



## **VICTORIAN STATE JUSTICE POLICY POSITIONS**

Community Legal Centres have been working for more than thirty years to advance human rights and social justice. The following Policy Positions provide a snapshot of the Federation's current policy work and an insight into the relevance of social justice and human rights for our communities.

This document does not purport to cover everything there is to say about Justice Policy, nor have we included everything that the Federation or member centres have to say about laws and social systems that need reform. There are bound to be gaps.

The Federation looks forward to collaborating with the newly re-elected State Government to work towards greater social justice and human rights through the implementation of changes to the laws, policies and systems as outlined in our Policy Positions.

### ***About the Federation and Community Legal Centres***

The Federation of Community Legal Centres (Vic) Inc is the peak body for fifty-two Community Legal Centres across Victoria, including both generalist and specialist centres. Community Legal Centres provide free legal advice, information, assistance and representation to more than 60,000 Victorians each year. We exercise an integrated approach combining assistance of individual clients with preventative community legal education and strategic research, casework, policy development and social and law reform activities.

The Federation, as a peak body, facilitates collaboration across a diverse membership. Workers and volunteers throughout Victoria come together through working groups and other formal and informal networks to exchange ideas and strategise for change. We work in alliances – locally, interstate, nationally and internationally.

The day-to-day work of Community Legal Centres reflects a thirty year commitment to social justice, human rights, equity, democracy and community participation.

### ***Community Knowledge, Experience & Justice Policy***

Community Legal Centres have expertise in working with excluded and disadvantaged communities and people from culturally and linguistically diverse backgrounds.

We operate within a community development framework. We provide a bridge between disadvantaged and marginalised communities and the justice system. We work with the communities of which we are a part. We listen, we learn, and we provide the infrastructure necessary for our communities' knowledge and experiences to be heard.

The diversity of our communities highlights the breadth of justice related issues facing Victorians today.



## **Key Themes**

### ***Justice is:***

#### ***An accessible justice system***

A just and accessible legal system is a necessary component of a strong community. Access to justice means:

- A legal system that is fair, welcoming and easy for all members of the community to use, regardless of disadvantage.
- Adequate remedies are available throughout the legal system to address violations of rights and injustice.
- All members of the community have an understanding of the legal system, their rights within it and their options for achieving justice.
- All members of the community have access to legal advice to assist them to decide which avenue to choose for a particular legal issue or problem and to assist them to take or defend a legal action.

#### ***Civil and Political Justice***

Respect for the rule of law and fundamental civil liberties are necessary components of a vibrant democracy. Civil and political justice includes:

- Respect for fundamental civil and political rights, despite the threat of terrorism.
- Legal protection for the right to protest and for freedom of speech about matters of public interest, political debate and dissent.
- Humane treatment of people caught up in the criminal justice system.
- Safe public spaces for the enjoyment of all members of the community.

#### ***Economic, Social and Cultural Justice***

A strong society delivers justice and equity for Aboriginal and Torres Strait Islander people, values diversity and invests in the vulnerable and disadvantaged communities living within it. Economic, social and cultural justice includes:

- Adequate standards of living including housing and income.
- The right of women and children to be free from violence.
- Social supports to enable people with special needs in the community to fully participate in all aspects of community life.
- Financial penalties appropriate to income.
- Adequate support for victims of crime.
- A focus on addressing the causes of offending, crime prevention, rehabilitation and recidivism prevention.

#### ***Guaranteed Human Rights Protections***

Respect for human rights is a fundamental component of a just society. The human rights contained in major international human rights instruments should be recognised and protected by law and promoted systematically through community education. To give these rights substantial meaning there should be adequate remedies including an individual right of action and the power to award damages.



## **An accessible justice system**

All Australians, regardless of income and location, should have access to the legal services and advocacy necessary to protect their rights and interests, and should be entitled to equality before the law.<sup>1</sup> Community Legal Centres provide free legal advice, information, assistance, representation and community legal education to more than 60,000 Victorians each year. Overwhelmingly, the people who use Community Legal Centres are on low incomes, with most receiving some form of pension or benefit. Community Legal Centres also assist a considerable number of people from culturally and linguistically diverse communities and provide a bridge between disadvantaged and marginalised communities and the justice system. The ongoing strengthening and provision of resources to Community Legal Centres assists in making Victoria's justice system more accessible for all Victorians.

The Federation calls for:

- The strengthening and modernisation of community legal centre infrastructure as a resource for building stronger communities.
- Innovations in community legal centre service delivery to expand services to disadvantaged Victorians in particular culturally and linguistically diverse (CALD), refugee and newly arrived communities, rural and regional communities, women experiencing family violence, prisoners and older persons.
- The greater provision of legal aid resources across all areas of law including civil, criminal and administrative law.
- Amendments to the *Wrongs Act 1958* (Vic) to ensure that people who have sustained a physical or mental injury through the fault of a third party have access to common law actions for personal injuries.
- Reforms to practises and processes to ensure courts are accessible for diverse communities.



## **Civil and Political Justice**

The Federation supports the guarantee of the rule of law and the protection of fundamental civil liberties, despite the threat of terrorism. These fundamental civil liberties include the right to demonstrate, to critique government, to a fair trial, to equality before the law, to freedom from arbitrary detention, to remain silent when questioned by police, to freedom of association and membership of organisations of choice, and to the presumption of innocence.

### ***Anti-terrorism laws***

Since September 11, 2001 over 32 pieces of anti-terrorism legislation have been implemented at state and federal levels. Much of this legislation was intended as an extraordinary measure to deal with particular historical circumstances, and in many ways represents a departure from traditional legal principles and practices.<sup>ii</sup> These laws have a significant impact on civil liberties, and disproportionately impact on the Muslim community.<sup>iii</sup> It is not clear, however, that these legislative measures more effectively deal with the threat of terrorism in Australia. Current anti-terrorism legislation does not strike a balance between protection of civil liberties and an appropriate response to the threat of terrorism.

The Federation calls for:

- Independent research into the criminal justice system's ability to meet the threat of terrorism without specific legislation.
- The containment of state and federal police special powers, the power to detain non-suspects without charge and the power to conduct covert searches, until such independent research has been conducted.

### ***Community participation in public debate***

The Federation supports fundamental principles of democracy. The increasing phenomenon of litigation against community participation in public issues has the serious effect of chilling public debate and silencing voices which should be heard in a democratic society.<sup>iv</sup> Free speech and robust public debate, together with the ability to participate in community and political activity without the fear of litigation, are fundamental rights in a democratic society. The Federation also supports the democratic right to protest and assemble peacefully.

The Federation calls for:

- The enactment of state legislation to protect individuals and groups from defamation actions that are aimed at silencing debate about matters of public interest, political debate and dissent.



## ***The Coronial Process***

Community Legal Centres have a long history of representing families at Coronial Inquests, including inquests related to deaths of people in the custody of police, prisons, juvenile justice centres and detention centres, and deaths as a result of fatal shootings by police. The Federation supports reforms to the coronial system that strengthen its preventative potential and provide for greater involvement of families.

In 2006, the Victorian Parliamentary Law Reform Committee conducted a major review of the *Coroner's Act 1985 (Vic)*. The Committee's Final Report contains a comprehensive set of recommendations that will assist to address deficiencies and improve the coronial system in Victoria. The Final Report also revisits many of the recommendations of the Royal Commission into Aboriginal Deaths in Custody that are yet to be implemented.

The Federation calls for:

- Reforms to the *Coroners Act 1985 (Vic)* to make coronial recommendations enforceable and to give the Coroner powers to monitor the implementation of recommendations.
- Reforms to the *Coroners Act 1985 (Vic)* to provide family members with greater access to information and the right to be kept informed about decision-making processes.
- The expansion of legal aid grant guidelines and the establishment of a specific pool of funds to enable community legal centres to provide legal representation for families at inquests.

## ***Police Powers***

The Federation supports a community policing model that protects the community, is responsive to the needs of disadvantaged and vulnerable communities, including people with a psychiatric disability and women experiencing family violence, and is transparent and accountable. Government must show leadership in implementing crime prevention measures without resort to expanded police powers or weaponry. Immediate steps must also be taken to reduce the number of fatal and other shootings by police in Victoria without resort to violence and the use of taser guns, capsicum spray and other such weaponry.

The Federation calls for:

- The establishment of an independent Criminal Justice Commission to receive, investigate and report on complaints concerning the police and corruption.
- The establishment of a Crimes Statistical Unit, independent of police and government, to monitor crime statistics, investigate prison demographics and the causes of crime, provide accurate statistical information to the community and provide independent advice to government.
- The establishment of crisis intervention support to assist police to diffuse situations and make appropriate referrals in situations where there are crisis mental health issues.



- The introduction of adequate safeguards in legislation to protect the community from arbitrary police searches and the overuse of search and strip-search powers.
- The right to hold police accountable when they overstep the line, including the right to sue.

### ***Public Space without expanded police powers***

The increasing regulation of public space disproportionately impacts on young people, and can criminalise non-criminal behaviours, drawing more young people into the criminal justice system.<sup>v</sup> Regulations controlling and policing the use of public space such as anti-social behaviour orders and curfews can restrict the use and enjoyment of public space by young people.

Increased regulation of public space also disproportionately impacts on marginalised and disadvantaged communities, and criminalises systemic social issues such as mental health and homelessness.

The Federation supports policies that create and maintain equitable and safe access to public spaces, and crime prevention frameworks that enhance public safety rather than punitive responses that fail to address underlying social issues.

The Federation calls for:

- Crime deterrence and prevention initiatives in public places including better lighting, better and faster public transport and staffed transport waiting areas, such as at train stations and super-taxi stops.
- The establishment of additional meeting and activity centres for young people, as part of a range of safe recreational places available for young people. These spaces should not be used as an alternative to facing criminal charges.
- Additional regulation of the security industry and venue operators to ensure adequate accountability measures for staff behaviour. There should also be training of staff to ensure compliance with accepted standards of behaviour and acceptable treatment of diverse venue users.
- The meaningful involvement of consumers, including young people and Aboriginal and Torres Strait Islander people, as well as stakeholders representing consumer groups, in the ongoing development of policies about the use of public space.



## **Economic, Social and Cultural Justice**

### ***Justice for Aboriginal and Torres Strait Islander People***

The Federation is strongly committed to justice for Aboriginal and Torres Strait Islander People. Despite the recommendations of the Royal Commission into Aboriginal Deaths in Custody, Aboriginal and Torres Strait Islander people are still over-represented at every level of the criminal justice system.<sup>vi</sup> In Victoria, Aboriginal and Torres Strait Islander people are more likely to re-offend within two years of leaving prison, more likely to be sentenced to prison than community based orders and more likely to be incarcerated in a maximum security prison.<sup>vii</sup> Aboriginal and Torres Strait Islander youth in Victoria are three times more likely to be cautioned when processed by police.<sup>viii</sup> These statistics contribute to the extent of Koori over-representation in prison and in the criminal justice system as a whole.

The overwhelming and underlying reason for this over-representation is social, economic and cultural disadvantage.<sup>ix</sup> Aboriginal and Torres Strait Islander Victorians have poorer health status, higher rates of mental illness, lower levels of education attainment and employment, lower birth rates and lower life expectancy than the general population.<sup>x</sup> This disadvantage results from Aboriginal and Torres Strait Islander peoples having been dispossessed from their land and culture and being forcibly removed from their families.<sup>xi</sup> Any attempt to address the over-representation of Aboriginal and Torres Strait Islander people in the criminal justice system must also address the disadvantage that underlies it.

The Federation calls for:

- The government to commence the process of developing a fair and just settlement of the grievances between Aboriginal and Torres Strait Islander and non-Aboriginal and Torres Strait Islander Australians, culminating in formal treaties between our peoples.
- Processes that broker genuine agreements which respect Aboriginal and Torres Strait Islander self-determination.

### ***Children and young people***

The Federation supports increased adherence to the fundamental rights and freedoms contained in the Convention on the Rights of the Child. There is currently no mechanism to adequately monitor the implementation of the Convention on the Rights of the Child in Victoria.<sup>xii</sup>

The Federation calls for:

- The establishment of a Victorian Children and Young People's Commission, independent of government, to ensure that the rights and wellbeing of children and young people are protected and promoted.

Victoria's child protection system should improve the situation for 'vulnerable children and young people so that they have a greater opportunity to thrive, learn and grow



and are respected and valued to become effective adults'.<sup>xiii</sup> This means not only protecting children from harm and abuse, but in doing so prioritising the best interests of the child and recognising the importance of family, the importance of cultural links and the importance of the views of the child being taken into account. The system should not discriminate against vulnerable or disadvantaged families, including parents with a disability and families from culturally and linguistically diverse backgrounds. The system should also be able to address the needs of young people aged 15 to 25 years, and provide adequate supports for young people leaving care.

The Federation calls for:

- Independent monitoring and evaluation of the impact of the recent changes to the child protection system implemented through the *Children, Youth and Families Act 2005* (Vic), in particular to assess the impact upon vulnerable groups including parents with disabilities and Aboriginal and Torres Strait Islander families.
- Significant increased resources for the child protection system, including support services for vulnerable families and parents with disabilities.
- Expanded resources to ensure that advocacy services are available at the first point of contact with child protection services, focusing on specialist advocacy for vulnerable groups.

## **Consumer Protection**

Regulation of consumer credit is an important consumer protection, given the nature of consumer credit transactions and the impact such transactions can have on consumers if they are not properly and fairly managed. This is particularly the case for vulnerable and disadvantaged consumers. Currently, those consumers who are not low income and not disadvantaged have better access to remedies and better levels of protection, because their financial dealings are generally covered by the *Corporations Act 2001* (Cth).<sup>xiv</sup>

There are fundamental problems with the regulation of credit in Australia. Since implementation of the Uniform Consumer Credit Code, and the *Consumer Credit Act 1995* (Vic) at a state level, little attention has been paid to identifying areas in which the legislation has failed to properly protect consumers, or to provide a legislative response where such areas have been identified. In particular, one of the defining features of regulation of consumer credit in Australia is the extent to which the Credit Code is avoided by credit providers. Even where a transaction is clearly regulated by the *Consumer Credit Act 1995* (Vic), and the credit provider complies with its obligations pursuant to the legislation, there are numerous circumstances in which a consumer is denied even basic protections, such as might reasonably be expected to be provided.<sup>xv</sup>

The Federation supports the strengthening of the *Consumer Credit Act 1995* (Vic) and the expansion of the jurisdiction of the Uniform Consumer Credit Code to strengthen consumer protection provisions. There is also a need for increased consumer awareness and financial literacy, in particular with disadvantaged and vulnerable communities.



The Federation calls for:

- The development and expansion of not for profit community 'No Interest Loan Schemes' with government support.
- The strengthening of the *Consumer Credit Act 1995* (Vic) and the expansion of the jurisdiction of the Uniform Consumer Credit Code to include commercial micro finance and micro credit products such as payday lenders and pawnbrokers.
- A review of the Uniform Consumer Credit Code advertising provisions to strengthen consumer protection provisions.
- The development of guidelines that standardise credit provider assessments of a borrower's capacity to re-pay loans.
- The strengthening of the *Fair Trading Act 1999* (Vic) to include credit contracts in Part 2B and comparable legislation to the *Fair Trading Act 1992* (ACT) s28A governing the provision of increased credit card limits.
- The enactment of regulations requiring all credit providers, finance brokers and intermediaries to be licensed and to belong to an Alternative Dispute Resolution Scheme.
- Adequate resourcing of the regulator in order to monitor compliance and pursue enforcement of consumer credit contracts and practices.

### ***The Criminal Justice System***

The Federation strongly supports measures to tackle the underlying causes of crime that result in the overrepresentation in the criminal justice system of Aboriginal and Torres Strait Islander people, young people and people with a psychiatric or other disability. Crime prevention, rehabilitation and recidivism prevention programs should be expanded. Measures that would result in increased penalties and imprisonment rates or further stigmatisation of offenders who have completed their sentence should be avoided.

The criminal justice system must better recognise and respond appropriately to the individual needs of offenders. The community's response to psychiatric disability and drug and alcohol abuse must move away from a criminal justice response to diversion into the health and social support systems. Appropriate treatment and support options should be prioritised over imprisonment or other unrealistic penalties. Supports should be culturally specific and tailored to the needs of young offenders.

The Federation calls for:

- The enhancement and expansion of diversion options so that they are available to a wide range of disadvantaged and marginalised groups. This expansion should include the introduction of discretion for courts to dismiss charges in appropriate cases without a finding of guilt or prosecution consent.
- Reforms to the *Bail Act 1977* (Vic) and Victoria Police procedures to address the inequitable impacts of the bail system on disadvantaged and vulnerable accused.
- The regulation of the disclosure, expiration and use of criminal records and convictions, including the establishment of a spent convictions scheme, to reduce the stigma attached to criminal records.



- The decriminalisation of behaviours that have a disproportionate effect on disadvantaged, vulnerable and Aboriginal and Torres Strait Islander communities, including public drunkenness.
- The retention of suspended sentences as a sentencing option under the *Sentencing Act 1991* (Vic) with the significant expansion of additional resources for support services and supervision.
- Community education strategies that educate the media and the community about the important role of suspended sentencing and conditional orders
- Reforms to the *Crimes (Mental Impairment and Unfitness to be Tried) Act 1997* (Vic) to eliminate discrimination against forensic patients including the introduction of finite terms for supervision orders.

## ***Family Violence***

The Federation supports the right of all women and children to live free from violence. According to the Victorian Health Report (2004), family violence is the most common cause of death, disability and illness in Victorian women under the age of forty-five. Moreover, Access Economics reported in 2004 that the cost of family violence to the Victorian economy was \$2 billion over a twelve month period. Significant reform of the justice and social systems is long overdue. In 2006, the Victorian Law Reform Commission finalised its extensive *Review of Family Violence Laws*. The *Final Report* calls for extensive reform of legislation, practice and policy to improve the justice system's response to family violence.

The Federation calls for:

- Reforms of the justice system response to family violence in Victoria through a comprehensive, timely and accountable implementation of the recommendations contained in the Victorian Law Reform Commission *Review of Family Violence Laws Report* (2006).
- Work by government and community agencies towards providing a coordinated and integrated justice system response to family violence across government and community. This requires a collaborative approach to policy and protocol development, working from a basis of shared principles and mechanisms for ongoing monitoring and review of systemic responses and structures.
- The justice system adopting a variety of processes to create a more flexible system that is better equipped to deal with a complex and diverse range of behaviours and is accessible to diverse communities.
- The allocation of significant new and ongoing resources to family violence prevention and support programs, in particular for community legal centres to consolidate and expand the family violence lawyers network.
- Reforms to the family violence system that educate the community and can send a clear message that family violence is not acceptable in our community. We do not believe that increased rates of imprisonment of perpetrators or increased penalties imposed by the criminal justice system will achieve this.
- The monitoring of recent changes to laws on provocation, self-defence and the admission of domestic violence history as evidence, to ensure that women who kill their violent partners to protect themselves benefit from these changes.



## ***Infringements***

Approximately 5% of the advice and casework services provided by community legal centres in 2005-06 originated from fines or infringements. The vast majority of these people are experiencing mental health or significant health issues, homelessness or some other form of disadvantage or are refugees newly arrived into the community. Very few of these people have the capacity to pay the fines and for most their financial situation is unlikely to improve in the foreseeable future.

The current infringement system needs to be more flexible to take into account personal and financial circumstances. There also needs to be more emphasis on diversion at the earliest possible opportunity, so that members of the community who have limited or no capacity to pay fines do not receive them.

The fine enforcement system should be easy to use and understand, give clear information about options to people who are fined, and must be non-discriminatory.

The Federation calls for:

- Enforceable guidelines for issuing and enforcement authorities that allow the exercise of discretion in relation to fines in circumstances where there was no intent to offend and the person is in a category of disadvantage.
- The inclusion of hardship provisions within infringement systems to enable people experiencing financial stress to apply for fines to be reduced to a sum proportional to their income.
- The option of unpaid community work as an alternative to the payment of fines.
- The discretion of the Court in taking into account all relevant circumstances when considering the most appropriate sentence for all matters related to unpaid fines.
- The establishment of an independent body to receive and investigate complaints in relation to the use of public transport and the conduct of enforcement agencies, with the power to make binding and enforceable decisions.

## ***People with a disability, mental health issue or cognitive impairment***

The Federation supports the protection of rights of people with disability as outlined in the new United Nations *Convention on Rights of Persons with Disabilities* and calls for the Victorian government to enact measures to ensure its rapid implementation in Victoria. The Federation believes that people with disabilities have the right to equal treatment before the law and to the same fundamental rights as the rest of the community.

The Federation calls for:

- The inclusion in the *Residential Tenancies Act 1997* (Vic) of provisions dealing with tenants in supported accommodation.
- The removal of barriers to accessing justice for survivors of sexual assault with cognitive impairment or complex communication needs.



- Reforms to legal processes that increase access to justice for people with cognitive impairment and complex communication needs who are survivors of sexual offences.
- Establishment of accessible, independent and adequately empowered complaints processes for people with disabilities.
- The piloting and establishment of a 24 hour Advocacy service to assist sexual assault survivors with a cognitive impairment through the legal system.

The Federation supports the rights of people with mental health problems to have the best quality, least aversive treatment and support possible. Every effort should be made to avoid involuntary treatment.

The Federation calls for:

- Amendments to the *Mental Health Act 1986* (Vic.) consistent with the United Nations Principles for the Protection of Persons with Mental Illness and improvement of Mental Health Care by:
  - Introducing timely review by the Mental Health Review Board such that the 70% of involuntary patients not having hearings are reviewed.
  - Introducing a right to review by the Mental Health Review Board of decisions to administer electroconvulsive therapy without consent.
  - Guaranteeing and resourcing legal representation for all involuntary patients coming before the Mental Health Review Board who wish to have it.
  - Empowering the Mental Health Review Board to vary people's treatment plans in appropriate cases.
  - Establishing an accessible, independent and adequately empowered complaints mechanism for people with psychiatric disability.
  - Enabling those who have capacity to consent the right to refuse unwanted psychiatric treatment.
  - Introduction of enforceable advance directives to enable people with psychiatric disability to make decisions in advance about their treatment and personal affairs, which will be respected if and when they are deemed to have lost capacity.
  - Introduction of safe mental health services, including by the establishment of separate specialist services for women and girls.

## **Prisons**

In the last five years, imprisonment rates have increased by 14 per cent and prison expenditure has increased an additional \$55 million. Yet 80 per cent of the prison population have a mental illness and five per cent are Aboriginal and Torres Strait Islander.<sup>xvi</sup> The Federation actively supports the reallocation of funds for new prisons and the allocation of substantial new resources towards diversionary and rehabilitative programs that address the causes of offending, including drug and alcohol abuse, health and mental health issues, poverty and other disadvantage.

The protection of the humanity and inherent dignity of all persons deprived of liberty is a fundamental human right. Prison should provide the opportunity for rehabilitation and reintegration. Practices and procedures in Victorian prisons should not



discriminate on the basis of gender or sex, race, ethnicity, religion or cognitive impairment.

The Federation calls for:

- Government support for the establishment of a Centre for the Human Rights of Imprisoned People.
- Increased resources for health, education and support services in prisons and for pre-release leave and post release programs that seek to break the cycle of offending, including accommodation, family reunification, and pathways to employment and education.
- The establishment of specialist forensic assessment, treatment and support units within all prisons for people with mental health and other cognitive disabilities.
- A public review of government policy in relation to the management of vulnerable prisoners, including people with psychiatric disability.
- A moratorium on the expansion of the private prison network in Victoria.
- Rigorous monitoring and probity checks by government of the management of private prisons and compliance with contracts.
- The provision of more information to the public about private contracts and prison monitoring.

### ***Standards of living***

The Federation supports adequate standards of living. Housing is essential to wellbeing. It should be safe, secure and not jeopardise the health and welfare of occupants. Because there are no rental housing standards in Victoria, housing can be available for rent even though it lacks basic amenities such as running hot water, a heater and a working oven or stove, is insecure because of inadequate locks on windows and doors, or is unsafe or unhealthy because of structural defects. Currently, there is a shortage of affordable rental properties in Victoria, and many tenants have no choice but to rent properties without basic levels of amenity.<sup>xvii</sup>

The Federation calls for:

- State regulation of minimum community standards for health, safety and energy efficiency for rental accommodation.
- The introduction of independent merits review of public housing decisions by VCAT through its administrative law list.
- Access to full tenancy rights and adequate complaints processes for residents in supported residential services, rooming houses and crisis accommodation.

### ***Victims of Crime***

An Australian Institute of Criminology survey has found that more than half of all Australians surveyed have been a victim of crime in the preceding five years, with the majority of personal crimes experienced being assault.<sup>xviii</sup> Currently, the *Victims' of Crime Assistance Act 1996* (Vic) does not provide adequate financial compensation to victims of sexual or physical assault. The Federation supports the existence of a well-resourced statutory Victims of Crime Assistance Scheme and a well-resourced



Victims Support Agency that meet the needs of victims of crime and are accessible to victims of crime from diverse backgrounds. Victims should be treated with respect and should have access to information and services, including restorative justice programs where appropriate, to ensure that their interactions with the criminal justice system are healing and do not involve secondary victimisation.<sup>xix</sup>

The Federation calls for:

- Reforms to legal processes and practices to overcome the re-victimisation suffered by survivors of violent crimes and particularly victims of sexual offences seeking access to justice.
- Government funded financial compensation for victims of crime to a level that truly reflects the pain and suffering the victim has experienced as a result of the crime.
- A Victims of Crime Register to be formulated so as to ensure the protection of the victim without imposing a punitive monitoring system on all prisoners.



## Guaranteed Human Rights Protections

The Federation supports greater human rights promotion and protection in Victoria that gives effect to all major international human rights conventions, including those related to economic, social and cultural rights, rather than just civil and political rights.

The continued expanding gap between rich and poor in our community is evidence of the need for increased attention to be directed towards overcoming disadvantage in both our legal and social systems.<sup>xx</sup> Further resources and programs need to be directed towards addressing the underlying causes and effects of socio-economic disadvantage.

Community education around human rights must play a central role in building a culture of respect and dignity. For rights to have any meaning there should also be adequate remedies including an individual right of action and the power to award damages.

The Federation calls for:

- Expansion of the *Victorian Charter of Human Rights* to give expression to all major international human rights conventions in particular the right to indigenous self-determination and rights contained in the International Covenant on Economic, Social and Cultural Rights and to confer an individual right of remedy, that may result in damages, compensation and other remedies such as apologies.
- A comprehensive and ongoing education strategy in collaboration with communities and community leaders promoting human rights.
- A review of existing legislation, regulations and policy to ensure compliance with the *Victorian Charter of Human Rights*.
- The preservation of human rights principles in all instances, except if there is a declared State of Emergency in keeping with Article 4 of the International Covenant on Civil and Political Rights.
- Reforms to the *Equal Opportunity Act 1995* (Vic) to:
  - Repeal statutory exemptions other than those which are positive and in line with affirmative action;
  - Allow for investigation and resolution of complaints about human rights contained in international instruments;
  - Provide for the Commissioner's 'own motion investigation' for systemic discrimination without the need for the Attorney-General's consent;
  - Prohibit discrimination on the basis of a person's criminal record and income or housing status.

---

<sup>i</sup> Stephen Bottomley and Stephen Parker *Access to Justice*, 82.

<sup>ii</sup> Marika Dias on behalf of the Federation of Community Legal Centres *Submission of the Federation of Community Legal Centres (Vic.) Inc to the Parliamentary Joint Committee on Intelligence and Security: Response to the Recommendations of the Security Legislation review Committee (The Sheller Inquiry)* (2006).



- 
- <sup>iii</sup> Marika Dias and Vicki Sentas on behalf of the Federation of Community Legal Centres *Submission of the Federation of Community Legal Centres (Vic) Inc to the Senate and Constitutional Legislation Committee : Anti-Terrorism Bill (No.2) 2005 (Cth)*.(2005).
- <sup>iv</sup> *Public Interest Lawyers' Statement in Support of Public Participation Law Reform* (2005) Gunns 20 Website <http://www.gunns20.org/> at 2 November 2006.
- <sup>v</sup> Youthlaw, *Youthlaw Vision: A Just and Equitable society for young people: Youthlaw Policy Platform Victorian Election 2006* , 16.
- <sup>vi</sup> *Victorian Aboriginal Justice Agreement Phase 2* (2006), 16.
- <sup>vii</sup> *Victorian Aboriginal Justice Agreement Phase 2* (2006), 8.
- <sup>viii</sup> *Victorian Aboriginal Justice Agreement Phase 2* (2006), 8.
- <sup>ix</sup> *Victorian Aboriginal Justice Agreement Phase 2* (2006), 14.
- <sup>x</sup> Aboriginal Affairs Victoria, *The Victorian Government Indigenous Affairs Report July 2002 – July 2004*, Department of Victorian Communities, Melbourne, (2005), 38.
- <sup>xi</sup> *Victorian Aboriginal Justice Agreement Phase 2* (2006), 14.
- <sup>xii</sup> Youthlaw, *Youthlaw Vision: A Just and Equitable society for young people: Youthlaw Policy Platform Victorian Election 2006*, 23.
- <sup>xiii</sup> *Children, Youth and Families Act 2005* (Vic), Second Reading Speech, 6<sup>th</sup> October 2005.
- <sup>xiv</sup> Consumer Credit Legal Service and Consumer Law Centre Victoria *Submission to James Merlino MP Member for Monbulk : Consumer Credit Review Issues Paper* August 2005 <http://www.ccls.org.au/pdfs/Consumer%20Credit%20Review%20CCLSLCV%20Submission.pdf> at 13 December 2006.
- <sup>xv</sup> David Niven and Tom Gough for the Consumer Credit Legal Service, *The Operation of the Consumer Credit Code* <http://www.ccls.org.au/pdfs/ucccreview.pdf> at 13 December 2006.
- <sup>xvi</sup> Victorian Council of Social Service, *Building a Strong and Fair Community, Call to Parties, 2006 Victorian State Election*, 37.
- <sup>xvii</sup> Tenants Union of Victoria *Rental Housing Standards Information Sheet* [http://www.tuv.org.au/social-change/current\\_projects.aspx](http://www.tuv.org.au/social-change/current_projects.aspx). at 20 November 2006.
- <sup>xviii</sup> In 2004, 52% of those surveyed had experienced crime at least once in the previous five years. Within the previous 17% had been victims of crime. 29% of those surveyed had been victims of personal crime, with the majority of personal crime experienced being assault. Australian Institute of Criminology *Crime victimisation* (Chapter 3 from *Australian crime : facts and figures 2005*) <http://www.aic.gov.au/stats/victims/victims.html>. at 15 November 2006.
- <sup>xix</sup> Youthlaw, *Youthlaw Vision: A Just and Equitable society for young people: Youthlaw Policy Platform Victorian Election 2006*, 16.
- <sup>xx</sup> Ann Harding, Mandy Yap and Rachel Lloyd *AMP-NATSEM Income and Wealth Report Issue 8: Trends in Spatial Income Inequality* September 2004, AMP-NATSEM Income and Wealth Report Issue 8.