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Submission to Inquiry into older people and the law

Suzanne Feike
Migrant Resource Centre (Southern Tasmania) Inc
Community Partners Program Project Officer
49 Molle Street
Hobart TAS 7000
(03) 6234 9411

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BY: CACA

As the Community Partners Program Project Officer at the Migrant Resource Centre I am regularly in contact with older members of Culturally and Linguistically Diverse (CALD) communities in Tasmania.

Terms of Reference

To investigate and report on the adequacy of current legislative regimes in addressing the legal needs of older Australians in the following specific areas:

The following points have an impact on many CALD community members' ability to receive adequate legal support for their needs as they age in Tasmania.

• Fraud;

- Older People from a Culturally and Linguistically Diverse (CALD) background have often suffered hardship and trauma both before and after arriving in Australia. This may result in older CALD community members having difficulty in trusting the law and governmental institutions, leaving them open to fraud by trusted community members, friends and family. An example of fraud is inappropriate access to bank accounts.
- This trauma can revisit CALD people as they age and may lead to an inability to take control of their lives / finances allowing others to use this trauma as an easy avenue to fraud, abuse and discrimination.

• Financial abuse;

- Older members of CALD communities have a high level of family and community commitment and are reluctant to divulge any information to legal authorities, especially if there are family members involved. It is often considered better to rely on family members and friends rather than allowing institutions such as the Public Trustee to control their finances. An inability to discern between services such as governmental and non-for-profit organizations is common. This leads to distrust of organizations and labeling of services as 'social services / government services' with a certain amount of fear being associated with the service providers.

• General and enduring 'power of attorney' provisions;

- Many older CALD community members struggle with the concept of 'power of attorney' and are vulnerable to inadequate information, misuse of information and inability to find adequate information in their own language. They often rely on others such as family members to translate and understand legal concepts for them. While this may be appropriate for some it can leave elderly CALD people open to misinformation and the indiscretion of others

including family members. An example of misuse of these provisions is vested interests in 'powers of attorney'.

- **Family agreements;**

- Older CALD community members often come from a culture with a high degree of reliance on the family unit and family members for support in later years of life. It is often extremely disconcerting and frustrating to the older generation that their children and grand children do not share the same values in this area as they have from their original culture. There is often a great sense of guilt, grief and disaffection with family members that can lead to isolation and abuse of the older person. As part of the family agreement, transfer of property and assets may occur without adequate provision of care for the elderly person in the manner that person needs to receive care. An example of misuse of these agreements is inappropriate involvement in drafting and signing wills.
- These people, who have often come to Australia as migrants in the 1950's and 60's, have worked very hard all their lives to secure a better life for their families and for themselves. They show a reluctance to use assets for their own benefit (wanting to pass these assets to their children) and would rather go without food or heating, for example, than sell their property.

- **Barriers to older Australians accessing legal services;**

- Tasmania has a smaller population of CALD community members than other mainland states however it has the fastest growing ageing CALD population. This can be a barrier to access to appropriate legal services where there is an understanding of the issues specific to these groups.
- With more than 85 languages spoken in Tasmania, CALD communities are very small and isolated and have difficulty in accessing appropriate legal services in their own language as there is a lack of qualified interpreters especially in rural and remote areas e.g. West Coast.
- As these community members age, they increasingly rely on family members and friends as their ability to interact in English slowly fades. This can lead to possible unintentional and /or intentional financial, physical and mental abuse by family members and / or friends.

- **Discrimination;**

- The recent traumatic world events have conspired to create insecurity in our nation but have specifically lead to a resurgence of cultural racism and bigotry. Elderly migrants have memories and experiences dating from pre-migration and from post-migration to Australia. These experiences of prejudice and intolerance are resurfacing in our society and are being felt by all CALD community members to some degree. However elderly CALD community members are especially sensitive to discrimination and harbour feelings of insecurity in our society. For this reason they may be very reluctant and even totally unable to react against discrimination in any form, accepting it as an inevitable part of their lives in Australia.

Finally, while I understand many of the above comments may be applicable to main-stream Australians, elderly CALD community members are especially vulnerable and susceptible to the abuse and misuse of current legislative regimes due to a variety of reasons and symptoms of our society that have not been addressed by our legal system.