University of
South Australia

Kaldor Centre Annual Conference 2019

Refugee Status Determination, Mental Distress and Lethal Hopelessness: Challenges for legal professionals

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Acknowledgements - Supports and self-care

We would like to acknowledge and thank legal professionals and mental health professionals who have shared important experiences and wisdom. In particular the enormous efforts legal professionals and community workers have done pro bono to assist the legacy caseload needs to be acknowledged.

Please access supports if needed:

- Your Employee Assistance Program
- beyondblue: http://www.beyondblue.org.au/ or 1300 22 4636 (24/7)
- Lifeline Australia: https://www.lifeline.org.au/ or 13 11 14 (24/7)
- MensLine Australia: https://www.mensline.org.au/ or 1300 78 99 78 (24/7)
- Suicide Call Back Service: https://www.suicidecallbackservice.org.au/ or 1300 659 467 (24/7)

The presentation contains material that some people may find distressing

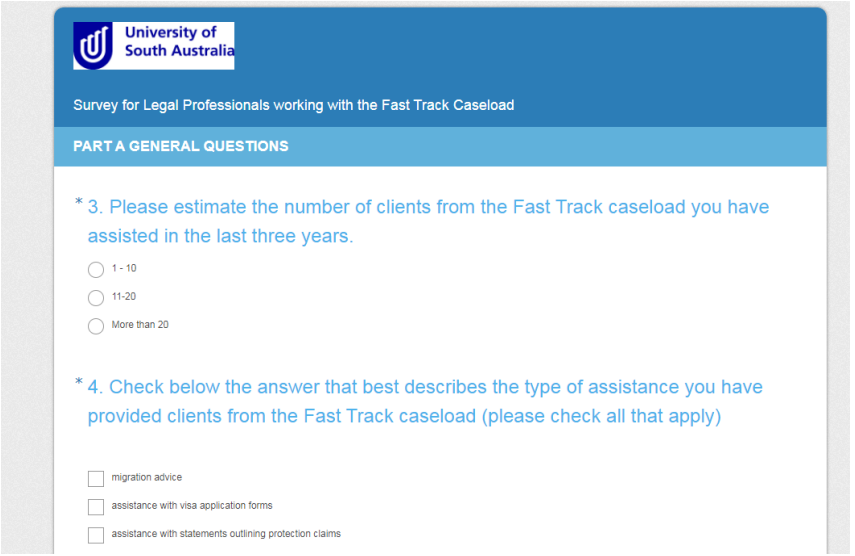
Role of the legal professional

An interaction with an asylum seeker during a legal advice session at a community legal centre in Queensland

Photo credit Barat Ali Batoor

Research

- What do legal professionals see as the impact of the FTA process on the mental health of their clients?
- How do legal professionals identify and respond to mental distress of asylum seekers in the FTA process?
- Mixed methods:
  - Online survey – 57 participants
  - Focus groups – 16 participants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Survey for Legal Professionals working with the Fast Track Caseload

PART A GENERAL QUESTIONS

* 3. Please estimate the number of clients from the Fast Track caseload you have assisted in the last three years.

- 1 - 10
- 11-20
- More than 20

* 4. Check below the answer that best describes the type of assistance you have provided clients from the Fast Track caseload (please check all that apply)

- migration advice
- assistance with visa application forms
- assistance with statements outlining protection claims

TIMELINE FTA POLICY

2012-13

Arrival by Boat

- Detention
- Release to community – no work rights
- SRSS

Sept 2013

Election of Coalition Govt

- Platform to deal with "legacy caseload"

Dec 2014

Passage of RALC Act

Introduction of
- Fast Track Assessment Process
- TPV and SHEV

April 2015

Commence processing

- 30,000 cases
- Abolishing funded legal assistance (IAAAS) and introduction of PAIS

Oct 2017

Deadline for all applications

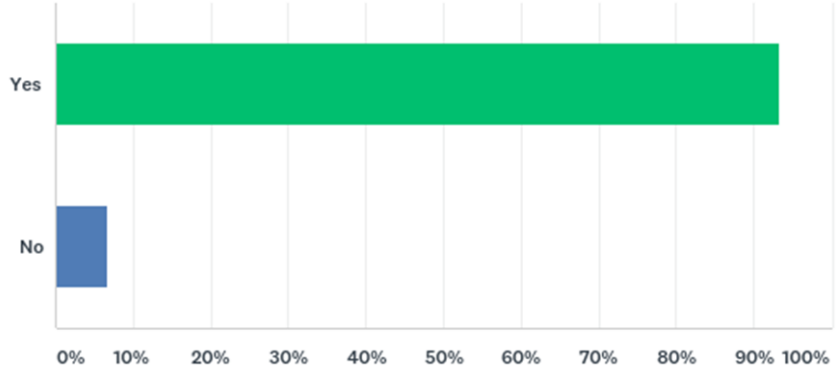
Central to the mental health of asylum seekers – often in the role of “first responders”

“To actually present the case that’s going to get them the visa and that does involve having to touch things that they don’t want to talk about obviously. And so I think it is that difficult situation that we are sometimes the only people that are really talking to them about these past issues.

“But we .. I don’t know what the … how I’m supposed to be dealing from a mental health point of view? Because I’m not trained to do that and I’m probably triggering things by having to talk about it and get them prepared for interviews and talk about it.”

Focus Group Participant (Female)

Q5 In your work with clients from the Fast Track caseload do you encounter clients in mental and/or emotional distress?



Impact of Fast Track Assessment process on clients

“Horrific ..a lot of the clients that I was working with, their mental health was not in great shape at the beginning of the process. There was a lot of PTSD that the clients were suffering from. A lot of stress and anxiety that comes from being in an unknown country and a foreign country where they’re not speaking the language and there’s a lot of, you know everything’s fairly unfamiliar to them and I think what I saw is that **throughout the process there was more and more uncertainty, more and more confusion, less support.”** (emphasis added)

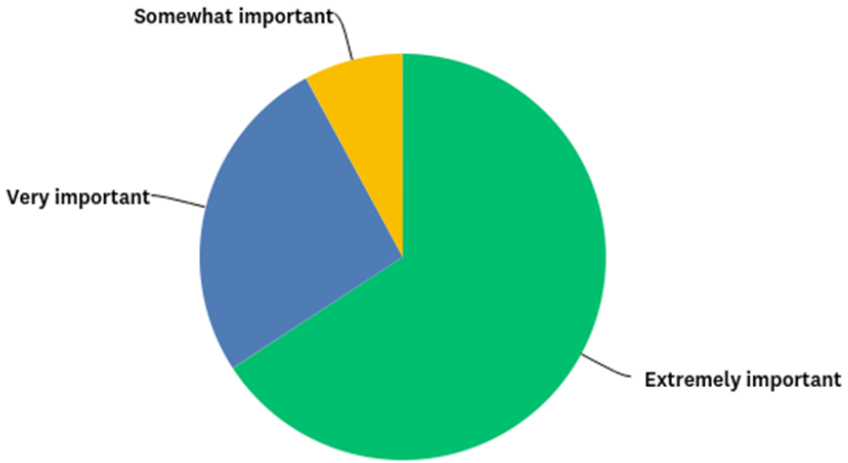
(Focus group participant)

Extended delay → Deadlines imposed

“ [T]hey would, **as a group had much poor mental health than other asylum seekers we’ve worked with**… [that’s] **a function of having been in the community in Australia for so many years and not having to tell their story** and perhaps getting to a point years down the track where they don’t want to tell their story anymore and so when you get to a day time or a weekend clinic on a Saturday morning at 9am and you’re like ‘ok, so **today we’re going to write down your entire story** or put your entire application together’… **they haven’t spoken about these issues for probably 3 or 4 years**.” (emphasis added)

(Focus group participant)

Q11 In your opinion how relevant is a client's mental health to their ability to participate and understand the legal/refugee status determination (RSD) process



Witnessing distress

- Emotions – sad/angry/aggressive
- Avoidance/Disengaged
- Hopelessness
- Fearful
- Difficulties concentrating

"Clients present in either a depressive weepy state or highly agitated - they speak and present erratically and frequently with outbursts of anger and frustration… quieter clients are frequently fighting back tears and express feelings of helplessness and in some cases reveal suicidal thoughts."

- Alcohol/drugs
- Evidence of self harm
- Psychosis and delusions
- Suicidal ideation
- Deteriorating states

"Some clients who initially could actively engage in their case are now so mentally unwell that they cannot understand the issues in their case and where their case is up to"

Difficulties in preparing applications and claims

- Problems with memory/concentration
- Problems with sequencing events
- Accurate recollection
- Avoidance “you have to really dig deep”
- Avoidance and then “floodgates” – too much information
- Shame – “trouble expressing himself”
- Complete breakdowns – uncontrollable crying/weeping, anger
- Distress “became unhelpful for him to continue”
- Capacity issues

Challenges for legal professionals

"This is one of the hardest parts of my job as I am not a trained mental health worker but am often in this situation."

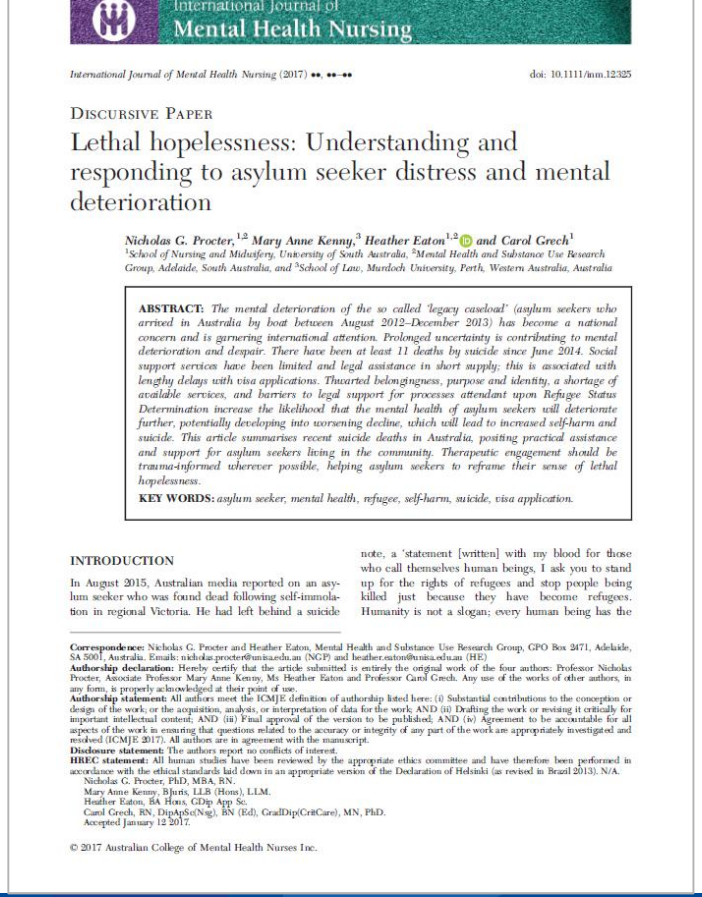
"It is very difficult because I do not feel like I have the skills or knowledge to deal with it, so I just respond as a human being."

"I don't want to cause harm so my problem is that there's the fear of that if I push too hard and start going to an area am I doing more detriment than good."

"Maybe is it good for them to talk about it, is it not good to talk about it? I mean it's, it's a hard thing to know."

Drivers of mental and/or emotional distress

Q9 What, in your opinion, are the drivers of mental and/or emotional distress among the clients you see in the Fast Track caseload? Are there any specific 'triggers' that exacerbate distress? If so, what are they?



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DISCURSIVE PAPER

Lethal hopelessness: Understanding and responding to asylum seeker distress and mental deterioration

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ABSTRACT: *The mental deterioration of the so called 'legacy caseload' (asylum seekers who arrived in Australia by boat between August 2012–December 2013) has become a national concern and is garnering international attention. Prolonged uncertainty is contributing to mental deterioration and despair. There have been at least 11 deaths by suicide since June 2014. Social support services have been limited and legal assistance in short supply; this is associated with lengthy delays with visa applications. Thwarted belongingness, purpose and identity, a shortage of available services, and barriers to legal support for processes attendant upon Refugee Status Determination increase the likelihood that the mental health of asylum seekers will deteriorate further, potentially developing into worsening decline, which will lead to increased self-harm and suicide. This article summarises recent suicide deaths in Australia, positing practical assistance and support for asylum seekers living in the community. Therapeutic engagement should be trauma-informed wherever possible, helping asylum seekers to reframe their sense of lethal hopelessness.*

KEY WORDS: *asylum seeker, mental health, refugee, self-harm, suicide, visa application.*

INTRODUCTION

In August 2015, Australian media reported on an asylum seeker who was found dead following self-immolation in regional Victoria. He had left behind a suicide note, a 'statement [written] with my blood for those who call themselves human beings, I ask you to stand up for the rights of refugees and stop people being killed just because they have become refugees. Humanity is not a slogan; every human being has the

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Authorship declaration: Hereby certify that the article submitted is entirely the original work of the four authors: Professor Nicholas Procter, Associate Professor Mary Anne Kenny, Ms Heather Eaton and Professor Carol Grech. Any use of the works of other authors, in any form, is properly acknowledged at their point of use.

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HREC statement: All human studies have been reviewed by the appropriate ethics committee and have therefore been performed in accordance with the ethical standards laid down in an appropriate version of the Declaration of Helsinki (as revised in Brazil 2013). N/A.

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Trauma informed support for asylum seekers at risk of suicide

- This year alone (2019) we have seen = **6** *suspected* suicides. (2018 we saw 5)
- Over the six-year period 2014-2019 inclusive = **27** *confirmed/suspected* suicides (including the 1 female and those we assume are IMAs, based on media reporting and visa category)
- Five-year period 2015-2019 inclusive = **25** *confirmed/ suspected* suicides (including the 1 female and those we assume are IMAs, based on media reporting and visa category)

NB: Provisional data only and based upon publicly available information. Caution should be exercised until all coronial investigations are completed.

Summary of Drivers for Refugee and Asylum Seeker Suicidality in the Australian Context

Prolonged periods of held detention and living with trauma and uncertainty is harmful and damaging to mental health. People express their trauma injury, despair and distress in ways that are in keeping with their culture and conceptualisation of what has happened.

- Back story surrounding refugee flight, unsafe passage and the imagined safety
- Experiences of held detention – uncertainty, crammed, crowded, boxed in, trapped
- Acquired capability; becoming de-sensitised to own life and distress of others; habituating the pain associated with dying; trying to separate current circumstances and find relief.
- Secondary personality and behaviour change; reaction to difficult stressors and circumstances.
- Limited mental health and wellbeing endurance and protective factors.
- Excruciating, insurmountable and unendurable uncertainty.
- Enough is enough.

Procter, N.G., & Maniam, T. (2012) Suicidal behaviour among ethnic minorities. Symposia to the 5th Asia Pacific Conference of the International Association for Suicide Prevention, 29th November - 2nd December, Chennai, India.

Procter, N.G. (2012) Engagement with asylum seekers with mental health issues who have been released from immigration detention into the community. Workshop to the 38th International Mental Health Nursing Conference. Darwin Convention Centre, Darwin Australia October 3-6.

A deepening cycle of mental distress

- In some suicidal states, the condition is best understood not so much as a movement towards death as it is a *movement away from something,* and that something is always the same; intolerable emotion, unendurable or unacceptable anguish, shame and guilt.

- Reduce the level of suffering, guilt and anguish, and the individual will choose to live.

The four Rs of trauma informed practice

A trauma-informed practitioner, program, organisation, or system:

Realises	•***Realises*** **widespread impact of trauma and understands potential paths for recovery. What has happened to you?**
Recognises	•***Recognises*** **signs and experiences of trauma in clients, families, staff, and others involved with the system**
Responds	•***Responds*** **by fully integrating knowledge about and implications of trauma into policies, procedures, and practices**
Resists	•**Seeks to actively *Resist* re-traumatisation.**

Source: National Association of State Mental Health Program Directors, USA

Ensure sustained, genuine human connections within and between systems

For “full” emotional communication, one person needs to allow their state of mind to be influenced by that of the other.

-Daniel J. Siegel

Pathways when Hope Seems Hopeless

- **Insurmountable suffering** – qualitative and person centred in nature
- **Get in touch with the human connection**– the identity of the person. This means being *truly present* in the space where someone struggles
- **Feel connected** – focus on relatedness that mostly comes from coming together with others.

When hope seems hopeless, the *narrative must continue to be around person-to-person relationships*.

Human connections are crucial.
When relationships are not felt by the person ‘as intimate’, they have limited ability to be protective.

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Thank you

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