

Indigenous Legal Needs Project



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
-II-**

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Origins of ILNP

The Family and Civil Law Needs of Aboriginal People In New South Wales (2008) (NSW Legal Aid)

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

The Assessment of the Civil and Family law Needs of Indigenous People in Australia (2011– 2014) (Indigenous Legal Needs Project (ILNP))

- ARC Linkage project, working with joint Indigenous and non-Indigenous industry partners – Legal Aid Commissions, Indigenous Family Violence Prevention Legal Services (NT) and Aboriginal Legal Services, UNSW, JCU and UTS.
- Focus on four jurisdictions: VIC, WA, NT and Qld
- Joint Indigenous and non-Indigenous staff at all levels.

ILNP: Reporting, Methodology

Reports for each jurisdiction:

- (1) Indigenous legal needs assessment: priority civil and family law issues
- (2) Strategies to improve access to civil and family law legal assistance /advice and justice

Reports based on information gathered during fieldwork (**32** communities, **8** in each jurisdiction).



Northern Territory	Western Australia	Queensland	Victoria
Darwin	Perth	Cairns	Bairnsdale
Katherine	Geraldton	Brisbane	Shepparton
Tennant Creek	Narrogin	Pompuraaw	Swan Hill
Alice Springs	Roeburne	Thursday Island	Robinvale
Wadeye	Balgo	Charleville	Heidelberg
Bulman	Fitzroy Crossing	Mount Isa	Fitzroy
Alpurrurululam	Wyndham	Rockhampton	Framlingham
Papunya	Tjuntjuntjarra	Roma	Bendigo

ILNP: Methodology

In each community, we gather:

- Focus group data
- Stakeholder interview data



Focus Groups



- 10 men, 10 women
- organised by a local Indigenous person or organisation
- complete a questionnaire identifying problems and help accessed
- group discussion of legal needs and of access to help and advice
- generally positive feedback:
 - learn a little about civil and family law rights;
 - linked in with legal and other services, if required;
 - share experiences, problems and solutions with others

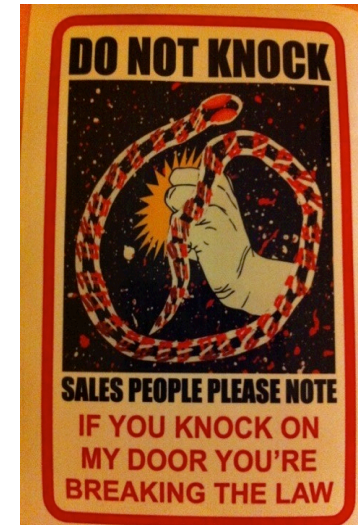
Stakeholder Interviews

Stakeholders include:

- Key Aboriginal organisations
- Legal services (CLCs, IFVPLS, LACS, ATSIILS)
- Services, community organisations and advocacy groups dealing with relevant issues (women's shelters, health services, financial counsellors, housing advocates, consumer rights, unions etc.)
- Government agencies (ASIC, Department Fair Trading, Dispute Resolution (Justice), local government) and statutory authorities (VEOHRC, ADC NT)

Information sought includes:

- Priority civil and family law needs
- What works and what doesn't work in addressing these needs, what needs to change in policy and service delivery
- Particular barriers to accessing legal help and justice
- Current relationships between services (incl. legal)





Why the ILNP: Criminal Law Focus

They think the only thing those (legal) services are there for are the courts, for fighting, or when you are in trouble with the police.. They don't know there's other stuff out there you can see (them) about.

(Tennant Creek Men's Focus Group Participant)

Criminal (legal assistance) has always been top heavy. That person can come through that door ten times and they'll keep servicing them. We've got civil issues and family issues (too)... (Darwin Women's Focus Group Participant)

(For) legal aid services, the emphasis is always on the criminal work because that's the most time pressure, people tend to go to jail or the penalties are that they can be incarcerated. So understandably, a lot of priority and resources are put into criminal law... and not a lot into civil law... (Registrar)



Why the ILNP: Significant Civil and Family Law Need

Not every Aboriginal person is brought before the criminal justice system, but every Aboriginal person has to live somewhere, they have to get an income..., they buy goods and services, live with their neighbours, may face discrimination, have accidents...

(NAAJA, Darwin)

It would be really good to be able to undertake regular, strictly civil outreach work...There is a good service being provided but it's the tip of the iceberg.. It's still a big unknown exactly how much work is out there.. (Indigenous Legal Service staff)

We could be going to every one of our communities weekly or fortnightly (for non-criminal work) and we would have a regular stream of people (Indigenous Legal Service staff)



Why the ILNP: Barriers to Accessing Justice

I don't think no one really understands what their right is (Tennant Creek Women's Focus Group Participant)

The criminal law system is largely thrust upon people; they don't have any choice about it.... Civil law is not like that ... I don't think Aboriginal people necessarily want to jump into a civil law dispute ... over a contract or something like that (Registrar)

For a lot of our clients (something like a Centrelink debt)... is just something that 'happens to them', and it's not something they feel much power or capacity to engage with (Indigenous Legal Service staff)

It's about the immediacy of what's going on in their lives. If someone has died or someone in their family has gone to jail, then that takes precedence (Indigenous Legal Service staff)



Why the ILNP: Exploring Strategies to Improve Access to Justice

It's a very complex system. It's intimidating in many respects...(M)ost Aboriginal people, they wouldn't attempt it without the assistance of a lawyer. The instances of self-represented Aboriginal people getting involved in the civil law jurisdiction is just nothing... (Without a lawyer)... the walls are just too thick and too high (Registrar)

A lot of the work that we do is not strictly legal work.... The superannuation, the victims comp, the motor vehicle accidents claims. If someone had a degree of literacy they could do that themselves (Indigenous Legal Service staff)

NT Research: Priority Legal Issues

Priority areas: Most common legal issues

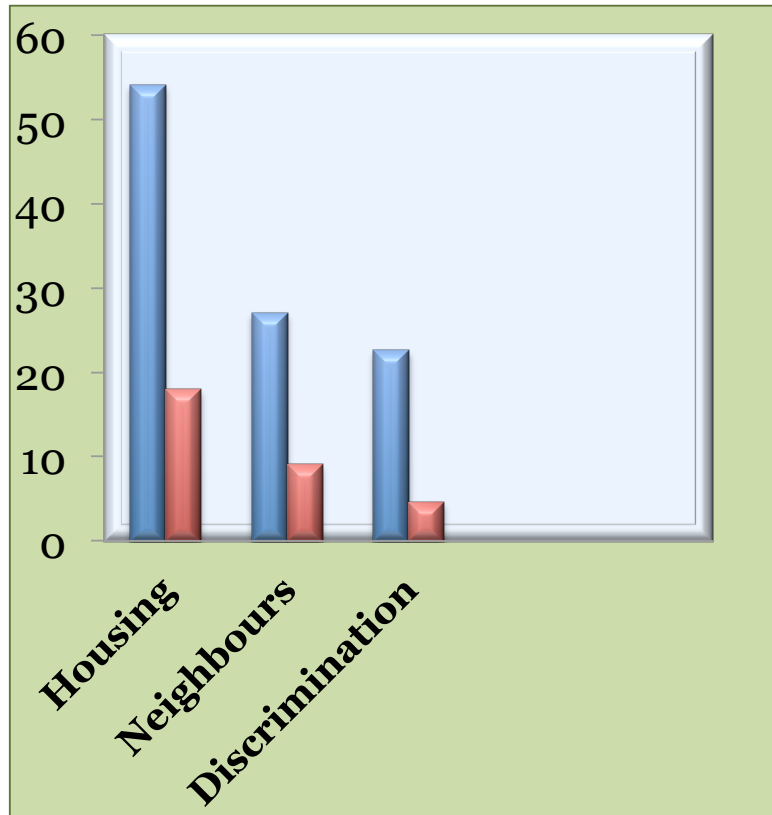
Housing	54.1%
Neighbours	27%
Discrimination	22.6%
Social Security	29% *of those receiving benefits (=73.2% of participants)

Other priority areas

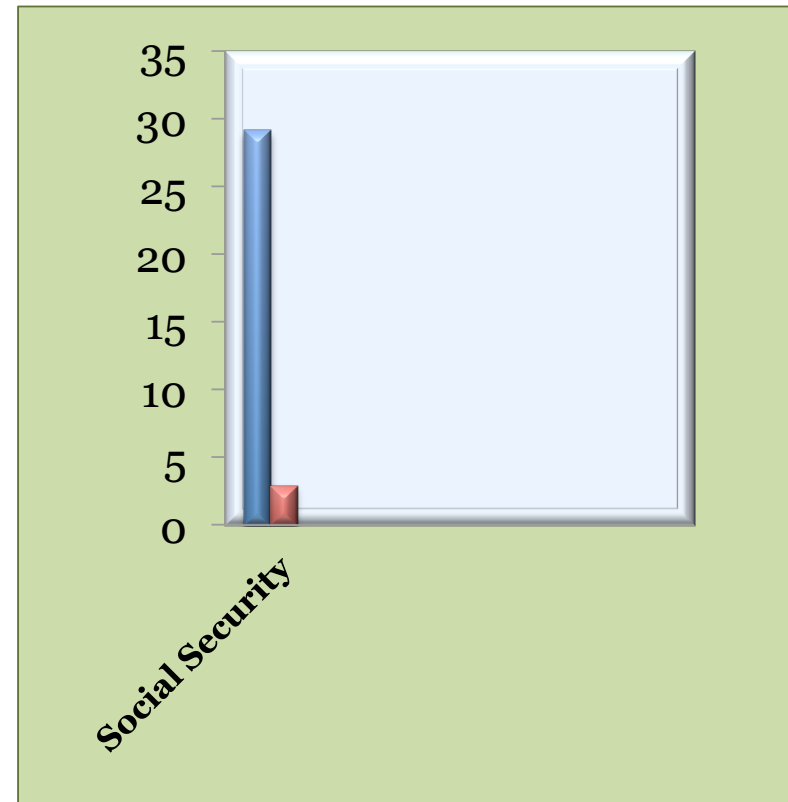
Child Protection	6.8%
Credit and Debt and Consumer	18.4% (paying bill/loan)
Wills and Estates	10.1% *completed will 61% *would like advice to complete a will

NT: Most common legal issues and access to help

Housing, Neighbours, Discrimination



Social Security



NT: Priority issues by gender

Neighbours: Women

	Problem	Help
All	27%	33.3%
Women	38.5%	26.7%
Men	14.3%	55.6%

Victims Compensation: Men

	Victim	Know Scheme	Applied
Women	15.4%	90.9%	81.8%
Men	12.9%	33.3%	22.2%



VIC: Most common legal issues

...Stats removed until release of VIC REPORT (September 2013)...



VIC: Tenancy by community

...Stats removed until release of VIC REPORT (September 2013)...



VIC: Tenancy issue by type

**...Stats removed until release of VIC REPORT
(September 2013)...**



VIC: Tenancy - Repairs and Maintenance

A young girl was involved in (one housing issue). She got her house broken into by small kids and they completely wrecked everything, turned the water on and flooded everything. (Housing said) they were going to come and clean up and do stuff, (but) they've done nothing. They were s'posed to rip the carpet up. That's about 12 months ago, the carpet's still there (Bendigo Men's Focus Group Participant)

There was a burnt out car in a laneway beside my house. (Housing) charged me for that. The young ones had dumped it down a laneway... We had to get out of there in a hurry (due to domestic violence) and I have a fair bit of maintenance (to pay for) for stuff that wasn't my fault. This wasn't on my property, that's why I tried to fight it. It was in a laneway between two houses (Heidelberg Women's Focus Group Participant)



VIC: Tenancy - Rent

As soon as you're a week late with your rent or a couple of days late, they are straight onto you about how you are doing something wrong... (Shepparton Men's Focus Group Participant)

We'd actually moved out. We couldn't stay there. Our lives were more or less at risk. So we basically had to move out of there in a hurry... But because the keys were lost... I understand what they (housing provider) are saying, because I still had the keys they were still charging me rent, but they weren't listening to me. I couldn't live there because of the violence (Heidelberg Women's Focus Group Participant)

Our rents are sky high.... And you can't have members of family stay with you 'til they get a house 'cause your rent goes straight up... (Bairnsdale Women's Focus Group Participant)



VIC: Tenancy - Access to Housing and Overcrowding

Housing is an issue because homelessness is an issue...Tenancy issues, we deal with some, but no, I don't see (this as) as big an issue (as homelessness). Certainly not coming from our clients. Getting them *into* housing is a big issue (Indigenous Legal Service staff)

(We need) more housing. We say that all the time but it doesn't get anywhere
(Shepparton Men's Focus Group Participant)

(T)he private housing market (is) closed to Aboriginal people in our community....
(A)ccess to public housing is sometimes the only access to housing that they have
(Community Organisation staff)

I've got a one bedroom flat and I've got people all the time, bodies on the floor all the time.... They sleep in the laundry and all (in my place). Sometimes you get three, sometimes you get fifteen, sometimes you get one. I'm never alone (Fitzroy Women's Focus Group Participant)

VIC: Tenancy - Overcrowding and Connection with Other Issues

I found that the definition of homelessness in the Koori community is slightly different. You don't find that many on the street, not that many. But they are on someone else's couch or somewhere. And it's still homelessness, but because of this community type of relationship, that's why they end up with some cousin or uncle (Community Organisation staff)

The elders get abused because they won't turn away family. They'll come in... They'll use all the power and eat all the food.... I see that a lot - really, really, really high utility bills... No one's contributing to the household. And they ...won't turn them away because they are family. They would rather put their housing at risk and their power at risk than say no (Community Organisation staff)

If you've split from your wife and the wife's got the kids, it's very hard for single men to get houses..... They want to have access to the children, but you can't have access unless you have a house, and you can't get the house unless you have the children. It's really going back and forth. And that causes all that family violence... It might be that one housing issue that feeds into so many... It affects so many people....And it's actually killing people. I can see a lot of our elders, like it's killing them (Community Organisation staff)



VIC: Tenancy and Accessing Help

Accessing Help

**...Stats removed until
release of VIC REPORT
(September 2013)...**

Who provided help

**...Stats removed until
release of VIC REPORT
(September 2013)...**

VIC: Tenancy - Accessing Help

I do know that a lot of my clients just do the 'head in the sand'.... (Housing sends things registered post. And our clients don't go down... They see the registered post letter in their letterbox and they go, 'That's got to be Housing and I don't want to know what that is.' So, they don't even get the mail because it's not sent as normal mail... (Indigenous Community Organisation staff)

Then there was one time I put a complaint in about one of our properties. I fell through the floor. I rang the real estate agent twice. They wouldn't do nothing. So I called the Tenancy Union, and within a week I'd got notice to vacate the premises. They knew that was a way of getting us because we have two little dogs, and to get a house in Melbourne with two little dogs, it's near impossible (Shepparton Men's Focus Group Participant)

A lot of people will not ask for help in any area whatsoever because it's shame. They are ashamed and they don't want to bring it on. They don't want to bring any services into their family (Indigenous Community Organisation staff)



VIC: Tenancy - Accessing Help

People haven't got a liaison person to speak for them, and know the jargon and the legalities about what needs to be said. Because people are entitled to have a healthy, good life, and to live in a stable home, same as anyone else, and not be punished. Especially if you have children, whether it is winter or summer, all those health issues, whether it's water or warmth, and I don't think people have got someone assertive enough to be able to talk on their behalf
(Shepparton Women's Focus Group Participant)

(In terms of being able to resolve things quickly and easily, what helps is)...the established relationships that we have with key people in the Office of Housing and other organisations. I think it's flagged a lot earlier and I think there is a real desire to work through some of those issues so it doesn't get to that stage
(of a VCAT hearing) (Community Organisation staff)

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