

# Community Law News

AN E-NEWSLETTER OF THE FEDERATION OF COMMUNITY LEGAL CENTRES VIC

The e-newsletter of the Federation of Community Legal Centres (Victoria) Inc, the peak body for Victoria's community legal centres. Community Law News is directed towards community legal centres, the broader legal and social justice sectors, law reform bodies and interested members of the public. For information on Community Law News, or to subscribe, please contact [administration@fclc.org.au](mailto:administration@fclc.org.au)

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Tel: 03-9652 1500  
[www.communitylaw.org.au](http://www.communitylaw.org.au)  
Registration A0013713H  
ABN 30 036 539 902

Community legal centres are independent community organisations providing free legal services to more than 100,000 Victorians each year. Community legal centres integrate assistance for individual clients with community legal education, community development and law reform projects that are based on client need and that are preventative in outcome. The day to day work of community legal centres reflects a 35 year commitment to social justice, human rights, equity, democracy and community participation.

## CLCs partner to provide free legal help to bushfire victims

The thoughts of the CLC sector remain with those Victorians who have lost so much in the bushfire disaster, including those CLC staff and supporters who have been tragically affected.

Amidst the grief and loss, survivors of the fires often face a confusing and daunting array of legal problems. Some have mortgage obligations on houses that have been destroyed. Others are underinsured or not insured at all for lost houses, property and vehicles. The families of those who died may be grappling with the coronial process, destroyed wills or family law issues. Some have lost jobs where businesses have been destroyed; others have lost businesses.

CLCs have partnered with Victoria Legal Aid, the private profession and others to provide free legal support to the fire victims. The coordinated response has been informed by the experiences of CLCs across Australia in responding to other natural disasters including the Canberra fires and Cyclone Larry.

Within a few days of the tragedy, a dedicated 1800 helpline was set up through Victoria Legal Aid's call centre to provide advice and to link victims into ongoing assistance through legal aid, CLCs and private lawyers acting pro bono. Local clinics, staffed by CLC, legal aid and private legal volunteers, have been set up at the relief centres. Legal education resources are being prepared and distributed.

The services are being delivered under the banner of "Bushfire Legal Help", a collaboration between Victoria Legal Aid, the Federation of CLCs, the Law Institute of Victoria, PILCH and the Victoria Law Foundation. The scheme partners have been overwhelmed by offers of support from the private profession.

Lawyers staffing the clinics and phone lines received expert briefings on responding to the emotional needs of victims and on relevant legal issues. Victorian Attorney-General Rob Hulls addressed the first briefing and Federal Attorney-General Robert McClelland has provided additional CLC funding for the response.

Survivors of the fires seeking legal assistance should phone the Bushfire Legal Helpline on 1800 113 432 between 8.45am and 5.15pm Monday to Friday.

*Hugh de Kretser, Executive Officer, Federation of Community Legal Centres (Vic)*



## National Human Rights Consultation

10 December 2008 was the 60<sup>th</sup> anniversary of the adoption of the Universal Declaration of Human Rights, a foundational document for human rights advocacy around the world. The Commonwealth Attorney-General chose that day to announce a national consultation about federal protection and promotion of human rights.

The National Human Rights Consultation is a significant opportunity for all Australians to have a say about what human rights mean to them. For CLCs, enhanced protection of fundamental human rights in Australia will provide greater opportunities to promote human dignity and advocate on behalf of marginalised and disadvantaged groups and individuals. While Victoria has a Human Rights Charter, the Charter cannot address injustices that fall under Commonwealth jurisdiction.

The Government has appointed a 4-member independent committee to undertake the Australia-wide consultation. The Committee is asking:

- Which human rights (including corresponding responsibilities) should be protected and promoted?
- Are these human rights currently sufficiently protected and promoted?
- How could Australia better protect and promote human rights?

Submissions are due by 29 May 2009 and the Committee will report by 31 August 2009 on the issues raised and the options identified to enhance protection.

There will be various opportunities for CLCs, other community organisations and individuals to have their say, in writing and via public forums and meetings.

See [www.hrlrc.org.au](http://www.hrlrc.org.au) for further information and a range of resources.

## Better community legal centres – better, fairer communities

If you work in a community legal centre, chances are it's not for the pay! It probably does mean, though, that you are strongly committed to social justice and achieving better outcomes for our clients. Recognising CLC's limited resources, the demands on our services and ongoing external pressures, how do we make sure we maximise our potential to deliver? How do we ensure that our clients can live better lives in more just communities?

I was given the opportunity to study different advocacy strategies used by public interest and legal groups in the United States for the 2007-08 Victoria Law Foundation CLC Fellowship. In undertaking the Fellowship, it soon became clear that I needed to first examine broader questions around the purpose, role and efficacy of Australian CLCs, before thinking about strategies for action.

The final report of the Fellowship, "*Reclaiming community legal centres: Maximising our potential so we can help our clients realise theirs*", will soon be publicly released. Recognising that Australian CLCs have traditionally engaged in a mix of activity types (individual legal assistance; community legal education; and policy and law reform or advocacy work), the report examines the forces pushing towards an emphasis on direct and individualised legal assistance.

The report argues that, despite insufficient funding to address the large demand for individual legal assistance, CLCs should still engage in activities beyond individual services, and in particular we should conduct more policy and law reform work. The report comes to this conclusion for several reasons. First, it argues that our unique history and nature as a distinct institutional form for the provision of legal services to the disadvantaged demands it. We have always been activist and change-focused, working towards a vision of substantive justice for our community, not merely procedural justice in the sense of access to lawyers or the legal system. Second, it is simply more effective to engage in a mix of activities if we want to maximise the benefits we provide to our clients. Third, there are arguably strong moral commitments that should impel us to engage in this broader work.

Wading through these difficult issues helped in evaluating whether developments in the US could and should be adapted by Australian CLCs, especially considering the challenging environment that US legal assistance programs have often faced. While we and the US have different strengths and weaknesses, it did seem there was room for Australian CLCs to learn from our US counterparts.

For example, even without doing specific policy work we could be better at leveraging our casework, such as through focused case representation, representing more organisations and groups and keeping better information and records. When we do undertake policy work, too often we do not engage in strategic campaign planning first. We could also experiment with new law and organising strategies that combine our legal skills with a community action focus.

We can do this despite our funding constraints, although more funding and a broader funding mix would certainly help! With the support of other groups including our funders, we also need to be prepared to evaluate our activities honestly to ensure any help we provide, or policy 'win' we achieve, does, in fact, improve our constituents' lives and move us towards a better, fairer society.

## CLCs Join Pride March

Victorian CLC staff and supporters participated in the gay, lesbian, bisexual, transgender and intersex Pride March in St Kilda on 1 February. St Kilda Legal Service also hosted a popular stall at the after-march celebration in Catani Gardens.



CLC supporters stand proud behind the Federation banner

## Innovative CLC project work funded

CLCs featured in recent rounds of project grants funded by the Victoria Law Foundation and the Legal Services Board.

The Victoria Law Foundation funded a reprint of the Victorian Aboriginal Legal Service's "Aboriginal English in the Courts Kit" as well as Loddon Campaspe CLC's project to establish legal outreach clinics at hospitals and health agencies in regional Victoria, staffed by pro bono lawyers.

Loddon Campaspe CLC was also awarded funding from the Legal Services Board to deliver legal clinics for homeless persons in the Greater Bendigo area. The Board also awarded grants to Whittlesea CLC for improved services to victims of crime, Flemington & Kensington CLC to conduct a study on police racial profiling and Uniting Care in Shepparton to examine the need for a CLC in the Goulburn Valley.

For information on coming grants rounds see:

[www.lsb.vic.gov.au](http://www.lsb.vic.gov.au)

[www.victorialaw.org.au](http://www.victorialaw.org.au)

Copies of the report will be available shortly from the Victoria Law Foundation and Consumer Action Law Centre websites. Feedback, comments, arguments and other discussion is very welcome – contact Nicole Rich at [nicole@consumeraction.org.au](mailto:nicole@consumeraction.org.au) or 03 9670 5088.

*Nicole Rich, Director of Policy & Campaigns, Consumer Action Law Centre*

## Building a fairer justice system – law reform & policy highlights

The Federation structure ensures that the client-driven work of CLCs across Victoria informs our law reform and policy activities. CLC workers collaborate on common justice concerns in law reform working groups supported by Federation staff. Federation law reform submissions, articles and media releases are available on [www.communitylaw.org.au](http://www.communitylaw.org.au). For more information contact Chris Atmore at [policy@fclc.org.au](mailto:policy@fclc.org.au) or Sarah Nicholson at [sarah\\_nicholson@clc.net.au](mailto:sarah_nicholson@clc.net.au).

Current initiatives include:

- Coronial inquests – A comprehensive submission from the Federation to members of the Victorian Parliament facilitated several amendments to the Coroners Bill 2008 before it was passed (see our feature article, "Steps towards justice in preventing Victorian deaths").
- Family violence - The Federation joined other organisations active in supporting family violence justice reform, in meeting with the State Coroner and staff from the newly formed Coroner's Prevention Unit. The Unit's functions include reviewing family violence deaths.
- Federal human rights – The Federation's Human Rights Working Group and the Human Rights Law Resource Centre are encouraging community organisations and individuals to make submissions and give evidence to the Commonwealth Government's National Human Rights Consultation.
- Prisoners' rights – The Federation joined with the Centre for the Human Rights of Imprisoned People (CHRIP), Flat Out and Brimbank Melton CLC's Prisoner Legal Service in publicly condemning the failure to evacuate prisoners from the Melbourne Custody Centre after a bomb threat was made against the Melbourne Magistrates Court located above the Centre. A complaint has also been made to the Ombudsman. The Federation is also working with CLCs to respond to the 10 year review of the *Corrections Regulations 1998 (Vic)*.
- Anti-discrimination law – The Federation wrote to the Shadow Attorney-General, Robert Clark, outlining our views on the Equal Opportunity (Governance) Amendment Bill 2008 and on the recommendations of the report "An Equality Act for a Fairer Victoria; Equal Opportunity Review Final Report".
- Criminal records – The Federation wrote a submission to the Department of Justice's consultation on a national uniform spent convictions scheme. The Federation called for broader Victorian legislative reforms regulating the initial release of criminal record information and implementing the recommendation of the Equal Opportunity Review Final Report to provide protection from discrimination on the grounds of an irrelevant criminal record.



## Justice Profile – Nicole Rich, Director of Policy, Consumer Action Law Centre

*Congratulations on completing the Victoria Law Foundation CLC Fellowship 07/08 "Reclaiming Community Legal Centres: Maximising our potential so we can help our clients realise theirs". Your report cuts to the chase, "It's imperative that all CLCs engage in effective policy and law reform work". Why do you take this view?*

Access to justice is about more than access to a lawyer. It's about systemic change – for a more just world. Let's face it; we will never be able to solve the recurrent problems our clients experience through individualised service delivery alone. It's more effective to engage in a mix of activities - case work, community legal education and policy and law reform.

*I expect that many people will welcome your report - some may be defensive, and others might not agree with your analysis. Why do you think some CLCs have lost their way in linking their case work to strategic policy and law reform?*

Not all CLCs have, but there are a number of reasons why many CLCs have retreated from effective policy and law reform work. Some have simply lost connection with our roots as activist organisations looking to create a better world for our clients, not just provide them with legal advice. Many CLCs would claim that it's poor funding coupled with directives from Government to undertake more case work, and this may be true to some extent, however, there are examples of small and large CLCs continuing to deliver legal services alongside effective policy and law reform work, despite this.

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## Steps towards justice in preventing Victorian deaths

Community legal centres have a long and proud history of supporting and representing families and friends of the deceased in coronial inquests, and of advocating for legal and social change so that future deaths can be prevented. CLCs have been heavily involved in numerous inquests concerning deaths in police custody, prisons, mental health facilities and detention centres; family violence-related deaths; and deaths in rooming houses and other accommodation-related fires.

Through this work, CLCs identified a range of shortcomings in the legislation governing coronial inquests. Coroners have a key role to play in making recommendations to prevent future deaths from occurring, and over the years Coroners have made vital recommendations in areas affecting CLC client groups. Under the *Coroners Act 1985* however, there was no requirement for relevant government agencies to respond to those recommendations. The agencies could ignore or adopt them as they wanted without having to inform the court, the deceased's family or the public, of the response.

Following advocacy by CLCs, individuals and others who participate in the coronial system, the Victorian Parliament Law Reform Committee reviewed the *Coroners Act 1985*. The Attorney-General responded to the Committee's Final Report by introducing the Coroners Bill 2008.

The Federation welcomed a range of improvements in the Bill. The Bill amended the provisions around self-incrimination to allow the release of information that might otherwise be unavailable to the coronial process and to affected families. The Bill also expressly included appeal rights - improving the rights of interested persons to appeal a coronial finding or decision not to hold an inquest.

However, the Bill ignored, or only partly implemented, key recommendations of the Committee's Final Report. In particular, there was a lack of clarity concerning the Bill's compatibility with the Human Rights Charter. The right to life is a fundamental human right. It requires that families of the deceased be fully informed and empowered to participate in the coronial process with genuine access to legal representation in inquests. It requires that the coronial process take place in an accountable and genuinely preventative framework.

The Federation was disappointed that the Bill failed to require mandatory responses from relevant government agencies to coronial recommendations. We were also disappointed that the Bill lacked express provision for cultural difference and choice, particularly in relation to Indigenous understandings of senior next of kin and issues such as autopsies, body removal and burial of remains.

CLC policy and law reform workers were aware that the coronial legislation had not been reviewed for 20 years and that another opportunity for substantial reform would be unlikely in the near future. So we concentrated our efforts to push for amendments to the Bill, providing a detailed submission to MPs outlining our concerns and suggested amendments. We also met with the Attorney-General's advisers, the Shadow Attorney-General, and liaised with the Greens.

The Federation's initiatives assisted the debate in the Legislative Assembly and influenced the Bill's passage in the Legislative Council, where important amendments based on or similar to our submission were successfully proposed by

*Who or what should drive the work of CLCs?*

We need a vision of a substantively better society for our constituents, not merely equal access to the justice system. Our clients need to be at the forefront of our activity. If CLC clients are continually presenting with the same problem – we need to work with them to solve the problems that they face. We need to be reflective and to evaluate our work. If what we are doing is ineffective – we need to change what we do.

*What's a good starting point?*

We need to look carefully and honestly at what we are doing. Are we really at the forefront of change? And remember, there's no end point to that – and probably never an end point to working for change.

*In your research you looked at US models that could be considered by CLCs in Australia. What can we learn from the US experience?*

Whilst we are more advanced in many ways – we can learn from the experience of US based community law. Some US organisations with a deliberate core focus on policy and law reform work have been successful in engaging their communities in a number of strategic campaigns. Even where we have limited resources, we can do better at focusing our casework services towards systemic goals.

*What do you want to achieve from your report?*

I hope my report will contribute to a revitalisation of a broad-based commitment to effective policy and law reform. Critical to the advancement of policy and law reform is the need for CLCs to be more reflective in our work. Basically, we need to take a long hard look at our work to determine whether or not we are truly effective. We should not be afraid to make changes or to experiment with new approaches that may or may not work.

Interviewed by Annie Nash

the Greens and subsequently incorporated into the *Coroners Act 2008*.

The highlight of these amendments was the insertion of a requirement that if a Coroner makes recommendations to a particular Minister, statutory authority or entity, they must now respond within three months outlining actions that will be taken in response to the recommendations. The response must be published on the Internet and be provided to any interested person. This is a substantial gain for families and for the prevention focus of inquests. It makes Victoria only the second Australian state to mandate responses.

The new Act also expressly expands the jurisdiction for coronial investigations to include the death of a person within three months of being discharged from a mental health service.

*Dr Chris Atmore, Policy Officer, Federation of Community Legal Centres*

## Building a stronger community legal sector – sector development round up

The Federation works with its members and stakeholders to build a stronger and more effective community legal sector. Resources and information on our sector development work are available at [www.communitylaw.org.au](http://www.communitylaw.org.au). For more information, contact Annie Nash at [sectordevelopment@fclc.org.au](mailto:sectordevelopment@fclc.org.au).

Current highlights include:

- CLCs join Victoria Legal Aid management course - VLA is sponsoring 2 CLC positions in RMIT's Innovation and Service Management program. Annie Nash, from the Federation and Ariel Couchman, Director of YouthLaw, will undertake the course this year, with 4 other CLC workers selected for participation in 2010 and 2011. The Federation and individual recipients welcome this initiative which will strengthen the management expertise of CLCs.
- Community Law Partnerships - Hall & Wilcox and Flemington & Kensington CLC have partnered to increase the capacity of the CLC to undertake strategic civil litigation. Hall & Wilcox will provide support and guidance with research, strategic case work and lawyer mentoring. Flemington & Kensington CLC was also awarded a Legal Services Board grant to study police profiling of emerging communities in the area. This project will dovetail with their new community law partnership to accelerate the CLC's capacity to work effectively with their clients on matters involving police misconduct.
- In 2008, FOI Solutions generously provided free freedom of information training for CLCs across the state, with a focus on rural and regional CLCS.
- Law Institute of Victoria CPD training for CLCs - The Law Institute and the Federation's Professional Standards Working Group have developed a tailored professional development program for CLC lawyers. The event will be hosted by Victoria Legal Aid on Friday 27 February. Rural CLCs will have access through video conferencing.
- CLC Multi Business Agreement (MBA) – The CLC MBA, which delivers a range of wage and entitlement benefits to CLC staff, was approved by the Workplace Authority on 22 January 2009. 27 CLCs are party to the MBA. Amongst other things, the MBA involves a classification review to examine the wage levels for CLC staff. The MBA is underpinned by funding from Victoria Legal Aid.

## Public lecture by Phil Scraton: “The Violence and Violations of Imprisonment”

Phil Scraton is Professor of Criminology at the Institute of Criminology and Criminal Justice, Queen’s University, Belfast. Widely published, his recent books include “Childhood in crisis?”; “Hillsborough: The Truth” and “Beyond September 11; Power, Conflict and Criminalisation”.

In this lecture, Professor Scraton will reflect on the recently published “The Violence of Incarceration.” He will propose that physical and emotional violence are central elements in the incarceration of men, women and children in advanced democratic societies. As prison populations and those held in secure accommodation have expanded well beyond official projections, prison institutions have produced ever-harsher regimes of containment.

The lecture will explore the dynamics of interpersonal violence, institutionalised abuses and incarceration and consider the “culture of impunity” that enables harsh regimes to persist and institutionalised human rights violations to be rationalised.

6pm – 8pm Thursday 5 March 2009,  
Old Council Chambers,  
Trades Hall, Cnr Victoria and Lygon  
Streets, Carlton South.

Presented by the Centre for the Human Rights of Imprisoned People and the Federation of CLCs.

## Award recognises Footscray CLC’s African Legal Service

Footscray Community Legal Centre has received the inaugural Essie Burbridge Community Award for its work in providing legal advice to African refugees. The Victorian Women’s Trust created the award to recognise outstanding achievement by community organisations in promoting understanding and combating racism.

The award recognises Footscray CLC’s long-term work with diverse communities of Melbourne’s West, and its initiative in establishing a specialist African service to respond to the difficulties experienced by newly-arrived refugees in adjusting to Australian laws.

Principal Lawyer, Ali Yildiz, said there is a misconception in the community about the types of legal problems faced by African refugees. “There are a lot of reports in the media about crimes of violence, drugs and conflicts with police, but from the start, the bulk of our cases have involved simple misunderstandings about the way Australian systems work,” said Mr Yildiz. “We’re helping people with unfair contracts, resolving claims against uninsured clients after car accidents and helping people deal with thousands of dollars of fines. At the same time we’re going out into the community and educating people about common legal issues so they don’t get into trouble in the first place.”

Footscray CLC has on-site interpreters in African languages, provides outreach services to African communities and collaborates with settlement agencies to provide culturally appropriate legal information to new arrivals. There is a full-time financial counsellor at the centre who helps resolve problems with utility bills, credit card debt and loan repayments that commonly arise within refugee communities.

The Victorian Women’s Trust Award pays tribute to Essie Burbridge, who spent her life promoting compassion and acceptance of people, regardless of their cultural background. It includes a \$10,000 grant to help the Centre continue its work.

*Adrian Snodgrass, Footscray Community Legal Centre*



Katie Fraser accepting the Essie Burbridge Community Award alongside Dur-e Dara and Denis Nelthorpe.