

# A Bridge to Justice:

A large flock of pigeons is shown in flight against a clear, bright blue sky. The birds are captured in various stages of their wing strokes, creating a sense of movement and freedom. The lighting is bright, highlighting the texture of their feathers and the shape of their wings.

*Building the case for an  
integrated legal practice*

*ANNE MAINSBRIDGE, a human rights lawyer who has provided legal support to clients of STARTTS, reflects on her time as a lawyer working within a clinical practice and what she has learnt about the legal needs of refugee survivors.*

I studied psychology at university before I became a lawyer. I never worked as a psychologist, but I was always fascinated by the interplay between psychology and the law. I believed there was potential for the two disciplines to work together more collaboratively and holistically. During my years as a lawyer in the community sector I wished I had a better understanding of the mental health conditions of some of my clients, as the knowledge may have led to better outcomes.

In 2009 I applied for a job as a solicitor with the Mental Health Legal Services Project (MHLSP). It was a pilot project set up by the Public Interest Advocacy Centre to assess whether people with mental illness were more likely to have their legal needs met if there was a close connection between their legal and community service providers. STARTTS was taking part in the MHLSP and I was thrilled to be appointed as the project lawyer. By the end of my first day I had five clients!

Since then the legal project has been through some changes. After the MHLSP it was the STARTTS Legal Project and in 2016 it became Bridge to Justice. However, the basic premise was the same: a lawyer, at STARTTS, working closely with clinicians to identify clients with legal issues then trying to resolve them.

The law and Australia's legal system can be bewildering and stressful for refugees. There are obvious barriers: language, lack of understanding of the legal system and being unable to afford a lawyer. More insidious, though, is the fear and mistrust trauma survivors often have for legal systems, because of experiences in their countries of origin.

Many STARTTS clients are from nations where the law is used as a tool of oppression, where judges and police are corrupt and confidentiality is non-existent. It can therefore be very difficult for clients to trust that things are different here. Even if they have strong legal cases, they may be reluctant to pursue them. Even clients who are the victims of very serious crimes may be fearful of going to the police.

The impact of trauma is another major barrier. Many suffer from PTSD symptoms that can affect their memory, concentration and other cognitive functions. This can make it hard for them not only to access legal help in the first place, but also to do things to help their case, such as providing a detailed, coherent statement or compiling supporting evidence.

Traditionally, legal and non-legal services work in ways that are physically and operationally distinct. At STARTTS, however, the legal support service was embedded within the clinical service. I was located at STARTTS and saw clients who had been referred to me by their counsellors. I usually met them in the counselling rooms rather than my office, and ideally in the presence of their counsellors. Steps were always taken to protect confidentiality and obtain client consent to any sharing of information<sup>1</sup>.

The legal project gave clients information on their legal problems. It also referred them to legal service providers, supported them through the referral process and helped them follow up on the legal advice they had been given. In 2016 Isabelle Roe, a graduate social worker, was employed to provide practical assistance and support for clients at legal appointments and meetings with service providers. All services were free.

While migration issues (such as applications for protection visas, family reunion or citizenship) were often uppermost in clients' minds, it was not uncommon for them to have problems with fines and personal injury, family law, domestic violence and criminal law matters.

Often their legal issues were complex and multi-layered. In one very sad case a client's daughter had suicided, and we helped her make a statement to the police and understand the coronial system. In the weeks after the daughter's death, the client began to receive letters for unpaid debts as well as a notice from her landlord threatening to evict her because she had not paid her rent. The client had grown up in a refugee camp, was illiterate in her own language and did not speak English. It soon became clear that while she had been

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alive the daughter had taken on the role of “cultural broker” for the family, dealing with service providers and paying the rent and other bills. While I negotiated with the landlord and the creditors for extensions of time to pay, STARTTS counsellors empowered the client to take on the role of managing the family’s finances.

Legal issues can escalate very quickly and become urgent either because clients avoid taking action or they do not know where to go for help. I remember seeing someone at 4pm on a Friday afternoon. The then Department of Immigration and Border Protection had refused his application for citizenship and he wanted to appeal to the Administrative Appeals Tribunal. It turned out the time limit for lodging the appeal expired at 5pm that day. We managed to download the application form, fill it in and lodge it by fax with just two minutes to spare. The client was then referred to a pro-bono lawyer and ultimately his appeal was successful.

The most recent *Bridge to Justice Evaluation Survey* (carried out in November 2017) confirmed the results of previous evaluations<sup>2</sup> by showing that the project has had a strong impact on access to justice: 87 percent of survey participants stated that without the legal project, their clients would not have achieved the outcomes they did. As one counsellor said: “I have referred clients to Bridge to Justice in situations where they felt like no one could provide them with support around their visa issues. The service provided by Bridge to Justice has provided clients with the support they may not have been able to access on their own. Legal assistance services are not as personalised. I could work closely with [the Project lawyer] around the client’s symptoms. The client felt she could trust [the Project lawyer] because she was “one of us”.

There was strong support for the integrated model, as a counsellor indicated: “I think legal issues are an integral part of refugee resettlement, particularly for asylum-seekers, and also for family reunion. I have noticed an enormous difference for all of my clients whom I referred to the legal project, and I have come to realise that legal issues being addressed properly are of critical importance for my clients. I think this project being located within STARTTS has meant that [the Project lawyer] had an insiders’ knowledge and also connections with STARTTS counsellors, which made the work so much more beneficial for our clients”.

The results of the 2017 survey indicated that the Project had impacted significantly on clients’ mental health: “The project has assisted clients with legal issues, but this has also had the ripple effect in terms of improved mental health, which in turn assists the counsellors to continue with therapeutic work,” a participant said.

Eighty-eight percent of clients reported that they had observed a positive impact on their mental health following referral to the Project. A common response was they became more confident both in themselves, and in positive legal outcomes. Participants also noted reduced anxiety and a greater willingness to engage in counselling. As a counsellor explained, “My client felt more confident, became more able to advocate for herself, she looked more cheerful and happy as she got more hope in justice.” The counsellor added that it reduced stress levels, increased confidence in positive outcomes, and created a better outlook about the future.

According to the counsellor, clients’ engagement in counselling has improved. “They are more open to talking about mental health issues due to the support they are receiving on their visa, often the two are interconnected. They have always been very promptly contacted by Bridge to Justice, and an appointment has been organised with them soon after. Building this rapport with clients and their willingness to seek mental health support has increased due to this.”

Participants also reported better sleep, reduced anxiety and reduced frequency of suicidal thoughts among clients, with 62 percent observing that clients had reported other positive changes as a result of their legal assistance, such as improved relationships with family and others, better understanding of rights and legal processes and greater optimism about the future.

From the outset clinicians have embraced the legal project, consistently reporting that it has enabled them to focus on counselling work rather than having to spend



Photo courtesy Anne Mainsbridge

valuable clinical time trying to refer clients to legal services. At the same time, they also reported that it has given them a better understanding of the legal system which has been invaluable to their work. “Having a lawyer on site even just to ask questions and seek advice is absolutely paramount and makes our jobs as counsellors much easier and more efficient” was one comment. Another was: “Great help for the counsellors as well, as the program is providing a lot of useful information to us (organising talks and training, informing about changes in legislation and sharing resources).” Significantly, all participants in the 2017 survey indicated they wanted the legal project to continue.

Working at STARTTS and seeing the way clinicians work, I have learned a lot about effective communication with refugee clients. The clinicians are incredibly skilful in the way they negotiate cultural issues, work with interpreters and respond to client manifestations of trauma. These are not usually things lawyers learn at law school.

Because counsellors briefed me fully on a client’s mental health issues before a meeting, I was able to work much more holistically and avoid saying or doing anything that might retrigger their trauma or lose their trust.

As clients already trusted their counsellors, they were more likely to trust me. One described this beautifully by saying that she felt as though she was part of a “circle of trust”. Trust promotes better legal outcomes, because clients are likely to be more forthcoming than they might be with a lawyer they meet for the first time in a separate legal office, or at court.

The most significant “win” was a case before the Full

Federal Court, where it was found that the quality of interpretation at a client’s Refugee Review Tribunal hearing was so poor he had effectively been denied a hearing. In that case we found a pro bono barrister and obtain expert evidence to support his case. However, when asked to give feedback about the project, the client mentioned that on the day of the hearing, had I not met him near his house and travelled with him by train to the court, he might not have got there because he was very anxious and unsure of where to go. I think that shows that access to justice is not just about the glamorous “high-end” stuff of court-appearances. It can also be about the very simple, practical things that get the client to court in the first place.

**T**here have been many other positive legal outcomes. One client was able to be reunited with the daughter he had not seen since they had fled their village under gunfire many years before. Some have been compensated for personal injuries. Others have had their children restored to them from foster or out-of-home care.

Equally rewarding, though, are the “non-legal” outcomes where I hear from a counsellor that a former client has finished school or got a job. This suggests that they are recovering from their traumatic experiences and settling into life in Australia. Their legal problems are no longer dominating their lives.

Because it is a non-traditional model of legal service it does not fall neatly within the guidelines of many funding bodies. I am very grateful to the Scully Foundation, Ashurst Australia and the Sky Foundation



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for the funding they provided. However, for the project to be sustainable, it requires adequate, ongoing funding.

It can be difficult to tread the fine line between providing legal assistance and giving legal advice. Because of its limited resources and the high cost of professional indemnity insurance, the Project was not able to provide legal advice or to represent clients in court. This was very frustrating if a matter was urgent (for example, if the client had to appear in court the next day). Sometimes clients were confused and disappointed to be told I could not be their lawyer. It was important to manage expectations and set clear boundaries. Perhaps there’s a case for building the capacity of the legal project in the future, so that it can provide legal advice and representation. This would of course require the appropriate insurance cover and significantly more resources.

In the past few years cuts to legal aid and free legal services have made it increasingly difficult to refer clients for legal advice and representation. It’s always distressing when a client has to stand up and represent himself in court against a powerful, well-resourced, legally represented government department. Not only are they at a distinct disadvantage from a legal point of view, they can also be retraumatised. Some clients became suicidal as a result of these experiences.

Before coming to STARTTS, I had worked with many disadvantaged clients who had been through some terrible experiences. However, I did not understand the profound impact that trauma can have on a person’s ability to navigate the legal system. It’s not just about the emotional and psychological effects of trauma, although these can be debilitating enough. It’s also the biological impact of trauma on the brain – how it affects memory, concentration and expression. As a lawyer you have to be very mindful of this and adapt the way you

practice. You have to use appropriate questioning techniques, for example, and break information down into manageable chunks.

Those who work intensively with survivors of torture and trauma, including lawyers, can be permanently impacted by the stories they hear. To prevent burnout and vicarious traumatisation, it’s vital to have access to regular, clinical debriefing, ideally on a one-on-one basis. I was fortunate to be able to access this support at STARTTS. Other lawyers are not so fortunate.

In my work at STARTTS I have seen that a client’s “access to justice journey” has many steps. Recently a former client sent me a text message to say that he had just been granted a temporary protection visa. He thanked me for “all the help”. I was not his immigration lawyer, but I had helped him to fill in the paperwork to be referred to the lawyer. I had also helped him obtain a copy of his immigration file and sat with him for many hours with an Arabic interpreter, preparing a draft statement that he later took to the lawyer. I was both touched and interested that he had taken the time to acknowledge my assistance with these early steps in the process.

These early steps can be very difficult for refugee survivors to take on their own. Filling in application forms for free legal assistance usually requires you to understand English. You also need to be able to summarise your legal issue and frame it in a way that meets funding guidelines. Legal assistance is more likely to be granted if your case has “strong prospects of success”. To reach this bar it helps to be able to access and compile evidence in support of your case. However, many refugees are fearful of approaching authorities to obtain their files, while trauma can play havoc with motivation and organisational skills.

An integrated legal practice, working closely and holistically with clients, can help them take these early steps. While these steps are not always the most visible or legally exciting aspects of the “access to justice journey”, they help to build trust and get a client to the point where they are actually able to get legal advice and representation.

There needs to be greater recognition (and funding) of these early steps – not just the end point of the process.

<sup>1</sup> For further information about the processes followed by the Legal Project, see my article “Making the Legal System More Accessible” *Refugee Transitions*, Issue 24.

<sup>2</sup> Westwood Spice, *Mental Health Legal Services Project Evaluation (Final Report) October 2011 (Prepared for Public Interest Advocacy Centre); STARTTS Legal Project Evaluation Report, 2015.*