

Committee Manager
Legislative Assembly, Legal and Social Issues Committee
Parliament House
Spring Street
East Melbourne VIC 3002

Support for older Victorians from migrant and refugee backgrounds

This submission responds to the invitation to contribute to the inquiry by the Legislative Assembly's Legal & Social Issues Committee into support for older Victorians from migrant and refugee backgrounds.

Summary

The *Care, Dignity and Respect* report by the Royal Commission into Aged Care Quality & Safety demonstrated that many senior Australians – irrespective of wealth and background – are often not experiencing appropriate care and are denied dignity.

Both that report and a succession of submissions to a wider range of inquiries, including the Australian Law Reform Commission's Elder Abuse inquiry, demonstrate that many people experience physical harm, psychological abuse and financial exploitation at a period of their life and in circumstances where they may be particularly vulnerable. That disregard might involve leading corporations and/or family members, exacerbated by regulatory failure (something that has been recurrently highlighted) and by inadequate people-centred support.

This submission begins by noting that although all senior Australians are vulnerable, some are more vulnerable than others. Both the Committee and the Government should be wary about the inherent administrative tendency to objectify people. There is significant diversity among older Victorians from migrant and refugee backgrounds, including cognitive impairment, language skills, personal/family wealth, social links, past trauma, physical frailty, religious and other affiliation. Being old is not a disease or a disability. Having a 'culturally and linguistically diverse' (CALD) background is not inherently disabling.

Support that is both respectful and effective may involve assistance to family members and friends, consistent with the extensive body of literature on disability, rather than merely payment to commercial care providers and may involve assistance to community groups. Such support goes some way to minimising the exhaustion that on occasion leads to violence directed against elder members of families.

The submission notes that in Victoria, as in the other Australian jurisdictions, location may be existential. Not all people are conveniently located within the Greater Melbourne Metropolitan Area (in particular with ready access to public transport). Some are located in regional Victoria, in part because of patterns of migration over the past seventy years (for example as labour in fruit/vegetable farming districts along the Victoria-NSW border) and in part because of movement out of traditional enclaves in response to housing affordability and lifestyle changes. An effective policy response is thus not the case of what one contact several years ago characterised as 'add some money to Coburg, Clayton or Balaklava, stir and bake in a moderate oven until the next election'.

The submission notes that governments at the national, state and territory levels have historically sought to do good but in practice often ducked the hard questions by –

- objectifying older Australians through a paternalism founded on assuming all are alike – a statistical artefact rather than individuals and micro-communities with a range of capabilities and needs
- relying on expectations about contract and a self-correcting market in which corporate service providers that are driven by an overt or tacit profit motive (ie both shareholder and religious entities) will do the right thing in dealing with the elderly
- under-resourcing, under-skilling and otherwise disempowering the watchdogs that should be actively addressing abuses in the for-profit and not-for-profit sectors
- assuming that religious affiliation trumps respect for autonomy regarding sexuality, an exacerbation of the harm experienced by many LGBTIQ seniors throughout their life.

The submission suggests that rather than a bandaid, the Committee and Government should address concerns regarding respect for older Victorians from migrant and refugee backgrounds by understanding the needs of those people as part of the broader community and in relation to the Charter of Rights & Responsibilities. The latter should be regarded as something that enables rather than merely as something that potentially bounds state intervention in the private sphere.

Basis

The submission reflects teaching and research over the past fifteen years regarding vulnerability, cognitive difference, discrimination and disability.

It draws on a range of publications on for example guardianship and detailed submissions to law reform inquiries, including the Victorian Legislative Assembly Legal & Social Issues Committee inquiry into the Racial & Religious Tolerance Act 2001, the 2014 Australian Law Reform Commission *Equality, Capacity & Disability in Commonwealth Laws* inquiry, Australian Law Reform Commission 2016 Elder Abuse Issues Paper and 2017 Elder Abuse Discussion Paper with Bond University Associate Professor Dr Wendy Bonython.

The submission does not represent what would be reasonably construed as a conflict of interest. It does not purport to speak on behalf of Indigenous, refugee and migrant communities.

Dr Bruce Baer Arnold
Associate Professor
University of Canberra

25 October 2021

Support for older Victorians from migrant and refugee backgrounds

Core issues

The expectation of any government is that it should foster flourishing by respecting dignity and enabling capability, including intervention where there is exploitation of vulnerability. That exploitation might be matter of administrative convenience, for example public/private sector bureaucracies disregarding different needs or other attributes by fitting people into boxes and excluding those who do not fit. It might be a matter of using elders or the disabled as a friend/relative's private ATM, with someone engaging in what lawyers dub unjust enrichment by using the victim's assets in the guise of helping the person. It might be a matter of faith or other based organisations purportedly assisting individuals yet not fulfilling obligations and not respecting each person.

In thinking about support for older Victorians from migrant and refugee backgrounds the Government should accordingly recognise that there are ongoing but readily fixable problems such as egregiously substandard care for people in nursing homes, including in facilities that have an expressly ethno-religious affiliation. The latest audit reports from the Aged Care Quality & Safety Commission for example refer to mouse droppings, inaccurate medication and neglect. We might recall deaths – people, not statistics – at St Basil's Home For The Aged. We might more broadly recall controversy about Aveo, the highly profitable retirement village operator that was damned as engaging in “financial abuse of the elderly”. We might recall the withering of the spirit in some facilities where same-sex affection is erased because contrary to religious dogma. We might also recall the loneliness of family members/friends trying to support loved ones who experience dementia or are otherwise disabled.

Growing old for most of us is part of the human condition. It is experienced on an individual basis. In understanding what is required for effective support of older Victorians, including needs directly attributable to refugee or migrant background, the Government should embrace three principles that reflect the Charter of Rights & Responsibilities –

- recognition of diversity
- respect for autonomy
- commitment to facilitation.

All senior Victorians are older than their peers. As highlighted above some are in very different circumstances to others, require less support than others and for example might benefit from non-economic measures such as the strengthening of Victoria's anti-vilification regime rather than state funding of community centres or a significant increase in the availability (and accessibility) of public sector housing.

Respect for autonomy – scope for and exercise of choice – means a sensitivity to cultural and economic barriers. It also requires an alertness to the potential for bureaucratic capture, with for example community groups (especially those with a political affiliation) being privileged on the basis that they have expertise in making grant applications.

Thirdly, the Government should be committed to facilitation: assisting action by others. That requires creativity in service provision, a challenge for all of the social service bureaucracies over the past forty years in a context of ‘efficiency dividends’ and the disregard of the under-performance evident in reports by the Royal Commission into Aged Care Quality & Safety or investigative journalists.

Given that history people are entitled to be wary about grand plans (and grander media releases). They do expect agencies to step up and they are entitled to robust condemnation by Ministers of failures in the public or private sectors, without fear or favour. We have not seen that condemnation and follow-up action at the Commonwealth, state and territory levels. Inaction is not excused by COVID and concerns expressed by advocates (including complex contracts, unfair fees, high costs, administrative unresponsiveness and inadequate independent dispute resolution) remain.

(a) adequacy of services for older Victorians from migrant and refugee backgrounds;

In building on the preceding comments I highlight the need to identify, articulate and address the adequacy of services for older people in rural Victoria.

Many older people wish to live in their own accommodation and within reach of their friends and families, both as a matter of comfort and because that connection provides a safety net if they encounter one-off or ongoing difficulty. Connection provides meaning to life and should not be ignored on the basis that support is programmed in another location or that it is most administratively convenient to provide support through a particular service provider.

(b) unique challenges faced by this cohort, including, but not limited to, social isolation, civic participation, digital literacy, elder abuse and access to culturally appropriate aged care and home care services;

I note that elderly and other individuals with a refugee or migrant background may have differing views about what is culturally appropriate (and about prioritisation of needs).

In some instances their views (for example regarding gender roles/agency) may be at odds with that of the broader community.

I suggest caution in characterisation of “unique challenges faced by this cohort”. Many of the challenges are common to people from refugee and migrant backgrounds with physical/cognitive disabilities.

(c) ideas to advance the physical and mental health and wellbeing of Victoria’s multicultural seniors including global best practices.

See above.