

**MAIN POINTS IN THE ORAL SUBMISSION ON 19TH FEBRUARY 1997 BY LIZ CURRAN, SPOKESPERSON FOR THE FEDERATION OF COMMUNITY LEGAL CENTRES (Vic) INC TO THE SENATE LEGAL AND CONSTITUTIONAL REFERENCES COMMITTEE REVIEWING LEGAL AID.**

- **Underpinning the provision of a legal system are fundamental principals of democracy, the rights of citizens to a fair trial, the social contract entered into by government with its citizens, the Commonwealth's obligations under the Constitution and the rule of law, the Commonwealth's international obligations** under many conventions including the International Covenant on Civil and Political Rights, the Convention on the Rights of the Child and the Sex Discrimination Act the need to provide access to legal services to all citizens made even more important in light of the tax raising capacity of the Commonwealth. The Commonwealth's responsibilities in the provision of a fair, just, accessible legal system that has the confidence of the citizens is therefore not limited to an artificial distinction to that it is to provide legal services in just Commonwealth matters. Furthermore as the Report of the Federation discloses the commonwealth rationale behind the cuts to legal aid makes little sense as it is the areas of Family and civil law where the negative impact of the proposed cuts is already being felt. The reality is that any reduction in funding to legal aid at a time where legal need is increasing and there is no comprehensive legal needs research is going to have effect on the community across the board.
- **The need for specificity of services as opposed to uniformity** - it should never be presumed that every one starts on a level playing field. People with non English speaking, indigenous backgrounds, with a mental illness or disability or who are poor etc have special legal needs and access to legal and other services can be difficult.
- **Legal advice cannot be given through computer print outs - many problems differ in their circumstances and such differences may vary the legal advice given.** There are dangers in legal advice being proffered by people without legal training. I have seen instances where clients have acted on incorrect advice and have found themselves in more difficulty as a consequence. The fact is the law is complex and provides differing solutions and remedies depending on the circumstances of each individual case.
- **At Victoria Legal Aid the decisions are informed by the bureaucracy and there is no representation on the board from any one involved on the ground in legal aid service delivery.** There has also been very little opportunity for community input in the decision making process about the changes to guidelines before decisions are made and no detailed analysis on the impact of the changes in guidelines has been disclosed by VLA itself. It is like Chinese whispers but there is minimal input from the ground so that the decisions bear no resemblance to the human realities and largely only reflect "fiscal management" the reason for the existence of legal aid is to provide improved access to the poor, often marginalised in our community. In recent times the poor and disadvantaged have been moved into the background and further marginalised by reason of the policies. See Report of the Federation.
- **Community Legal Education and law Reform are critical as they ensure communication occurs with the community about how the law operates and how**

**they can use it.** It also helps to demystify the law eg forum on changes to the Family Law Act run by Coburg and Darebin Legal Service for members of the community. **Law reform is critical to ensure that the system functions effectively, efficiently and fairly. In the long term it is through an ability to respond to concerning case trends and problems in the system on the ground which enables government to make appropriate informed decisions and to win the confidence of the voting public.** Law reform also ensures the community are being served by the system and that the system can undergo continuing refinement.

- Legal aid in Victoria because of the funding constraints being imposed by government appears to be **abrogating its law reform activities**, its role in funding important test cases which benefit either large sections of the community or the community as a whole. There will be little room for ingenuity and lateral thinking which are so critical to ensure people can explore all their remedies at law.
- Commentators have referred to the “greedy lawyer” syndrome in relation to the legal aid issue. **Let it be said no lawyer earns much from legal aid work.** Salaries in legal centres are around the \$28, 000-\$30,000 mark and in Legal aid \$30,000- \$41,000 Much less than other professionals despite the stress and quantity of work and care needed. Lawyers work in legal aid often out of a sense of community commitment.
- Legal need should not be limited to application for legal aid. The Report reveals that through self selection by practitioners because matters might not fall within VLA guidelines many people are missing out and being turned away before ever going through legal aid. The gaps arise where there is no knowledge of CLC’s.
- **Community Legal Centres do not duplicate the services of legal aid commissions** and are having great difficulty meeting the shortfalls. Many centres do little or no litigation work at centres because they do not have the resources to do so. Eg At one legal centre there is only one lawyer who does court work. When she is in court there are is no one available to see the clients. This centres demands have increased by two thirds due to changes in guidelines and referrals from legal aid. The clients often face an answering machine , are passed from pillar to post and are increasingly distressed which can exacerbate their problems and is distressing for the workers at the centre. Legal centres do a large amount of initial advice and referral. They are not just on about solving the legal problem before them but they are about self empowerment, education, changing the system to make it better and helping the client for having a similar problem in future. Commissions have traditionally done large amounts of case work. They are complimentary to CLCs. We are flattered by the lovely comments about CLC’s from the AG but CLC’s do not have the resources, are already overstretched and do not have the capacity to fill the increasing gaps of legal aid.
- Impact of the changes in Victoria are disastrous with children and women being put at increased risk in the Family court and more alleged offenders being exposed to unwarranted harsher penalties and wrongful prosecution because of a lack of legal representation. The Report underlines this but unfortunately is only a snapshot glance as

the Federation did not have the resources nor the time to do the extent of research necessary.

- More research on unmet legal need and quality of representation is needed as a matter of urgency and no funding cuts should even be under way without such research. The sad thing is that as the national Legal aid Report of July 1996 prefaces more and more people are missing out and the demand is increasing. Justice goes beyond economics it is about how civilised and democratic a nation is and how Australia as a nation will be judged internationally.

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