrelink should be appointed to help people with form-filling if they need it.
- Centrelink should have an engagement mechanism in place, and work in collaboration with disabled people's organisations for CALD people and CALD disability advocacy organisations, to ensure the Services Australia program is meeting the access and information needs of people with disability from CALD backgrounds.

Recommendations on Transport Services

- The Australian Government NDIA must ensure a travel allowance is made available to people with disability on the NDIS regardless of whether the person is working, studying or not.
- The NDIA must ensure NDIS funding should at least include the cost of airfares for carers.
- The Government of Western Australia's Department of Transport and other state-and-territory taxi subsidy scheme operators should increase their subsidies to reflect the increased cost of cab fares from inflation and greater urban sprawl. WA's Taxi User Subsidy Scheme should at least double its subsidies.
- Australia's governments should prioritise implementing whole-of-journey planning initiatives to ensure people with disability from CALD backgrounds have seamless end-to-end transport experiences and are not exposed to urban islands of inaccessibility.

Recommendations on Group Homes

- The Australian Government NDIA must ensure that Supported Independent Living (SIL) is separated from Supported Disability Accommodation (SDA) so there are separate providers of housing and support in the homes of people with disability.
- The NDIA needs to ensure the provider of support coordination is independent from the provider of Supported Independent Living.
- The NDIA should implement a planned approach to ensure people with disability are provided with real opportunities to decide where they want to live, and with whom. This approach should provide an independent staff member to sit down with people with disability from CALD backgrounds and their families, to explore and plan for options other than a group home.
- Australia's governments must ensure residents of shared disability residential accommodation are provided with an opportunity to choose their support workers and employ them on permanent contracts where they are paid more than the current rate of $27 per hour.
- Australia's governments should prioritise accessible and affordable social housing.

Recommendations on Housing Services

- Australia's governments should prioritise increasing housing stocks where the construction is according to the Disability (Access to Premises – Buildings) Standards 2010 made under the *Disability Discrimination Act 1992*.
- Australia's governments should not require people with disability to move out of their accessible government or social housing when their incomes increase. A fairer approach, such as increasing rent proportional to an increased salary, is much more appropriate.

Recommendations on Police and Legal Justice

- Australia's governments should provide community legal information sessions to all newly arrived humanitarian entrants and refugees so they can be aware of their legal rights and how to navigate the legal justice system.
- Australia's governments should train all police, court staff and support workers in cultural competency and disability awareness so they can more appropriately deal with the legal issues of people with disability from CALD backgrounds.
- Australia's governments should ensure the interpreters they appoint are required to take professional development training in disability awareness and terminology used in Australia.
- Australia's governments should abandon indefinite incarceration of people with intellectual and neurological disability.

Recommendations on Health Services

- Australia's universities, colleges and institutions, and governments should ensure all healthcare professionals are trained in disability awareness, cultural competency and working effectively with professional interpreters as part of their formal training, such as at university. This training should also be made compulsory for all hospital staff.
- Australia's medical professionals should engage meaningfully with their patients with disability, especially with those with cognitive and intellectual disability. Medics must explain people's health issues, prognoses, diagnoses, and treatments in various accessible ways, including by engaging an interpreter, and providing translated information in the patient's language, in Picture Exchange Communication System (PECS) format and other alternative formats.
- Australia's health services must implement person-centred approaches, according to the individual's needs.
- Australia's health services should be underpinned by the social model of disability, cultural sensitivity and trauma-informed practices.
- Australia's health services should ensure that when a person from a CALD background is diagnosed with disability, an interpreter is used to inform that person or their family members about what supports and services are available, if English is their second language. In addition, people with disability and their families need to be informed of their equal access rights and opportunities.
- Australia's health services should ensure peer support groups for family/carers of people with disability are funded to run parallel with the person's therapy sessions, so the supporters can learn from each other's experiences to improve their perception of disability. Unless therapy sessions for people with disability and peer support groups for family/carers can run simultaneously, the family/carers may not find time to participate. Also, the peer support group members should be from diverse cultures, not just their own.

CALD People and the Disability Royal Commission

The Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability (Disability Royal Commission) was established on 4 April 2019. The Disability Royal Commission's (DRC's) purpose is to investigate the widespread violence against and abuse, neglect, and exploitation of people with disability in residential and institutional settings in Australia, aiming to prevent all forms of violence against them, establish best practices in reporting, and support their inclusion and independence within the community.

People with disability from culturally and linguistically diverse (CALD) backgrounds are likely to experience multiple disadvantages. People from CALD backgrounds experience a lack of accessible information, communication difficulties or cultural sensitivities and differences can create barriers to accessing services and supports. They are also less likely to discuss or report incidences of abuse, neglect and exploitation to the authorities due to the distrust and fear of retribution.

National Ethnic Disabilities Alliance (NEDA), People with Disability Australia (PWDA) and the Federation of Ethnic Communities' Councils of Australia (FECCA) support the view that many people with disability of migrant and refugee backgrounds may not have the necessary support or comprehend the relevant information to individually negotiate the extensive processes required to provide evidence to the DRC.

In this submission, NEDA, PWDA and FECCA accept the broad definitions of abuse, neglect and exploitation of people with disability from CALD backgrounds outlined in the inquiry terms of reference found in the *Commonwealth Letters Patent* for the DRC dated 4 April 2019. This report will highlight various issues and problems that are systemic or societal and result in abuse, neglect and exploitation of people with disability from CALD backgrounds, while sharing people's personal stories and testimonies. For confidentiality and privacy purposes, people's names and identities are withheld.

Many people with disability from migrant and refugee backgrounds may not have the necessary support, relevant information, or extensive process required to facilitate and support them in coming forward to provide evidence to the DRC. If people have emigrated to Australia from a more authoritarian country, they may also fear and distrust the authorities. Language and cultural barriers, and perceived fear of attribution may also prevent people from making a complaint. It may not be in the best interest of some institutions and communities to actively encourage and support people with disability to share their experiences of violations of their human rights in any context and settings in which they reside, are incarcerated, or receive services. Hence this is an all-encompassing national submission, and is supported with contributions by our member organisations and allies from across the country.

For people with disability not from CALD backgrounds, it is already complicated to navigate Centrelink, the National Disability Insurance Scheme (NDIS), immigration, health and mental health services, family and domestic violence services, housing and other services. The established government and non-government systems will be even less accessible and supportive of people with disability from CALD backgrounds.

People from CALD backgrounds are more likely to experience inequality, discrimination, abuse, neglect and exploitation from these systems, arising from language and cultural barriers, not knowing what services are available or how to access those services, and not knowing their rights in a new country.

Mental health and disability are not valued positively in many cultures, including mainstream Australian culture.

The Australian Bureau of Statistics (ABS) has an inclusive definition of cultural and linguistic diversity. Still, many other government agencies and non-government organisations only classify those born in a non-English speaking country as CALD, while excluding fluent English speakers born in Australia to migrant and refugee parents. Therefore, it is challenging to know precisely how many people from CALD backgrounds are experiencing exclusion or inclusion in the community to develop appropriate and relevant support services for them. People with disability who migrate to Australia as very young children or are born in Australia to CALD parents may speak only English. A language other than English at home will still influence their cultural practices, values and religion, which may prevent them from accessing supports and services. Yet this cohort of people with disability are rarely identified as being from CALD backgrounds.

Key Concepts and Definitions

Institutional and Residential Settings

Institutional and residential settings is broadly defined to include the types of institutions that people with disability often experience, including: residential institutions, boarding houses, group homes, workplaces, respite care services, day centres, recreation programs, mental health facilities, hostels, supported accommodation, prisons, schools, out-of-home care, special schools, boarding schools, school buses, hospitals, juvenile justice facilities, disability services, and aged care facilities. People who have experienced issues in institutional and residential settings can also be taken to mean people who have experienced systemic unequal treatment by broken, harsh policies of the Australian Government Department of Home Affairs, Centrelink and NDIS services.

Privilege, Ethnocentrism and Xenophobia in Defining and Understanding CALD

NEDA has observed that many definitions of CALD, which various players have adopted, are often discriminatory and seem to reflect the biases of those making the definition.

There is no national, standard agreed understanding of what CALD is, and how to identify and capture CALD identified in data collection systems and processes.

Poor definitions arise from privilege (Saggar 2020), ethnocentrism (Grigg and Manderson 2016) and xenophobia (Acharya 2018) guiding people making definitions.

Many Australians will use casual racism (AHRC 2014) to justify stereotypes to demonise minority populations. An inappropriate understanding and poor definition of CALD plays out in policy and practice, and can have very negative effects for people with disability from CALD backgrounds.

Many definitions used are offensive to people from a CALD background as often the definitions exclude them. These definitions are reflective of the underlying biases of the people making them. The definitions are so narrowly defined that those with any English proficiency regardless of birthplace would be excluded from consideration as CALD.

NEDA, PWDA and FECCA would appreciate it if the DRC has a more comprehensive and inclusive understanding and definition of what is CALD.

Less comprehensive depictions are discriminatory and offensive. A definition used by an agency or department will guide how they view a population. The description will delineate who is to be included and excluded in data collection, policy frameworks, and service systems.

CALD is a term that often reflects the ethnocentric and xenophobic biases of people whose desire is to demonise whole classes of persons. While there may have been some consensus in 1999 concerning the principles involved for CALD (ABS 1999), no data collection has been undertaken since then.

The term CALD can be inclusive, or it can be a phrase that increasingly excludes specific populations based on their perceived capacity to communicate in spoken English. As an inclusive term, CALD caters for all Australian-born CALD people and those born overseas from culturally diverse backgrounds, regardless of the language spoken. People not included are people who identify as indigenous or people who communicate in an indigenous language.

Role of the Academy in CALD Terminology

Poor or inadequate CALD definitions are also frequently used in academia. There appears to be a lack of academic rigour in using cultural diversity and linguistic diversity. It has become a term that has evolved into a representation of ethnocentric and xenophobic connotations aimed at minority populations born outside Australia.

What passes as CALD would be the place of birth only; sometimes, language may be included but limited to some languages. As a rule, what is excluded is the diaspora of a particular language, religion or ethnicity. They tended to be ignored by the academy.

In one study conducted by a major university on the Chinese community, only two dialects (Mandarin and Cantonese) were included. Only those born in the People's Republic of China were defined as the Chinese community. This study excluded people who spoke other Chinese dialects and the diaspora from South-East Asia, Australia and the Pacific. These people were not considered to be Chinese for the study. The academics involved with this study were born in the People's Republic of China and were Mandarin or Cantonese speakers.

If an academic born overseas, and fluent in a particular language but not all language variations such as Arabic, will focus their research on those languages they are comfortable with but exclude the diaspora, the study will be limited its inclusion of CALD people. Yet, the published study will be termed CALD related.

Given Australia has people from more than 300 ancestries, 257 languages, 250 countries of birth and more than 131 religious beliefs, any commentary on CALD –unless they include allowance for the diaspora – is a commentary only on specific populations for particular regions. It is not a commentary on CALD communities and people as a collective entity. The commentary applies the ecological fallacy where individual characteristics are deemed the whole group's characteristics (Dufault and Klar 2011). That is, it claims people from a sub-population represent all people from all populations.

For NEDA, the issue that arises is when government agencies use the academy as an authoritative source for the definition of CALD. This definition is made regardless of the impact it has on a community. Often, those definitions are ill informed and reflective of dominant world views that negatively view minority populations. This use of such depictions is an example of systems abuse or exclusion sanctioned through privilege.

Forms of Violence, Abuse, Neglect and Exploitation Experienced by People with Disability from CALD Backgrounds

We must explain or define the meaning of violence. The global campaign for violence prevention argues a typology of violence with the following elements (WHO 2020). They are:

- ***Self-directed violence:*** is the violence in which the perpetrator and the victim is the same individual. The sub-categories are *self-abuse* and *suicid*e.
- ***Interpersonal violence:*** is the violence between individuals. Its subdivisions are *family and intimate partner violence* and *community violence;* this also includes child maltreatment, intimate partner violence, and elder abuse.
  The latter is broken down into *acquaintance* and *stranger violence,* including youth violence, assault by strangers, violence related to property crimes, violence in workplaces and other institutions.
- ***Collective violence:*** This occurs when larger groups of individuals commit the violence. Collective violence has subdivisions of social, political and economic violence.

Torture and ill-treatment are an internationally recognised definition as articulated in international human rights law, including the international human rights treaties to which Australia is a party (Méndez 2013).

The Disability Royal Commission should be mindful of the above points in their deliberation of this review.

Violence exists within a system or ecological perspective (WHO 2021). Personal history and biological factors influence how individuals behave and increase their likelihood of becoming victims or perpetrators of violence at the individual level. Among these factors are being a victim of child maltreatment, psychological or personality disorders, alcohol and/or substance abuse and a history of behaving aggressively or having experienced abuse.

Personal relationships, such as with family, friends, intimate partners and peers, may influence the risks of a person becoming a victim or perpetrator of violence. For example, having violent friends may affect whether a young person engages in or becomes a victim of violence.

The community contexts in which social relationships occur, such as at schools, and in neighbourhoods and workplaces, also influence violence. Risk factors in these settings may include the level of unemployment, population density, mobility and the existence of a local illicit drug trade and local crime.

Societal factors influence whether violence is encouraged or inhibited. These include economic and social policies that maintain socioeconomic inequalities between people, the availability of weapons, social and cultural norms such as those around male dominance over women, parental dominance over children and cultural norms that endorse violence as an acceptable method to resolve conflicts.

There is a need to ensure systems abuse is acknowledged. Many people with disability cannot articulate the abuse they are receiving. There is an ideology of enfeeblement (Siebers 2008) that denies the opportunity for this aspect of society to have their experiences of abuse acknowledged, let alone accepted as credible.

NEDA believes that until there is some consistency and agreement in the definitions of CALD, disability and violence, and the measures used, any commentary will have limited value.

When the DRC is in the news or people watch hearings on live stream, people would primarily think about individual acts of violence, abuse, neglect or exploitation, or incidences of assault, cruelty, segregation and unfairness. However, as horrible as these stories are, these acts reflect a system informed by culture, morals, perceptions of normality and concepts of good behaviour. These ideas can manifest into discriminative social policy (such as the introduction and use of special schools), bias procedures (such as police violence), and feed into ideas of discipline (such as restrictive practices) and what are proper social interactions (such as those laid out in behaviour support plans). People with power enforce what become social rules – teachers, judges, police, parents, grandparents, support workers, religious leaders, non-disabled work peers and other students, and CALD not-for-profit associations.

Cultural and Linguistic Diversity in Australia

According to the 2016 Census, 33% of Australians are born in another country; that is about one in three people; a further 16% have either one or both parents born overseas.

Australian people speak more than 300 languages, excluding the languages of Aboriginal and Torres Strait Islander peoples.

People with disability from CALD backgrounds are not homogenous people. There is diversity within diversity (ABS 2017). However, there is no agreement on what constitutes CALD persons even though there has been an Australian Bureau of Statistics (ABS) standard since 1999 (ABS 1999).

On the other hand, the NDIS, justice and legal services, and Centrelink may capture for the person their first language and country of birth. However, these agencies and services do not collect information about people's culture, ethnicity and religion when people present themselves at their services, especially if they are born and brought up in Australia. Therefore, there is no accurate information on how many people with disability from CALD backgrounds receive services from these government agencies and institutions or have been denied benefits from them.

Often the most vulnerable people in Australian society are those people least able to speak for themselves, people who are marginalised without necessary supports, and are not acknowledged by those in power. Albert Einstein is said to have said that "Everything that can be counted does not necessarily count; everything that counts cannot necessarily be counted" (Garfield 1986). This quote or concept means what is counted or measured by people may not have some value, and not everything of meaning has a measure.

The NDIS, for example, puts people from CALD backgrounds in the same cluster as indigenous people for their linguistic diversity. Suppose more than 300 indigenous languages are being spoken in Australia, again. In that case, the specific cultural, religious, ethnic needs and barriers that affect the access or lack of access of Australians with disability from CALD and indigenous communities to support and services are continuously ignored.

Many people born in Australia to migrant parents, who fluently speak English, may also tend to speak their mother tongue or first language at home and hold a cultural identity, and cultural practices and religious beliefs.

The current data collection survey and administrative approaches lack consistency in defining disability or disabilities, violence, and cultural diversity and linguistic diversity. When examining the impact on those with disability of various aspects of violence, whether derived from individual or institutional sources, there is no consistency across data sets and data collection approaches. It appears that the intersection of LGBTQIA+ (lesbian, gay, bisexual, transsexual, queer/questioning, intersex and asexual/ally plus), disability, ethnicity and violence has not been a consideration. Therefore, it will not be possible to explore all aspects of violence experienced or reported.

There is survey data that applies to those surveyed. Still, there is a danger of using survey results to the broader community, given sampling and sample size, and small discrete groups being excluded (Stephan 1936). There are also issues associated with selection bias (Lavrakas 2008), such as the Australian Bureau of Statistics' (ABS') Survey of Disability, Ageing and Carers (SDAC). Data from the 2012, 2015 and 2018 SDACs showed a preference for those who speak English (≈90%). Survey data only indicates point-in-time measures, not period-over-time measures (CDC 2011). Administrative data provides an insight into changes over time. There is an issue associated with the compatibility of what is captured and the purpose of the collection.

Many agencies and individuals have presumed that linguistic diversity and cultural diversity are the same. It is essential to distinguish between cultural diversity and linguistic diversity.

A person who considers themselves CALD will differentiate from the mainstream culture in terms of ethnicity, social class, and language (Pérez 1988). In this sense, linguistic diversity is a subset of cultural diversity (Parla 1994). For this reason, throughout this submission, we have used the term CALD to mean CALD. The NDIA is an example of a government agency that does not collect data on a person's cultural, ethnic and religious background, only the country of birth and language as
a preferred form of communication. The NDIA, and most government agencies, appears to use the presumption that speaking only one language is the norm in Australia, whether this is English or another language. The standard for many communities in Australia is to communicate in two more languages apart from English. An ethnic community may have a local dialect, or religious language, a national language, and English.

Below are four possible operational definitions. The bottom three are concerned with linguistic diversity, not cultural diversity, as they exclude communities that communicate in English but have distinct cultures.

This table shows the percentages of those people in need of assistance who are CALD and from language backgrounds other than English (LBOTE). This table also shows how different government interpretations of the term CALD results in differences in data.

Table 1: Need for Assistance 2016 Census

	15 or Under	16 to 64	65 or More	Total
CALD – ABS	33.4%	41.9%	34.8%	39.6%
LBOTE	23.7%	33.2%	31.1%	31.3%
Government definition CALD	9.0%	23.8%	22.3%	20.5%
CALD limited	0.6%	2.4%	4.9%	2.4%

SOURCE: Census TableBuilder

CALD – ABS: Includes English speakers born in Australia or a mainly English-speaking country (MESC) with parents born in a non-MESC.

LBOTE: Excludes English speakers born in Australia or MESC with parents born in a non-MESC and does not measure cultural diversity.

Government-definition CALD: Only includes those born in a non-MESC and speaks a language other than English. It excludes Australian or MESC-born speakers of other languages that do not measure cultural diversity.

CALD limited: applies to those born in a non-MESC and who speak English not well or not at all. Excluding those born in Australia or MESC and speaking "English not well or not" does not measure cultural diversity. The definition used by the DRC in the Interim Report on page 313 (Sackville, Bennett et al. 2020) is often reflected in what is collected and presented. This presumption effectively excludes many people from being acknowledged as being culturally diverse when they are.

Definitions of Disability Being Used by Different Australian Government Departments

There is no agreement on how disability should be defined nationally, and the definition is challenging to conceptualise. It has a complexity that has dynamic and multidimensional properties. In many cultures and languages, there is no concept for disability. Still, there may be concepts for various classes of disabling conditions such as deafness or blindness within a given language or culture.

One approach to dealing with disability is the short disability module, or the shorter set (ABS 2018) used in many surveys such as the Personal Safety Survey (PSS) (ABS 2017) or the General Social Survey (GSS) (ABS 2020).

Some agencies may ask if the respondent has a disability without clarifying the impairment's nature or intensity. Other agencies may ask the person if they meet some disabilities threshold, such as eligibility for the Disability Support Pension (DSP) or the NDIS. Given the diversity in definition currently adopted in Australia, it would be helpful to have a nationally consistent agreement of what constitutes a disability, which is consistent with international standards such as the International Classification of Functioning, Disability and Health (ICF) (WHO 2001).

Types of Disability Assessments Used in Australia

The Australian Government uses three sets of disability assessment tools to determine eligibility to:

- access welfare payments (DSS 2020)
- come into Australia
- access the National Disability Insurance Scheme (NDIA 2019).

All of them in some form discriminate against people with disability, especially migrants with disability.

Centrelink has a score point system that measures if a person with disability is incapable of working and thus deemed eligible for the Disability Support Pension (DSS 2021).

The Department of Home Affairs has the hypothetical man measure (Enabled Report) to assess how much a person's disability will cost Australian taxpayers. If it is more than $40,000 more than 10 years, they are denied entry to Australia or deported from the country (APH 2010).

The NDIS has two lists. One list for conditions that meet the *National Disability Insurance Scheme Act 2013* section 24 – impairments need to be permanent and require no medical intervention, and another list for variable conditions that require additional support material (NDIA 2019). All the measures above are discriminatory because the purpose is to screen out people from CALD backgrounds from the systems or deny them entry into Australia.

The United Nations Convention on the Rights of Persons with Disabilities

This report reflects on several articles in the United Nations (UN) Convention on the Rights of Persons with Disabilities (CRPD). We have aimed for the stories within the UN framework to reflect the rights-based social model of disability.

The CRPD came into being in 2006; Australia signed it in 2007 and ratified it in 2008.

In 2012, a health waiver applied to refugee and humanitarian entrants. The application of the health waiver meant that offshore humanitarian refugees could not be discriminated against for their disabilities, as a cost to the community.

Abuse, violence, neglect and exploitation are informed and driven by a broken system and discriminate against people with disability. Using the articles of the CRPD, this report is broad in reflection of all "settings or context" stated in the Disability Royal Commission's terms of reference into violence, abuse, neglect and exploitation.

Intersectional Discrimination Against People with Disability from CALD Backgrounds

The concept of intersectionality is the recognition that intersectional discrimination is critical to understanding disability. Understanding intersectionality is necessary to fully understand and appreciate the human rights violations that people with disability experience (Smith 2016).

Intersectional discrimination has unique and specific effects on people with disability. In many cases, it may lead to people being considered different or to another degree of bias or new forms of discrimination not yet acknowledged by law, policy, or research.

People with disability from CALD backgrounds, including those in institutional and residential settings, domestic and community settings, mainstream workplace and recreational settings, experience intersectional discrimination that often has aggravating or compounding effects. Yet, this is not recognised or addressed adequately in legislation and policy frameworks in the Australian context to prevent violence and advance the human rights of people with disability.

Statistics, Data Collection and Violence Against People with Disability from CALD Backgrounds

There are no nationally consistent measures for collecting and publicly reporting disaggregated data across the full range of obligations contained in the CRPD. For example, for people with disability from CALD backgrounds, CALD status is often not considered in many collections. In addition, there is no nationally agreed standard for survey or administrative data to record ethnicity, disability or intersectionality, or violence.

There are some fundamental issues that policymakers have not addressed. When dealing with data, there are some basic questions one should be able to ask and obtain an answer to when dealing with ethnicity, intersectionality, disability and violence:

- What are the population estimations?
- What is the policy response to the estimate?
- What is the policy evaluation?
- How much funding is estimated to be required to support the particular program at various levels?

The first two questions are related (an estimation of the population's size and policy responses). These are estimates of demand. The last two question are related to supply (evaluation and funding) (Cooper 1998). When dealing with ethnicity, disability, intersectionality and violence, it is necessary to address the numbers involved. There are two possible problems with establishing such an estimate. One problem is the lack of comprehensive recording systems to provide reliable estimates of the numbers involved. The second problem is the adequacy of resources available to deal with disability issues if the population size can be established. That is, the necessary policy instruments required for estimating the estimated and actual population are available if the political will exists. Apart from ABS survey SDAC, there are no comprehensive administrative data sets informing service use by people with disability.

When estimating the numbers, there is a question of what is counted and not counted. The current emphasis is on those with severe or profound disability, such as eligibility for the NDIS. There are other classes of those with disability excluded from any consideration. An example would be people with different intensities of disability (moderate or mild or those eligible for the Disability Support Pension).

The total number of people with disability is an unknown population as there is no accurate or reliable method to count this population. The SDAC is a sample survey conducted about every three years. As a sample survey, the particular study's proportions will vary, as shown in the table below. The results reflect the specific sample chosen; it does not mean reducing the ratios over time; only the selection has a different population composition.

Table 3: SDAC 2003–2018 under-65

Source: ABS Survey TableBuilder

	2003	2009	2012	2015	2018
Has disability and profoundly limited in core activities	1.35%	1.39%	1.55%	1.53%	1.60%
Has disability and severely limited in core activities	2.59%	2.20%	2.17%	2.07%	1.89%
Has disability and moderately limited in core activities	2.54%	2.07%	1.91%	1.75%	1.49%
Has disability and mildly limited in core activities	3.64%	3.56%	3.76%	3.59%	3.51%
Has disability and not limited in core activities but restricted in schooling or employment	2.24%	1.82%	1.59%	1.63%	1.52%
Has disability and not limited in core activities or restricted in schooling or employment	2.50%	2.05%	1.85%	1.98%	1.67%

The lack of an adequate data framework for a comprehensive understanding of disability in Australia undermines any numbers production. There is no conceptual context to give those numbers any significant meaning. In addition, there is no integration of various data sources such as Medicare and the Pharmaceutical Benefits Scheme into a standard data structure such as a data-linkage file to inform disability, ethnicity and intersectionality.

Reported Incidents Indicating Widespread Mistreatment of People with Disability

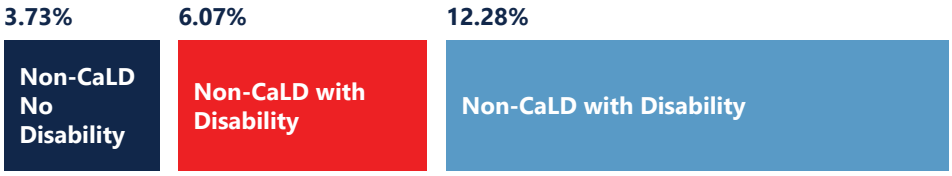
The Guardian, on 16 March 2021, highlighted the prevalence of abuse in the disability sector. It reported that, in general, two-thirds of people with disability experience physical and sexual violence against them and that women with disability are twice as likely to experience sexual violence than women with no disability (Henriques-Gomes 2021).

These are incidents reported to the Australian Government NDIS Quality and Safeguards Commission founded on 13 December 2017. It is worth noting that while the NDIS was rolled out in 2013, its oversight agency the NDIS Quality and Safeguards Commission only had its first full year of operation in 2018.

Statistics relating to "fear of the person" show us that CALD people are more afraid of a person than non-CALD people (with or without disability).

Figure 1: Fear of the Person

Source: PSS 2018



There is also no agreement on how violence is defined. The Australian and New Zealand Standard Offence Classification (ANZSOC) used by the Australian Bureau of Statistics has a definition of violence (ABS 2011). This classification operates within the criminal justice systems of Australia and Aotearoa New Zealand.

The National Disability Strategy and People with Disability from CALD Backgrounds

The National Disability Strategy (NDS) is a governance framework for federal, state, territory and local governments to acknowledge and promote measures to improve access and equity for people with disability.

The NDS provides the overarching framework for people with disability in Australia and would structure and determine services and support open to CALD people with disability. Yet, the current NDS does not capture the experiences of people with disability from CALD backgrounds. Furthermore, the framework underwent several reviews in 2017 and 2019 before the strategy ended in 2020.

Community consultations led to the December 2019 NDS beyond 2020 report – *Right to opportunity: Consultation report to help shape the next national disability strategy* – which mentions CALD people with disability 20 times, unlike the original *National Disability Strategy 2010–2020* which has a single paragraph on people with disability from CALD backgrounds. There is little discussion about including CALD voices in the strategy or multiculturalism. For instance, what we see in the government policy review documents are anecdotal statements from people on what needs to be done better. The NDS framework still leaves out how people with disability from CALD backgrounds can inform the goals set within the framework.

Commonwealth, state and territory, and local government departments are not monitored and audited to show how they implemented the NDS and the National Standards for Disability Services, *The People of Australia: Australia's Multicultural Policy* and the *National Disability Insurance Agency Cultural and Linguistic Diversity Strategy*. The accountability of agencies is not measurable if they are not required to report their implementation of these policies and strategies properly in their continuous improvement plans and show it in their annual reports. Even many mainstream disability service personnel, including NDIS planners, local area coordinators, and staff of NDIS-registered disability service organisations are not aware of them. For people with disability from CALD backgrounds, receiving appropriate services would mainly depend on whether or not the people they deal with have cultural and disability awareness.

Perception of Disability in Diverse Cultures

The perception of disability, even in well-developed countries such as Australia, has not been so positive. In the less-developed countries where Australia receives migrants from, people's knowledge and awareness of disability may be meagre and formal supports and services limited, while the situation for people with disability can be more complex and disastrous.

When people migrate to Australia, they usually bring along their religious beliefs, cultural practices and rituals. Sometimes, those religious beliefs and cultural practices may be barriers to quickly adapting to the new culture.

In some diverse cultures, disability is perceived negatively as a punishment for the person's sins or the family's sins in their previous lives.

People with disability and their families have usually been hidden away from extended family, neighbours and friends. In some cultures, parents and grandparents would disown the child with a disability and exclude them from their will. Disability and mental health issues are perceived as shameful for the person and their family. There is a significant stigma around disability and mental health, which can be the primary cause of discrimination and exclusion for people with disability. According to the World Health Organisation (WHO), stigma is marked by shame, disgrace or disapproval. It can disrupt the person's family relations, cause isolation, poor self-esteem, restricts the person's ability to obtain jobs and housing, and contributes to the violation of their human rights (Officer and Posarac 2011).

However, sometimes, if some people with disability from those diverse cultures in Australia want to live independently, the family may not accept this due to the pressure from their community, because according to their beliefs, the family's action is perceived as ruthless, cruel and abandoning the person with disability.

In some other cultures, people with disability are perceived as a gift from God. As a result, families, carers and the community become overprotective and do everything for the person. Part of the motivation for this may be people believe they might be punished or rewarded in their next life for their good or inadequate treatment of people with disability. This attitude can also be a barrier for the person with disability to learn self-care and independence skills, and they may therefore be isolated from the community. So, in either scenario, perceptions of disability in diverse cultures in Australia negatively affect people with disability and make their lives more difficult to improve.

The following two cases highlight some of the cultural barriers and perceptions people with disability from CALD backgrounds experience in Australia.

Perceptions Case 1

A young man with cerebral palsy from a South Asian background was living with his parents and was 18 years old then. He was not allowed to leave the house or use a wheelchair. He crawled around the house; he was not encouraged to have friends, go out, and socialise. Perhaps the family was overprotective of him. He was referred to the Ethnic Disability Advocacy Centre (EDAC, Kin) for advocacy support and to convince his parents to allow him to live independently. Unfortunately, his parents would not consent to him living away from home and preferred to take care of him as it was their duty to protect him. After a lengthy period of advocacy work, this young man was determined to live away from home to gain his independence. After a long battle with the Department of Housing, he was finally offered accessible accommodation and home support to enable him to live independently. However, he was still hopeful that his parents would understand his needs and accept the decision he made.

Perceptions Case 2

A family from South-East Asia had a 16-year-old son with intellectual disability. Still, his extended family in their home country did not know of his existence as his parents feared that the grandparents would exclude them from their will. The 16-year-old was often hidden away from their ethnic community for fear of stigmatisation. They were also ashamed of his existence and saw it as a punishment from God for their previous sins. Therefore, this young man was excluded from all family and community activities. He was missing out on all forms of socialisation, including shopping, sporting activities and participating in cultural events apart from attending school. This was picked up by the school teacher, who was concerned about his lack of social development.

As seen in the examples above, perception of disability may vary from individual to individual, and family to family within a culture and between cultures. Stigma may be reinforced by the person's surrounding environment such as in their family, ethnic community and wider mainstream community, and may be entrenched and intergenerational. In Australia, for people with disability from CALD backgrounds, this may mean accessing supports and services at the point of crisis when experiencing financial hardship, homelessness or family breakdown. Some people may also prefer to access supports and services in another town. They may not want their community members to know and shame them for accessing disability or mental health support services (CP 2017).

It is essential to address stigma and shame by using both human rights and person-centred approaches. For people with disability, this is achieved by promoting, protecting, and ensuring the full and equal enjoyment of all human rights and fundamental freedoms. And encouraging respect for their inherent dignity will empower people with disability also from CALD backgrounds to access supports and services (CRDP 2021).

CALD Women with Disability

Australian women with disability from CALD backgrounds may experience disadvantage and discrimination on many levels, including:

- disability discrimination
- racial discrimination
- religious vilification
- sex discrimination – as in some cultures, women are not perceived as equal to their male counterparts.

Abuse of CALD women with disability occurs, with abusers sometimes withholding food, denying medication, threatening to take women's children from them, and threatening to deport them back to their country of origin. An abusive family member or carer may get full access to a woman's finances and abuse her financially. The experience of many women with disability is an inability to articulate the violence they are experiencing or not have those in authority believe them when they report violence against them. Disability support workers are usually not trained to recognise violence (DSS 2015).

A person or family's migration status and associated cultural values will affect the complexities of domestic violence cases (Bartels 2010). Women with disability from CALD backgrounds are less likely to report violent incidents. This situation is due to a lack of awareness of the Australian criminal justice system and its cultural values and beliefs. In some countries, domestic violence is culturally normative behaviour. This acceptance is dependent on the degree and extent of the violence. It is seen as a personal issue within the family. If the violence is considered severe, community elders will often intervene to resolve the issues involved, but it will not be taken outside the community. For asylum seekers in refugee camps, women, especially those with disability, are more likely to be subjected to sexual violence, and these cases mostly are not reported to authorities. Women on temporary protection visas living in the community have chosen not to report domestic violence incidence due to fear of deportation.

Another form of abuse occurs when young women with disability are taken back to their countries of origin to marry a relative to help them migrate to Australia. The intention is not to have a long-term marriage but to help a poor relative migrate to Australia to have a better life for himself. Once he gets his permanent visa, the wife's parents consent to his request for a divorce.

Through its advocacy work, NEDA recognises people with disability, especially refugees, are at a heightened risk of violence, including interpersonal violence and sexual violence (NEDA 2015). The practices, policies, and legal framework for asylum seekers in Australia have resulted in accepted practices that have created significant mental and physical pain and suffering that continue to establish life-long impairments and disability. These disabilities have arisen in institutionalised settings where severe and routine violations of the prohibition on torture and ill-treatment have taken place (Ball 2014).

The following section on sexual harassment reflects the social undercurrents of the intersection of gender-based violence and power for people with disability from CALD backgrounds. It is indicative of the perception that a person with disability is powerless to complain and limited in their rights.

Sexual Harassment

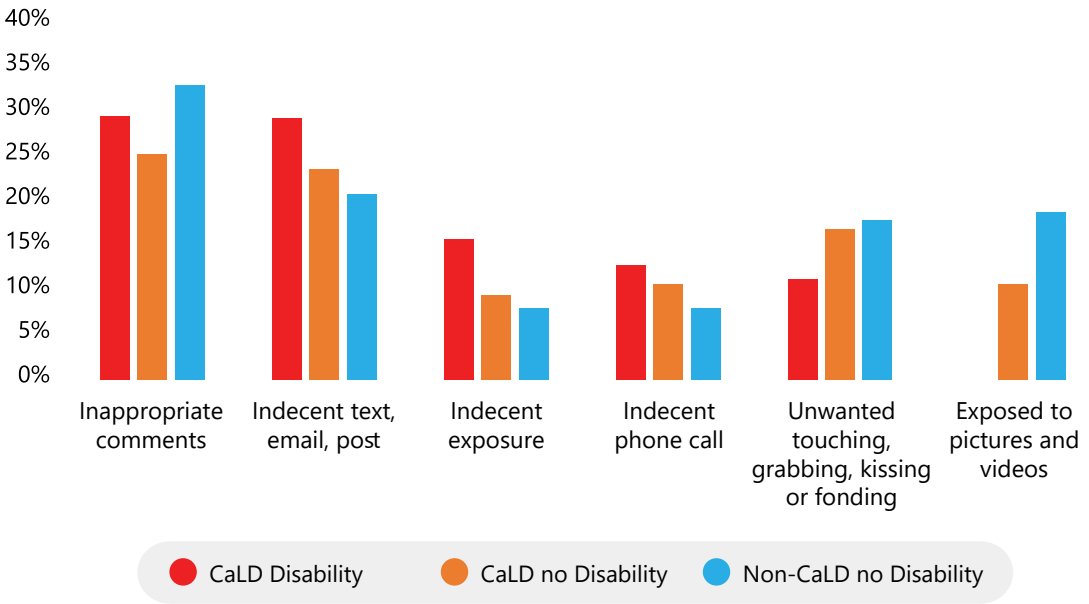
NEDA's data analysis from the Australian Bureau of Statistics' (ABS) 2016 Personal Safety Survey (PSS) survey has indicated that women with disability from CALD backgrounds experience sexual harassment in the form of inappropriate comments, texts and posts compared to CALD people with no disability.

Disturbingly, CALD people with disability reported experiencing indecent exposure twice as much as abled-bodied reported in the CALD and non-CALD communities, respectively.

Interestingly, abled-bodied non-CALD people are marginally more likely to receive inappropriate comments. And abled-bodied people are nearly twice as likely to be victims of unwanted touching, grabbing, kissing or fondling than those with a disability.

Figure 2: Sexual Harassment

Source: PSS 2018 Survey TableBuilder



Family and Domestic Violence

Women with disability from CALD backgrounds usually do not get much support when they experience family and domestic violence (FDV), especially if they do not speak much English.

It is almost impossible for women with disability from CALD backgrounds to move out of their homes to get away from their perpetrators as women's refuges cannot accommodate them due to their disability and English-language deficiency as the facilities may not have adequate accessibility requirements. Advocates that assist women to find safe housing may not be able to find a woman accessible accommodation to help her move. Even if a CALD woman with disability was supported by a NDIS plan, her NDIS funding would not be sufficient to purchase the support and services she needed to meet her disability needs while living independently. In most cases, as women may not have extended family in Australia, they cannot get informal supports either. Unfortunately, to meet their personal care needs, many women choose to stay in an abusive situation with the perpetrator of their abuse.

The following three cases highlight the lack of services and supports available for women with disability from CALD backgrounds who are experiencing FDV and seeking safety.

FDV Case 1

Mrs M is a 58-year-old woman with complex physical disability that she acquired due to a stroke. One side of her body is paralysed. Due to the stroke, she has also lost most of her short-term memory, including her ability to speak English. She needs full-time care to help her to meet her care needs. She lives with her husband, who is also unwell, and her 21-year-old daughter who is in full-time employment. The NDIS has funded a support worker to assist her for only two or three hours a day.

Mrs M's husband often complained that he was too tired and Mrs M was too demanding. In their culture, men usually do not get involved in housework tasks such as cooking, cleaning or caring for a person with a disability. The husband had also had at least two strokes and was in and out of the hospital several times. He was constantly losing his temper with Mrs M, shouting at her or ignoring her calls.

In December 2020, Mrs M was in her bedroom sitting on the edge of her bed with an exercise physiologist doing some exercises. The therapist wanted to help Mrs M move into her wheelchair but could not lift her and called in Mr M to help. Instead, Mr M scolded his wife in their language in the presence of the therapist, started punching his wife in the head, picked up one of her crutches, and kept striking her with it. The therapist reported the incident to the police, her workplace and the NDIA. Mrs M's service providers completed serious incident reports. Still, all the police suggested that due to the complexity of her disability and lack of English-language proficiency, she should remain in the home with additional supports. Her husband also registered with NDIS to get more support worker hours to support both of them in their own home. Unfortunately, the assault was not dealt with adequately to continue monitoring the situation.

FDV Case 2

Mrs S is 62 years old and lives with her husband and 40-year-old son. She has degenerative physical disability, experiences enormous pains, and needs personal care 24 hours a day. In 2020 she was also diagnosed with breast cancer. Her disabilities deteriorated with constant pain and depression. Mrs S is registered with the NDIS and gets five hours of support a day to help her with personal care needs.

Both her husband and son have provided informal supports but complained they were tired of her.

In November 2020, the husband assaulted her physically and told her to leave their rented home. The incident was reported to the police and her service providers. They supported her request for extra hours from the NDIS due to her change of circumstances. They also assisted her to apply for wheelchair-accessible accommodation with the state housing department. Unfortunately, Mrs S is still living at home with her perpetrator in a volatile situation while she waits for the services. The case is still pending outcomes from the NDIS and her local housing department.

FDV Case 3

In 2016, two women who are not related and were not known to one another, one with an intellectual disability and the other with a physical disability, were taken back to their countries of origin and were married off to their first cousins.

Their families supported them with the spouse sponsorship application. However, both women complained bitterly that as soon as they were married, they were raped, beaten up and abused by their husbands continually until they came back to Australia.

Upon their return to Australia, they sought advocacy support. They wanted the advocate to report their experience and mistreatment to be considered by the immigration department regarding their husbands' visa applications. However, they requested the immigration department keep this confidential from their families for fear of retribution.

Ability to Get Support in a Time of Crisis from Outside the Household

Able-bodied people from CALD backgrounds are 77.54% likely to get help from outside the home in time of crisis. However, if CALD people with disability getting *support* from outside the household is much harder, with only 22.46% able to access it (ABS 2017).

Relationship to Perpetrator

People who are not from CALD backgrounds and abled-bodied people experience violence from a current partner at a rate of 6.65%, and from a previous partner at 12.23% and a stranger at 36.58%.

The above indicators are overshadowed by people with disability from CALD backgrounds experiencing partner violence is overwhelming in all the categories, with their current partner at 17.93% and previous partner at 29.77%, compared to 9.10% and 9.54% for CALD people without disability.

Disturbingly, CALD people experience violence and abuse from strangers at 52% compared to non-CALD with disability at 26.74%.

For non-disabled people with disability from CALD backgrounds, current partner violence sat at 5.85% and previous partner violence at 17.40%, indicating CALD people with disability are much more likely to be abused by partners than other CALD people in the community.

Recommendations

- The Australian Government should develop and enact national legislation on the prevention of all forms of gender-based violence.
- The Australian Government should ensure the *National Plan to Reduce Violence Against Women and their Children* is inclusive of all forms of gender-based violence, regardless of the setting and the perpetrators of such violence.
- Australia's governments should address the methodological restrictions in data collection instruments used to capture data on violence against women.
- Australia's governments should ensure gender-based violence services are inclusive of women and girls with disability from CALD backgrounds.
- Australia's governments should resource and support disabled people's organisations to develop and implement initiatives to address violence against women with disability.
- Australia's governments should adequately support organisations and networks of women with disability to engage in all initiatives to promote gender equality.
- Australia's governments should properly resource women's refuges to support women with disability from CALD backgrounds.
- All levels of government should enable the safe transfer or transformation of women's refuges into accessible and affordable accommodation.

Children with Disability from CALD Backgrounds

Children with disability from CALD backgrounds come in two streams:

1. Children born in Australia
    a. children whose parents are newly arrived humanitarian entrants and asylum seekers speak a language other than English (LOTE) at home
    b. children whose parents are skilled migrants who speak LOTE at home
    c. children whose parents have come in on a family reunion visa who speak a mixture of LOTE and English at home
    d. children of long-term migrants and refugees, generally as the second and third generation, whose parents speak another language but the children speak English at home.

2. Children **born overseas** but arrived through the following migration programs
    a. children whose parents are newly arrived humanitarian entrants and asylum seekers speak LOTE at home
    b. unaccompanied children but live in the community – LOTE is spoken at home unless sponsored by an Australian family
    c. intercountry-adopted children come from sending country via the special needs program with disabilities and placed into an Australian family where English is spoken at home.

In each cohort group of CALD children, their disability and types of impairment can differ. For those born in Australia, they can develop congenital-related disability like the mainstream population. For those born overseas, their impairments can be because of their migration, conflict and immigration detention, or their country of origin's health system, in addition to being congenital.

How support is given to children with disability within and outside the home differs across migration streams and people's family cultural backgrounds also play a significant role.

A parent's or carer's ability to advocate for a child depends on the supporter's literacy on disability health, understanding the disability sector and the NDIS, and plays a role in how children from CALD backgrounds fare. This experience also applies to new parents of CALD-background children born in Australia (second and third generation), parents who are newly arrived in Australia and adoptive Australian parents.

Although the NDIA resists registering people born in Australia to parents from CALD backgrounds as CALD on the NDIS, second and third-generation Australians usually grow up with their parents' religious beliefs, cultural practises and values.

One of the most significant risks of violence, abuse, neglect and exploitation for CALD children with disability is inherent in CALD parents not knowing their children's rights inside and outside the home. This perspective can arise from ideas and perception of discipline to culturally seeing disability as a deficit – from shame to the belief that their children cannot be typical and socialise with other peers (Cooper 2015).

From a socio-economic perspective – class inequality, different levels of English proficiency and parent's workforce participation, especially if they are in blue-collar jobs, can exacerbate CALD parents' inability to navigate the disability sector. On the other hand, more secondary- and tertiary-educated parents generally have access and time to navigate and understand the disability sector, as articulated in numerous articles (Malbon 2019).

Child protection

The child protection practices in Australia, as a rule, use the disability status of the parent or child as a determinant of whether there should be a statutory intervention (Cooper 2015). While supporting legislation may state that disabilities are not a determinant, the practice is the opposite. Once child protection is involved with families with disability and their parents and children, the separation of child and parents tends to be the rule because of presumed risk or risk-of-harm assessments. CALD families fear government authority, particularly child protection and police.

Under the United Nations Convention on the Rights of the Child (OHCHR 1999), the child's most appropriate setting is the natural family. Yet, this fundamental human right of the family is often denied to people with disability. This denial of human rights arises because of those employed in the child protection system (Edvardsson 1996). There is a presumption that a person with a disability is incapable of safely raising a child. Many child protection workers and agencies hold this attitude. Cabalistic and paternalistic attitudes and practices reinforce the attitude. If a person with a disability asks for assistance, assumptions about the person's parenting capacity are less – therefore, the child or children involved are seen to need rescuing from their parents because of a presumed future risk-of-harm, not actual harm. There is limited evidence from the literature validating this assumption (Baker 2020).

When dealing with children with disability, it has been many parents' experience there are two standards of response involved in child protection issues. First, if an employee of a statutory authority causes the injury, rarely are sanctions applied to the employee, especially if the child has a disability. Second, on the other hand, if a parent causes the same injuries, the child is immediately removed from the parents, and the parents punished for being poor parents.

The care of children with disability is usually the mother's responsibility. Migrant women with children with disability can be disadvantaged and disempowered by the judicial system because of language difficulties. These women may be deemed incapable of supporting their children financially and physically. Both parents can use children with disability to fight for custody without consideration of their feelings and care.

Recommendations

- Federal and state and territory courts, tribunals and people responsible for child protection services should be required to have disability awareness and cultural competency training as part of their employment conditions.
- Court/Tribunal professionals and departmental staff should always engage a professional interpreter if a parent is not fluent in the English language.
- Children's courts and child protection staff should check to ensure what informal supports the family already has, if any, before taking children off parents and placing them in the care of strangers who may not understand the children's language or cultural and religious needs.

Abuse, Neglect and Exploitation of people with disability

from CALD Backgrounds in Institutional and Residential Settings

This section will cover abuse, neglect and exploitation against people with disability from CALD backgrounds in government and community services settings.

Education services

Access to information in alternative formats such as Auslan, Braille and electronic communication and from language interpreters has been challenging to obtain, primarily for students with disability from CALD backgrounds. If students are new arrivals and do not know what is available for them, some miss out on vital information, support, and services. In addition, there is often a disagreement between government departments such as a state or territory education department and the NDIA as to who should fund the students' support needs for assistive technology, interpreters, education assistance, information in alternative formats and so on.

Kin, formerly the Ethnic Disability Advocacy Centre, undertook a project in 2019 to find out how students with disability from CALD backgrounds were being treated in the education system and reported that parents often do not have a clear understanding of their child's diagnoses. For those students on the autism spectrum disorders and with cognitive and intellectual disability, this appears to be especially concerning. This lack of knowledge creates added pressure for both families and school staff to meet expectations; please see EDAC's full report in appendix 3.

Below is an example of the consequences of a lack of communication with CALD families.

Education Case 1

A newly arrived family went on an orientation tour of a support school and while the family had very limited English, an interpreter was not engaged. Part of the tour involved the family viewing the school's sensory room, which was dark and enclosed. With no access to an interpreter and no reference point for what a sensory room might be other than her past experiences in her country of origin, the mother assumed that it was an area used to torture and punish children. She was required to send her child to school the following week, with questions regarding this room still unanswered. This experience is just one example of the importance of having a trained interpreter available when communicating with families with English as their first language.

Children with disability from CALD backgrounds are often neglected in both the education system and the NDIS. For example, parents are usually unaware that they could ask to have an education assistant to support their children with disability in class. In addition, where parents of children with disability speak limited English, the school staff does not always engage interpreters to talk to a child's parents about their child's needs, challenges and achievements, or if the child needs an alternative learning plan, et cetera.

As disability is perceived negatively in some cultures, some parents also have minimal expectations of their child's achievements in education.

Education Case 2

A 10-year-old boy on the autism spectrum had missed many weeks of schooling in 2020, but his mother did not encourage him to go to school if he did not want to as she did not see education as important for him because of his disability. The mother did not think that education could improve his life for the future.

The mother's expectation of her child was not positive.

The 10-year-old was a participant of the NDIS and received therapy supports, including behaviour therapy, speech therapy and occupational therapy services at his school, which meant that he had missed all his therapies. As he had missed several weeks of schooling, the therapies were also cancelled.

The boy's mum also failed to keep appointments in school as well as at their homes.

On one occasion, a female support worker took the child out to a large shopping centre and left him alone while she attended to her shopping. He got scared and had a meltdown. After that incident, his mother cancelled the NDIS core services. Although she was given other options to choose another provider, she declined, stating that she could not trust anyone anymore.

Education Case 3

An eight-year-old boy who was profoundly deaf, non-verbal and possibly had an intellectual disability did not receive any supports from the education system while in year one and two at school.

The school did not inform the parents the boy could receive support to learn sign language and NDIS support until last year, even though the system was already in place two years ago.

As his parents were from a non-English speaking background and had never heard of NDIS, the child had missed out on the Early Intervention Early Childhood (ECEI) program. As a result, it was possible that the mother could access NDIS funding for Auslan for herself and the child.

While the mother had no chance to attend English classes due to her caring role, she was looking forward to learning Auslan.

However, NDIS funding was grossly inadequate for the boy to attend therapy as well as learning Auslan.

A request for a plan review was made through the NDIS to increase his funding. Still, the request was unsuccessful as Auslan was not regarded as the scheme's responsibility, so the mother also missed the opportunity to learn Auslan.

Case analysis

As demonstrated in the case examples above, CALD families could benefit from interpreters' use during case conferences, medical support, therapy support and student progress meetings and so on.

Families are often unaware of the meaning of their child's diagnosis and while schools have access to interpreters, they do not have access to resources to get documents translated. In New South Wales, there is currently no financial support provided to schools by the state's Department of Education that could assist with additional translation resources (including translating important medical and allied health service documents into the languages spoken by CALD students' families).

There should be a more substantial commitment on the part of schools to work towards the routine use of interpreters to facilitate better communication and engagement of CALD parents of children with disability as part of children's right to education.

Often refugee minors, unaccompanied minors and migrant children of colour experience multiple layers of discrimination in the school system. Disability often gets confused with English as a second language (ESL). Classes that focus on ESL for newly arrived migrant and refugee children and teenagers are segregated from mainstream English classes. There an English-proficiency requirement level the students must before they are integrated into mainstream school classrooms with other Australian student–residents.

NEDA has received anecdotal evidence from teachers running these ESL classes that they have a few students who are not meeting the requirements and are not performing at the level of their ESL class peers. In addition, children of refugee backgrounds have not been screened for post-traumatic stress disorder, intellectual disability and learning difficulties until it is too late.

TAFE and University

People with disability from CALD backgrounds experience the same level of inaccessible access, or in-access, as other Australian residents with disability of barriers face around access, from issues with lecture rooms to problems getting around campus and meeting course requirements.

Often ablest ideas underlie who is considered an acceptable participant in a particular occupation. Students who do not meet the ideal imagined by academic or professional staff or professional bodies will be excluded from a course because they cannot complete a core unit of study or complete field education, as the necessary accommodations have not been made.

Education Case 4

Nathaniel (not his real name) identifies himself as a young Australian male in his 20s, from Chinese-Malaysian background, who is profoundly Deaf and has a university degree. When his family migrated to Australia, Australian Signed English became his first signed communication method, and Auslan is his preferred language (his second signed communication method) and written English is his third language.

Nathaniel's parents speak Cantonese as their first language, Malay second, Mandarin third and English as their fourth language. This situation is typical in many countries with multi-ethnic groups with minorities within multicultural nations, such Chinese, Malay, Indian and Orang Asli (indigenous Malaysians) people in Malaysia and Singapore.

Nathaniel studied special education at university to become a special education high school teacher. In his final year of university, he organised to do his work placement to train as a teacher for Deaf students, at a school for the Deaf students, along with another Deaf female teacher who was a new staff member that had moved to the area from interstate.

Unfortunately, while Nathaniel was doing his work placement, he experienced a high level of race and sex discrimination against him.

Nathaniel and the new female staff member's supervisor favoured the female trainee teacher over him as they were both white Australians, Deaf with strong oral abilities, and females. However, the Deaf female supervisor did not give Nathaniel enough supervision with mentoring assistance and referred to him as "unfit to teach." The new female trainee teacher received more supervision hours and had taught in the education system for at least 10 years. Still, Nathaniel had no prior experience of teaching. Each time Nathaniel and the other teacher approached their supervisor to ask questions about how to do lesson plans, about the curriculum, the supervisor would respond to the female trainee, provide her mentoring, but mainly ignore him.

In response, Nathaniel complained about the supervisor's practice to the school principal, a white Australian who was not deaf, did not understand Auslan and engaged an Auslan interpreter to communicate with Nathaniel. Unfortunately, the principal also sided with the supervisor, and they failed Nathaniel in his final teaching–training placement. Nathaniel strongly believes that they failed him because he was from a different race and colour, not just for academic reasons.

When Nathaniel was about to complete his degree, as he did not satisfy the work placement requirements of the course, he unfortunately could not graduate as a teacher. However, as a result of advocacy and activism and Nathaniel performed well in the rest of his course, and the university agreed to give him a degree in sociology which was not really what he was hoping for. He would have much preferred to become a teacher for Deaf and special education students. However, he worked in different careers after graduation.

Education case 5

A student with vision impairment undertook a Bachelor of Psychology course where staff held the belief the student would not meet the academic units' requirements as she could not interpret body language.

The lecturers often complained that the grafts, charts, diagrams and statistics were too visual for them to explain using words to a person who was blind. At the beginning of almost every unit, the lecturers would strongly advise the student to give up. They felt it was easier to illustrate their concepts by drawing and brought up an option for the student to change to a different course.

The same student was also denied registration to a course at TAFE, where a senior lecturer argued the course was too visual and not appropriate for a person who was blind. The student also faced additional barriers in the TAFE qualification as essential readings were not provided in an accessible format. The electronic blackboard where most information is saved for students to use was also not accessible for a person who was blind.

In both cases, the student had to strongly advocate for herself to be included. Most of her time was taken in advocacy for accessibility, rather than coursework.

Education Case 6

A student who developed lupus in the final year of their physiotherapy course needed additional time to meet field education requirements.

Initially, the student's request for extra time was rejected by the professional body, but after intervention by the particular state anti-discrimination body, the body granted the student's request.

Education Case 7

A worker from a refugee background has a hearing impairment. He continually experiences problems with universities that construct new buildings and outfit them with state-of-the-art audio-video technology but the hearing loops are consistency not working, or are not turned on or compatible with different hearing devices. In addition to this, he finds accessible technology needs to be sought and chased down with the relevant technicians on site. This situation happens every time he goes to a conference, symposium, public lectures and classes.

It is not a given that a student or member of the public will have access needs or that a person with disability is the speaker, not just a passive witness/student.

Still, the worker commended the universities he has attended which have a disability support unit. The units have provided invaluable support to him, from note-takers to research support with interview transcripts to giving notice to their school on campus for extra time when undertaking examinations.

Recommendations

- Students should have access to information in alternative formats such as Auslan, Braille and electronic communication, or language interpreters should be made available.
- The Australian Institute for Teaching and School Leadership and state and territory teacher regulatory authorities must ensure accredited university degrees for teachers contain units about working effectively with interpreters, and cultural competency and disability awareness. State and territory governments and universities should also ensure this training is offered to all staff working at schools, TAFE colleges and universities, as professional development training.
- Australia's governments should ensure schools are funded to translate information into the language of students where needed.
- Australia's governments should work proactively towards building inclusive education opportunities for all children with disability.
- Australia's governments should ensure students have adequate access to disability-related supports in all educational settings.
- When people with disability from CALD backgrounds complete their tertiary studies in Australia and obtain their qualifications, the Australian Government Department of Home Affairs should not require the graduates to take and pass the International English Language Testing System exam to be eligible for a new visa.

Mental Health Services

Some CALD people may have a psychosocial disability as their primary disability. Some may develop it as a secondary disability due to their primary disability or other traumatic experiences. For example, people who come to Australia as refugees or humanitarian entrants who may have been persecuted in battles are more likely to carry pre- and post-migration trauma, resulting in a psychosocial disability.

Governments have defunded most culturally appropriate mental health services in Australia, and mainstream services are not skilled or equipped enough to respond to the needs of people with disability from CALD backgrounds in a culturally competent way. Some CALD people with severe psychosocial disability may be rejected by their families or may not have family members in Australia to support them. These people are often appointed a public guardian to act on their behalf.

Some CALD people with psychosocial disability may be vulnerable and isolated from their families and community due to their uncontrolled or unpredictable behavioural problems, especially those who have been in a war, experienced torture and trauma, and lost their loved ones. Due to the nature of their disability, they may not accept their condition, refuse to participate in treatment and not trust the authorities. As the system is not adequate to support these individuals in a culturally sensitive and timely manner, it fails them.

The majority of the public guardians appointed to support CALD people with psychosocial disability do not meet the individual in person. The publicly appointed

guardians often lack the understanding of the person's cultural background and needs to support them appropriately. All some of these public guardians do is sign official documents on the person's behalf. Some public guardians are known to have a racist attitude towards people with disability from CALD backgrounds and tell these people they fake their disability to get a pension and not have to work.

Unfair treatment by the system and society may prompt CALD people with psychosocial disability to feel helpless and hopeless, which may lead them to self-harm or commit suicide. When individuals present themselves to a hospital with self-harm or after attempting suicide, their cultural diversity, ethnicity, and religious beliefs are not recorded. As a result, hospital staff members do not engage interpreters in an emergency despite their health services receiving funding for hiring interpreters or using the national Translating and Interpreting Service hotline. It is vital health services collect information on people's cultural backgrounds, ethnicity, and religious beliefs. These aspects could be underlying factors for the person's illness and knowing them may also help improve the culturally appropriate mental health services a person receives in general.

Psychosocial Case 1

A 37-year-old man with a psychosocial disability lived in transitional housing after being discharged from a mental health clinic. His spoken English was adequate but his written literacy skills were poor and he had no family supports. All his documents were signed by his public guardian, whom he had never met in person.

The man's public guardian contradicted another agency's decision by arguing the man was well enough to go and get a job and did not need NDIS funding.

Despite the guardian's views the man had NDIS funding which allowed for him to purchase community and social participation supports. He was introduced to several agencies but refused to engage them. Finally, he agreed to work with an agency that could provide a support worker who could speak his language. Although the service agreement was signed, the man kept refusing the services that were offered. He only wanted the support worker to accompany him to attend English classes and bring him home. However, this is supposedly the jurisdiction of the education system, not through NDIS funding as deemed by the service provider.

Later he was hospitalised again and remained there for several weeks.

Psychosocial Case 2

A 19-year-old young woman with cerebral palsy from a refugee background studied English at TAFE and found it very challenging without any support. One of her classmates was bullying her and constantly putting her down. Although the lecturer and the other students noticed this, the male bully's behaviour was treated as a joke. In addition, the male student criticised the woman's looks, and this has devastated the young woman.

In July 2020, the 19-year-old came home and decided to take her own life. She waited until her mother was out shopping before she attempted suicide by hanging herself to a rope on a tree in the backyard. Fortunately, her mother came home on time, and an ambulance was called to take the young woman to an emergency hospital. She was hospitalised in a mental health unit, but no interpreter was engaged despite her and her mother's limited comprehension in English. The young woman was later discharged to her general practitioner's (GP's) care to make a mental health plan and get a referral to a psychologist. Unfortunately, it took a long time for a psychologist with cultural and language competency to be found as agencies do not have allocated funding for interpreting. In addition, the agencies could not make a claim from Medicare or the NDIS.

There is a strong correlation between stigma and violence, abuse, neglect and exploitation. According to the *National Stigma Report Card* project and the *Our Turn to Speak* survey on mental health by Flourish, Mind and NEAMI, the project's research indicated that (Christopher Groot 2020):

- 67.9% of those people surveyed described relationships with family and friends as one of the top three areas of their life in which they are most affected by stigma and discrimination
- 56.5% of people described employment as one of the top three areas of their life in which they are most affected by stigma and discrimination
- 72.4% of those people who identified family and friends as one of the areas in which they are most affected by stigma and discrimination, they believed their family had mistreated them
- 71.9% of those people identified employment as one of the areas in which they are most affected by stigma and discrimination. They expect to be mistreated at work.

The above data does paint a national picture of people's attitudes towards those who experience mental illness in Australia. However, there is a question of very low numbers from CALD people in this survey, which presents question on how representative this study was. Often the feedback from NEDA's community consultation work with people with disability from CALD backgrounds, their families and carers are that stigmas worsen marginalisation and promotes discrimination both within their community and the mainstream community.

Self-harm

It appears that for those born in a non–mainly English-speaking country that the proportion of self-harm increases with age. The 65-plus age proportions for males and females exceeds their ratio in the 2016 census. Suicide (Georgatos 2019) reported is a significant concern in the CALD community. Undiagnosed psychosocial disability and coping with physical disability often add incredible stress on refugees and migrants as they deal with insecure employment, being displaced forcibly, separation from loved ones, and social pressures to conform and assimilate. These pressures have contributed to people committing suicide (ABC 2014).

NEDA contacted the Department of Health Western Australia, mental health clinics, and major tertiary hospitals in Western Australia for statistical information on suicide rates among CALD communities to help NEDA develop programs to inform CALD communities and put in place prevention plans. However, there was no information available specifically on CALD people with mental health and psychosocial disability.

Table 2: Intentional Self-harm

Non-Main English-Speaking Country of Birth

		NSW		VIC		QLD	
Year	**Age**	Male	Female	Male	Female	Male	Female
1998–2002	> 25	9.8%	15.7%	6%	8%	2.6%	6.0%
1998–2002	25–34	8.4%	12.8%	6%	9%	5.0%	5.9%
1998–2002	35–44	10.2%	13.6%	9%	12%	6.1%	7.3%
1998–2002	45–54	16.3%	18.4%	19%	27%	9.1%	10.0%
1998–2002	55–64	23.9%	23.9%	27%	34%	12.9%	10.0%
1998–2002	65 +	23.8%	30.4%	29%	37%	15.6%	18.3%
1998–2002	All ages (k)	13.7%	18.3%	14%	18%	7.3%	8.7%
2003–07	> 25	10.3%	10.0%	10%	12%	3.7%	4.6%
2003–07	25–34	10.0%	11.8%	7%	9%	4.5%	6.7%
2003–07	35–44	11.0%	14.6%	9%	10%	5.0%	6.3%
2003–07	45–54	15.3%	21.3%	11%	19%	9.2%	15.4%
2003–07	55–64	26.4%	25.8%	25%	25%	13.0%	14.1%
2003–07	65 +	32.4%	34.6%	34%	42%	14.4%	13.8%
2003–07	All ages (k)	16.6%	19.9%	14%	18%	7.7%	9.2%
2008–12	Under 25	14.2%	12.2%	9%	8%	4.3%	4.6%
2008–12	25–34	11.0%	17.4%	12%	13%	5.5%	13.0%
2008–12	35–44	10.0%	24.1%	9%	14%	5.8%	10.0%
2008–12	45–54	14.0%	19.0%	11%	18%	5.2%	7.5%
2008–12	55–64	25.4%	21.0%	26%	26%	9.5%	9.6%
2008–12	65 +	30.1%	38.0%	36%	33%	16.9%	16.7%
2008–12	All ages (k)	16.8%	22.7%	16%	17%	7.5%	9.6%
2013–17	Under 25	9.3%	13.0%	13%	9%	4.5%	5.0%
2013–17	25–34	11.8%	21.4%	11%	19%	5.4%	12.8%
2013–17	35–44	10.8%	17.7%	12%	10%	5.1%	5.7%
2013–17	45–54	10.1%	22.6%	12%	14%	4.9%	8.1%
2013–17	55–64	16.8%	16.5%	19%	17%	12.0%	12.6%
2013–17	65 +	27.0%	29.7%	34%	33%	19.4%	8.0%
2013–17	All ages (k)	14.4%	20.5%	16%	17%	8.0%	8.5%

Intentional self-harm, number of deaths as a percentage by country of birth, age groups, sex, 1998–2017

Recommendations

- State and territory governments should fund a multicultural mental health service in their jurisdiction where people from CALD backgrounds can get culturally appropriate and sensitive supports and services.
- The Australian Government should ensure psychologists and mental health workers have access to the TIS National priority line for interpreters, like doctors currently do.
- The national Psychology Board of Australia and Australian Association of Social Workers (AASW) should ensure psychologists and mental health workers are required to undertake cultural competency and disability awareness training as part of their professional training. Their training should include working effectively with professional interpreters.
- The Australian Government should ensure the *National Mental Health and Suicide Prevention Plan* includes targeted measures for people with disability from CALD backgrounds.
- Australian universities, the Australian Medical Council, the Nursing and Midwifery Board of Australia, the national Psychology Board of Australia and AASW should ensure health professionals' training includes education about the human rights of people with disability in respect to the right to life and access to proper care and treatment to sustain life.

Employment

Among the 29 Organisation for Economic Co-operation and Development (OECD) member countries, Australia ranks twenty-first 21st among OECD countries in terms of provision of employment for people with disability. In 2020 the Australian Institute of Health and Welfare (AIHW) reported that only 48 per cent of people with disability in ages ranging from 15 to 64 were in employment compared to 80% of employees with no disability (AIHW 2020).

Unemployment among people with disability from CALD backgrounds is likely to be much higher as they may not have had any employment opportunities or may have been excluded from the workforce in their countries of origin, limiting their ability to develop their employability skills. Even if people from CALD backgrounds had well-developed skills and work experience, skills recognition or recognition of their skills might not occur in Australia. The English language is another barrier for people with disability from CALD backgrounds.

Australia's immigration law prevents people with disability from migrating as skilled migrants. A minimal number of people with disability who come to Australia under skilled migration visas must demonstrate high English language competency skills by undertaking the International English Language Testing System (IELTS). The IELTS test is even difficult for an experienced professional who speaks English as their first language. This unnecessary barrier prevents skilled people with disability from CALD backgrounds from putting their skills into practice, and they end up in more vagarious jobs as a result of this discrimination.

Further to all this, incompetent Australian Government-funded Disability Employment Service (DES) providers typically fail to support people with disability from CALD backgrounds. Many people with disability who receive the Australian Government master program Centrelink's Disability Support Pension are referred to DES providers by Centrelink to find employment. Most DES providers have meagre expectations of people with disability from CALD backgrounds, especially when the person has a strong accent. The job service providers often get the person's NDIS funding for "finding and keeping a job", but the service providers do not achieve an outcome for the participant most of the time. The participants from CALD backgrounds often tend not to speak up for themselves due to their cultural upbringing, giving opportunist DES providers a chance to abuse the person's lack of confidence and knowledge of their rights by not providing the necessary services the service is paid to deliver.

Also, the NDIA may ignore the person's need for employment. Some people with disability from CALD backgrounds actively look for jobs and identify employment as an NDIS goal but do not always get the funding towards the goal. The person goes to DES providers seeking help without realising this, and then gets turned away as they do not have the funding.

DES providers are, in most cases, not experienced or resourced to support skilled people with disability to get and keep a professional job. Government departments hire personnel agencies to undertake their recruitment. The departmental job advertisement will state that people with disability, Aboriginal people, people from CALD backgrounds and women are strongly encouraged to apply. These personal agencies conduct interviews that eliminate people with disability. There is a fear of not getting paid for referring the wrong person for the position.

In the last 20 years, almost every federal government has conducted an enquiry into disability employment and DES providers, but few of the recommendations have been accepted and implemented.

Refugees and asylum seekers with disability encounter a triple set of barriers to employment.

- racism and being of a foreign background (Duncan 2018) (Qadar 2019) resulting in rejection as an applicant
- having a disability-related rejection based on a perception of not being able
- navigating the different employment/welfare, the various refugee and asylum seeker visa classes and permission to work in addition to the silo of DES and JobAccess agencies within the multicultural and disability sectors.

There is a consistent level of discrimination or, at best unconscious bias. For example, a disability officer experienced the following cases from 2015 to 2018.

Employment Case 1

An asylum seeker with an invisible disability of chronic pain in his wrist and back had chronic fatigue from torture and trauma. However, his job provider failed to offer him a desk job.

Instead, he was always given employment as a casual labourer. Due to his injuries, he was forced to quit; he was also not eligible for Centrelink's Disability Support Pension because of his visa status, despite living in Australia for nine years.

Employment Case 2

A permanent resident from a refugee background was diagnosed with psychosocial disability and had behaviours of concern was told by his social worker to do certificates and training. Yet, he had never been able to hold down employment.

This case highlights the need for interrelationships between education services and job network providers.

Employment Case 3

A deaf humanitarian refugee who was able and skilled in work was constantly denied work based on the fact that employers believed they could not talk to him.

The man's written English was not to the same proficiency as was expected in the trade.

His verbal skills were connected to his deafness. Yet his English comprehension skills were competent.

All the same, he would search local papers for trade advertisements looking for employment.

Yet, he was not successful in keeping work and could not also prove he was experiencing discrimination to the Disability Legal Service.

Day Centres

Many of the issues experienced in day programs overlay with those experienced in group homes. However, there is a noticeable difference in the functions of service delivery to people with disability. Like group homes, day programs came out of the institutionalisation era and are seen as the community option of care and social interaction in the community, so people with disability can get out and about.

Day centres are institutions, not workplaces of choice for many people with disability. Day centres are segregated and closed. With a strict regime and an opening/closing time of 9am-to-3pm attendance and there are times when gates are locked down to prevent absconding risks.

Often day centres are also Australian Disability Enterprises (ADEs) (ADE 2020).

People with disability from CALD backgrounds or relatives do not get informed on the different supports and are not offered a choice outside day support service in their local government area (LGA). Often, day centre staff members' diary entries are minimal and often non-existent – and are very much reliant on individual incentives and reporting.

The day centres share some common characteristics with old institutions and asylums. For example, they have a culture of cover-up on abuse by other day-centre participants – people often experience violence from other participants in day centres. Staff often use verbal abuse to deal with behaviours, and they become proxy teachers to adults with disability. NDIS–registered agencies should not employ staff who are blacklisted on the State or Territory Disability Employer register if the worker is found to have abused and been violent to a person with disability. Some agencies fail to check the register but also failed their duty of care.

The reciprocal relationships of day support centres and group homes is systemic. Residents in group homes attending day centres create dependency for people with disability (Oliver 1988). Choice and control are removed from CALD carers as there are no alternatives offered. There is systematic abuse of NDIS plans by NDIS liaison staff and by group homes, carers and parents to roll over an individual's eligibility in many day centres from state jurisdictions to the federal NDIS system. To CALD parents, this is the most stress-free option, restricting the choice and control for people with disability. The changeover day support and residential arrangements have become a handover responsibility, just a drop-off and pick up arrangement.

Conflict usually arises between group home staff and day-care staff over the support requirements for a participant and expectations for the duty of care. Often day centres will have their health professionals rather than use those provided by the group home. Conflict arising between resident care plans and day support care plans can often confuse providers, primarily when they use different occupational therapists, speech pathologists, and other care professionals.

Employment Case 4

A person with disability from CALD background worked at an Australian Disability Enterprise in Melbourne's western suburbs.

At the workplace the man saw an undercurrent of racism between white workers and CALD workers. Though nothing outright was discriminatory, there was a differentiation of work rights and entitlements about who got what jobs and who got a desk.

The human resources department told full-timers to go part-time, and part-timers to go casual. Caucasian part-timers felt threatened over their job security. The casuals were people of colour, working a few days a week.

Recommendations

- The Australian Government Department of Social Services and Centrelink should ensure people with disability have choice and control to take the same path as everyone else when seeking employment and not be restricted by employment providers. People with disability should be able to access all mainstream employment services, not just the digital mainstream employment services from 1 January 2022 or the Disability Employment Services scheme providers they can already access by participating in the Disability Management Service for people with disability, injury or health conditions or the Employment Service for people with permanent disability.
- Australia's governments should implement the recommendations of the national *Willing to Work Inquiry*.
- Australia's governments should implement affirmative action in the employment of people with disability. For example, suppose two people, one with disability and one with no disability with similar work experience and skills, apply for the same job – in that case, the person with disability should have priority for employment.
- Australia's governments and employers must ensure employees with disability are given the same equal opportunities as other employees to receive professional development training, and act at higher duties while being given a chance to become permanent in the position.
- Australia's governments provide proper support for the CALD workforce and significant numbers of CALD workers, often on temporary visas and exploited, in the care workforce (aged care, disability care and child care).

Disability Workers

A major part of ensuring people with disability from CALD backgrounds do not face violence, abuse, neglect and exploitation should be a national effort to ensure Australia's disability support workforce is trained and supported appropriately, and remunerated well.

Increasing Diversity

The disability support workforce is CALD, just like the community. According to data from the Australian Research Council–funded 2002–2018 Markets, Migration and the Work of Care Study (MMWC study) (Eastman, Charlesworth & Hill, n.d.), the last published census from the Australian Bureau of Statistics revealed that the percentage increase in overseas-born workers found in disability-related sectors increased by a greater percentage than the increase in overseas-born workers in the workforce all.

Overseas born workers in Australia's workforce increased 11% to 30% in the five years to the 2016 Census. In comparison, there was a 12% increase in overseas-born workers described as aged care and disability carers to 37% of that workforce. More significantly, the percentage of overseas-born workers who are working as personal care assistants increased 14% to 50% in the same five-year period since the 2011 Census.

A greater proportion of overseas-born workers work in disability support roles in Australia than are found in the nation's workforce overall, and the increased in overseas-born workers increased at a greater rate.

Lots of data examining the disability support workforce, including COVID-19 vaccination rate updates, focuses on NDIS–registered workers only.

The Australian Government *Growing the NDIS Market and Workforce Strategy* from 2019 (Australian Government 2019) is an example of such a document. The growing the workforce strategy focuses on the NDIS workforce and not on the disability sector as a whole. The strategy predicts a growth in workforce people numbers by an estimated 90,000 full-time-equivalent number of workers over the five years to 2024.

The two-year-old growing the workforce strategy also notes the diversity of the workforce does not reflect the diversity of NDIS participants, with the majority of NDIS workers being women aged older than 45 years who are from an English-speaking background and hold certificate-level qualifications. Similarly, the MMWC study of the 2016 Census found Australia's migrant support workers were on average younger, less likely to be male and had a higher level of formal qualifications (though not necessarily relevant to their employment in frontline care) than their Australian-born peers. Despite people's qualification levels, multiple language knowledge and translation skills, the nation's three main frontline care occupations (child carers, aged and disability support workers, and personal care assistants) are ranked as low-skilled occupations at Level 4 in the five-level Australian and New Zealand Standard Classification of Occupations, ANZSCO. MMWC put down the percentage increase in migrant workers to a decline in the proportion of permanent residents or Australian citizens working as support workers, including in the aged care and disability sectors. It is worth noting that in the past there was also significant numbers of overseas-born workers in the sectors, but in the past these workers tended to be permanent migrants with the full rights and protections that people who have citizenship or permanent visa status can enjoy.

Australia's strategy for what it describes as an NDIS workforce that "meets diverse needs" is to implement a series of initiatives that target groups underrepresented in the workforce. The strategy specifically aims to target or recruit people with disability, young workers, First Nations people and people from CALD backgrounds.

Data from the latest census 2021 Census, which took place on 10 August 2021, may help us judge how the Australian Government is going with its diversity efforts, in the wider workforce and among disability support workers.

While that data, and more up-to-date statistics on the NDIS workforce will emerge in the coming months and years, we expect the percentage of the workforce from CALD backgrounds will still show an increase, albeit one limited by the negative immigration rates we have seen during the ongoing COVID-19 pandemic. A significant number of overseas-born workers that are new to the sector could be on temporary visas.

We want the Australian Government to ensure any workforce reforms Australia's governments introduce to the disability sector do not impose any additional barriers that would discriminate against CALD workers, while still enacting the recommendation of the Aged Care Royal Commission that workers should have an appropriate standard of English proficiency.

Vulnerabilities

Migrant disability support workers on temporary visas face increased vulnerabilities which have been further highlighted during the pandemic, including people having:

- no access to social protections such as Medicare
- insecurity in work conditions (such as jobs being temporary, or people having limited and variable hours of work) resulting in the need to work in multiple workplaces
- poor understanding of entitlements under relevant awards
- a potential for exploitation
- inadequate training and support in the requirements of the job
- limited opportunities for professional development
- occasional requirements to act as informal interpreters, without language skills being part of a position description, or people being remunerated appropriately
- experience of racism or discrimination – both from other workers and disability support service recipients and/or their families.

Planning for the quality of life and sustainability of the support workforce which supports Australia's people living with disability is critical to providing people their rights to care, respect and dignity. As part of an essential and valued workforce, care workers on temporary visas must have secure pathways to permanent residency and security in working conditions.

Unacknowledged Language Skills

Many disability support workers are bilingual and bicultural, but they are not remunerated appropriately for using their language and cultural skills at work.

In some ethno-specific settings, some disability support workers' language skills are a vital and acknowledged part of the job. However, more commonly people's competency in non-English languages and diverse cultures are an unpaid skillset they draw on as part of their roles. We believe this is unfair.

Bilingual and bicultural workers are an essential part of the workforce, and their competencies should be valued and recognised by formal recognition and accreditation processes. People should also be paid for the professional deployment of their skills.

This skills recognition process could be acknowledged in what level of the ANZSCO that people are classified at by the government.

Training and Professional Development

Australia's governments should ensure the disability support workforce, with its increasing numbers of people from culturally and linguistically diverse backgrounds, is properly supported and trained.

Workers from CALD backgrounds may need specific training to prepare them to work in disability support roles in Australia. Some aspects of generic training may need to be tailored to the needs of the CALD members of the disability support workforce. These workers may bring with them their own cultural understandings and practice towards disability and disability rights, and this understanding may need to be added to or challenged, to reflect Australia's state, territory and national laws and international human rights obligations.

Disability support workers should be able to receive training and professional development to ensure they can deliver culturally competent, safe services without discrimination, neglect or abuse, in an anti-racist, trauma-informed way. The NDIA and all service providers should ensure this training and development takes place.

People often assumed that workers from CALD backgrounds do not require training in areas such as cultural appropriateness or competence. However, a person is not necessarily culturally competent because they are from a diverse background. Service providers and other people who choose support workers, such as participants or their supporters, should not necessarily assume people can deliver appropriate care to diverse service recipients just because they are from a CALD background.

Safe cultural appropriateness training should therefore be undertaken by all disability support workers. This is particularly important considering the typical staff turnover within the support workforce. This training should provide specific attention to areas such as:

- cultural attitudes and perspectives on disability
- the delivery of culturally appropriate personal care
- the provision of language services
- connecting with communities who provide volunteer services to enhance the social-connectedness of people with disability from CALD backgrounds.

Factors Influencing Turnover

Australia's National Skills Commission is undertaking a comprehensive study of the factors influencing the supply and demand of what the Australian Government has called care

workers. Disability support workers are included in this multi-workforce study, which also includes support workers from the aged care, veterans affairs and mental health sectors.

This study, requested by Prime Minister Scott Morrison on behalf of the federal government, will look at the findings of several important inquiries, including the Aged Care Royal Commission and lessons learned from the Disability Royal Commission up to this year. The skills commission was expected to report its findings to government as we went to press with this submission to the DRC.

We expect this to be an important study that could help DRC commissioners shape and inform any recommendations they make in relation to the disability workforce in the commission's final report now due on 29 September 2023.

Recommendations

- Australia's governments should ensure any workforce reforms that are introduced to the disability sector will not impose additional barriers to CALD workers
- Australia's governments should ensure the Aged Care Royal Commission recommendation that workers should have an appropriate standard of English proficiency is implemented by service providers, including NDIS registered and unregistered providers.
- The Australian Government Department of Home Affairs should ensure disability support workers on temporary visas can enjoy the same rights as other Australian residents, by providing secure pathways to permanent residency and security in working conditions.
- The Australian and New Zealand Standard Classification of Occupations (ANZSCO) should assess whether the disability support workers and personal care assistants' occupations should be graded higher than Level 4 in the ANZSCO system, based on the language skills and cultural understanding may workers are asked to draw on professionally.
- Disability support service providers and Australia's governments must ensure the disability support workforce, with its increasing numbers of people from CALD backgrounds, is trained and supported properly.
- Disability support service providers and Australia's governments should ensure workers from CALD backgrounds have tailored training to update, refine and challenge their understanding and respect for disability and disability rights, in keeping with the nation's local and federal laws, and international human rights obligations.
- Service providers and Australia's governments and departments, including the NDIA, must ensure disability support workers receive training and professional development to ensure they can deliver culturally competent, safe services without discrimination, neglect or abuse, in an anti-racist, trauma-informed way.
- Service providers and other people who choose support workers, such as participants or their supporters, should not assume people can deliver appropriate care to diverse service recipients just because they are from a CALD background. Instead, they should assess people's skills and actively improve them with appropriate professional development and training.

NDIS

The NDIS is administered by Australia's National Disability Insurance Agency and is another system people with disability from CALD backgrounds must navigate if they want to – and are eligible to – access its support.

The NDIS is an insurance scheme for Australian residents, designed to help people significant disability achieve their life goals, and give them choice and control over who provides services to them at the same time.

While the scheme applies across Australia, many people with disability from CALD backgrounds are ineligible for the scheme. The participation rates of CALD people are much lower than sensible targets. The way the NDIA tracks who constitutes a person with disability from a CALD background is also flawed.

People with disability from CALD backgrounds need a number of significant improvements from the NDIA to run its scheme, which we outline below.

Participation Rates and Systems Navigation Issues

The participation rates of people with disability from CALD backgrounds in the NDIS are not as high as expected.

The NDIA itself expected the participation rate of people with disability from CALD backgrounds would be about 20 per cent. The NDIA defines CALD people whose country of birth is not Australia, New Zealand, the United Kingdom, the United States of America, Canada or South Africa, or whose primary language spoken at home is not English. Using our broader definition of CALD, the National Ethnic Disability Alliance has estimated 21.9 per cent of participants should come from CALD backgrounds.

Yet reported participation rates have been less than half of what was expected, or hoped for. For example, in the *National | 30 June 2021 | Quarterly Performance Dashboard* report for the NDIS (2021) (NDIA 2021), researchers reported only 10.8% of the new active participants that quarter were from CALD backgrounds, taking the total number of CALD participants to 9.5% nationally. The national sum of CALD participants was just 44,113 people.

The participation rate for CALD people is consistently low and has rarely exceeded 10 per cent.

There are a number of barriers to CALD participation in the NDIS, including a lack of awareness of the scheme itself, cultural beliefs about disability, language barriers and a lack of language services, and the complexity of the scheme.

There is a clear need for mechanisms to assist people from CALD backgrounds engage with the NDIS. People need better help with what we call systems navigation on the NDIS.

It should be stressed that systems navigation is not an issue for the NDIS alone but within the disability sector as a whole, as people from CALD backgrounds, including those who are judged to be NDIS-ineligible, face barriers to accessing other disability services and supports.

The approach to NDIS systems navigation for people with disability from CALD backgrounds is considerably different from the approach taken by the Commonwealth Department of Health in relation to diversity within aged care.

The health department established and continues to maintain the Diversity Subgroup of its Aged Care Sector Committee. The subgroup includes representation from national peak organisations with a focus on CALD, lesbian, gay, bisexual, transgender, gender diverse, intersex, queer, asexual and questioning, and Aboriginal and Torres Strait Islander issues. The group worked with the Department of Health to develop a higher-level diversity framework and detailed action plans for providers and consumers to give practical effect to the framework.

The department piloted the Aged Care Navigator Program (similar to the NIDA National Community Connector program) including a CALD component and is now funding the Federation of Ethnic Communities' Councils of Australia to develop and implement a CALD-specific navigator program.

We believe that, without an appropriate and resourced systems navigation model, CALD people will continue to be underrepresented in accessing the NDIS and other support services.

The current Disability Gateway is only one component of the community coordination needed to support people with disability from CALD backgrounds, and their families and carers. Among other limitations, the gateway is not particularly accessible to people with no or limited English proficiency.

There is a role and need for community coordinators/navigators in supporting CALD people, including disability system navigation and in accessing related health care and aged care services.

We are advocating for the Australian Government to provide consistent funding for a CALD disability community coordination or navigator model that leverages existing social infrastructure and CALD service capacity. This model should be evidence based, holistic and meet the demand of diverse communities, to ensure long-term social benefits and ensures that CALD people with disability are informed about the services they need and how they can access them.

The model could be based on the EnCOMPASS multicultural aged care connector service currently being delivered by FECCA in relation to aged care system navigation and which has evolved from federal Department of Health–funded pilots.

The objectives of the program are to:

- provide individual navigation to seniors from CALD backgrounds, and their carers and families, through a strengths-based, no-wrong-door case management approach
- provide culturally appropriate, tailored information about accessing aged care
- build the capacity of CALD older people, their loved ones and communities on ageing and to engage with the aged care system
- contribute to an evidence base on the issues and barriers affecting older people from CALD backgrounds in navigating ageing and the aged care system, including collecting data to evaluate the program.

The intended outcomes of the program are to:

- improve understanding of the challenges faced by seniors from CALD backgrounds, their families and carers when navigating ageing and the aged care system
- develop solutions to address the challenges and barriers faced by older

people from CALD backgrounds when navigating the aged care system

- empower and support people from CALD backgrounds through their engagement with the My Aged Care call centre and website
- provide a greater understanding to people from CALD backgrounds of ageing, the aged care system and the supports that are available to them
- increase the number of people from CALD backgrounds who access appropriate aged care services and supports which meet their needs
- deliver the program.

FECCA has selected local partners to engage specialist support worker support at the equivalent of one full-time-equivalent staff member. The staff, called EnCOMPASS connectors, provide information and one-on-one case management to seniors from CALD backgrounds through a strengths-based and no-wrong-door approach. EnCOMPASS connectors support seniors regardless of level or complexity of need.

Local partners and their EnCOMPASS connectors are to deliver a series of community development activities to build the knowledge and ability of their community in ageing, aged care and to support their seniors.

This model is funded by the Department of Health until June 2023, and has incorporated some lessons from the shortened and discontinued NDIA National Community Connector Program.

NDIS Systems Navigation Case Study 1

In 2018, as a result of considerable pressure from advocacy organisations, including the National Ethnic Disability Alliance, the NDIA released its *Cultural and Linguistic Diversity Strategy 2018 (NDIA. 2018)*. There was no indication of the time frame for which the strategy was intended to run. It was dated simply 2018.

The strategy was developed in conjunction with the NDIA Cultural and Linguistic Diversity Stakeholder Advisory Group.

The stated purpose of the strategy was to set out "the NDIA's approach to working with CALD backgrounds as we deliver the NDIS. It is our commitment to give people with disability from CALD background the opportunity to benefit from the NDIS on an equal basis with the broader population" (page 4).

The strategy articulated the following key priority areas:

1. Engage with communities.
2. Make information about the NDIS accessible.
3. Increase community capacity and broaden consumer choice.
4. Improve our approach to monitoring and evaluation.
5. Enhance cultural competency within the NDIA and its partners.

The strategy was high level and aspirational, but did state: "In order to fulfil our commitment to people from CALD backgrounds, this strategy must become part of the everyday practice of the NDIA and our PITC [partners in the community]".

Section 8 – Implementation (page 20) committed to the development of an implementation guide which would focus on the five priority areas.

There was a further commitment to develop key activities to be delivered across the NDIA and PITC, including in the areas of:

- media, communications and engagement
- local area co-ordination and Early Childhood Intervention
- Information, Linkages and Capacity Building, ILC
- participant access and planning processes
- market development activities
- quality and safeguards.

Responsibility for each activity was to be assigned "to the relevant business areas of the NDIA and senior leaders managing those business areas will be accountable for taking action to ensure these activities are delivered."

A commitment was made to support all NDIA staff and PITC to implement the strategy, "as part of an internal suite of documents, a range of work practice materials will be developed to guide staff in their daily activities. This suite will include guidance and strategies for staff working directly with people from CALD backgrounds, including participants, families, carers and communities."

At a January 2018 meeting of the NEDA National Policy Reference Group, a number of members indicated that they had been advised that the NDIA had determined not to progress the implementation guide and would instead focus on the development of a CALD Access Pathway for the NDIS.

There was a clear view in the reference group that the CALD Access Pathway was not an alternative to the development of the various activities originally proposed to be included the implementation guide. Indeed, the pathway was a distinct element within the strategy itself, which said "Work to tailor the [participant and provider] pathways for people from CALD backgrounds will now be developed during early 2018, guided by this strategy and ongoing consultations" (page 9).

It was clear that the CALD Access Pathway would map for consumers and providers the access points to and journey of participants through the system and would not, in itself, address the specific priorities and activities of the original commitment of an implementation guide, particularly in the area of cultural responsiveness and cultural competency training for all NDIA and PITC staff.

On 19 March 2019 the NDIS Branch Manager for Communities of Practice advised that the Cultural and Linguistic Diversity Stakeholder Advisory Group had been disbanded on the basis that the writing of the strategy had been completed. The NDIA also advised that the strategy was to be regarded as internal to the agency and there was no intention to report publicly on the document.

In July 2021, however, a *Cultural and Linguistic Diversity Strategy: Progress Update* (NDIA. 2021) was released which "details the agency's key activities over the past three years against the five priority areas identified in the strategy. The update also identifies additional actions to further drive the implementation of the strategy over the next 18 months, while the NDIA completes a full refresh of the strategy."

The progress update commits to engagement in late 2021 with stakeholders from CALD backgrounds, including participants, families, carers and the sector to develop the refreshed strategy, which will be completed in 2022.

It is our view that the opportunities afforded by the 2018 strategy have been squandered and that greater efforts will be required to ensure inclusion of the voices of CALD people in the development and, importantly, in the implementation of the refreshed strategy.

NDIS Systems Navigation Case Study 2

In 2019, the Australian Government committed $20 million to the National Community Connectors Program (NCCP). This community outreach program was intended to increase awareness of the NDIS in four identified communities, including CALD communities.

The National Ethnic Disability Alliance and Federation of Ethnic Communities' Councils of Australia were contracted separately to deliver the multicultural aspect of the NCCP.

In allocated local government areas, NEDA and FECCA were to subcontract with appropriate non-government agencies to appoint community connectors (CCs) whose main role was to:

- provide assertive outreach to CALD communities in a culturally sensitive manner, including breaking down barriers to accessing the NDIS and developing trust and rapport
- supply information, education and awareness about disability rights, the NDIS and other supports available to CALD communities in a culturally sensitive manner
- link new and existing participants to the NDIS support coordinators, partners in the community and/or the NDIA, including through the use of online platforms and resources
- support potential participants and their representative to attend appointments to get functional assessments and other evidence reports (e.g., psychiatric reports
- organise for interpreting or language support and other participatory supports
- explain the NDIS process, NDIS plans, NDIS goal-setting and NDIS concepts such as choice and control
- accompany participants in attending planning meetings with local area coordinators, LAC
- connect new and existing participants to other mainstream support services for homelessness, English lessons, legal support and so on
- provide advice to NDIA staff and PITC regarding culturally appropriate approaches and ways to address specific barriers for people with disability from CALD backgrounds.

In addition, the CCs were required to link CALD people who were not eligible for the NDIS to community mainstream supports and/or refer them to their PITC to support linkages to community and mainstream supports, and help PITCs better understand cultural issues around disability.

From the outset, NEDA and FECCA expressed concerns about:

Timelines

- Over the negation period the NDIA shortened the contract period to effectively 12 months, ending on 30 June 2021.
- The time involved in subcontracting with appropriate agencies, the appointment of CCs meant that most were only able to commence effective operation in late 2020.

Impact of COVID-19

- It would be challenging to conduct outreach to individuals and communities with many public health restrictions being imposed by jurisdiction.

Evaluation

- NEDA and FECCA commissioned an independent evaluation from Charles Darwin University, as there was no formal evaluation of the program organised by the NDIA. The report is due in mid-September 2021.

Transition

- Managing expectations and maintaining a commitment to CALD people experiencing difficulty in accessing the NDIS and mainstream supports after the contractual period.

NEDA and FECCA, despite being contracted separately, elected to run the projects as one, and developed governance mechanisms, consistent processes for subcontractors to recruit and onboard staff, and education and training information about the NDIS. CCs were supported individually while communities of practice were also established. As anticipated, COVID-19 had a significant effect in some communities.

As the project drew to a close, extensions were sought to allow for COVID-19 and attempts were made to clarify and make easier the transition of CALD people with whom the CCs had successfully engaged and built significant trust. However, NEDA and FECCA could not secure a formal meeting to discuss these issues with decision-makers at the NDIA and were informed that the program would not be ongoing.

At a meeting in April 2021, NDIA chief executive officer Martin Hoffman expressed a view that the NCCP had been a very expensive program and that there was little evidence to show that it had improved CALD participation in the NDIS. He held this view despite the fact that the program budget had been set by the NDIA and the NDIA had no supported funding for an evaluation. It is worth noting the NDIS process is complicated and people's navigation of the process has often been interrupted by untimely or lack of responses from PITC. There were also delays in securing appointments to gather evidence and a lack of established mechanisms to provide pre-access support for people with disability before the NCCP.

The short-term contract proved difficult in terms of planning for participants in the future. After building trust, raising expectations and promising tailored support, referring them to PITC and other existing networks proved challenging as the people we dealt with were not very comfortable. For example, it takes at least 12 weeks to gather evidence to apply for the NDIS, and even more if it is to collate evidence for psychosocial disability (as several appointments are required). General practitioners have little or no awareness about the NDIS, and this affects the quality of evidence that accompanies access request forms. This results in the participants having to go back and request for another evidence, which is exacerbated by longer wait times for appointments.

In the initial months, considerable time was spent on facilitating information sessions on disability awareness, NDIS and the NCCP, so the community felt comfortable to reach out to CCs. As the project progressed, CCs and subcontracted organisations received several self and organisational referrals, even from PITC to provide tailored support to people with disability from CALD backgrounds. The referrals multiplied during the last few reporting periods as a lot of work had gone into real solutions and outcomes for more CALD people with disability, promoting NCCP and the NDIS, and momentum had started to build up. It is unfortunate that the project was not extended, as it had a great potential and would have provided vital systems support to people from CALD backgrounds trying to navigate the NDIS.

On 16 March 2021 the then responsible NDIS minister, parliamentarian Stuart Robert, responded to a letter from the CEOs of NEDA, FECCA and Mental Health Australia in which they canvassed an extension of the program and consideration of making it ongoing. The minister acknowledged that many of the key objectives had been met despite the "very challenging times we have all experienced over the past 12 months" but confirmed that the program would end on 30 June 2021, stating the "NDIA has strongly encouraged the fostering of stronger community relationships, particularly with the Partners in the Community Network to ensure the long-term benefits of this investment are realised beyond 30 June 2021."

The NDIS minister concluded the program had always been a "12-month commitment to increase awareness of the NDIS through community outreach. It is important to remember that this program has been clearly communicated as ending on 30 June 2021."

At the time we published this submission, NEDA and FECCA had received overwhelming appreciation and support for the program from subcontractors, the CCs and, most importantly, from CALD participants, saying it met their needs. We commissioned an independent evaluation and were awaiting its arrival at time of press.

CCs helped gain trust and build rapport with the clients trying to navigate the NDIS system. The coordinators did this by having open and transparent conversations with clients, keeping them informed throughout the process, being culturally responsive and closing the communication gap. Many reported that they felt heard, supported, and informed about the application process, and felt that they had a better chance of accessing the NDIS.

NDIS and Data

The NDIA in its *Access Request Form (NDIA. 2021)* does not collect information on a person's religion, cultural and ethnic diversity, only the language they speak. The person's country of birth is also collected but it is branded wrongly as cultural diversity.

Multilingualism is prevalent in many multicultural communities in Australia, yet the NDIA presumes monolingualism is the norm. A society may, for instance, speak in a local dialect, have a trade or religious language, a national language and converse in English as well, where English would be a third or fourth language.

The definition of cultural and linguistic diversity used by the NDIA is discriminatory as it excludes those born in Australia but raised in a culturally diverse setting. This situation arises because the parents' only common language is English, or the parents' desire for assimilation or integration made them forgo their native language and converse exclusively in English. As a result, there are numerous long-established culturally diverse communities in Australia that the NDIA definition might exclude.

The ABS 1999 standard expects that the agency collecting information about the person would also include the parental place of birth, ancestry, religion, et cetera.

Reports by the NDIA on CALD people are misleading and incorrect. The NDIA does not state it excludes indigenous languages from the languages used, or does it state indigenous Australians who speak English are excluded. As the NDIA does not collect information on the person's cultural and ethnic status, it can only report on the participants' linguistic diversity. This discrimination is an example of systems abuse against people with disability from CALD backgrounds by a government agency.

Reportable incidents under the NDIS – 1 July 2018 to 31 December 2019

Table 3: Reportable Incidents NDIS

Incident type	Total
Abuse	1,827
Neglect	1,062
Serious injury	1,532
Sexual misconduct	335
Unlawful physical contact	1,031
Unlawful sexual contact	238
Unauthorised restrictive practice	66,999

Source: NDIS Quality and Safeguards Commission

NDIS Experiences

People with disability from CALD backgrounds struggle to access and participate in the NDIS.

The NDIS has a strategy for people from CALD backgrounds, but it is a lifeless aspirational document with no action plan. Subsequently, the agency does not have a strategy to respond to the diverse access and participation needs of people with disability from CALD backgrounds.

NDIS participants from CALD backgrounds are often denied the time, support and opportunity to access and navigate the NDIS system and system of supports, and rarely are empowered and informed to exercise true choice and control. As a result, many people with disability from CALD backgrounds do not know about the NDIS, do not access the NDIS, are denied NDIS when they may be eligible, do not have the appropriate levels of funding in their plans, do not know how to use or spend their funding, have plan reviews and loose funding although support needs remain high.

Most families of children with disability from CALD backgrounds are isolated even from their ethnic communities and, in most cases, may not have the informal supports of the extended family as they would be living outside of Australia. The NDIS does not provide social and community participation funding for children under the age of 18 as it is the responsibility of the parents. Many mothers who are carers miss out on employment opportunities, English-language education and do not get opportunities to build social networks due to their caring roles and language and cultural barriers. As they do not know what supports and services are available for them, the mothers cannot access them.

The cases discussed below demonstrate a considerable degree of discrimination and abuse by the policies and practises of the NDIS against people from CALD backgrounds with disability.

NDIS Case 1

A family from a non-English-speaking background had four children, all younger than 10 years of age, three of them being on the autism spectrum.

The family would have benefited from community and social participation funding to give the mother and father a break.

Having a NDIS plan that funds a support worker to take care of the children with disability, would provide parents with the time to attend to the needs of the other children. A request to the NDIA asked for increased funding for this purpose in an NDIS review. However, funding was not granted as the NDIS representatives stated parents are responsible for their children's social development.

Unfortunately, it was not easy to find the right agency for the family that would be able to provide paediatric therapy services.

Also, there were no opportunities to build the capacity of the parents. The parents could not take the children to their therapy, and did not understand the treatment, so they missed many appointments.

NDIS Case 2

A nine-year-old boy had a stroke in November 2019 and, after all his therapies at the children's hospital were completed, he was registered with the NDIS plan that funds a support worker to take care of the children with disability, would.

The boy had lost short-term memory and showed some significant behavioural problems – his speech had slowed down, and he was losing interest in schoolwork.

His parents did not speak any English and did not know how and where to get services. He needed speech therapy, behaviour therapy, occupational therapy and physiotherapy for the next 12 months.

The boy's NDIS plan was approved for 12 months in June 2020 with very little funding in January 2021.

A review was requested, but the NDIS did nothing while his health and wellbeing just deteriorated.

NDIS Case 3

A CALD family has two children younger than four years of age, with both children having disability.

One child is non-verbal with developmental delay (suspected autism) and the other with physical disability, with one leg being shorter than the other.

During the first year of the family having NDIS plans, the parents did not know how to get help, and their children's NDIS plans were not implemented. Thus, none of the funds in the plans were spent.

During the second year, children's NDIS funding was extended for another year with no supports. The parents were assisted in requesting support coordination funding to help them find the right supports and services to meet the children's disability needs. They received $1000 for 12 months for support coordination. Again, it was challenging to find an agency to refer both children to provide appropriate paediatric therapy services. The child who needed orthosis was only funded by $300, but there was no funding for the physiotherapy or occupational therapy that she also needed. The support coordinator called so many different agencies to get help for the siblings but as the children's budget was too small, service providers did not accept the referrals as they said that it was presented no value for money. Eventually, the girl needing orthosis got the support, but she missed out on other therapies she needed.

NDIS Case 4

A newly arrived male refugee, who is hard of hearing and an amputee, had an ill-fitted prosthetic leg that was causing him a lot of pain. It was given to him at a refugee camp about 20 years earlier.

The man was deemed eligible for the NDIS but was given inadequate funding to engage an occupational therapist to assess his disability needs, purchase hearing aids and a prosthetic leg.

A review was requested through the NDIA, and the man received just enough increased funding to get a prosthetic leg made for him but not enough for hearing aids.

NDIS Case 5

A woman who was blind became eligible for the NDIS in July 2019 and applied for accessibility support. An NDIS local area coordinator contacted her in August of that year and, at a meeting, the pair discussed the potential participant's needs and NDIS goals. The woman had just had breast cancer surgery and lost some lymph nodes from her arm and requested help with domestic cleaning and garden maintenance. As it was difficult for her to get out and about independently, she also asked for social and community participation funding. The LAC took some notes of their meeting.

The LAC did not contact the participant for at least six weeks. Finally, the woman called the LAC in October to check how her application was progressing. The LAC said she had lost her meeting notes and requested to book a phone meeting to discuss the participant's goals again.

The next day, the LAC called the participant, cancelled the phone meeting, and told her that she found her notes. The participant asked to see the draft NDIS plan before it was submitted to the NDIA; however, on 10th October, the participant received an email from the NDIA informing her that her NDIS plan was approved. The participant asked if they could please email her the NDIS plan. They told her to check her NDIS portal, which the participant had no idea how to access. She called the NDIS information line and asked for instructions to access her portal, but the technology failed. The participant went to the NDIA office to request a copy of her NDIS plan and asked for help to go through the plan to understand it. She learned that all of her funding was NDIS managed, although she had requested to have the core supports funding be self-managed. Her plan contained no social and community participation and despite her having a part-time job and needing to catch taxis to go to and from work on rainy days, there was no travel allowance. Her plan also contained no funds to get her assistive technology updated and maintained.

The NDIS goals listed in her plan were wrong and did not reflect her needs appropriately. The participant asked for a review to increase the funding; however the increased amount was not enough to meet her needs for assistive technology. Her NDIS plan was automatically renewed 12 months later for another 12 months with significantly reduced funding for domestic assistance.

In January 2021, the participant requested a plan review; the agency said a LAC would contact her at the end of January and help her with the application. About five months later, in May 2021, the LAC finally got her and booked a meeting for the following week. On the day of the meeting, the LAC called and stated her NDIS plan needed to be referred to her manager. Unfortunately, the manager has not called back.

NDIS Case 6

Mrs Sara arrived in Australia about 19 years ago. She has psychosocial disability and has been in and out of counselling for many years but has not sought eligibility for the NDIS. She is also caring for her son with complex disability.

Mrs Sara said that although her son was displaying very challenging behaviours during the early stages, she could not understand the complexity of his disability. At about four years, she noticed that her son was not progressing according

to his age like other children. He often had meltdowns, was not talking and was showing very challenging behaviours. He was also not toilet trained despite all her efforts, and had severe health issues with his bowels and stomach and needed full-time care. Unfortunately, he was not diagnosed with his primary disability until seven years and therefore did not receive any ECEI therapies.

She doesn't have any of her family members in Australia, but only her husband's immediate family is here. Her in-laws resented her for having a child with a disability and more or less abandoned the family as they couldn't cope with the son's challenging behaviours. As Mrs Sara had very little or no informal supports to provide some respite for her, she could not join English classes and learn English. Later, when she was able to join classes, she could not participate well as her son would not sleep through the night and she was too tired from the night before to learn. Mrs Sara could not get a job and stated that people would not even give her voluntary jobs, which she thought she could do after her son started school. The isolation and lack of supports deteriorated her mental health.

Due to lack of practical support her son could not cope in mainstream education and was placed in a special school for children with complex disabilities. She explained that although her husband lived in Australia for most of his life, he spoke excellent English and completed all his education here. However, even he did not know what disability supports and services would be available for them, or how to find them and access them. The husband mainly worked in the hospitality industry, working at night and sleeping during the day, so Mrs Sara alone was left to find support for their son.

At her son's school, many times she discussed with his teachers how to help with his toilet training, to teach him non-verbal communications skills, and help them to train him to adjust his sleeping patterns as he would not sleep much at night at all and was keeping Mrs Sara up as well. Unfortunately, the school only seemed to provide babysitting or day care services. School staff members were not interested in teaching and training him, as they probably had low expectations of the students' ability to learn.

Since Mrs Sara's son was very young, he always had issues with his stomach and bowels. The family kept taking him to their general practitioner and paediatricians but the doctors kept telling them the child's health issues were related to his disabilities and did not provide any treatment.

Her son only started receiving state-funded disability services at the age of 14 and was only transited to the federal NDIS in July 2020. The NDIA made a six-month NDIS plan for him as he graduated from year 12 at the end of the year. Since then, the school leaver's NDIS plan has automatically been extended for three months. He is mainly at home, not being involved in community activities, and the parents are unsure when the NDIS will call them and renew his plan. The young man's father called them on several occasions and was told someone would call them back and review the son's NDIS plan. The family are still waiting for that call.

Mrs Sara said that even with individualised funding, service providers seem to know the best for them. The service providers do not take time to listen to the parents' needs and concerns and do not engage interpreters to adequately explain things to her, even though TIS National provides free telephone interpreting services to NDIS participants. Most of the time, because she speaks broken English with a heavy accent, they just ignore her or make her feel that she is too demanding.

NDIS Case 7

A 21-year-old young woman from a refugee background with intellectual disabilities lives at home with her mother and brother.

The woman and her mother speak very little English and do not have any other informal supports in Australia. The 21-year-old's mum refuses to acknowledge the young woman's disabilities, does not allow her to interact with their ethnic community members, and does not allow her to get a job and work.

The young woman's mother feels that she must care for her daughter as a mother and meet all her needs as she is "so special."

The only reason the young woman gets domestic supports through NDIS funding is because her mum is not physically fit and is unwell. The mother is so worried that if the community members understand that her daughter has a disability, her chances of getting married will be non-existent. Subsequently, the opportunities for the young woman are very limited.

NDIS Case 8

Nathaniel is from a culturally, ethnically and linguistically diverse background. Being profoundly deaf, he is part of the Australian Deaf culture. Unfortunately, from time to time, Nathaniel experiences racism, bias, prejudice, neglect, exploitation and discrimination due to his ethnicity and disability. He is also part of the Australian culture, including the white Australian culture, ethnic Chinese and Malaysian cultures, and Deaf and hearing cultures in Australia and Malaysia. As he has never been to mainland China, he is not familiar with the Deaf culture there.

Four years ago, Nathaniel became a NDIS participant. He has had three NDIS plans and completed his recent NDIS plan review to get his fourth NDIS plan.

Nathaniel has experienced a considerable turnover of planners, delegates and local area coordinators.

His first NDIA female planner was a person with a disability. She showed understanding and compassion towards his disability needs and he received a positive NDIS plan. Unfortunately, the following year she left her frontline role for one behind the scenes at the NDIA.

Nathaniel was then allocated a male senior planner with no understanding of hearing loss.

A male hard-of-hearing (HOH) senior planner who had lost most of his hearing due to a cancer tumour, and was married to a hearing blind woman, became Nathaniel's next caseworker. The male senior planner had oral solid language ability and was unable to sign in Auslan or Australian Signed English. Nathaniel assumed that the male senior planner who was living with similar disabilities would have a good understanding of his needs. Unfortunately, again, this was not the case. The HOH male senior planner requested Nathaniel get occupational therapy assessment report on his disability needs and disability-related supports from an occupational therapist. The planner did not like the reports obtained and asked for another one. Nathaniel provided four OT assessment reports. They were all done by different occupational therapists and were all rejected by the planner.

Unfortunately, the planner forced Nathaniel to spend his NDIS Capacity Building: Daily Activities funding to get OT assessment reports one after another. Rather than spending his funding on his reasonable and necessary needs for social and community participation, assistive technology, capacity building activities and so on.

Nathaniel was brought up in Australia, is well educated, very articulate, and is part of many diverse cultures.

He believes he has experienced disability and race discrimination from the NDIS planner and other Anglo-Australian hearing Auslan interpreters and the Deaf/HOH Australians in the signing Deaf community during his dealings with the NDIS. The NDIS senior planner disempowered Nathaniel by saying his occupational therapists were liars, and he often used to put him down.

NDIS Case 9

A newly arrived 50-year-old female refugee with physical disability with no literacy skills in her language and no knowledge of any English language had become eligible for the NDIS. Although a professional interpreter was engaged through the TIS National during the planning implementation meeting, she left halfway through the session out of frustration because she was not competent in disability jargon in English and her language. Unfortunately, this experience often happens where interpreters have not trained appropriately in the terminology used in disabilities, including psychosocial disability.

Analysis

As seen in the examples above, the NDIA, the contracted local area coordinators and service providers are not meeting the basic access, information or support needs of CALD NDIS participants.

This is not surprising as the agency does not have any systemic strategy regarding how it will practically respond to the diverse access and participation needs of people with disability from CALD backgrounds.

Recommendations

- The Australian Government National Disability Insurance Agency should ensure the NDIS *Cultural and Linguistic Diversity Strategy* and the future updated strategy is implemented and given associated public timeframes, public accountability functions and equity targets.
- The NDIA should model its approach to the systems navigation for participants and people wanting to access the NDIS on the Commonwealth Department of Health's approach, including its support for a diversity group and community connector and navigator programs, and the EnCOMPASS multicultural aged care connector service currently being delivered by the Federation of Ethnic Communities' Councils of Australia.
- The NDIA must recommit to the National Community Connectors Program (NCCP) and resume the program and its community connectors support for people with disability from CALD backgrounds wanting to access the NDIA.
- The National Disability Insurance Agency must ensure interpreter funding for Auslan and language interpreters is a separate line item, not included in the individual's NDIS plan.
- The National Accreditation Authority for Translators and Interpreters (NAATI) and training providers must ensure professional and certified interpreters are trained in the use of disability and mental health terminology, and the social model of disability in general.
- The NDIA must ensure its NDIS planners, NDIS local area coordinators and NDIA-registered disability service providers have had cultural competency training and training to work more effectively with professional interpreters, as part of their professional development training.
- The NDIA must ensure its NDIS planners are not allowed to request more than two functional assessment reports.
- The NDIA must ensure its NDIS plan reviews undertaken by its planners are conducted promptly for a person's specific necessary and reasonable needs.
- The NDIA must ensure all NDIS–related communications targeted at people with disability from CALD backgrounds should prioritise these people by being co-designed and co-delivered by people with disability from CALD backgrounds. This will ensure information and communications are accessible and comprehendible, and meet people's identified needs.
- The NDIA must ensure NDIS planners include funding for social and community participation in people's plans to help them develop their social skills. This will enable newly arrived people with disability from CALD backgrounds who do not have extended family supports, or who are isolated from their ethnic community, get disability respite or allow them to access the mainstream community.
- The NDIA must ensure NDIS planners automatically include an adequate level of support coordination in people's budgets to assist participants and their families who have little-to-no spoken English proficiency, unless it can be reasonably identified it is not required.

Immigration System and Services

The Australian immigration system requires almost all visa applicants to satisfy a health requirement to be granted a visa, a requirement which has, directly and indirectly, discriminated against people with disability (UNHCR 2017). Migration law and processes treat people with disability solely as a cost burden (NEDA 2009). Children or family members with disability are considered a health risk, preventing families from migrating or remaining in Australia (UNHCR 2017).

Asylum seekers and people with disability living in Australia on non-permanent visas are ineligible to access the NDIS as they do not meet residency requirements. In some cases, asylum seekers with disability are indefinitely kept on temporary protection visas. These asylum seekers do not get the same support and services for many years that other Australian residents in similar situations may get. People's physical and mental health and disability continue to regress and deteriorate over time due to the lack of health and mental health interventions, and lack of formal disability supports.

Australia's Refugee and Humanitarian Program has discriminated against people with a disability until recently. Unfortunately, the *Migration Act 1958* and regulations are exempt from the *Disabilities Discrimination Act 1992* (section 52), allowing the Australian Government to discriminate against people with disabilities in the area of migration. To receive a visa through the offshore program, a person must meet the health requirements set out in *Public Interest Criterion (PIC) 4007*. The Minister for Immigration under PIC 4007 requires the government not to grant a visa if a person has a "disease or condition," and that the provision of health care would be likely to "result in a significant cost to the Australian community in the areas of health care and community services." It is extremely difficult for children and adults with disabilities to meet the health requirement. The focus is exclusively on the perceived economic cost of the applicant's "condition" and the perceived "burden" this will place on public and community resources. Those who fail this health requirement because of disability or other health concerns cannot migrate to Australia. However, this policy changed in 2012 after a parliamentary inquiry into the treatment of people with disability in Australia's migration system. While a person must still meet the health requirements, applying for refugee resettlement can be waived for a person applying for refugee resettlement. The migration policies direct the decision-maker to grant a health waiver, regardless of the impact that person may have on Australia's health or community services (NEDA, FECCA et al. 2019). This change only applies to refugees with a disability.

Skilled migrants with disabilities or their family members are still subject to the discriminatory health waiver processes. This policy position has received widespread criticism from United Nations bodies and officials, including the Special Rapporteur on the Human Rights of Migrants (UNHCR 2018). Since July 2012, this change has resulted in more refugee and humanitarian applicants with disability arriving in Australia through the resettlement program. However, the exact number remains unknown.

Health Impacts of Restrictive Reception Policies for Asylum Seekers

International review papers consistently show that asylum seekers and refugees have high rates of post-traumatic stress disorder, depression and anxiety related to pre-migration and migration adversities.

When reception policies are restrictive, unsupportive or punitive (Fazel, Wheeler et al. 2005, Fazel, Reed et al. 2012, von Werthern, Robjant et al. 2018), these mental health conditions are compounded significantly.

Immigration detention is a particularly adverse reception experience. Inquiries by Australia's human rights bodies (HREOC 2004, AHRC 2019) and research studies (Steel, Momartin et al. 2004, Momartin, Steel et al. 2006, Steel, Silove et al. 2006, Mares 2020) concerning asylum seekers who arrive by boat demonstrate that Australia's policies result in multiple human rights violations. Australia's policies also add significantly to the health and mental health vulnerabilities of this population.

Australia's record in this regard is arguably worse than other comparable developed reception countries such as the United States, United Kingdom and Canada because immigration detention, including of children, families and unaccompanied minors, has frequently been prolonged significantly, often in harsh remote locations. Moreover, while detained, adults and children are exposed continually to dehumanising experiences, institutional and interpersonal violence, and self-harm.

Health Needs and Services for People Held in Various Forms of Immigration Detention or on Temporary Visas in the Community

Displaced people have high rates of complex comorbid health and mental health needs due to their experiences before seeking asylum and face administrative, language and cultural barriers on reception in Australia. People with disability have additional and specific health and support needs. Depending on their age and capacities, people with physical, sensory or cognitive disability face other challenges in negotiating the protection application process, communicating their story and needs, and accessing the supports they need.

For unaccompanied minors and children whose parents have a reduced capacity to advocate for them, situations of immigration detention and community detention mean that their health needs and support needs may go unaddressed.

In addition, in an environment where adults and children remain exposed to continuing deprivation, threat and uncertainty, people's health care, particularly their mental health and paediatric care support, is unlikely to be fully effective.

The Australian Government contracts health care for people held in all forms of immigration detention, and for some people living in the community on temporary visas, to a private company. This company is currently International Health and Medical Services (IHMS). There are longstanding concerns about the quality of care provided by the contractor, people's access to care, and the contractor's lack of independence and oversight, and interference and delays in implementing medical recommendations by detention providers or immigration department staff. Both the Australian Human Rights Commission (AHRC) inquiries, held in 2004 and 2014 (HREOC 2004, AHRC 2015), raised these concerns.

Testimony about interference by non-medical staff in clinical decision-making about detained people's health needs has grown exponentially since 2012, primarily from clinicians previously employed by IHMS (Sanggaran, Ferguson et al. 2014, Essex 2016) and health ethicists (Briskman, Zion et al. 2012, Briskman and Zion 2014). State coroners investigating deaths of people held in immigration detention have also identified the lack of independence in implementing medical recommendations as contributory factors in the death of asylum seekers (Ryan 2014).

Australia's policies concerning adults and children who arrive by boat and seek asylum have significant and long-lasting adverse effects on their health and wellbeing. Prolonged detention in restrictive environments deprives adults and children of meaningful activity, agency and children, and adequate developmental experiences. Adults and children with congenital acquired or emerging disabilities suffer further disadvantages because their circumstances limit their access to independent specialist assessment, intervention and support.

People on temporary visas in the community have no access to NDIS services of support. These restrictive policies cause an additional burden of trauma, mental illness and disability, and delay people from accessing necessary assistance and support.

In addition to developmental or health-related disability present on arrival in Australia, most adults and children have been held in immigration detention. Furthermore, they are subject to other restrictive and inhumane aspects of these policies and acquire and carry an additional psychosocial burden due to inadequate health care, exposure to violence, removal of hope and prolonged uncertainty about their safety. In addition to the human rights violations associated with Australia's immigration policies, delayed and restricted access to adequate health and support services undermine the right to health and full participation in society and crucial life decision-making.

Advocacy for more humane policies concerning asylum seekers and refugees, particularly those with increased health and developmental needs, is a priority. Unfortunately, the Australian Government does not use closed detention as a last resort. For minimal periods, access to independent specialist health care, rapid resolution of visa status, permanent protection for people found to be refugees, particularly those who have already spent many years in limbo due to these policies. Visa status should not determine the right to health, health care and participation.

More than one-third of people held in immigration detention have been diagnosed with psychosocial disability (DPOA 2018). Female asylum seekers/refugees experience rape and sexual abuse. Incident reports are rarely followed up as no independent investigation mechanism is in place, and investigation or appropriate sanctions are not ensured (UNHCR 2017). These issues have been attributed directly to the harsh conditions, such as extended periods of closed detention. There were experiences of violence, sexual and other, overcrowding, inadequate health care, and fear about the future. There is evidence of exploitation, sexual and physical abuse enacted against asylum seekers held in immigration detention facilities, demonstrating examples of institutional settings as a hotbed for the ongoing encouragement of violence and cultures that tolerate violence and abuse (NEDA 2015).

In addition, there have been long delays in the processing of visa applications and the provision of only temporary protection even when refugee status is conformed (Baggio, Gonçalves et al. 2020). In a recent Western Australian study, detained children were exposed to multiple adversities that lead to complex health needs and interruptions to their schooling. In addition, there was an inadequate provision of

health prevention services such as vaccinations and developmental checks. This study found that most children had adverse health or education sequelae compounded by detention that was not identified before comprehensive paediatric review independent of health assessments while detained (Hanes, Chee et al. 2019).

After many years in various forms of detention, thousands of refugees and asylum seekers remain in personal and administrative limbo, denied resettlement in Australia. Social isolation and other restrictions associated with COVID-19, plus recent reductions in welfare and housing support, have compounded the adversities and the mental health difficulties they face (RCA 2020).

Violence, Abuse and Neglect in Immigration Detention

People seeking asylum in Australia and those found to be refugees may have identified congenital or acquired disabilities on arrival in Australia, or they may develop or acquire disability after arrival in Australia. There is a very high risk that detention for immigration purposes and holding a temporary protection visa will have an additional negative impact on their health and wellbeing. There will be limitations in access to medical and support services.

The experience of being detained for immigration purposes or of prolonged visa insecurity is associated with:

- multiple human rights violations, including the right to health
- the onset of mental illness in people without a history of mental disorder
- deterioration in the health of people with existing vulnerabilities or disorders.

There is strong evidence that chronic psychosocial disability associated with severe comorbid mental illness may develop. At the same time, people are held in immigration detention and their difficulties persist after release from detention, particularly because of ongoing visa insecurity.

Children may have an identified disability on arrival in Australia, or developmental concerns may arise and may require specialist assessment while they and their family are detained. In the context of immigration detention, the impact of the child's detention environment both directly and on parenting and family factors must be considered in any developmental assessment. Some children will manifest developmental, social, and emotional delays, primarily as a consequence of living in an inadequate and traumatising environment.

Since 1992, Australia has implemented two very different policies for people with similar pre-migration risks. An annual quota of 12,000 to 18,000 people identified as refugees may be resettled under the program managed by the United Nations High Commissioner for Refugees (UNHCR). Refugees resettled under the program receive broad support, access to specialist health and mental health services, and apply for citizenship on arrival. This resettlement program was suspended in March 2020 in response to the COVID-19 pandemic.

In contrast, since 1992, adult and child asylum seekers in Australia, specifically all those arriving by boat, are subject to a range of mandatory indefinite detention restrictions. These policies have varied and become increasingly restrictive over time (UNHCR 2018).

From July 2013, immigration policy changed so that all "unauthorised maritime arrivals" were transferred "offshore" to Manus Island in Papua New Guinea (PNG) and Nauru to process their refugee applications. As a result, more than 75% of people who have sought asylum by boat since 2012 have been confirmed as refugees, but they are denied permanent settlement in Australia despite this. Around 4000

adults and children spent more than five years on Nauru and in PNG between 2013 and 2019. The majority have now been transferred to Australia to remain in immigration detention, community detention, or on temporary protection visas.

In June 2020, about 12,500 asylum seekers and refugees arrived by boat living in the Australian community on temporary visas, primarily Bridging E visas or Safe Haven Enterprise visas, including almost 1900 children (IMMI 2021, IMMI 2021). More than 1500 people were in closed immigration detention, including about 500 who arrived by boat and sought asylum. The remaining number is detained and awaiting deportation for various reasons. There are another 800 people in community detention in Australia (RCA 2020).

These statistics indicate the numbers of adults and children who remain adversely affected in multiple ways by current immigration policies. Many asylum seekers and refugees in the community on temporary visas live in poverty and are at high risk of destitution. This group feels the impact of complex physical and mental disorders, including physical, cognitive and psychosocial disability, limited access to health and support services, and increasingly limited welfare support and employment options.

Immigration Case 1

A Tamil refugee who had languished in immigration detention for nearly a decade was legally blind and mentally ill. In a scathing assessment of the detention regime, a United Nations working group found Australia had contravened international law by detaining the man for more than nine years. The group argued he should be released from detention immediately and had an "enforceable right to compensation and other reparations".

The refugee was detained after arriving at Christmas Island by boat in March 2010 at age 27. The man fled his homeland as he had been subjected to persecution and human rights abuses, including torture, amid a decades-long civil war. He was found to be a refugee in December 2010. Yet, the man, who was 36-year-old, at the time of evaluation by the UN had languished in detention, most recently at the Villawood centre. The Australian Government initially cited security risks to deny him a protection visa, but the Australian Security Intelligence Organisation later downgraded those assessments. His legal advocate argued the detention of a person who is legally blind, has an acquired brain injury and a range of other mental health concerns is an extraordinary act for a developed, democratic nation (Henriques-Gomes 2019).

Immigration Case 2

Mr Jabir (not his real name), now aged 23, speaks Arabic and requires an interpreter for most health consultations. At his induction assessment on Christmas Island in 2013, he was recorded to be aged 16 and an unaccompanied minor. However, during a subsequent age assessment, when he was only assisted by an interpreter, he was assessed to be over 18 and was transferred into the adult male facility. There he was exposed to considerable bullying and violence and had no educational opportunities.

Mr Jabir has a history of significant childhood adversity, limited schooling, war-related trauma, resulting in knee, back and head injuries, and his brother's death in 2013. He experienced further hardship during the journey to Australia, and while detained, he witnessed conflict between officers and detainees and self-harm by other asylum seekers.

The man complained of chronic knee pain, weakness and disabilities from 2013. In 2016 he fell or was pushed over in detention and sustained a back injury. It was not thoroughly investigated until three years later, and he was advised to take paracetamol. Any regular physiotherapy or other intervention was not provided. In 2019 a computed tomography scan of his lumbar spine showed congenital spinal canal stenosis, soft tissue canal

stenosis at L4/L5 level secondary to disc bulge and protrusion and nerve root compressions at the L4/L5 level bilaterally.

In 2018 Mr Jabir developed increasingly severe insomnia, nightmares, enuresis, severe depression and social withdrawal. He reported thinking of suicide every day, saying, "Even if I didn't kill myself, I feel like I am already dead." His speech was described as "slow and hollow, most answers monosyllabic."

Assessments by detention health staff recorded that Mr Jabir had a limited capacity to communicate his needs, advocate for himself, and understand the information he provided. His lack of capacity is likely to be a consequence of interacting vulnerabilities, including:

- mild cognitive impairment related to congenital or developmental factors and traumatic head injury before coming to Australia
- limited education as a child
- little opportunity to develop English language skills while detained,
- chronic post-traumatic stress disorder and comorbid depressive illness
- a progressive deterioration in his psychological functioning over the time of his detainment, despite his contact with International Health and Medical Services health professionals.

Immigration Case 3

Mr Abdi (not his real name) arrived in Australia in 2013 as a vulnerable unaccompanied adolescent. He probably had mild cognitive impairment, post-traumatic stress disorder and chronic pain related to physical and psychological trauma he received before his arrival in Australia. Mr Abdi had challenges in expressing and communicating his physical and psychological needs, and advocating for himself.

He experienced almost six years of effective incarceration, lack of education or employment, continuing uncertainty about his future and chronic pain. His cognitive difficulties, chronic pain related to past trauma and deteriorating mental health remained inadequately assessed until 2019. In addition, his temporary visa status meant that he had limited access to the specialist intervention and support services he required.

Children and Families in Immigration Detention

Children may have identified disability on arrival in Australia, or developmental concerns about infants and children may later arise and require specialist assessment while the children and their family are detained or living in the community. These concerns may indicate the emergence of disabilities related to congenital or genetic factors. Developmental, social and emotional delays and disabilities can arise primarily due to an inadequate and traumatising environment. Reduced access to adequate developmental opportunities such as safe exploration and play, structured child care and education mean children are deprived of potentially protective experiences. There is an additional and significant impact on children of parental mental illness, particularly post-traumatic stress disorder and major depression (Bryant, Edwards et al. 2020).

Immigration detention undermines parenting and parental authority. Parents are unable to adequately protect or provide for their children while the family is detained. Children raised in continuing uncertainty, and the inadequate and traumatising detention environment cannot be protected from parental mental illness. There is little evidence that alternative places of detention provide a substantially different experience for detained children and families. Parental mental illness can affect parenting directly, including in refugee families and indirectly including through parental separations. These factors and significantly increase the vulnerability of children with established, emerging or acquired disability.

Immigration Case 4

Mr Aryan, his wife and their son Ervin – who was aged three when they arrived on Christmas Island – were held in closed detention, alternate places of detention, and community detention on Christmas Island and mainland Australia for almost nine years. Their status as refugees has been confirmed but they are still living on temporary visas in the community.

The man's wife Ms Aryan had no psychiatric history before arrival and immigration detention, but Mr Aryan was tortured before fleeing their country. As a result, Ms Aryan now has a chronic relapsing major depressive disorder and complex post-traumatic stress disorder which is often severe. She has marked melancholic and catatonic episodes when she becomes bedbound, withdrawn and predominantly mute or sobs continually for several months at a time.

She did not respond to psychiatric treatment while the family were in closed detention, and after each of her transfers to hospital for urgent inpatient treatment she would relapse on return to detention. While his mother was hospitalised, Ervin, their son, stayed with his father.

The family was transferred into the community in late 2018 and since then Ms Aryan has had further inpatient psychiatric admissions. She has a chronic, relapsing mental illness and significant psychosocial disability, along with generalised anxiety, hypervigilance, social withdrawal, low mood, and motivation. Her parenting and involvement in activities of daily living are impaired considerably.

Mr Aryan has been the primary carer for Ervin and his wife for several years and experiences depression and PTSD and is overwhelmed by his responsibilities, particularly in caring for Ervin who has additional developmental needs.

Ervin is now aged 12 years. He has experienced at least nine years of neglect and traumatic exposure due to prolonged detention and his mother's severe mental illness.

The tweenager has evidence of significant emotional, developmental, speech and language delay, which emerged while the family were detained. Ervin had no structured childcare or preschool while aged three-to-five and has attended school very irregularly. His behaviour is reportedly disruptive and he becomes distressed when separated from his parents. He has significant language and social skills delays and has been variously diagnosed with attention-deficit hyperactivity disorder, autism spectrum disorder and reactive attachment disorder (Coughlan 2018).

Although Ervin has neurodevelopmental disorders, his difficulties were primarily attributed to inadequate parenting. In addition, he had limited paediatric or specialist allied health assessment and no consistent intervention or support during the nine years that the family were detained, despite being symptomatic.

Ervin's psychosocial and developmental disabilities are likely to result from a combination of genetic or congenital vulnerabilities, environmental neglect, inadequate developmental opportunities, limited schooling and exposure to the consequences of increasingly severe maternal mental illness. Also, specialist assessment, developmental intervention and support were absent or delayed.

At the same time, the family were detained, and despite now living in the community, access to specialist care and NDIS support remains limited or absent. The family live with the adversities and uncertainties associated with its temporary visa status, limited access to health and support services, financial stress and the continuing impact of maternal PTSD and major depression. The family is not eligible for NDIS support.

The above case study is an example of disabilities emerging in both mother and child during a period of prolonged immigration detention and visa uncertainty. These circumstances appear to have precipitated, exacerbated and perpetuated mental illness and significantly associated disabilities in both Ms Aryan and Ervin. Even if specialist care and intervention was now available and the family had the necessary financial and personal capacity and support to access and engage with the services that Ervin needs, he has missed crucial developmental opportunities and experiences that had the potential to reduce or ameliorate his current disabling symptoms.

Ervin's experience of abuse

Ervin attended a support school in Perth, Western Australia. The year 2019 was his first year at this school after transitioning from primary to high school, but he never settled in very well. Mr Aryan and his wife were worried that he was sometimes unhappy or misbehaving. However, they never found a reason for Ervin's behaviour, and they assumed that he would eventually get used to his new school and environment.

By the second half of the school term, they noticed that Ervin was coming home with dark bruises on his hands and arms without any explanation. This was unusual as the family had years of Ervin being at primary school where every incident was reported to them by Ervin's teacher or the school nurse.

On the 12th of April 2019, the final day of term one, Mr Aryan received a phone call from the school's principal asking that he and his wife come to the school and urgently meet with the principal.

When they arrived, the principal explained that Ervin's swimming teacher had been reported by other school staff for engaging in what was alleged to be aggressive and unacceptable behaviour towards him. The teacher was apparently seen several times squeezing Ervin's arm very hard and pulling him underwater until his head was completely submerged and releasing him coughing and choking. Staff members had reported they had seen the incidences while they were supervising the children at the pool, and reported this behaviour to the school's principal. At this point, the family realised the probable cause of the past bruising on Ervin's hands and arms.

On the day the family was informed about the episode at Ervin's school, the

principal told them that he had already reported the incident to the state's Department of Education Western Australia. The case was later investigated by the Department of Education's Standards and Integrity Directorate. That same day, Mr Aryan went to the police station and asked the WA Police to investigate a case of assault. At first, the police force refused to open a case because of Ervin's disabilities, but later agreed to investigate after a few minutes of discussion.

On Tuesday, the 2nd of July 2019, Mr Aryan received a phone call from the Department of Education to let him know that the case against the swimming teacher had been closed because she had resigned and was not in their employ anymore. On the 29th of August 2019, Aryan received written confirmation of this from the Department of Education's Standards and Integrity Directorate, advising him that the investigation had been discontinued. Soon afterwards, Aryan heard from the WA Police that it would not pursue the case further because it did not have enough evidence.

In July of 2019, after hearing that the case was closed by the Department of Education and the WA Police, Mr Aryan decided to report the incident to the state's Corruption and Crime Commission (CCC). He reported an allegation of misconduct/assault against the teacher and then separately reported allegations of serious misconduct/neglect of duty against the WA Police. However, the CCC later confirmed that a reasonable suspicion of serious misconduct could not be formed against WA Police and that the incident with the teacher was to be dealt with by the Department of Education.

According to Mr Aryan, he and his wife did not speak to a lawyer, firstly because they did not have enough money to pay for their services and secondly, they did not know the laws well enough to take legal action against the teacher. They spoke to a disabilities service agent and reported the matter to the agency now known as Department of Communities, Child Protection and Family Support, but the department received no assistance. As a result, the family has received no outcome and remain frustrated by the situation. In the meantime, Ervin's behaviour has significantly deteriorated. Since the incident, Ervin has become uncontrollable with a real risk of self-harm, injuries and damage.

This situation will have long-term adverse effects. Ervin has not been connected to the usual services and benefits provided to Australian citizens, as the family is here on a temporary visa. In addition, being from a refugee family, the family has been unable to help Ervin by getting any specialised services or home help so that he could be schooled and protected in a safe environment. This abuse has left the family in a very difficult situation, and Ervin has not returned to school since the reporting the incident.

Ervin only attended this school for one term and a few days, and now the family now feels it cannot send him to school anymore. The school was the only activity outside of the home for him but unfortunately Ervin has lost schooling because of the incident. Mr Aryan feels the family need to be sure of Ervin's safety outside of their care. In addition, the family needs professional consultation regarding his behavioural problems and self-harming as it has now become a significant problem.

The family has received no outcome and remain frustrated by the situation.

Since the reported incident, Ervin's behaviour changed dramatically and he has often struck himself, usually drawing blood. His parents lost confidence and trust in sending him anywhere without their supervision. Given the results they have received from Ervin's case, the family now believes that if somebody cannot talk or use sign language to point out a person or people who harmed them, legal action can't prove the crime even if you have a witness or witnesses. As a result of these factors, Ervin has not attended school since the second term. Mr Aryan and his wife feel that they need to be sure of Ervin's safety outside of their care. They need professional consultation regarding his behavioural problems and self-harming as it has now become such a significant problem.

Immigration Case 5

Mr Soloo (not his real name) is blind and, in his country of origin, had applied for a United States (US) scholarship to study his PhD abroad. Among 2500 applicants, he was the only person who received the scholarship, also being the only person with a disability. He was given a choice to either come to Australia or go to the US to do his studies, and he chose Australia. Because of his disability, Australia required Mr Soloo to bring a carer at his own expense. He brought along his nephew as his student guide.

Despite Mr Soloo doing all the exams in English, having studied in English for all of his life, he was still required to take an English test before coming to Australia. When he arrived in Australia in 2004, he started studying for his PhD, and things were going reasonably well for him.

However, unfortunately, Mr Soloo's nephew's student guide visa was very restricted, not allowing him to work or study, only read Mr Soloo's books for him, making him entirely dependent on his uncle for their living costs. After the nephew stayed with Mr Soloo for four months, the nephew decided he wanted to work and not entirely depend on his uncle all the time. Mr Soloo wrote a letter to the then Immigration Minister asking for her discretion to get a student visa for his nephew, which was granted for him.

While Mr Soloo was studying as an international student, none of the disability service organisations provided him with any services and supports, especially in terms of getting his books and learning materials in alternative accessible formats. He had to pay for everything he needed. He once got sick with kidney stones and had to pay for his health treatment.

As Mr Soloo managed to finish his PhD almost one year earlier than expected, he applied to the local education department to register as a teacher and look for a job. He had been working as a school teacher in his country for years. However, the teachers registration board refused to register him. Mr Soloo appealed and was denied again. As he did not want to go back to his country, he continued to apply for jobs and eventually found one in the public service as a consumer consultant.

Mr Soloo's nephew applied for a permanent visa. However, the younger man refused to include his uncle in his visa application as they both knew that the nephew's visa would have been rejected due to Mr Soloo's disability. As a result, the nephew disappeared, did not want to associate himself with his uncle, and Mr Soloo was left alone to take care of himself, which he found extremely difficult without any support.

Mr Soloo wanted to sponsor his wife to come and join him here and support him. He asked his workplace to sponsor his wife, but that was refused, as well as he only had a one-year contract left with them.

He could not apply for a skilled migration visa as due to his disability – he would have been rejected – and applied for a refugee visa instead. Unfortunately, he was unsuccessful and was again rejected and was given 28 days to leave the country. He appealed to the Administrative Appeals Tribunal (AAT), which was again rejected. He then appealed to the Minister for Immigration for a Ministerial Intervention and was provided with a 457 Visa for four years.

Through his 457 Visa, he applied to sponsor his wife to join him, but due to his blindness, this was refused. However, as his 457 Visa was obtained through a Ministerial Intervention, not through a skilled migration stream, he had a Member of Parliament as his advocate. Therefore, he engaged a lawyer who wrote to the immigration minister, and the minister allowed Mr Soloo's to join him under his 457 Visa.

Mr Soloo's employment in the public service was extended for another six months. After his wife's arrival, he managed to get a teaching position with a university for a year on a casual basis. After his contract finished, he only did sessional online teaching at

another university. He applied for many positions and finally got a job in another state and relocated with his family.

Mr Soloo was advised to apply for Visa Subclass 187, a permanent residency visa through the regional skilled migration stream. He did the application, medical checks, and the outcome was that due to his blindness he was deemed to be a burden on Australia's welfare system and was rejected again with 28 days to leave the country.

He used migration lawyer to again appeal to the AAT, but the tribunal sided with the Department of Home Affairs successor agency the Department of Immigration and Border Protection. As Mr Soloo could not get a health waiver due to his disability, the tribunal requested he again apply for a ministerial intervention. His lawyer wrote to the immigration minister and asked for another Ministerial Intervention as his case would not be eligible to get a health waiver for a skilled migration visa.

His new employer nominated him for a regional skilled migration visa. However, the Department of Immigration refused his application as he was only working for 30 hours a week, not 37.5 hours. He appealed to the AAT, and the tribunal upheld the decision to have adequate work hours per week. The immigration department had also required him to have a health waiver which he could not provide, due to his disability.

His wife had come under a 457 Visa through Ministerial Intervention without him having a health waiver. He had already got a job and was working and had to convince the immigration department and the minister that he should not be required to obtain a health waiver. By then, he had been living in Australia for 12 years, and they had three children born here.

One day in 2016, very early in the morning, he received a message to come to the immigration department with his family and were strongly advised that they should not tell anyone else. They were worried they might be deported.

When they arrived at the immigration department at 7am in the morning, they were informed that their youngest daughter, who was only six months old, did not have the relevant visa. She was detained for six hours. They put the baby in a separate room away from her mother. The departmental staff had a video conference with the immigration minister and did not include the family who were in another room separated from their baby. Both parents were distraught about the baby's welfare. The family was granted a Subclass 151 Resident Return Visa which is a permanent visa. However, they were not returning residents, as they lived in Australia for many years.

The Subclass 151 Resident Return Visa was regarded as a new visa which meant that Mr Soloo and his family had to wait for four years to apply for Australian citizenship because his daughter, born here, was an illegal citizen, an alien under law. He must also wait for 10 years to apply for a Disability Support Pension or the Blind Pension.

In summary, Mr Soloo had appealed at least three times through the AAT, which people with no disability would not be required to do.

Mr Soloo applied for public housing through the Department of Housing (DOH)in 2017 and was placed on a priority listing. It usually takes two years for the DOH to find people an accessible house. The Soloo family is still waiting to be offered an accessible house.

For many years, only due to Mr Soloo being blind, the family constantly suffered from anxiety each time they applied or appealed for a visa and many times feared deportation. The language used at the tribunal hearings was all about deportations which were very disturbing and worrying. For 12 years, they were separated from their older children. Until Mr Soloo got his permanent residence visa, his other children born in his original country could not join them. As a result, parents missed on their upbringing for 13 years. Fortunately, they have now reunited again.

Analysis

The cases above demonstrate that Australia's laws, policies, and practices have resulted in institutionalised, severe, and routine violations of torture and ill-treatment prohibition of people with disability on temporary protection visas. The rules and policies create severe physical and mental pain and suffering and continue to cause life-long disability and impairments (DPOA 2017). These draconian policies and practices violate the fundamental human rights of refugees and asylum seekers under the United Nation's conventions on the rights of a child, rights of persons with disability and rights of asylum seekers to which Australia is a signatory.

Statistics

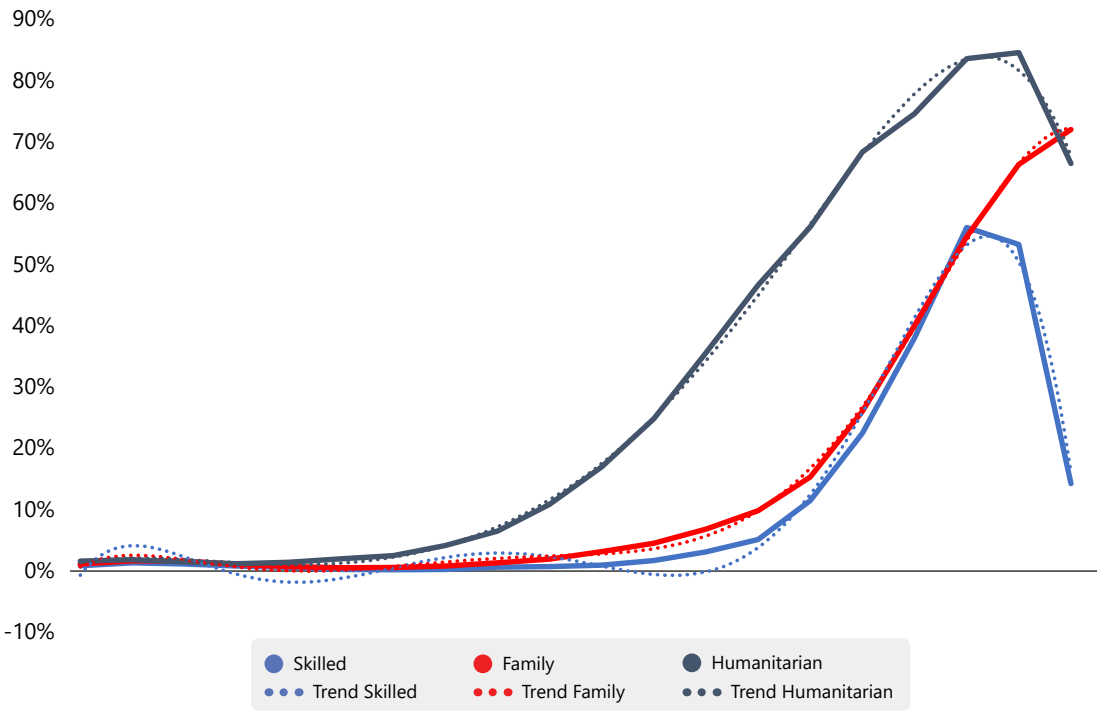
Statistics on the number of refugees with disability are difficult to obtain, reflecting a general lack of awareness about the issues faced by this group.

The 2016 Australian Census and Migrants Integrated Dataset records migrants in Australia, including humanitarian migrants (refugees). Census does not record the disabling condition; it asks people questions about whether they had needed assistance in one or more critical areas of mobility, self-care or mobility due to a disability or long-term health condition lasting more than six months, or later age-related (Henriques-Gomes 2019). The latest census, conducted in August 2021, asked similar or identical questions.

The 2016 Census' Core Activity Need for Assistance measure looks at the number of people with a profound or severe disability. Responses to the individual questions were combined to produce a composite variable Core Activity Need for Assistance. Those people aged younger than 65 years of age are deemed eligible for disability services and therefore are defined as having disability. It is a distinction based on an aged limit. The age limit used to align to those eligible for particular income payments. The need for assistance figure about equates to the severe/profound estimates at the nearest SDAC collection. The figure will not include other classes of disability intensity. Humanitarian entrants have the largest proportion of people with a need for assistance for those aged over 25, as seen in Figure 3. This proportion raises substantially as people get older.

Figure 3: Need for Assistance by Migration Stream 2016 Census

Source: ABS Australian Census and Migrants, 2016 Survey TableBuilder



	Skilled	Family	Humanitarian
0-4	0.89%	1.15%	1.63%
4-9	1.36%	1.69%	1.90%
10-14	1.17%	1.65%	1.49%
15-19	0.84%	1.12%	1.23%
20-24	0.59%	0.74%	1.45%
25-29	0.28%	0.53%	2.01%
30-34	0.21%	0.60%	2.56%
35-39	0.29%	0.82%	4.21%
40-44	0.66%	1.35%	6.58%
45-49	0.75%	1.99%	10.98%

	Skilled	Family	Humanitarian
50-54	0.97%	3.18%	17.10%
55-59	1.74%	4.57%	25.01%
60-64	3.16%	6.88%	35.84%
65-69	5.17%	9.90%	46.97%
70-74	11.59%	15.45%	56.51%
75-79	22.63%	26.23%	68.80%
80-84	38.31%	40.35%	75.08%
85-89	56.39%	54.91%	84.12%
90-94	53.62%	66.75%	85.13%
95-99	14.35%	72.50%	66.91%

This data highlights a significantly higher proportion of people with disability for refugees when compared to the entire Australian population or other migrants. In addition, figures obtained through freedom-of-information requests reveal the number of refugee and humanitarian entrants granted a Health Waiver. This data shows the number of people who, but for the waiver, would have been excluded from resettlement because they have disability or health status determinants that would have likely had a high cost to the Australian community. However, it is impossible to ascertain the health or disability-related determinants underpinning the waiver from these statistics (RCA 2020).

In the 2015–16 financial year, 238 (1.4%) of the 17,555 people who resettled through Australia's Refugee and Humanitarian Program received a health waiver. The data shows an increase in the number of people arriving with health or disability-related issues. Due to the introduction of the Health Waiver in 2012, the refugee health nurses and refugee settlement services, the newer clients reflect this trend. However, there is a lack of reliable statistics that highlights the need for better collection and dissemination of data to ensure that on-arrival needs are being serviced appropriately and support the full social and economic participation of people with disability from a refugee background.

Table 4: SDAC Disabilities and Profoundly Limited in Core Activities 2003 to 2018

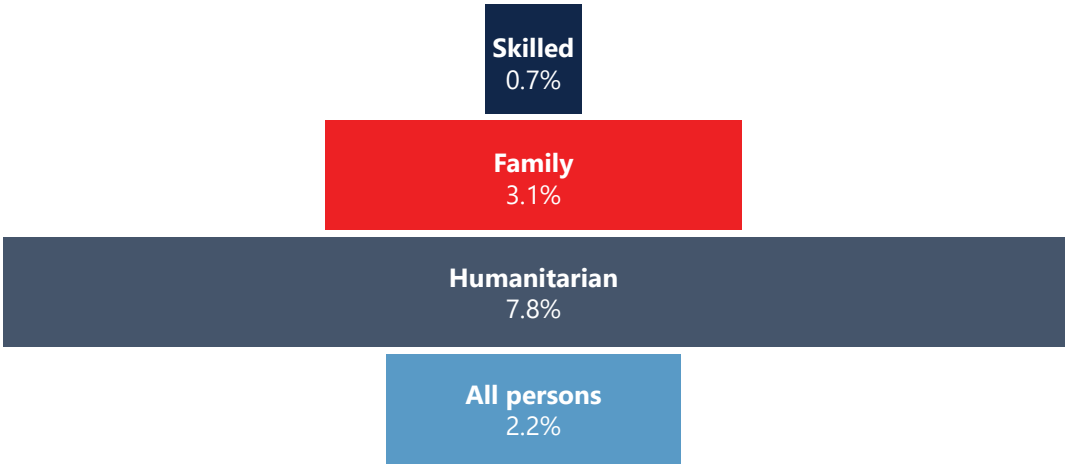
	2003	2009	2012	2015	2018
Has disabilities and profoundly limited in core activities	1.35%	1.39%	1.55%	1.53%	1.60%
Has disabilities and severely limited in core activities	2.59%	2.20%	2.17%	2.07%	1.89%
Has disabilities and moderately limited in core activities	2.54%	2.07%	1.91%	1.75%	1.49%
Has disabilities and mildly limited in core activities	3.64%	3.56%	3.76%	3.59%	3.51%
Has disabilities and not limited in core activities but restricted in schooling or employment	2.24%	1.82%	1.59%	1.63%	1.52%
Has disabilities and not limited in core activities or restricted in schooling or employment	2.50%	2.05%	1.85%	1.98%	1.67%

Source: ABS Survey of Aging Disabilities and Carers 2003 to 2018 Survey TableBuilder

From July 2012, the Australian Government has allowed people seeking entrance to Australia under a range of immigration programs to be eligible for permanent visas even if they have failed the health requirements. As long as the agency now known as the Department of Home Affairs is satisfied, the visa granting would be unlikely to result in high costs or prejudice to accessing health care or services for Australian citizens. This has increased the number of new migrants and refugees arriving with disabilities.

NEDA argues that there is an impact on the disabilities profile of those from a CALD background through the current migration program (Wadiwel and Cooper 2013). Some accept Zhou's argument that there is no "Healthy Migrant Impact" on the disabilities profile of overseas-born persons (Zhou 2016). This assumption came from the available evidence from the 2011 census. Zhou did not allow for the various migration streams. NEDA rejects Zhou's argument on the methodological assumptions used and their inconsistency with Australian migration policies and practices.

Figure 4: Need for Assistance by Migration Stream

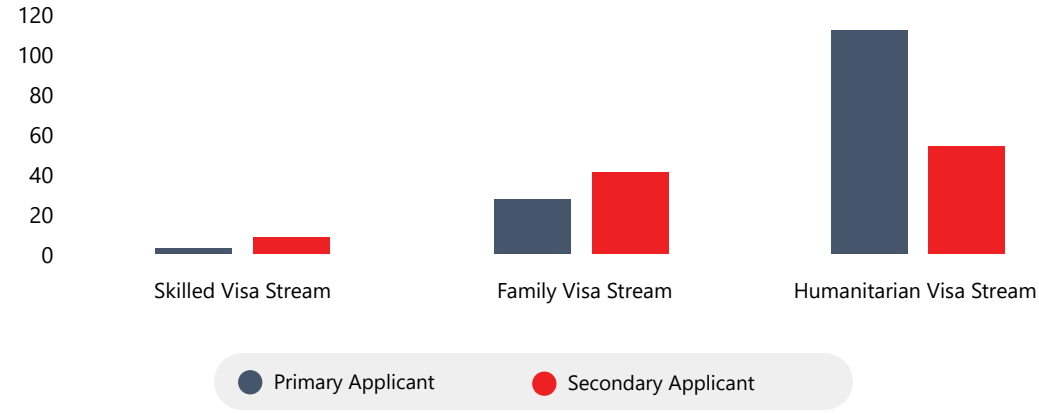


Need for Assistance by Visa Type

NEDA argues that the migration stream does have an impact on the prevalence of disability. There are three main streams of migration: Skilled, Family and Humanitarian. There is also a significant temporary migration program.

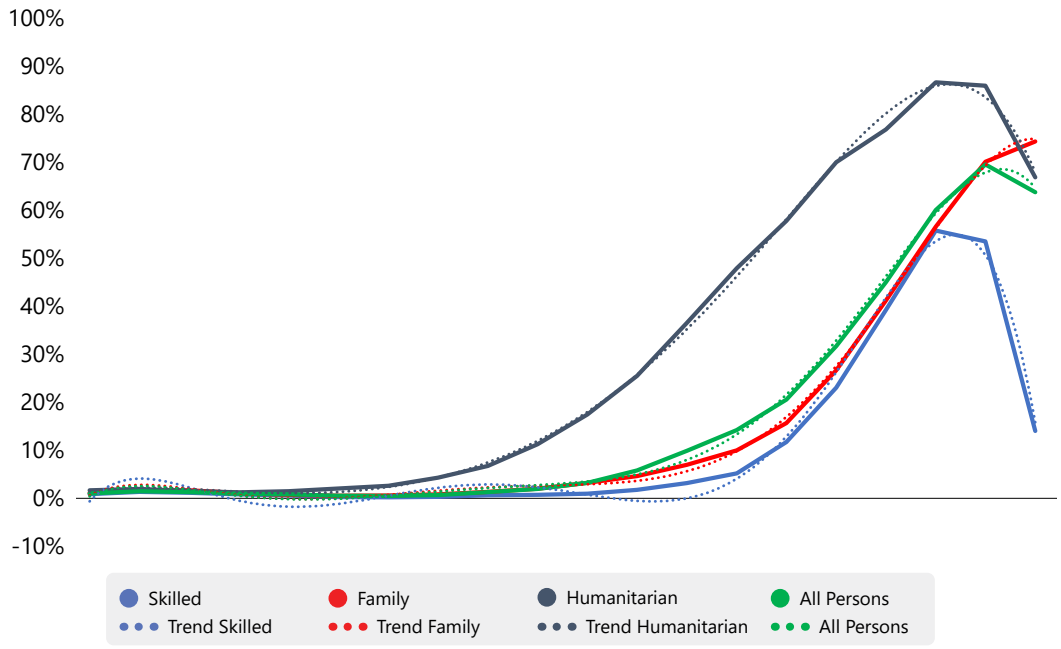
Figure 5: Australian Census and Migrants – Need for Assistance Persons per 1000

Source: Survey Table builder – Australian Census and Migrants, 2016 (NEDA 2021)



The age trend lines for the various migration streams show a significant difference between those who have come to Australia via the humanitarian stream and the skilled stream with family and total population data lines showing similar trends. If the hypothesis that there was no impact on the disability rates because of the healthy-migrant effect, there would be no difference in the trend lines. Observed is a divergence of the age trend line according to migration status, implying that migration policy impacts the migration incidence of disability and life-cycle stage. As the community ages, the incidence of disability increases. The proportion of disability is strongly associated with the mode of migration.

Figure 6: Need for Assistance Trend Lines



New Zealand citizens and their children who come to Australia on a special category visa (subclass 444) are temporary visas that allow staying and working in Australia as long as they remain New Zealand citizens. The NZ immigrants do not have the same rights and benefits as Australian citizens or permanent residents (Immigration 2021). This means they are denied access to disability services or support as non-citizens. This restriction includes any children born in Australia to New Zealand citizens. If a child is born with disability and the family applies for permanent residency, the family will be denied permanency in most cases.

Figure 7: Permanent Migration to Australia

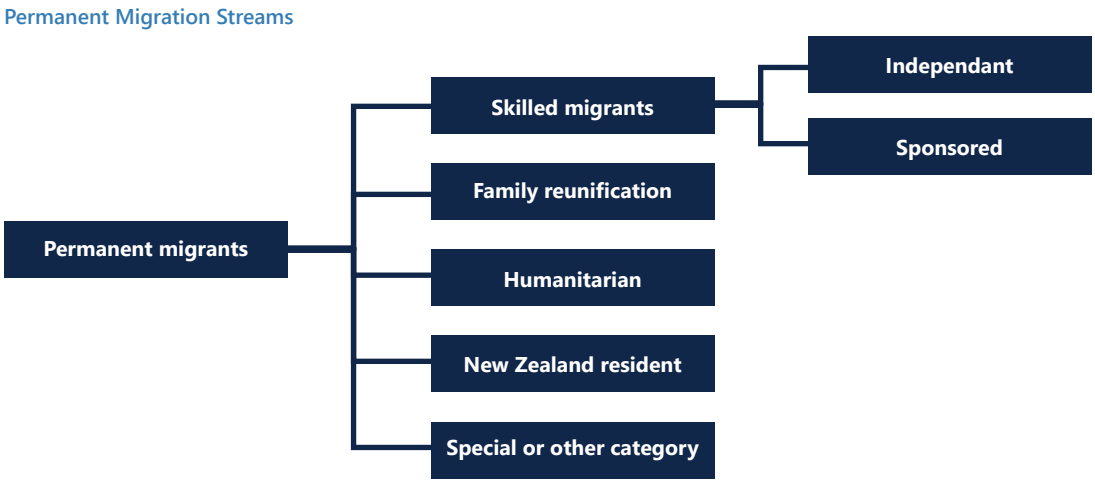
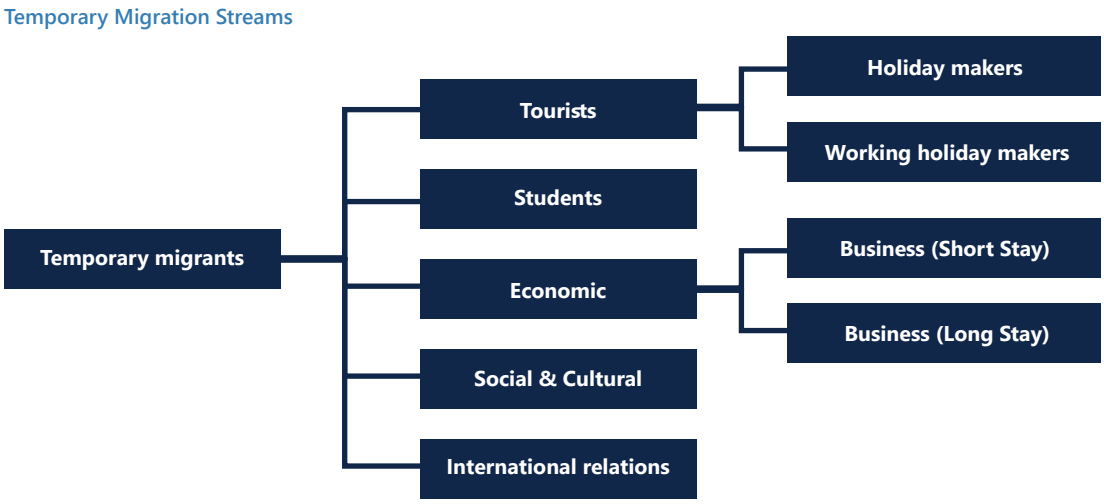


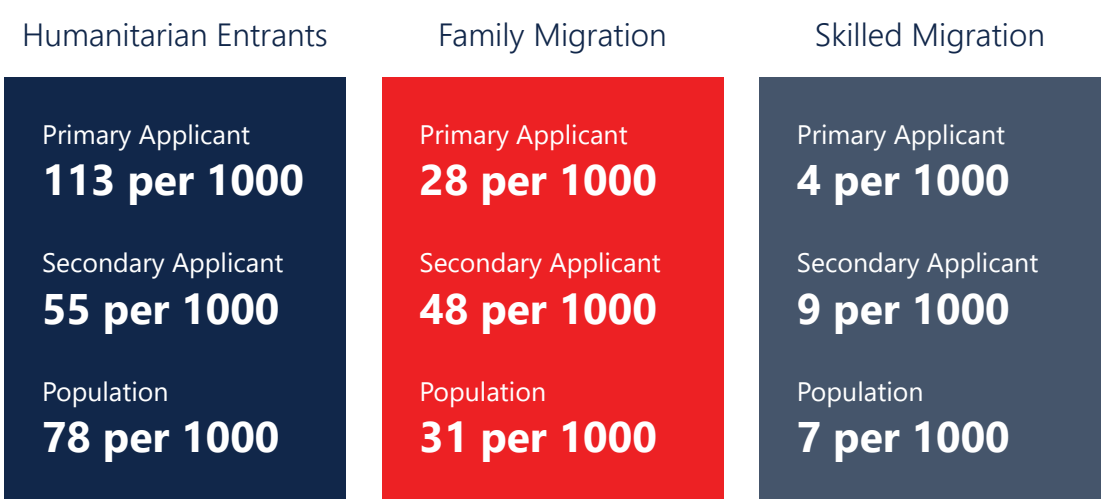
Figure 8: Temporary Migration Program



The temporary migration program allows for people to stay a short period of up to three months. This may be for tourism, education, skilled employment and so on. There are six primary classes of temporary residents, which may cover stays of more than three months:

- visitor visas
- Working Holiday Maker Program
- student visa
- temporary resident (skilled employment) visa
- other temporary visas
- New Zealand citizens.

Figure 9: Australia's Permanent Migration Program Need for Assistance



Recommendations

- The Australian Government must strengthen the *Disability Discrimination Act 1992* to apply to the *Migration Act 1958* and associated regulations.
- The Australian Government must remove the exemption in the *Disability Discrimination Act 1992* as it applies to the *Migration Act 1958* to ensure that Australia's migration arrangements and treatment of people with disability satisfy the equal protection obligations under article 5 of the United Nations Convention on the Rights of Persons with Disabilities which Australia has ratified.
- The Australian Government and Department of Home Affairs must enhance consistency, transparency and administrative fairness for migrants and refugees with disability applying for an Australian visa.
- The Australian Government master program Centrelink must remove the 10-year qualifying period for migrants to access the Age Pension and DSP.
- The Australian Government and Department of Home Affairs end mandatory and indefinite detention of asylum seekers as a matter of urgency.

Centrelink Services

Centrelink treats people with disability differently depending on whether they are born in Australia or what visa subclass they arrive on. Migrant people with disability experience various problems when applying for and receiving Centrelink benefits, including eligibility criteria for the DSP, accessibility of services, and continuity of benefits.

The eligibility criteria for the DSP is not the same for people with disability born in Australia and those people with disability who have arrived in Australia on a visa. While a person with disability born in Australia is eligible for the DSP from the age of 16 until 65 years, a migrant person with disability has to wait for 10 years unless they are Australian permanent residents who have acquired a disability while living in Australia, or are refugees or humanitarian entrants. People with disability who come under the skilled migration or family stream migration categories, and people who are eligible for an aged pension, must wait for 10 years to qualify for the DSP (APH 2010), while humanitarian entrants and refugees do not have to wait, as stated above. Migrant people with disability who are international students on working holiday visas, on temporary protection visas, or who are in detention centres, and those who live in the community are also not eligible for the DSP.

Another problem that people with disability from CALD backgrounds face is the limited accessibility of Services Australia's Centrelink services. Centrelink has centralised most of its services, making accessibility primarily available online or by phone. Most people from CALD backgrounds may not have the opportunity to learn computer and literacy skills in English due to their disability or caring roles. They may be illiterate even in their language and may find it easier to express themselves in person with an interpreter rather than being forced to complete online forms. Additionally, whether the person

is asked to complete the forms online or given a hard copy, they may have to rely on someone else in their community to complete the forms, risking their privacy and confidentiality as they have to share their personal and financial information.

Continuity of Centrelink benefits is another problem for people with disability from CALD backgrounds. They may get a debt notice or a message from Centrelink requiring them to report their earnings by a specific time. If the person does not understand the message due to their disability or lack of English language comprehension, they may not action it, and some or all of their benefits would be cut off.

In addition, people with disability from CALD backgrounds have their DSP cut off when they stay overseas longer than 28 days, something that people with disability who were born in Australia also experience. However, people with disability from CALD backgrounds are more likely to have most of their immediate and extended family living overseas and may need more time to spend with them. This is necessary for their wellbeing and mental health. If their benefits are cut off while overseas, they would suffer financially and emotionally as their family would expect them to be financially secure and not depend on them, as the person has come from Australia. Once their benefits are cut off, it takes Centrelink a few months to reinstate them.

Centrelink Case 1

A woman who was blind and believed that her DSP / Blind Pension support was non-means-tested, and the 28 days rule did not apply to her, had her DSP cut off while she was visiting family overseas after she stayed longer than 28 days. When the woman came back to Australia, she called Centrelink and asked for her DSP to be reinstated. She was told that her diagnosis was too old, and she needed to see her ophthalmologist or optometrist and get a new diagnosis. Her treating ophthalmologist had unfortunately died 30 years earlier, and the hospital did not keep her records.

The woman was told to go online, complete her part of the DSP application form, print out the documents needed to be completed by the treating doctor, get it completed, and take it back to Centrelink. Unfortunately, the online forms were not accessible with her assistive technology, and she went to the Centrelink office to ask for help. She was given a huge printed DSP application form to complete. The woman asked the staff member to please provide the form either in Braille or electronically in an email. Still, she was told that she was being treated equally as everyone else by being given a paper format and staff could not provide it to her in alternative formats.

She was not even applying for the DSP for the first time. Centrelink had made a mistake by cancelling the pension while she was overseas, and all program staff had to do was reinstate it on their records.

The woman called many ophthalmologists, but they refused to help her, saying they were too busy, and one or two of them wanted $400 to complete the forms, which the woman could not afford. She could also go to an optometrist and ask them to complete the forms. The woman found an optometrist who kindly completed her forms with her directions, even though they had never met previously. The optometrist had no idea of the cause of the woman's blindness or the diagnosis. She took the completed forms back to Centrelink, and her DSP was reinstated.

Centrelink Case 2

Sam is a long-term permanent resident of Australia. He has complex needs, a combination of psychosocial disability, chronic fatigue, and physical disability that is conflict related. These conditions have made it hard for him to hold down employment.

He had been living in Australia for nine-and-a-half years when he opted to apply for Centrelink's DSP. However, he was rejected because four years earlier he left Australia for a month to visit his country of origin due to a family emergency – this made him ineligible for the DSP. Sam's time overseas counted as breaking the continuing resident criteria for the DSP. Thus, he was told he had to begin another waiting period of eight to nine years from the date he came back into Australia or wait another four years before being eligible for the DSP.

Analysis

As seen in these cases, the Australian Government master program Centrelink has been misusing its authority to deter people with disability from CALD backgrounds from accessing benefits they genuinely need. This is a financial abuse of power by the authorities and is a violation of the United Nations Convention on the Rights of Persons with Disabilities article on *adequate standard of living and social protection, article 28*.

CALD people with disability face both exclusionary barriers through eligibility criteria and Centrelink's welfare payments management. For example, the 10-to-15-year waiting period of continuous residency in Australia for the DSP if one is a migrant or refugee, meaning if one leaves the country for any given time after settling in Australia, they have to wait another 10 years. This waiting period is a denial of welfare to newly arrived refugees and migrants with complex needs and disability, where the first five years at arrival is crucial to settlement (UNHCR 2017).

The qualifying residence period begins when the person starts residing in Australia as a permanent visa holder. Time spent in Australia on a temporary visa does not count towards the qualifying residence period. This rule has disproportionately penalised refugees who are still seen as asylum seekers – the government has not classed them as genuine refugees.

In conclusion, people with disability from CALD backgrounds feel disadvantage and discrimination due to the eligibility and accessibility barriers for accessing Centrelink benefits and ensuring continuity of those benefits. Because of these failures in the Centrelink system, people with disability from CALD backgrounds may experience abuse and neglect, lose their financial independence and have to live in fear.

Recommendations

- The Australian Government master program Centrelink abolishes the 10-year eligibility criteria for the Age Pension and DSP so people with disability from CALD backgrounds have equal eligibility requirements with people with disability born in Australia.
- Centrelink abolishes the no-more-than 28 days abroad criteria for receiving benefits while overseas as people with disability from CALD backgrounds may need to spend extended time with their families and friends while overseas, which is necessary for their mental health and wellbeing.
- Centrelink stops its practice of cutting off people's DSP just because people's diagnosis or diagnoses are too old.
- Centrelink gives people with disability a choice to receive their Centrelink application forms in electronical format. An employee of Centrelink should be appointed to help people with form-filling if they need it.
- Centrelink should have an engagement mechanism in place, and work in collaboration with disabled people's organisations for CALD people and CALD disability advocacy organisations, to ensure the Services Australia program is meeting the access and information needs of people with disability from CALD backgrounds.

Transport Services

People with disability from CALD backgrounds faces more barriers when accessing transport services, including while undertaking local, interstate and overseas travel. In addition, there can be a language barrier and family or cultural barriers because people's family members may not allow them to travel independently.

People with disability from CALD backgrounds may not be aware that they can access mobility and orientation training so they can use local public transport services. Because of people's lack of knowledge, they may not request this training in their NDIS funding if they are part of the scheme.

Additionally, a person may not have adequate social and language skills to have the confidence to use public transport independently.

Further, due to the severity and complexity of their disability, some people may need someone to take them places. The NDIS does not provide transport allowances for people with disability unless a person is employed or undertaking formal training. It is hard enough for people with disability who speak English as their first language to get a job, it is almost impossible for people with disability from CALD backgrounds. This means that people with disability from CALD backgrounds are more likely to be disadvantaged and isolated, and may not be able to improve their social and community participation skills.

Additionally, people with disability from CALD backgrounds are further disadvantaged if they are not eligible for the NDIS.

Another major barrier that people with disability from CALD backgrounds face – particularly during non-pandemic conditions – is when catching a plane to travel overseas.

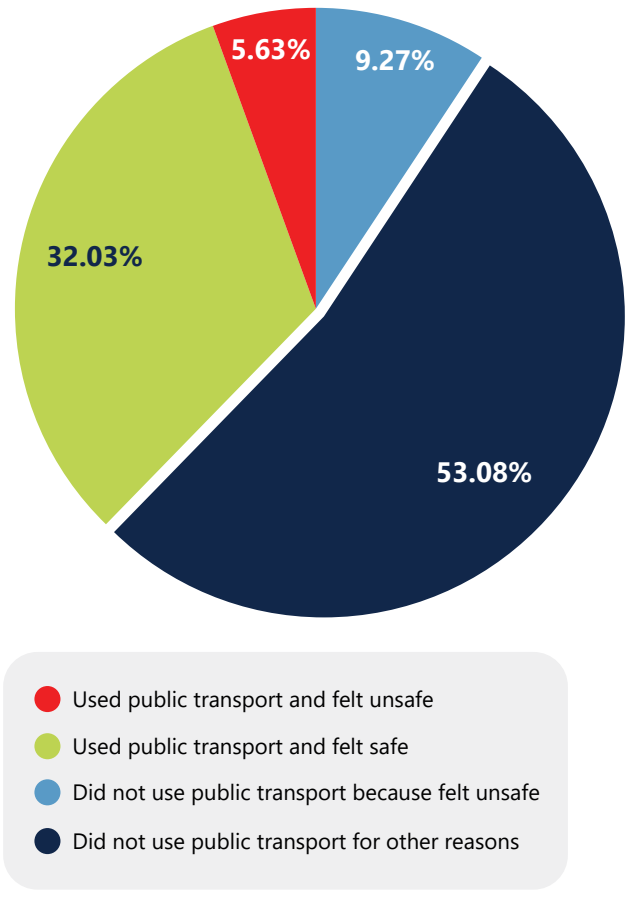
Some airline companies such as Emirates do not allow people with disability to travel on their own, even if they are able to. Instead, they are required to take a carer with them, which poses another problem for people with disability as they would be expected to pay the airfares of the carer as well as their own. Although this restriction applies to all people with disability, CALD people are more likely to be disadvantaged by a restriction such as this, as travelling overseas is more a necessity than a pleasure for them, as they must spend time abroad with their family.

The Taxi User Subsidy Scheme (TUSS) was made available to people with disability in Western Australia in 1990. People with sensory disability were to pay 50% of the fare up to $50 and people with physical disability were to pay 25% of up to $50. In 30 years, taxi fares increased many times, and the metropolitan area grew much larger, but people are still paying half or a quarter of $50, according to their disability. If the fare is greater than $50, they have to pay the rest in full.

Data from the Australian Bureau of Statistics Personal Safety Survey showed 15.45% of people with disability from CALD backgrounds did not use public transport as they felt unsafe, while 53.08% stated they did not use it for other reasons. These figures are reflective of people's dependency on service providers and carers for accessing transport services.

Figure 10: Feeling Safe Using Public Transport

Source: ABS Personal Safety Survey 2018



Recommendations

- The Australian Government National Disability Insurance Agency must ensure a travel allowance is made available to people with disability on the NDIS regardless of whether the person is working, studying or not.
- The NDIA must ensure NDIS funding should at least include the cost of airfares for carers.
- The Government of Western Australia's Department of Transport and other state-and-territory taxi subsidy scheme operators should increase their subsidies to reflect the increased cost of cab fares from inflation and greater urban sprawl. WA's Taxi User Subsidy Scheme should at least double its subsidies.
- Australia's governments should prioritise implementing whole-of-journey planning initiatives to ensure people with disability from CALD backgrounds have seamless end-to-end transport experiences and are not exposed to urban islands of inaccessibility.

Group Homes

Group homes are not the safest places for people from CALD backgrounds with disability, especially if the person is non-verbal or the family carers are not fluent in English.

Even workers at the home are also from a CALD background, they are usually not culturally competent and often make family carers feel that they are intruding and interfering, and do not take time to listen and address their concerns. Unless it is the last choice with no other alternatives, people from the CALD background usually prefer not to seek out group home accommodation.

Now that all states and territories have privatised group homes, the risk of violence, abuse, neglect and exploitation will not decrease. Now that the private not-for-profit sector has stepped in, many providers now under-report to the Quality and Safeguards Commission, according to a recent report. The agency has not always been in a position to follow up on reports of abuse.

Group Home Case 1

In 2020, a 76-year-old mother from a non-English speaking background contacted a support coordinator to seek help finding a support worker who speaks the language she has in common with her 37-year-old daughter who lived in a group home and needed assistance. The daughter had cerebral palsy, was non-verbal and had intellectual disability living. The adult daughter's NDIS plan was agency managed, and the agency charged with overseeing the group home claimed that they had enough employees and were not willing to employ any more staff, despite their client's language needs.

The mother was going into the group home every day to ensure her daughter was fed, showered, dressed, and so on, which was not appreciated by the staff. As the mum did not speak any English, staff members ignored her and found her very intrusive. The mother believed her daughter was not given enough support hours and the staff at the group home, who were responsible for all four residents, was not giving her daughter adequate care.

The daughter did not have adequate funding in her NDIS plan to attend cultural, social and religious activities. A plan review was requested through the NDIA for increased funding for the woman to get about seven hours a week to get help with personal care, and social and community participation. The mother was very worried that when she died, there would be no one to care for her daughter. At her old age and with her aches and pains, she kept coming to ask what was happening with the review process, as she believed it was taking too long. After waiting for many months, the daughter's plan review was complete and she was unfortunately only two hours extra a week.

Group Home Case 2

A CALD man with disability was employed as a worker in a group home. He witnessed acts of violence, abuse and neglect.

He also heard some harrowing stories about incidents where the residents' rights were violated. His experience under Department of Health and Human Services (DHHS) Victoria as a disability support accommodation worker made him complicit in systemic violence.

The man found the levels of abuse and neglect he saw from other group home workers from CALD and non-CALD backgrounds were disturbing.

These incidents included seeing another worker from a CALD background on sleepover shift who left a resident who was soiled in faeces and urine. He saw forced cold showers used on residents as "discipline or joke." He also saw a permanent staff member, who was also another CALD worker, was sleeping on-shift, leaving the other staff to handle everything.

When DHHS privatised the group homes, the worker went to the new agency's staff information days. The agency focused on allying to workers' fears, highlighting how much the government sector would take away from a resident's NDIS plan. The agency instead claimed that as an organisation it would improve residents' lives under a private system.

Analysis

If violence and abuse can occur under state government management, National Ethnic Disability Alliance, People with Disability Australia and the Federation of Ethnic Communities' Councils of Australia believe there is no way privatisation will stop the abuse.

We believe group homes are another form of institutionalisation abuse for the following reasons:

- home detention is used for people with high needs or who are low functioning, or are judged at risk of absconding
- people often do not have an individual choice in clothes (unless parents bought them), bedding and food (especially if they are judged to have swallowing risk)
- some houses withhold food by locking cabinets and fridges
- people have no choice in the workers used in the house
- people have no choice in day activities/program – even though residents are adults, day-centre hours are like school hours
- people have no choice in the entertainment offered, unless a person has individual devices or a television
- people have no choice in the residents they have as fellow housemates
- that depending on the house culture, verbal abuse and insults by staff can become second nature and can escalate to forced showers, grabbing and forced sit-down if the resident is grabbing at staff or stealing other people's food
- when a resident attacks another resident, staff "cannot defend" themselves or come to the aid of another staff member who is restraining a person
- when a resident destroys property, staff cannot intervene as it becomes occupational health and safety concern
- on average, for three out of five residents, no parents visit for 90% of the calendar year in five-resident housing, and it is up to staff to provide Christmas or birthday presents, usually out of the resident's funds
- the casualisation of the labour force is a form of abuse for both residents and workers because there is no continuity and permanent workers are more susceptible to blame casuals when things go wrong in care
- workers of different backgrounds have been caught being abusive, while CALD workers new to the sector can bring cultural and attitudinal ideas to their work practice, with neglect being a considerable risk, such as in the overseeing of cooking and household duties, even personal care
- permanent staff become individual resident caseworkers; however this can be a good step in keeping up the consistency of support around behavioural support plans and medical/dental reporting
- bathrooms and toilets can be shared places – privacy is complex at the best of times, if regrettably non-existent
- residents can enter the bedrooms of other residents
- the homes are not safe spaces.

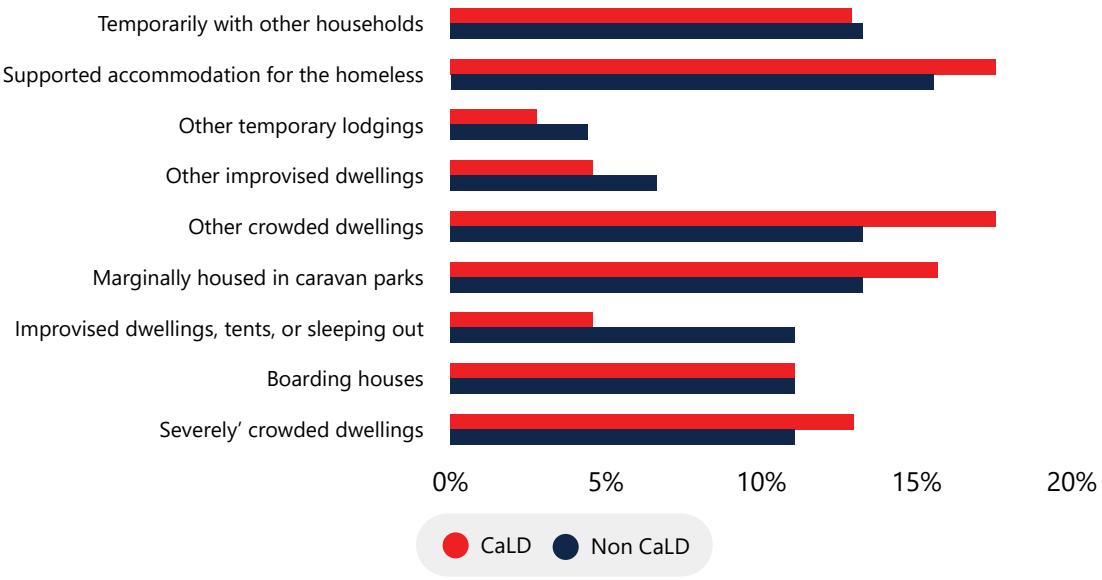
Other Accommodation Arrangements

Significantly, the ABS categorises the available housing for people with disability as what is considered temporary or transitional. There were 7081 persons under 65 with a need for assistance recorded in the 2016 census and defined as homeless. A significant 42.3% of these people considered homeless were from a CALD background.

NEDA refers to CALD as including all persons from a culturally and ethnically diverse background regardless of birthplace or language spoken but excluding indigenous people or those who speak an indigenous language.

Figure 11: Homeless Operational Groups Persons Under 65 by CALD Status

Source: ABS 2016 Census – Counting Persons, Estimating Homelessness



	Non CaLD	CaLD
Severely' crowded dwellings	11.10%	13%
Boarding houses	11.10%	11.10%
Improvised dwellings, tents, or sleeping out	11.10%	4.60%
Marginally housed in caravan parks	13.30%	15.70%
Other crowded dwellings	13.30%	17.60%
Other improvised dwellings	6.70%	4.60%
Other temporary lodgings	4.40%	2.80%
Supported accommodation for the homeless	15.60%	17.60%
Temporarily with other households	13.30%	13%

There are proportionally more CALD clients (17.6%) using a specialist homeless service (SHS), but they are one-third of total SHS clients.

Many group home services are ill-equipped to deal with potential residents because many facilities are not designed for people with physical disability. Many services will use excuses such as workplace and safety issues for not accepting many potential clients with disability. Often staff and management are intolerant of clients with specific religious or cultural needs, such as Ramadan or the need not to share space. Staff members are expected to conduct a risk assessment of potential clients before admission. Factors such as behaviour in other services are considered. If a client has had issues with previous services, this may affect whether they are admitted. Coupled with clients who are viewed as demanding and challenging, many services will not accept a client with disability, especially if they are not proficient in English.

Data collected by an SHS service may not be correct or accurate, as demographic or disability accuracy is not a high priority for many services.

Recommendations

- The Australian Government NDIA must ensure that Supported Independent Living (SIL) is separated from Supported Disability Accommodation (SDA) so there are separate providers of housing and support in the homes of people with disability.
- The NDIA needs to ensure the provider of support coordination is independent from the provider of Supported Independent Living.
- The NDIA should implement a planned approach to ensure people with disability are provided with real opportunities to decide where they want to live, and with whom. This approach should provide an independent staff member to sit down with people with disability from CALD backgrounds and their families, to explore and plan for options other than a group home.
- Australia's governments must ensure residents of shared disability residential accommodation are provided with an opportunity to choose their support workers and employ them on permanent contracts where they are paid more than the current rate of $27 per hour.
- Australia's governments should prioritise accessible and affordable social housing.

Housing Services

People with disability from CALD backgrounds experiences multiple disadvantages when looking for accessible and affordable housing. People with disability from CALD backgrounds may find it challenging to understand and interpret the conditions of their lease contracts due to their lack of English language skills, disability, and because rental clauses might be different in their countries of origin.

Before coming to Australia, some people with disability from CALD backgrounds and their family and carers might have lived in refugee camps for most of their lives and never rented before. The cultural expectation in the new land is that they may not know how to clean and maintain their houses and yards and end up living in hygienically poor conditions. They may therefore get an eviction notice after routine property inspections. Besides experiencing disability discrimination, if a person with disability is from a diverse race or colour, they might also experience racial discrimination. Some landlords and real estate agents may have prejudiced views against a particular race. In addition, some people with disability from CALD backgrounds have many children, and the family may therefore have less chance of getting a rental property in the private market. People with disability from CALD backgrounds who are new arrivals may also not have rental references to support their applications.

Housing Case 1

A newly arrived single mother of refugee background who has a disability and seven children needed to move out of settlement-provided accommodation into a private rental. But there was a housing price boom and housing supply shortage. However, the refugee support service is restricted by the government's funding contract and has to find accommodation in the community. It was unable to find the woman suitable accommodation for her and her family.

Analysis

People with different disability may have different needs for an accessible house. For example, people with physical disability may require a wheelchair-accessible house. In contrast, for a person with sensory disability, accessibility may mean being close to public transport, audible traffic lights, and so on. However, for people with disability from CALD backgrounds, accessibility may mean being close to their immediate family as they may not have developed informal social networks. Therefore, they may benefit from having government grants to build a granny flat by their family home if there is suitable space.

The other option for those people with disability from CALD backgrounds who cannot find an accessible and affordable rental property in the private market, is to apply for public or social housing. However, in the past two decades, most governments have been selling off their public housing stocks and not building enough accessible houses. There is also a 10-year waitlist for people eligible for public housing in some states and a minimum of two years for people given priority listings. This wait time certainly does not meet their urgent housing needs, and some people may end up being homeless and living on the streets or in their cars with their children. Sometimes, people have to stay with another family, which may also put the host family at risk of eviction from their rental property.

Another major issue for people with disability from CALD backgrounds is home modifications. They may get NDIS funding to modify their houses to meet their accessibility needs if they own their own home or live in public or social housing. If they are renting privately, they may not be eligible for this NDIS funding for assistive technology. Landlords do not generally want to improve the accessibility of the property because it cost extra money. They can rent it out

to other people who would not require any modifications. In Western Australia, people with disability have to move out of their accessible government / social housing if their income increases. However, again, it is challenging for people to find accessible houses in the private market.

Housing Case 2

A woman in her late forties with no English language skills living in Western Australia had acquired a brain injury due to family and domestic violence, which affected her lack of decision-making capacity. She received a blow to her frontal lobe.

The woman's husband was taken to prison and the woman to the hospital. After she came out of the hospital, she applied to the Department of Communities, Child Protection and Family Support to be supported to go into a women's refuge with her four children as she feared that her husband would soon be released from prison. At the time, there was no availability in any of the women's refuges, and she and her children were accommodated in a motel for four days then sent to a women's refuge for two weeks.

She was supported to apply for a Department of Housing (DOH) house and was put on the priority list. However, the community housing service had to move her and the children out of the refuge and instead placed her in a private rental until a house could become available through the public system. Still, because she was already in private rental, the housing department cancelled her priority listing and put her on the regular waitlist, which may have taken 10 years to get accommodation for her.

In the meantime, the husband came out of prison, found his family and moved in. She could not stop him. A short time later, he beat her up again, broke some bones in her left arm, and imprisoned her for another month. The male children had also learned this behaviour from their dad. Whenever mum hesitated on something they needed, they started beating her up and damaging the rental property they were living in.

With advocacy from a professional advocate, the woman was placed back on the DOH's priority listing, but when her husband came out of prison and found his way back home, she was taken off the priority listing.

The woman stated that she was nothing without her husband as she does not speak English and has no immediate family or informal social supports. Her ethnic community was too small, and everybody knew each other. Most of her community members were not well off and could not support her financially or emotionally. She believed that they would only gossip behind her back. She felt that she had nowhere and no one to go to for support.

Housing Case 3

A man with a degenerative physical disability and his wife had privately rented a unit on the second floor of some flats. He used crutches, but as his disability deteriorated, he had to use a wheelchair. Unfortunately, the flats had no lift and going up and down the second floor became painful for him. He applied for public housing through the state housing department and was given a wheelchair-accessible unit.

At the time, he was only working for two days a week and also studying. After the completion of his studies, he asked to work more hours. However, when his income increased, the housing department required him to move out. They could not find an accessible house in the private market, and he had to reduce his work hours to just two days a week again.

Recommendations

- Australia's governments should prioritise increasing housing stocks where the construction is according to the Disability (Access to Premises – Buildings) Standards 2010 made under the *Disability Discrimination Act 1992*.
- Australia's governments should not require people with disability to move out of their accessible government or social housing when their incomes increase. A fairer approach, such as increasing rent proportional to an increased salary, is much more appropriate.

Police and Legal Justice Services

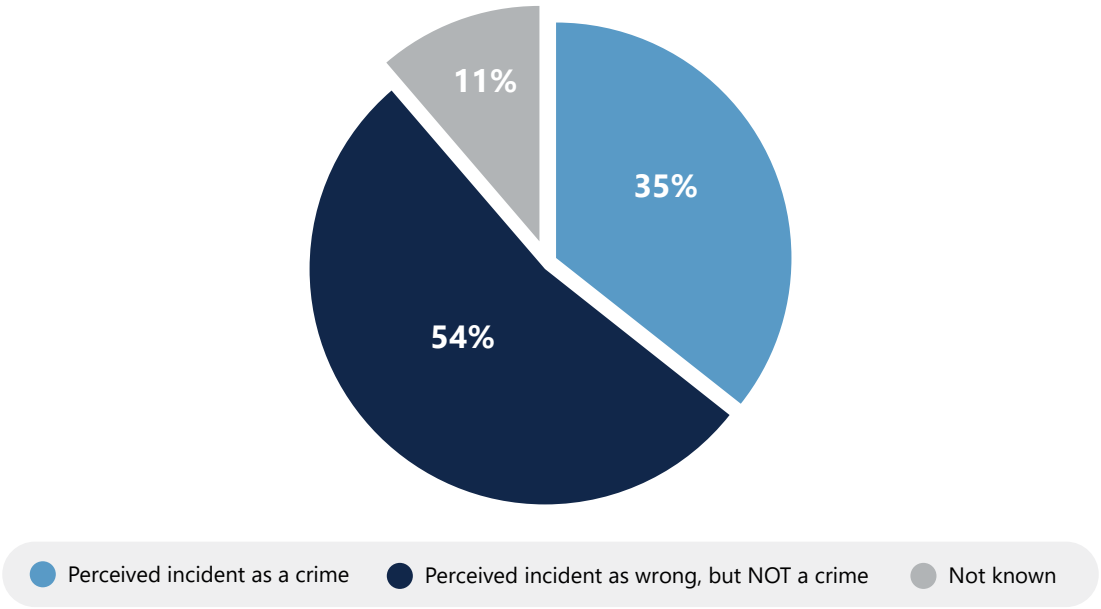
Australia's legal justice system is very complex, with a mix of Commonwealth, state, territory and local laws and processes, even for people born and brought up here (Prakash, Cummings et al. 2019). Access to the state and federal police and legal justice system presents multiple barriers for people with disability from culturally diverse backgrounds, especially if they are new arrivals. Some of the significant barriers people experience are due to their English language proficiency. They may have spoken and literacy skill difficulties in their language. They could also experience discrepancies in communicating legal information through interpreting services due to both the individuals' and interpreters' lack of knowledge of a legal concept and terminology. Added to this is the inherent nature of being highly suspicious of police and the legal system due to hostile experiences of fleeing unstable regimes, torture, trauma and immigration detention. People may also experience racism, prejudice and discrimination when accessing the police and legal justice system due to cultural differences between Australia and their countries of origin.

NEDA broke down some data about people with disability from CALD backgrounds relating to their main reason for a change in perception. At the time of the survey, the most recent incident was not seen as a crime, confirming people's views about justice, the police and their rights before the law within CALD communities.

Looking at people's perception of abuse and violence as a crime, between CALD and non-CALD people with and without a disability, again indicates a gap in an understanding of one's right to be free from violence and abuse.

Figure 12: PSS 2018 CALD Perceptions of an Incident as a Crime

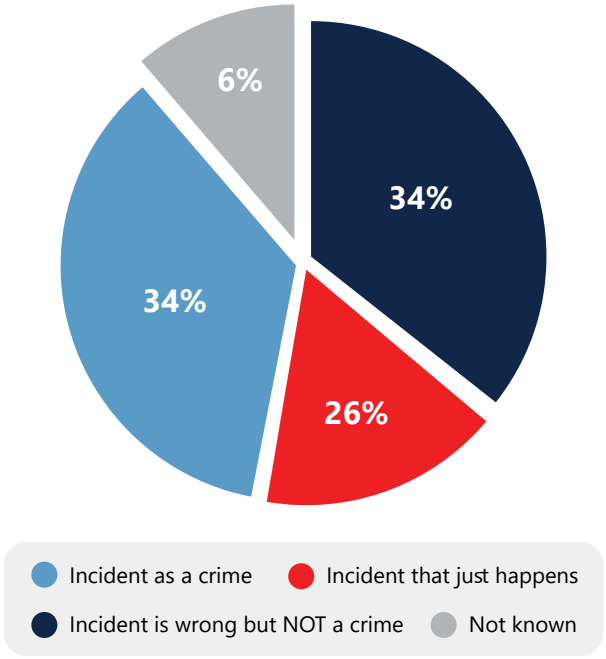
Source: ABS Personal Safety Survey 2018



These numbers also indicate a glaring gap in information and understanding of what is wrong regarding being attacked in one form or another. The ABS Personal Safety Survey shows that CALD people had little to no access to resources to help them be more informed about their experiences.

Figure 13: PSS 2018 Non-CALD Perceptions of an Incident as a Crime

Has a disability, not CaLD - Source: ABS Personal Safety Survey 2018



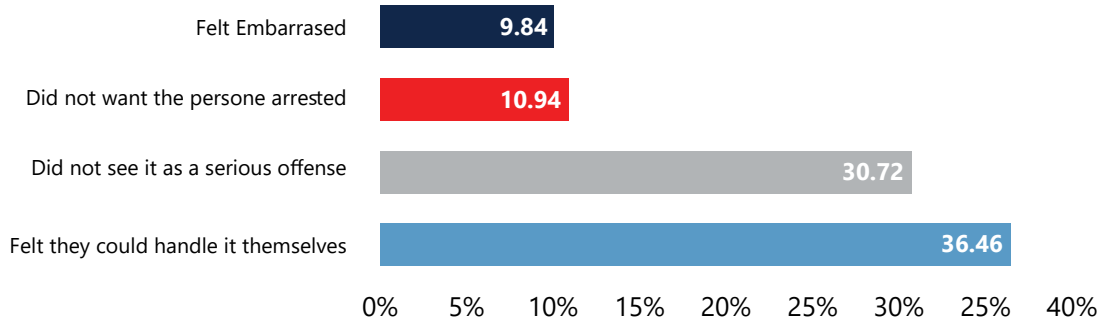
These numbers also indicate a glaring gap in information and understanding of what is wrong, regarding being attacked in one form or another. The PSS shows that CALD people had little to no access to resources to help them be more informed about their experiences.

The survey does not account for the views of those in closed family settings and closed disability settings such as day centres and group homes. This lack of perspective leads NEDA, PWDA and the FECCA to ask what degree individuals perceive violence, abuse, neglect and exploitation as seen as a crime?

The ABS' PSS data indicates that among people from CALD backgrounds, 95.70% of CALD people with disability and 90.63% of CALD people without disability did not change their understanding that what was done to them was a crime. It appears that mainstream Australians, both with and without a disability, knew of their rights – a drop to 71.84% of those with a disability. The number decreased again for abled-bodied non-CALD Australians to 69.63% respondents whose perception of abuse and violence been a crime. The survey stated that of people with disability who had access to a family and friend, awareness campaign, counsellor or support, self-education had helped change the perception that violence and abuse are crimes.

Figure 14: Reason Not to Report the Incident to Police

Source: ABS Personal Safety Survey 2018



Policing Case 1

Bee is an 80-year-old CALD female from migrant background, with an intellectual disability. Bee approached her local Sydney police station to inquire about a counselling referral. Earlier that day, Bee had a verbal fight with her daughter and was wanting to ask the New South Wales Police Force about where to access counselling support to work through some long-running issues that were affecting their relationship. Bee's spoken English was very limited, and she was unable to read English. In conversations with Bee, police believed Bee had attended the station to lodge an Apprehended Violence Order (AVO) against her daughter. An AVO was taken out.

Bee left the station with what she thought was paperwork for her counselling referral. Bee only became aware that she had taken out an AVO against her daughter after being informed of the details during a conversation with a professional advocate and professional interpreting supports.

Bee had never heard of an AVO and had not wanted to lodge one. With weeks of intensive practical support from the professional advocate,

Bee was able to formally retract her statements and cancel the AVO just prior to her designed court date.

The event caused great stress and anxiety for Bee and further strained her relationship with her daughter.

Bee is currently being supported by Legal Aid New South Wales as she wants written evidence from the NSW police station detailing or acknowledging what happened.

The independent advocate and Legal Aid NSW wrote to the police station on behalf of Bee to highlight the failure/ lack of appropriate support provided to Bee, on that occasion; to date, the local station has not acknowledged its role in the outcome but has informed Bee that the service is "reviewing internal processes."

Policing Case 2

Fiona is a 45-year-old female with an intellectual disability and has limited English proficiency as she is from a migrant background. Fiona lived with her parents her entire life, until they both passed away in her early 40s leaving her the family home and a small inheritance.

A year ago, Sally, Fiona's friend, convinced Fiona to lend her $70 000 to pay for a partner visa application. Fiona did lend Sally the money with the agreement Sally would pay her back. Sally did not pay Fiona back any money, and they are no longer friends.

Fiona approached her local Western Sydney police station to lodge a complaint of theft. The police were not interested in hearing Fiona's story, and informed her to come back with evidence.

Fiona was very angry with the police, and visited her local disability advocacy organisation to talk with an advocate. With the support of an independent professional advocate Fiona approached her Western Sydney police station to peruse the matter. The New South Wales Police Force formally opened a case and began investigating the matter. Fiona and the advocate both find it very difficult to get updates or directions from police. Fiona and her advocate both feel the police is not interested in helping them or prioritising a response. To date, Fiona and her advocate are awaiting a formal update of what actions police has taken in regard to the matter to determine if it is a policing matter, or if it the matter needs to be pursued via a small claims court process.

Fiona is very upset that her savings are gone and her economic future is financially vulnerable.

Policing Case 3

John is a 50-year-old man from migrant background with an intellectual disability. He has very limited spoken English proficiency and cannot read or write in English.

Last year, John's 20-year-old son Terry died a tragic and violent death. The police officers investigating the case ruled Terry's death a suicide.

The father is very upset with this assessment, and believes his son died from foul play. John is angry with the police, and believes the police are not considering crucial evidence, such as a long-standing altercation Terry had with another known person. John believes the police could determine Terry's death was not a suicide if they were to consider this additional information.

An independent advocacy service is providing support to John to help navigate his interactions with the police force. The advocacy worker, in partnership with a legal aid officer, have formally written to the commander of the police station on

behalf of John to ask for a summary of the case, and to gain insight into what information has/has not been examined in the case to support the suicide finding. The advocacy support worker is of the opinion that the police involved with the case have not communicated or engaged with John in appropriate or accessible ways and have not considered his disability-related needs or language needs. John is now not confident in engaging with the police regarding the case, as he does not trust them. Since then, John has requested the support of an advocate during all engagements with the police.

Policing Case 4

A 20-year-old newly arrived male refugee with intellectual disability touched a young woman inappropriately at a bus stop. She reported him to the police, and he was charged and taken to court.

Although there was an interpreter to enable communications, the young man and his family carer's lack of English language proficiency and lack of knowledge of the Australian legal system made it very difficult for the court to proceed with the case. Eventually, the case did not proceed.

If the man had proper support to help him with his social interactions and community participation, this incident might have been prevented. Unfortunately, at the time, he did not have formal supports.

Recommendations

- Australia's governments should provide community legal information sessions to all newly arrived humanitarian entrants and refugees so they can be aware of their legal rights and how to navigate the legal justice system.
- Australia's governments should train all police, court staff and support workers in cultural competency and disability awareness so they can more appropriately deal with the legal issues of people with disability from CALD backgrounds.
- Australia's governments should ensure the interpreters they appoint are required to take professional development training in disability awareness and terminology used in Australia.
- Indefinite incarceration of people with intellectual and neurological disability, contravenes the CRPD, of which Australia is a signatory.

Health Services

Many people from CALD backgrounds face barriers on their right to health free from discrimination on the grounds of race, ethnicity, age, disability and other statuses.

People accessing primary health services and hospitals face barriers to communication, facilities and buildings.

While general practitioners have priority access to TIS, the national translating and interpreting service, they rarely use it. While hospitals may engage interpreters for people who come to see staff for an appointment as an outpatient, when a patient is admitted interpreters are not used during consultations with health professionals.

During the COVID-19 pandemic, many surgeries were closed, and patients were encouraged to do online consultations. Unfortunately, this caused enormous difficulties for some people with disability from CALD backgrounds due to their lack of computer skills, internet access and low health literacy skills.

Access to buildings, facilities and equipment is another barrier for people with disability, including those of CALD backgrounds. While new hospital buildings are designed according to universal accessibility standards, some older buildings do not meet accessibility requirements. There may not be a lift available; for example, so a person using a wheelchair may not be able to go upstairs to see a specialist. For this appointment, if an interpreter was booked, it would have to be cancelled, which would waste government resources.

In the case of newly arrived migrants or refugees with suspected intellectual or neurological disability, it takes about two years for them to be diagnosed due to not having enough culturally competent specialists. Unfortunately, this means that the person misses out on vital disability supports and services during the waiting period.

In some CALD communities, women with disability face barriers to control over their health and bodies due to interlocking and mutually reinforced oppressions (Thompson 2006). As a result, the women are encouraged to play a more dependent role. A shift from the dominant disablist ideology underpinning the medical model of disability is needed as this continues to stereotype women with disability as passive, dependent and infantile.

The Multicultural Disability Advocacy Association of New South Wales (MDAA) has organised a consultation on the health needs of people with disability from CALD backgrounds to identify barriers and develop strategies to overcome them. Please see the full report in Appendix 4 for details.

Heath Case 1

Umar, a 59-year-old man with minimal English language skills, who had vision impairment and diabetes, was admitted to a hospital with a heart attack in early May 2021.

The day after he had his heart surgery, he wanted to phone his son but could not see his name on the screen due to his vision impairment. When a nurse came to do her rounds, Umar asked her if she could help him find his son to phone him. The woman pushed his hand with the phone, slapped his wrist, said that she was too busy for that, had no time, and walked away.

Umar was devastated with shame and said that he wanted to end his life there and then. He escaped from the hospital, found a taxi outside and went home. His family brought him back, and he was transferred to a mental health clinic.

Habilitation and Rehabilitation

Asylum seekers with disability have no access to habilitation and rehabilitation services because of their visa status.

Medicare is not universally given to asylum seekers, people on temporary visas and often it does not cover specialist health services for non-citizens.

Australia violates the United Nations conventions on the rights of asylum seekers, people with disability, and women and children with disability, which it has ratified and is a signatory to – by restricting their access to health care services through Medicare.

Recommendations

- Australia's universities, colleges and institutions, and governments should ensure all healthcare professionals are trained in disability awareness, cultural competency and working effectively with professional interpreters as part of their formal training, such as at university. This training should also be made compulsory for all hospital staff.
- Australia's medical professionals should engage meaningfully with their patients with disability, especially with those with cognitive and intellectual disability. Medics must explain people's health issues, prognoses, diagnoses, and treatments in various accessible ways, including by engaging an interpreter, and providing translated information in the patient's language, in Picture Exchange Communication System (PECS) format and other alternative formats.
- Australia's health services must implement person-centred approaches, according to the individual's needs.
- Australia's health services should be underpinned by the social model of disability, cultural sensitivity and trauma-informed practices.
- Australia's health services should ensure that when a person from a CALD background is diagnosed with disability, an interpreter is used to inform that person or their family members about what supports and services are available, if English is their second language. In addition, people with disability and their families need to be informed of their equal access rights and opportunities.
- Australia's health services should ensure peer support groups for family/carers of people with disability are funded to run parallel with the person's therapy sessions, so the supporters can learn from each other's experiences to improve their perception of disability. Unless therapy sessions for people with disability and peer support groups for family/carers can run simultaneously, the family/carers may not find time to participate. Also, the peer support group members should be from diverse cultures, not just their own.

Conclusion

In this report, NEDA, PWDA and the FECCA aimed to bring to the attention of the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability how people with disability from CALD backgrounds are abused, neglected, exploited and discriminated against on Australia's shores.

Australia's broken government systems, unfair manipulation of various legislation, policies and practices, funding cuts and complete defunding of some services has produced these horrible experiences.

While all people with disability are affected by this constant manipulation of unfair social welfare services and NDIS, immigration, housing, education, health, mental health, transport, family and domestic violence services, and so on, people from CALD backgrounds experience abuse, neglect and exploitation more intensely and at multiple levels.

People from CALD backgrounds experience this abuse due to their English language difficulties, and the cultural barriers that they themselves, their families and ethnic communities put on them. They also experience them because they do not know what services are available and how to access them, as those services may or may not have been available in their countries of origin, and because the Australian Government constantly changes the access and eligibility criteria for services and supports.

Australia has ratified and is a signatory to the United Nations Convention on the Rights of Persons with Disabilities, the Convention on the Rights of the Child, the Convention on the Elimination of all Forms of Discrimination Against Women, International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, and Convention Relating to the Status of Refugees. As a result, Australia must ensure equal rights and opportunities for all people with disability to improve people's meaningful inclusion and participation in the social, economic, political and cultural life in the community, and develop strategies and programs to prevent all forms of violence against them.

NEDA, PWDA and FECCA hope the recommendations identified in this report will be considered by the Disability Royal Commission in its recommendations to the government to improve the systems, supports and services for people with disability from CALD backgrounds.

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Appendices

Appendix 1 – CRPD Shadow Report

https://pwd.org.au/our-work/policy-areas/human-rights-campaigns/united-nations-convention-on-the-rights-of-persons-with-disabilities/crpd-civil-society-shadow-report/

Appendix 2 – Need for Assistance Questions

20 **Does the person ever need someone to help with, or be with them for, self care activities?** • For example: doing everyday activities such as eating, showering, dressing or toileting. • See page 9 of the Census Guide for more information. • Remember to mark box like this: ■	○ Yes, always ○ Yes, sometimes ○ No	○ Yes, always ○ Yes, sometimes ○ No
21 **Does the person ever need someone to help with, or be with them for, body movement activities?** • For example: getting out of bed, moving around at home or at places away from home.	○ Yes, always ○ Yes, sometimes ○ No	○ Yes, always ○ Yes, sometimes ○ No
22 **Does the person ever need someone to help with, or be with them for, communication activities?** • For example: understanding, or being understood by, others.	○ Yes, always ○ Yes, sometimes ○ No	○ Yes, always ○ Yes, sometimes ○ No
23 **What are the reasons for the need for assistance or supervision shown in questions 20, 21 and 22?** • Mark all applicable reasons. • Remember to mark boxes like this: ■	○ No need for help or supervision ○ Short-term health condition (lasting less than six months) ○ Long-term health condition (lasting six months or more) ○ Disability (lasting six months or more) ○ Old or young age ○ Difficulty with English language ○ Other cause	○ No need for help or supervision ○ Short-term health condition (lasting less than six months) ○ Long-term health condition (lasting six months or more) ○ Disability (lasting six months or more) ○ Old or young age ○ Difficulty with English language ○ Other cause

Source: https://www.abs.gov.au/Ausstats/abs@.nsf/8db737e2af84b8ca2571780015701e/05d78f82343a3ae5ca25720900078b62/$FILE/2006%20Census%20Form.pdf

Appendix 3 – EDAC contribution

This information has been derived from a project undertaken by the Ethnic Disability Advocacy Centre (EDAC) in 2019. EDAC is based in Western Australia and is now known as Kin. It is an advocacy service that aims to safeguard the rights of people with disability from culturally and linguistically diverse backgrounds and their families.

The project sought to enhance the engagement between support schools/ education support centres and culturally and linguistically diverse (CALD) parents of children with disability. The rich diversity throughout Australia means that many schools' enrolments will include students from varying cultural backgrounds.

In the Perth region of Western Australia, it is estimated that there are 349 students in supported education identified as having a home language other than English (LOTE).

EDAC's project worked on the premise that engaged parents benefit the education of their children, and therefore it is a desirable goal to facilitate enhanced parental engagement. Among parents, cultural perceptions of disability influence how they understand the cause of disability, their beliefs about prognosis, and their experiences of their own community's responses to a child with a disability. A lack of cultural awareness in schools can result in the absence of an understanding of how these cultural perceptions influence engagement outcomes. For example, this lack of understanding can inhibit a shared vision of the educational goals for the students between school and home.

Part of this lack of awareness is neglect in acknowledging the vital role that communication plays in engagement and inclusion. One of the most striking observations throughout the project was that while communication is known to be a central tenet to good parental engagement, communication with CALD families with limited or no English continues to present an enormous challenge to relationship-building, dissemination of information and common understandings of the education system, educational goals, disability diagnosis and therapy outcomes.

This can be seen in the minimal use of interpreters to aid communication in the school setting. In addition, staff members are often unaware of the interpreter services available through the Western Australian Department of Education resources or have received no training on the best practice use of interpreting services. There is also a misconception among staff that schools have to pay for language interpreters themselves.

An example of the consequences of a lack of communication with CALD families is outlined below.

A newly arrived family went on an orientation tour of a support school; although the family had very limited English, an interpreter was not engaged. Part of the tour involved the family viewing the school's sensory room, and it was dark and enclosed. With no access to an interpreter and no reference point for what a sensory room might be other than her past experiences in her country of origin, the mother assumed that it was an area used for the torture and punishment of children. This same mother was required to send her child to school the following week with unanswered questions regarding this room. This is just one example of the importance of having a trained interpreter available when communicating with families with English as their first language. CALD families would also benefit from the use of interpreters during individual education plan (IEP) case conferences, medical support, therapy support, student progress meetings and so on.

In addition, CALD parents often do not have a clear understanding of their child's diagnoses; this appears to be especially true concerning students on the autism spectrum and with cognitive and intellectual disability. This creates added pressure for both families and school staff to meet expectations. While schools have access to interpreters, they do not have access to resources to get documents translated. There is currently no financial support provided to schools from Department of Education WA, which could assist with additional translation resources (including the translation of important medical and allied health service documents into the languages spoken by the families of the CALD students).

This is certainly one of the leading obstacles to enhanced engagement with CALD families, and on a practical level, easy to remedy. There should be a stronger commitment on the part of schools to work towards the routine use of interpreters to facilitate better communication and engagement of CALD parents of children with disability as part of their right to education.

Below is a story submitted by a father regarding his 12-year-old son with disability. The introduction section has been written by the father and gives context to the incident relayed under the next section.

Introduction

My family and I came to Christmas Island by boat arriving on the 18th July 2012. One month later, on the 13th August 2012 the Federal Government released a new law denying refugees coming after this date a permanent visa. This new law shouldn't have affected my family because we arrived a month before that time, but unfortunately on the 2nd of December 2013 we were granted a Temporary Protection Visa subclass 785 by the Liberal National Party Federal Government. With this type of visa my son cannot access any disability support programs and my wife, as his carer, cannot apply for any payments from Centrelink (such as a carer payment) because only permanent visa holders are eligible.

We are not even eligible to get help from Medicare for free nappies for him, and everywhere we turn we are denied supports and services because of our visa class. My son's paediatrician recommends that he needs a carer 24/7 and without this help my wife is always tired and sleepy. My son does not sleep well and when he is awake, he needs somebody to supervise him or he damages our home, hurts himself or others and screams. I am working but we have big financial problems because my wife cannot work as a result of my son's high care needs. This situation has affected our two younger sons aged five and three, they are growing up learning their older brother's unusual and dysfunctional behaviours. We worry about them, because the high needs of the oldest brother leave us with very little time to spend with them.

The government must be made aware that by denying us a Permanent Protection Visa they have denied my son his rights to receive the therapies that severely autistic children need to develop skills to communicate and behave more normally. He needed them while he was young and able to learn, and had he received them as part of early intervention, he would probably be more easily managed today.

Australia has a well-developed system to support the disabled, but there are significant gaps and while we are strong advocates, we always hit a brick wall because the visa status stopped us accessing every service, even though we were eligible for the Permanent Visa it has been denied to us.

We feel that by granting our family the wrong visa they destroyed his life and potential to gain basic skills to help him to become a bit independent.

Experience

Aryan is the father of Ervin, a 12-year-old boy who is non-verbal with significant disability and complex needs. His son attended a support school in Perth, Western Australia. The year 2019 was his first year at this school after transitioning from primary to high school, but he never settled in very well. Aryan and his wife were worried that he was sometimes unhappy or behaving badly. However, they never found a reason and they assumed that he would eventually get used to his new school and environment.

By the second half of the school term, they noticed that Ervin was coming home with dark bruises on his hands and arms without any explanation. This was unusual, they had years at primary school where every single incident was reported to them by Ervin's teacher or the school nurse.

On the 12th April 2019, the final day of term one, Aryan received a phone call from the school's principal asking that he and his wife come and meet with him urgently.

When they arrived, the principal explained to them that Ervin's swimming teacher had been reported by other school staff for engaging in allegedly aggressive and unacceptable behaviour towards him. The teacher was reportedly seen several times squeezing Ervin's arm very hard and pulling him under water until his head was completely submerged and then releasing him coughing and choking. The incidences were reported by other staff members who were watching and supervising the children at the pool and they reported the swim teacher's behaviour to the school's principal. It was at this point that Ervin's family realised what could have caused the past bruising on Ervin's hands and arms.

On the day that they were informed about the episode at Ervin's school, the principal told them that he had already reported the incident to the Department of Education. The case was later investigated by the Department of Education's Standards and Integrity Directorate. That same day, Aryan went to the police station and asked them to investigate a case of alleged assault. At first, the police refused to open a case because of Ervin's disabilities, but after a few minutes of discussion the force agreed to investigate.

On Tuesday the 2nd of July 2019 Aryan received a phone call from the Department of Education to let him know that the case against the swimming teacher had been closed because she had resigned and was not in their employ anymore. On the 29th of August 2019, Aryan received written confirmation of this from the Department of Education's Standards and Integrity Directorate advising him that the investigation had been discontinued. Soon afterwards, Aryan heard from the police that they were not going to pursue the case further because they did not have enough evidence.

In July of 2019 after hearing that the case was closed both from the position of the Department of Education and the WA Police, Aryan decided to report the incident to the Corruption and Crime Commission (CCC). He reported an allegation of misconduct/ assault against the teacher and then separately reported allegations of serious misconduct/ neglect of duty against the WA Police. However, the CCC later confirmed that a reasonable

suspicion of serious misconducted could not be formed against the police and that the incident with the teacher was to be dealt with by the Department of Education.

According to Aryan he and his wife did not speak to a lawyer, firstly because they did not have enough money to pay for their services and secondly, they did not know the laws well enough to take legal action against the teacher. They spoke to a disability service agent as well as reporting the matter to the Department for Child Protection Western Australia, but they received no assistance. They have received no outcome and remain frustrated by the situation and in the meantime Ervin's behaviour has deteriorated significantly. Since the incidents, at times Ervin has become uncontrollable with real risk of self-harm, injuries and damage.

This situation is likely to have long-term negative effects. Ervin has not been connected to the usual services and benefits available to Australian citizens as the family is here on a temporary visa. Being from a refugee family, the family members have been unable to help Ervin by getting any specialised services or home help so that he could be schooled and protected in a safe environment. The teacher's alleged abuse has left the family in a very difficult situation and Ervin has not been back to school since the reporting of the incidents.

School was the only activity or care outside of the home for him but unfortunately because of this incident he has lost this opportunity. Ervin only attended this school for one term and a few days and now they feel that they cannot send him to school anymore. Aryan feels that the family need to be sure of Ervin's safety outside of their care, they need professional consultation regarding his behavioural problems and self-harming as it has now become such a significant problem.

Appendix 4 – MDAA's contribution

Multicultural Disability Advocacy Association

Submission to the Royal Commission into Violence, Abuse, Neglect and Exploitation of PWD:

Issues with Health Care Service Provision for PWD from Culturally and Linguistically Diverse and Non-English-Speaking Backgrounds

03 September 2020

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Background

The Multicultural Disability Advocacy Association of NSW (MDAA) is the peak body for all people in NSW with disability, their families and carers, with a focus on those from a culturally and linguistically diverse (CALD)/non-English speaking (NES) background with disability. MDAA has more than twenty years of experience working with PWD and supports the active participation of its members and consumers in all aspects of its work. The voices of our members and consumers inform MDAA's systemic advocacy work, thereby contributing to positive change for PWD from CALD / NESB in policies, procedures, practices and service delivery in government and non-government agencies.

A consultation was held in March 2020 with PWD from Culturally and Linguistically Diverse/ Non-English-Speaking Backgrounds (CALD/NESB) to discuss their health care experiences. The participants for the consultation were aged between 36 to 58 with disability, including Intellectual and cognitive disability from various multicultural backgrounds living in New South Wales (NSW). The participants demographics for the consultation were:

- a 36-year-old female from India with vision impairment, has mild intellectual disability and also physical disability. She lives with family and arrived in Australia in the year 2000
- a 47-year-old female from China with intellectual disability who speaks Cantonese and lives independently
- a 39-year-old male from Vietnam with hearing and speech impairment, intellectual and physical disability. He speaks Vietnamese, lives with family and arrived in Australia in year 1985
- a 58-year-old female from Indonesia with mental health issues and is the main carer for her husband who has a chronic health condition as well as his son and daughter who have autism. She speaks Bahasa Indonesian and arrived in Australia in year 1985
- an elderly lady who is a carer of her brother with Down syndrome. The family is ethnic Chinese from Indonesia.

The Disability Royal Commission Issues Paper *Health care for people with cognitive disability* (2019) echoes the similar issues mentioned by the participants below:

Freedoms: Lack of the right to control one's health and body (CRPD)

Most of the PWD from CALD/NESB that we support face barriers to meaningful participation in their healthcare and the right to control their health and body. Significantly, the majority of the people with cognitive and intellectual disability from CALD/NESB that we support experience multiple oppressions that do not allow them to participate in the decisions made about them and their health and undermine the position that they are the experts on their own lives.

For example, in the context of the NDIS, a consumer with intellectual disability stated that: *"I was told that I look ok and I do not need NDIS even I told them I have intellectual disability and need support understanding things."* While another female consumer spoke more broadly about her interactions with accessing health services stating that *"[they] treat PWD as if they do not understand, oftentimes asking carers to accompany them and attend appointments with them and [they] do not talk to me but to my dad, as he is my carer."*

Both statements highlight that the provision of health services lack explicit strategies to empower people with disability to participate in their healthcare and the oppression of their voices through *disablism*. Disablism refers to the systemic discrimination and prejudices against PWD and the combination of social forces, cultural values, and personal prejudices which marginalises PWD, portrays them negatively and thus continues to oppress them (Thompson, 2006). It is evident that the consumers we support experience barriers and the right to control one's health and body when receiving health services due to a culture that is underpinned by disablism rather than an understanding of anti-disablist practice and disability-awareness. As one consumer clearly articulates the issue, *"doctors and nurses have no awareness of ways to support PWD appropriately or understand disability"*.

MDAA recommends that the provision of healthcare services be underpinned by the social model of disability, cultural sensitivity, and trauma-informed practice

A shift from the dominant disablist ideology underpinning the medical model is needed, as this continues to stereotype PWD as passive, dependent and infantile. Especially regarding women with disability, like the women, we support from CALD/NESB experience multiple forms of discrimination and oppression when accessing health care. The implications of dependency and infancy are exacerbated for women with disability from CALD/NESB because of the important role gender plays in determining whether they are expected or encouraged to participate in their healthcare or, in some instances, even allowed. Some of the women we support have experienced forced, and early marriage, trafficking, and slavery and therefore are not aware of their right to control one's own health and body. In the majority of CALD/NESB societies, women continue to be encouraged to play a more dependent role in society than men and women with disability continue to face barriers to control over their own health and body due to these interlocking and mutually reinforced oppressions in Australian society (Thompson, 2006).

MDAA recommends the need for disability-awareness training to be compulsory for all hospital staff

While New South Wales Health Disability Inclusion Action Plan (2016-2019) Focus Area 1 aims to promote positive attitudes and behaviours regarding disability inclusion, the online training courses for NSW Health Staff must include disability as compulsory learning for all current and new onboarding staff.

Entitlements: Lack of the right to health without discrimination on the grounds of race, ethnicity, age, disability, or any other status (CRPD)

Many of the PWD from CALD/NESB that we support face barriers and issues that influence their right to health free from discrimination on the grounds of race, ethnicity, age, disability, and other statuses. Most notedly, the people we support with intellectual disability and/or psychiatric disability who are over 35 years of age experience discrimination on the basis of their disability as they are not being provided easy-read or plain language information about their health and treatment. A consumer states that: *"once a psychologist said she cannot provide counselling for a person with intellectual disability because he would not understand."*

In addition, those from CALD/NESB are not being provided health information in their own language or being explained by a CALD specific health worker the procedures involved in health testing, e.g. COVID, bowel cancer screening, cervical cancer. During the consultation, a consumer expressed the difficulty in understanding medical terminology: *"[they] just gave injections or medications without explaining what it is for or if they tell the patient they do not make it simple for patients to understand or when giving diagnoses of illness or preparing for operation language is hard to understand for ordinary people."*

MDAA recommends that medical professionals take the time to explain health issues and treatment in a variety of accessible ways

For people with intellectual and cognitive disability, health information and medical service delivery should be provided in easy-read formats, plain English, and incorporate symbols and visuals like the Picture Exchange Communication System in hospitals and community treatment settings to support their communication. For PWD from CALD/NESB, health information and medical service delivery should be provided in a range of languages using both written text and visuals. There should also be the option to use an interpreter when explaining diagnosis and treatment and when making decisions about their health. PWD from CALD/NESB are entitled to the right to a system of health protection that provides equality of opportunity to enjoy the highest attainable standard of health free from discrimination.

Entitlements: Lack of the right to health facilities, goods and services that are Accessible, Acceptable and Quality

During the consultation, other key issues for PWD included that the health services provided to them were not culturally acceptable or accessible, sensitive to gender or person-centred. A female consumer stated that: *"staff show no respect, patients are considered beds and not people and they address patients by bed numbers rather than names. They have no respect for privacy, the nurse insisted on keeping the door open while I was in the toilet".* Acceptability requires that all consumers have the right to treatment that respects their dignity and privacy and that where this is compromised because of essential treatment, that they should have processes to ensure that they are treated respectfully and that full privacy is established as soon as practicable (The Department of Health, 2010).

Another consumer gave an account of an admission in hospital where they were physically unable to eat food or have bladder/bowel release without support, but were left to suffer stating that "*the food wasn't cut up even if the patient is visually impaired and another has weak hand muscles; my family members translated basic requests for water, doing wee or poo for a patient who does not speak English we were just ignored leaving the patient suffering further".*

MDAA recommends that Local Health Districts provide culturally acceptable, accessible, and quality health facilities, goods, and services

For the people we support with disability from CALD/NESB a key barrier to accessible, acceptable, and quality health care are the dominant cultural norms and values of western medical models and disablist health systems in Australia. We ask that PWD from CALD/NESB not be excluded from the same mainstream health service provision or be denied access to basic food, water, and toilet facilities because of their disability or CALD/NESB. We ask that people be referred to by their name, as for many people from CALD/NESB their name is of cultural significance and meaning, and by doing so may break down barriers, facilitate engagement and health-seeking behaviours.

MDAA recommends that person-cantered approaches be implemented across all health service provision

To ensure all appropriate measures are taken to ensure access for persons with disability to health services and health-related rehabilitation.

Recommendations

1. MDAA recommends that the provision of healthcare services be underpinned by the social model of disability, cultural sensitivity, and trauma-informed practice

2. MDAA recommends the needs for disability-awareness training to be compulsory for all hospital staff

3. MDAA recommends that medical professionals take the time to explain health issues and treatment in a variety of accessible ways

4. MDAA recommends that Local Health Districts provide culturally acceptable, accessible, and quality health facilities, goods, and services

5. MDAA recommends that hospitals aim to provide a person-centred service and have a checklist of basic needs of a patient with disability (e.g. interpreter; plain English instructions; has vision impairment so large print required; communicates with assistive technology (e.g. iPad)

Reference list

New South Wales Health Disability Inclusion Action Plan (2016-2019). https://www.health.nsw.gov.au/disability/Pages/disability-action-plan-16-19.aspx

The Department of Health (2010) Implementation guidelines for public mental health services and private hospitals. https://www1.health.gov.au/internet/main/publishing.nsf/Content/mental-pubs-i-public

The Disability Royal Commission (2019). Issues Paper: *Health care for people with cognitive disability*. https://disability.royalcommission.gov.au/publications/health-care-people-cognitive-disability

Thompson, N. (2006). *Anti-discriminatory practice* (4th ed.). Palgrave Macmillan.

Appendix 5 – DDA's contribution

Statement

Article 30 of the Convention on the Rights of Persons with Disabilities: Participation in cultural life, recreation, leisure and sport

Opening Statement

Diversity and Disability Alliance (DDAlliance) is an organisation led by and for PWD from diverse backgrounds (peers) with the support of families and allies.

Our views are aligned with Article 30 of the Convention on the Rights of Persons with Disabilities (CRPD), which states that PWD should be given full and equal opportunities to participate in cultural life, recreation, leisure and sport.

Our statement is a collation of the experiences, perspectives and direct words of peers. To respect people's privacy, we have changed their names.

Recommendations

Recommendation 1

Amongst peers, community-wide education was the most common recommendation. We need to dispel a culture rooted in the medical model of disability, which sees PWD as unwell, a waste or a burden. Education needs to start at a young age and be wide-reaching. Culturally specific education for multicultural communities to change their attitudes and be more inclusive.

The responsibility to remove barriers and allow greater inclusion is with the government, businesses and our broader community.

Recommendation 2

The use of accessible, clear, welcoming, and inclusive communication and information in diverse community languages as a basic requirement will ensure equal access to cultural life, recreation, leisure and sport. Organisers, including venues, should have the awareness and resources to offer support, allow greater access, and follow through to remove barriers.

Recommendation 3

There needs to be stronger implementation of legislation and standards, such as the Disability (Access to Premises – Buildings) Standards 2010, and greater encouragement and support for buildings and physical spaces to be more accessible. Currently, it is unlawful to discriminate against PWD in many areas of public life. However, it is often too easy to claim "unjustifiable hardship", and to continue to have discriminatory and exclusionary barriers in place. At times, solutions are not expensive, and raising awareness and providing support or incentives to allow greater access could be greatly beneficial.

Recommendation 4

The National Disability Insurance Scheme should purposefully take into account participants' support to access cultural life, recreation, leisure and sport. Independent assessments within the NDIS system greatly concerns peers. With yes/no answers, a one-size-fits-all approach, "assessors who do not know us", limited assessment times, and the exclusion of medical reports from professionals who know us, to name a few concerns, greatly diminishes our confidence that life beyond the home and fundamental supports will be considered. A variety of barriers to broader community inclusion have been mentioned; we do not need another barrier to take us further backwards.

Key Messages

Getting Around and Public Transport

To have full and equal participation in cultural life, recreation, leisure and sport, it is important that one can firstly go out of their front door to accessible travel options. However, peers shared barriers to do so.

Diyana uses a manual wheelchair, and due to physical barriers with a cross-street near her home, she is unable to access shops two blocks away, as well as her local community and train station. She has spent twelve years advocating her local council for change but still faces these barriers. As such, Diyana often travels via taxi to other areas that are more accessible. This is at great financial expense, with $500-700 per month spent on taxi fares, with the Disability Support Pension being her main source of income. It also affects her ability to connect with her local community. These barriers were exacerbated during the COVID-19 pandemic.

Another peer, Champei has mobility and visual disability. She would prefer to travel via train, but there are no lifts at two nearby train stations. Instead, she takes a bus to/from her home to a central train station.

On one occasion, Champei took a bus home after grocery shopping. At her bus stop, the bus driver stopped far from the curb. It was steep, and Champei requested the bus driver to move a little closer. The bus driver refused, stating they are running late. Thankfully, fellow passengers gave Champei a hand, and she was able to get off the bus.

While Champei has had bus drivers that will assist her, such experiences have also occurred. As a result, she feels very hurt, that she does not belong and that she should forget about going outside and stay at home.

Both Diyana and Champei have experienced attitudinal and physical barriers to get out of their front door and to navigate their local community. These initial barriers affect their opportunities to connect in cultural life, recreation, leisure, and sport.

Cultural Life

PWD should have the opportunity to explore their cultural and religious identity and have an equal opportunity to build connections, take part and be respected in these spaces. However, there can be culturally specific, physical, attitudinal, and other barriers to make this happen. This has a significant impact on people's sense of belonging and identity and building connections where they can gain support or contribute to the health and vitality of these communities. Peers at DDAlliance come from diverse backgrounds and strongly value being connected to their cultural community. Yet, peers face further barriers to be included in these spaces.

Cultural attitudes and perceptions of disability remain one of the most significant barriers to participation in cultural life. On one occasion, Linh visited Cabramatta, a melting pot for the Vietnamese community in South-Western Sydney. She came across two young men who laughed, and said 'she looks so beautiful, but she has to use crutches, so she's not good for nothing'. For another peer who has a Filipino background, she has been confronted with the word "sayang", which means 'what a waste'. These derogatory terms are rooted in misunderstandings, stigma and cultural perspectives that are not just disrespectful but also feed the cycle of discrimination and minoritisation faced by PWD.

Physical and attitudinal barriers have significantly affected Diyana's ability to connect with her Assyrian community. Whilst her two sisters, who do not experience disability, were able to attend Assyrian School, Diyana, a wheelchair user, was not able to attend as the venue was not wheelchair accessible. Her two sisters learnt about the Assyrian language, culture, customs, beliefs, and history. Diyana can understand but cannot read, speak or write in Assyrian. As a result, the language barrier affected Diyana's ability to connect with her grandma.

By being excluded from Assyrian School, Diyana has faced significant barriers to connect with her Assyrian identity, her culture and community. Generally, in Assyrian culture, "they don't value PWD" and "we are not expected to become or do anything".

At Assyrian weddings and events, Diyana is often greeted with a wave, while her sisters are greeted with a hug and kiss. There have also been times when people speak to Diyana in Assyrian, and she replies in English. She says, "it makes me look like I'm dumb". In the event that the other person does not speak English fluently, the conversation and quality of the connection can be adversely affected.

Within the Assyrian community, Diyana mentioned there can be a lot of "gossip" or "a fear of disability" due to a lack of community education. A clear example Diyana recalled was when Diyana wanted to move out of home at age 25. Her mother was concerned about what people would think and if she may be considered as a "bad mum" for not looking after her child with disability.

Peers also noted barriers in places of worship. When Linh, now a wheelchair user, attended a Catholic church with her niece, church members did not greet Linh and instead asked her niece 'which nursing home is she from?'. At a Lebanese Maronite church that Michael attends, they often promote 'everyone is welcome' to attend holiday programs or outings. However, they will hire a bus or go to venues that are not wheelchair accessible.

Leisure & Recreation

PWD should have the opportunity to participate on an equal basis with others in leisure and recreational activities. However, stigma and physical barriers persist, and there continues to be a general lack of awareness of diversity and disability in this space. As a result, PWD has found that accessible information and good customer service are significant barriers in this area. Here, we noted a range of experiences.

For Diyana, often when she visits a local cinema, she pays for her tickets, holds out her hand, but the staff put it on the counter, making it inaccessible. On one occasion, when Diyana asked for a ticket, the staff invaded her personal space and said, "what?". A major physical barrier Diyana has faced, particularly in the cinema, relates to seating. There is a maximum of two spaces for wheelchair users, which are separated. This provides PWD limited options for seating and does not provide peers with the option of sitting together. Also, at music and comedy concerts and shows, she can be accompanied by a carer or companion but is also separated from her friends.

The beach has been known to be a significant part of Australian culture, a culture that all people should have the opportunity to experience. At several beaches, peers acknowledge the presence of blue mats that provide PWD with the access to go up to the water's edge (rather than look from a distance). However, these mats are not available at all beaches. Anisa added there should be beach wheelchairs at the life saver clubs to give people the opportunity to access the water/swimming pools at the beach.

Peers also shared experiences of barriers to socialising with friends in public. Shafira has Cerebral Palsy. When meeting with friends on two occasions at a restaurant and a dance club, staff at these venues have asked, "Is she drunk?". These experiences have made Shafira feel misunderstood and isolated. When meeting with friends at restaurants, Diyana has often found there are "big dramas to move tables and seats", being moved to the back near the bathroom, or when busy, "out of the way in the corner". At times, she has been ignored by staff, even when her and her friend are the only two people at the venue. She often "feels invisible".

Sport

Lack of opportunities to be involved in mainstream individual and team sporting events has been one major barrier faced by peers. Here, peers share experiences in spectating and playing sport.

Paula used to play cricket and professional bocce. These were disability-specific games, with only one notable occasion of playing mainstream sport. Paula was invited to play cricket with her colleagues at a work event. She was asked if she would like to join in, how to make it accessible for her, and relevant adjustments were made.

Paula would have preferred to participate in mainstream sport. Being a person from diverse backgrounds with disability, Paula has often felt isolated, left out and "different". Especially "when you're the only person of colour, it makes you feel uncomfortable like you should not be there". Paula would "feel more comfortable when invited, rather than inviting myself".

It is helpful to communicate that 'all are welcome' and that access requirements can be addressed beforehand. Organisers also should have the skills, resources, and commitment to follow through. The culture in sport should be more inclusive of people from diverse backgrounds with disability, so when people are ready to play, they are welcomed rather than feeling othered.

Diyana is a big Bulldogs fan and enjoys watching games. When a famous idol played their last game, fans were invited onto the field for a group photo. Diyana knows it is accessible for her wheelchair to join in. However, no staff offered to support her, so she watched from the sidelines. Actively considering PWD here, rather than being an afterthought, could have ensured that Diyana was included and part of the team spirit.

In 1982, Michael left school and wanted to play wheelchair rugby league. Upon the suggestion of one of his teachers, Michael organised a competition with friends to include all people. This competition continued every Saturday for two years after receiving a grant from their local council to cover the cost of the sports venue. Everyone participated, and "we broke down societal barriers between PWD and able-bodied people". However, Michael recalls, "when a disability service came on board, they stopped able-bodied people from taking part. This interference changed the game and social gathering from an inclusive to an exclusive space."

Inclusive spaces for children

There are children with disability who experience barriers to vocalise their frustration, and at times are bullied and harassed. These stories highlight the need for broad education and support, to provide children with disability safe spaces to play and join with other children, and to be supported by adults to have their rights upheld.

Linh's nephew has autism and has had mixed experiences in public playgrounds.

On one occasion, Linh's nephew was taken to a sandpit. Other children quickly realised he had an intellectual disability and started to bully and harass him. "They poured sand on him and teased him. While Linh's nephew was supported by his mum, other parents stayed out.", Linh recalls.

At another playground, other children recognised Linh's nephew was "different" and started to hit him and break his toys. Linh's nephew was upset, started screaming, and as his screams became louder, the other children became more excited. Linh's nephew's mum and other parents rushed over. A mum of another girl noticed her daughter was at fault, made her say sorry, and the nephew became calmer.

Linh's nephew has also come home from school with bruises on his face, arms and nose. With Linh's nephew experiencing barriers to communicate, and teachers unable to validate what occurred, the matter remained unaddressed.

Closing Statement

We recognise the great value of being peer-led, and strongly recommend PWD being involved in every stage of the process for change. Peers should lead and be involved in consultations, strategies, decision-making, and education and raising awareness. To put it simply (but very importantly), there should be "nothing about us without us".

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