



National Community Legal Centres Conference
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**The Civil and Family Law Needs of
Aboriginal and Torres Strait Islander
People in Australia:
The Indigenous Legal Needs Project**

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1. The Family and Civil Law Needs of Aboriginal People In New South Wales (2008)

Research developed from identified needs by the Aboriginal Unit within NSW Legal Aid, commissioned by NSW Legal Aid and conducted by Chris Cunneen and Melanie Schwartz, Law Faculty, UNSW.

http://www.jcu.edu.au/ilnp/public/groups/everyone/documents/technical_report/jcu_083446.pdf

The report addressed two broad research questions:

- Analysis of the civil and family law needs of Aboriginal people in New South Wales.
- Based on the legal needs analysis, an exploration of how Legal Aid NSW could improve service delivery for Aboriginal clients in the areas of civil and family law.

2. The Assessment of the Civil and Family law Needs of Indigenous People in Australia (2011– 2013) (ILNP project) <http://www.jcu.edu.au/ilnp/>

The ILNP builds on work done in 2008 for the NSW Legal Aid Commission.

ARC Linkage project (developed in 2009, funded in 2010, began in 2011) with joint Indigenous and non-Indigenous industry partners, CIs and research assistants.

ARC Industry Partners

- Victoria Legal Aid
- Northern Territory Legal Aid Commission
- Legal Aid Queensland
- Legal Aid Commission of Western Australia
- Victorian Aboriginal Legal Service Co-operative Limited
- North Australian Aboriginal Justice Agency Limited
- North Australian Aboriginal Family Violence Legal Service
- Aboriginal and Torres Strait Islander Legal Service (QLD) Limited
- Aboriginal Legal Service of Western Australia Inc
- Central Australian Aboriginal Family Law Unit

Jurisdictions

- Queensland, Northern Territory, Western Australia and Victoria

Researchers

- Chief Investigators: Chris Cunneen, Larissa Behrendt, Melanie Schwartz.
- Senior Research Coordinator: Fiona Allison.
- Research Assistants: Simone Rowe, Paddy Gibson, Dominic Zahra.

The Assessment of the Civil and Family law Needs of Indigenous People in Australia (2011 – 2013)

The research will involve

- ☐ holding men's and women's focus groups in eight Aboriginal communities in each jurisdiction (32 communities and 64 focus groups altogether) and using both questionnaires and semi-structured discussion about legal issues that participants have encountered.
- ☐ interview with relevant stakeholders.
- ☐ cover urban, regional, rural and remote communities
- ☐ an analysis of data provided by partner organisations about the usage of their services by Aboriginal and Torres Strait Islander clients, and/or a review of existing policies in the partner organisations as they relate to servicing the civil and family law needs of Indigenous clients

The research will provide:

- ☐ Legal Needs Assessment
- ☐ Analysis of Legal Service's Policies and Existing Usage Data
- ☐ Develop Strategies for Improving Access to Justice in Civil and Family Law

Combined with the completed New South Wales research, we will have a relatively comprehensive picture of Indigenous civil and family law needs in Australia, given that the proposed jurisdictions cover urban, regional, rural and remote communities, and more than 85% of Indigenous people in Australia live in Queensland, New South Wales, Northern Territory, Western Australia and Victoria.



Aboriginal and Torres Strait Islander Civil and Family Law Needs are an Access to Justice Issue:

- ❑ *A Strategic Framework for Access to Justice in the Federal Civil Justice System*. Recommendation 11.4 states that, “The Commonwealth should consider options for improving access to culturally appropriate legal assistance services for family and civil law matters for Indigenous Australians”.
- ❑ Analysis of the legal needs of Aboriginal and Torres Strait Islander people has been largely focussed on criminal law.
- ❑ A growing demand for child protection, civil and family law matters has been identified, but ATSILS report being unable to service this demand due to insufficient funding (Senate Legal and Constitutional References Committee 2004: 5.6, 5.14)
- ❑ Existing barriers that Indigenous people face in accessing legal services have been identified in various reports (eg Senate Legal and Constitutional References Committee (2004); Joint Committee of Public Accounts and Audit (2005))
- ❑ Indigenous people face well-documented disadvantages in the areas of education, housing, employment, income and health (SCROGSP reports).
- ❑ Some categories of disadvantage are particularly relevant to client’s needs when accessing legal services: for example, low levels of literacy and numeracy; high levels of hearing loss; higher levels of disability; and higher levels of psychological distress compared with non-Indigenous people (SCROGSP reports)
- ❑ Geographical isolation is also a major inhibitor to access to justice for Indigenous communities. In remote communities, access to justice is “so inadequate that remote Indigenous people cannot be said to have full civil rights” (Senate Legal and Constitutional References Committee 2004:5.120)

Men's Meeting Place Swan Hill



Women's focus group Swan Hill



Young women interviewed in Alpurrurulam



Men's Group West Heidelberg Melbourne



Why we think the project is important:

- Civil Rights, Citizenship and Racial Discrimination
- The Long Term Impact of Colonialism and Human Rights Abuses
- Transformation of Unmet Civil Law Needs into Criminalisation
- Improved Access as a Foundation to Social and Economic Development



Gurindji men at the Katherine men's group. Both were involved in the Wave Hill walk off in the struggle for equal pay in the 1960s. Current issues arise around compensation for workplace injuries from station and related work.

Activist Research: Identifying Legal Needs

Combined Men's and Women's Group, Bendigo



- Thank you, it was a fantastic day, there has been a bit of talk in the community, one gentleman bailed me up at the railway station while I was waiting for my husband and expressed how much he got out of the session, and he stated that he actually learnt a couple of things that he did not know, I thought that was good positive feedback as the rest of the community members have been saying the same thing. So thank you it allowed our community to express their issues and brought about an understanding for the community (Women's focus group convenor, Swan Hill).

Activist Research: Providing immediate legal advice as part of the research

Travelling with NAAJA lawyers to Bulman



Legal needs immediately referred.

- The research team travel where possible to communities with lawyers, so that the legal needs which emerge during the focus group meetings can be immediately referred to lawyers.
- This provides a real time response to people's needs and provides legal services with cases they wouldn't have previously accessed.

Providing immediate legal advice as part of the research

Alpurrurulam



Legal Needs Immediately Referred

- Centrelink disputes
- Sexual assault
- Victims compensation
- Child access
- Insurance / superannuation
- Royalty payments /deceased estate

Activist Research: Policy and Service Delivery Development

The research has multiple potential impacts on policy development and service delivery.

One area we note here is the *gendered analysis* running through the focus group material.

It became apparent in the focus groups that there were:

- differences in the frequency between men and women identifying particular legal issues,
- differences in the likelihood of seeking legal advice between men and women

Examples:

- In both housing/tenancy and neighbourhood disputes women were more likely than men to identify a legal problem but less likely to seek legal advice or help

Nearly 3 times as many women identified neighbourhood problems, but were less than half as likely as men to seek legal advice or help

There were no gender differences in identifying racial discrimination as an issue and no difference in seeking legal advice or help (less than 1 in 4 who identified a problem sought help)

In relation to victim's compensation, women were only slightly more likely than men to report being a victim of a violent offence but were nearly 3 times more likely to know about victim's compensation and nearly 4 times more likely to seek compensation than men

Activist Research: Social Media

Rationale:

- Focus group participants, community and organisations wanted to hear back from us about the type of issues different communities were having (their own and others). For many, this is a first time to actually talk and hear about problems that are not related to police and criminal law.

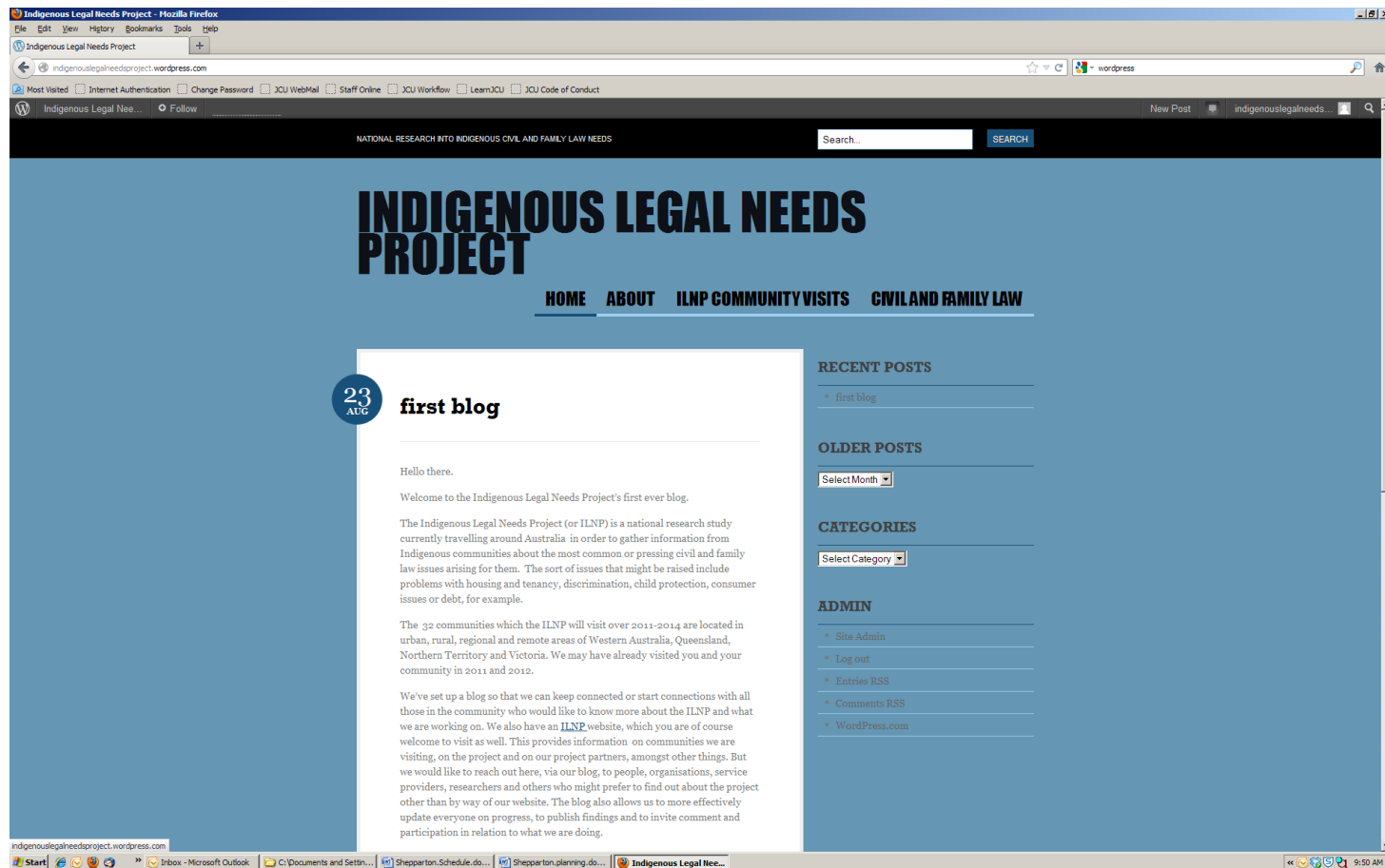
Response: Blog, Facebook

Social Media:

- We are attempting to use social media to assist in bringing about social change. For example, if all communities are experiencing problems with homelessness or housing issues, social media may provide an avenue for people to engage in greater collective action, particularly many are living in remote communities.

Indigenous Needs Legal Blog

http://indigenouslegalneedsproject.wordpress.com/



Repairs and Maintenance & Rent

“The other thing is that there have been lots of repairs done lately, as you will know from the media, and there are always lots of complaints about the repairs not being adequate, the repairs being faulty; there are lots of complaints about that. Then the fact that rent has generally gone up as a result of the repairs; that is an issue”
(Legal Aid staff Katherine)

“Housing and tenancy is becoming a bigger problem throughout, and that’s largely because of the changes following the NTER, so now that we’ve got actual leases on remote communities and town camps. That’s turning into a big change for everybody. For most, it’s probably the first time they’ve had any involvement with leasing”
(Indigenous Legal Service staff Alice Springs)

Repairs and Maintenance

“And then rents and repair...repair complaints don't get resolved until (Indigenous legal service) gets involved and takes it straight to the top, including public health issues such as sewerage” (Indigenous Legal Service staff Darwin)

“They do no work on it ... but when you move out they come and hit you for a big ass big bill for the things they wouldn't fix up while you were living there. I can't get a house now until I pay that [Territory Housing debt] off ... and then you got a five-year wait after that” (Tennant Creek Mens Focus Group Participant)

Overcrowding and Eviction

“All our clients have a housing issue. Essentially everyone here (in Tennant Creek) is homeless so everyone is in crisis and its getting worse all the time...They’ve all got debts for non-payment of rent or damage to the houses ...It’s a mess. It’s a disaster.... like fifteen people in every house... more even” (Indigenous Legal Service staff Tennant Creek)

“Anti-social behaviour is a huge one, and it’s one that we take pretty seriously, because if somebody gets evicted for that reason, it effectively bars them from public housing forever, because the rules say that you can’t get back onto the list for two years after you’ve been evicted for that, and during that time you need to engage in the private property market, which our clients just aren’t capable of doing...”
(Indigenous Legal Service staff Tennant Creek)

Links between housing and other issues

“Why debts occur in some instances... with the nature of housing, when you’ve got large extended families coming and going, one person puts the phone on, and they’ll go away and do whatever and other people come in and rack the bill up huge”

(Indigenous Legal Service staff Katherine)

“Housing and tenancy, overcrowding – that’s just a huge issue.... and the availability of housing. And then of course that has a lot of flow on effects in terms of child protection... girls won’t go home to the house until everyone is comatose” (Indigenous

Legal Service staff Katherine)

“I think education comes with the problems with housing. Children can’t sleep at night ... that’s why so many kids are missing out on education” (Papunya Mens Focus

Group Participant)

Employment, Shops and Clinics

- “I asked her ‘why aren’t you a GBM?’ and she said, ‘I asked the current GBM how I apply to become a GBM and he said to me ‘you’ll never be employed, because you come from this community and they don’t want community members applying for the position on the basis that you could be part of one faction of the community and not look after all parts of the community’. I mean... that’s discrimination. It’s the very people who should be in the job that are being told you need not apply. And if you go to any community now... they are run by white people...whereas the old council were almost always run by Indigenous communities” (Legal Aid staff Katherine)
- A female participant approached a store in Wadeye about renting a television. The store had a sign clearly stating that they do rentals, however the store worker informed the participant when she entered to store that they do not do rentals. The participant explained that she pointed to the sign and said: ‘(i)n other words, you don’t rent things to people of my colour... and she just said ‘yes’ to me - straight out’ (Katherine Womens’ Focus Group Participant)
- “When they speak , they hurt your feelings ... and you (are only) trying to ask them to help” (Wadeye Mens Focus Group Participant).

Naming ‘Discrimination’

“I find that a lot of Warumungu people [dominant language group in Tennant Creek], they don’t understand the law system properly ... When they are being discriminated against, they don’t know ... It’s like two separate worlds here ... and its [racial discrimination] happening everyday” (Tennant Creek Mens Focus Group Participant)

“It’s that really insidious stuff: you can walk down the street and see it every single day, every single minute. But to be able to point at particular things and say ‘that’s racial discrimination’ that’s quite difficult” (Indigenous Legal Service staff member Katherine)

“People think they can say what they like to Aboriginal people without having any recourse. I have been away a short period and I have come back and it’s [like it is] peoples’ god forsaken right to do what they feel like to Aboriginal people” (Statutory Authority staff Darwin)

“This is where it all comes back to that Intervention ... because they haven’t consulted Indigenous people in regards to those big blue signs outside of all our communities that got ‘no alcohol, no pornographic’ ... I never seen those signs outside Canberra ... It’s discrimination” (Tennant Creek Mens Focus Group Participant)

NTER and Discrimination



Basics Card Reader and Queueing to Access Reader: Katherine



Consumer issues: exploitation through rental/purchase agreements, facilitated by Centrelink

CONTACT NO 1153 **RENTAL AGREEMENT**

Date 06/12/10

APPLICANT DETAILS

SURNAME [REDACTED] **FIRST NAME** [REDACTED] **DATE OF BIRTH** 16/11/73

CONTACT NO [REDACTED] **IDENTIFICATION No.** [REDACTED]

CURRENT ADDRESS [REDACTED] **PREVIOUS ADDRESS** [REDACTED]

EMPLOYMENT DETAILS

EMPLOYER NAME [REDACTED] **ADDRESS** [REDACTED] **PERIOD** [REDACTED]

RESIDENTIAL REFERENCE

STATUS [REDACTED] **AGENT NAME** [REDACTED] **PHONE** [REDACTED]

PREVIOUS RENTALS YES ☐ NO ☒ **RENTED** ☐ **PHASE** [REDACTED]

CRN No. 500-695-7201 **TYPE** F7B **MTWTFRS**

REFERENCES (One reference per address)

| NAME | ADDRESS | RELATION |
|------------|------------|------------|
| [REDACTED] | [REDACTED] | [REDACTED] |
| [REDACTED] | [REDACTED] | [REDACTED] |

This contract is subject to a cooling off period of 10 days

DESCRIPTION OF RENTAL GOODS

GOODS TO BE RENTED 81 cm x 100 cm x 100 cm sound

SECURITY BOND \$340 **SERIAL No.** [REDACTED] **RENTAL TERM** 24 (months)

TOTAL NO. OF PAYMENTS 52 **RENTAL PAYMENT** \$85 **FREQUENCY** WCE

1st PAYMENT OF \$170 on 16/12/2010 **TOTAL RENTAL AMOUNT** \$4480.00 **BOND OF \$170 + ADVANCE RENT OF \$...**

NOTES First two payments are security bond

APPLICANT 1 SIGNATURES [REDACTED] **APPLICANT 2 SIGNATURES** [REDACTED]

AUTHORISED REPRESENTATIVE NAME [REDACTED] **SIGNATURES** [REDACTED]

85448 = 4080
170448 = 8160

Australian Government **Centrelink** **Centrepay deduction**
giving you options Pay your bills the easy way

Centrepay is a free direct bill paying service available to customers who receive a Centrelink payment.

You can arrange your deductions online, using Centrelink Online Services.
Visit www.centrelink.gov.au to register and to find out more information about Centrepay.

You can arrange your deductions over the phone.
Simply call Centrelink who will process your deduction request and assist you with any questions you have concerning Centrepay. Please call your normal Centrelink payment number:

| | | | |
|---|---------|---------------------------------|---------|
| Newstart/Employment Services | 13 2950 | Age Pension/Retirement Services | 13 2300 |
| Family/Parenting Payment | 13 6150 | Youth and Student Services | 13 2490 |
| Disability, Sickness and Carer Services | 13 2717 | ABSTUDY | 13 2317 |

NOTE: Calls to '13' numbers from a standard phone service can be made from anywhere within Australia for the cost of a local call. Calls from public or mobile phone may be charged at a higher rate. For more information in a language other than English call Centrelink on 13 1202.

You can arrange your deductions by faxing the completed form to 1300 766 412.

You can arrange your deductions by completing and returning this form to Centrelink.
Please use the reply paid envelope provided or address a stamped envelope to:

Centrepay
GPO Box 689
HOBART TAS 7001

This form cannot be used for government housing authority deductions.

PART A — Your details

Family name [REDACTED] **Given name(s)** [REDACTED]

Your date of birth 30/11/73 **Phone number** [REDACTED] **Your Customer Reference Number** [REDACTED]

PART B — Type of request (For more than one deduction a separate form needs to be completed)

Do you want to:

1. START a new deduction ☒ **You must complete PARTS C, D and G**
2. CHANGE a current deduction ☐ **You must complete PARTS C, E and G**
3. CANCEL a current deduction ☐ **You must complete PARTS C, F and G**

Note: Do not attach any bills to the Centrepay form.

PART C — Service provider's details (MUST be completed to start, change or cancel a deduction)

Service provider's name [REDACTED] **Service provider's address** [REDACTED]

Service provider's phone no. [REDACTED] **Postcode** 5074

Service provider's Centrepay Reference Number [REDACTED]

NOTE: You will need to get the Centrepay Reference Number from the service provider you are making payments to. This number always starts with 555. If unsure please contact your service provider.

555 083 200 0

Your account number with the service provider 1153

Type of bill (e.g. private rent, electricity, gas, water) HOUSE HOLD RENTALS

NOTE: For TELSTRA deductions — You must provide your account number (above) AND your bill number (below)

TELSTRA deductions only

NOTE: If your bill number starts with 7311 you cannot use Centrepay. Please contact Telstra about your billing arrangements.

Telstra bill number [REDACTED]

54225.0705

Exploitative terms eg \$3920 for a laptop and printer; \$4420 for a 32" Soniq TV and sound, both over 2 years.

Facilitated through the use of Centrepay deductions.

The objective of the Centrepay scheme in s3 of the Centrepay Policy is that:

- Centrelink's primary objective in establishing and maintaining the Centrepay scheme is to enhance the well-being of its Customers by improving their social capacity and encouraging their movements towards financial self management.

Approval Criteria:

- When considering whether an eligible applicant should be approved as a participant in the Centrepay scheme, Centrelink's primary consideration will be, in Centrelink's opinion, allowing the applicant to participate in the scheme will further the objective of the Centrepay scheme....