2000

THE UNIVERSITY OF NEW SOUTH WALES

Annual Report

Kingsford Legal Centre

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Dean's Foreword

At the UNSW Law graduation ceremony in May 2001, Sir William Deane said that the mark of a legal system is not only its efficiency and fairness but its availability to ordinary people. This latter measure comes down to lawyers. Eighty years ago Alfred Reed, in his classic study of the development of US legal education said that lawyers are "part of the governing mechanism of the state. Their functions are in a broad sense political". This is due to the "fact, early discovered … that private individuals cannot secure justice without the aid of a special professional order to represent and to advise them. To this end lawyers were instituted, as a body of public servants, essential to the maintenance of private rights"[1].

This ideal has taken a battering in the years since. Law has become much more of a business and business values have powerfully shaped the manner on which it is practised. Some of those developments are said to have undermined the ethical foundations of legal practice and, in the words of Dean Anthony Kronman of Yale Law School, produced a "spiritual crisis that strikes the heart" of lawyers' pride in themselves. (He is writing of American lawyers.) Kronman's argument is that the legal profession has lost its shared aspiration and belief that the outstanding lawyer is not simply an accomplished technician but a person of prudence or practical wisdom.

> "For the character-virtue of practical wisdom is a central human excellence that has an intrinsic value of its own. So long as the cultivation and exercise of this virtue remained an important professional ideal, lawyers could therefore be confident that their work had intrinsic value too. But in the last generation this ideal has collapsed, and with it the professional self-confidence it once sustained"[2].

This concern about the displacement of practical wisdom from lawyers' aspirations is closely related to the decline of the notion of service as shaping lawyers' sense of professional identity and purpose. That requires a fuller argument than can be made here but readers will make their own judgments based on experience and observation.

Many educators believe that law school has a prime responsibility to nurture student involvement in the activities that contribute legal service and develop in students a justice and service consciousness. The role of the Kingsford Legal Centre is therefore extraordinarily important. But can other initiatives be taken?

One solution might be for Australian law students and law schools to get together nationally to push the pro bono agenda by developing a scheme that addresses legal need and writes the service ideal deep into the core of legal education.

Another is to make service obligatory. At a number of major North American law schools there is a requirement upon students to undertake an attachment as a volunteer to a legal office or agency typically involved with redressing the legal needs of poor people. Thus, Harvard Law School has recently introduced a requirement that all law students donate 40 hours of legal work pro bono as a course requirement. This is an effort to ensure the students get legal experience and are exposed to legal practice outside of the corporate firms which the majority of students will join upon graduation. Similar schemes have operated at some other major law schools such as Columbia Law School for a number of years.

The issues in a mandatory pro bono scheme are

sensitive and require careful attention to negative consequences that might flow from unskilful attempts at coercion to virtue. These are matters that take their place amongst many others in the coming review of the LLB at UNSW.

There is more to the LLB than contracts and corporations. Despite their technical complexity, both areas are no more than applied ethical discourse as to how rights and expectations should be adjusted and dealings framed so as to achieve outcomes that balance predictability and equity. This task of law is in service of society. The task of service also falls to law students and educators. It requires solid leadership that extends the work of the Kingsford Legal Centre in modelling the idea of law and lawyers being in service of social need and the enhancement of human potential. The beneficiaries may even include lost lawyers.

Paul Redmond

[1] A Z Reed, *Training for the Public Profession of the Law* (New York, Updike, 1921), p 3.

[2] A T Kronman, *The Lost Lawyer: Failing Ideals of the Legal Profession* (Cambridge, Belknap Press of Harvard University Press, 1993), p 2.

Director's Report

In 2000 the Centre went from strength to strength. The new employment law clinic started and has developed into a fully fledged legal service with 24 later year law students participating in the clinical teaching program and providing assistance to over 900 clients. The extremely hard work of Joanne Moffitt, our employment law solicitor and the private firms who have contributed lawyers to participate in the program has meant that the clinic has exceeded all the Centre's expectations.

We were honoured to receive the Vice Chancellor's Award for Teaching Excellence which was a great incentive for staff at the Centre to maintain and improve their high teaching standards and a recognition of the primary role of teaching at the Centre.

After participating in work to ensure the rights of tenants and homeless people were considered by government, we survived and even enjoyed the Olympics period.

The Centre has again played a leading role in NSW Combined Community Legal Centres and National Community Legal Centres work. In August 2000 Anna Cody was chosen to address the UN Committee on Economic Social and Cultural Rights in Geneva on behalf of community legal centres in respect of Australia's compliance with aspects of that Convention.

In short the Centre has consolidated its position as a leading exponent of clinical teaching and community legal service. I thank all the staff of the Centre for their commitment and skill, the volunteer lawyers for their never ending services to clients, the students for their enthusiasm and hard work and Paul Redmond, the Dean of UNSW Law school for his invaluable support. We look forward to 2001.

Frances Gibson

I have gained a strong sense of community contribution and an understanding of our social problems

Student Feedback

Clinical Legal Experience – Aims and Ethos

Kingsford Legal Centre's philosophy of legal education is that the law, ethical responsibilities and lawyering skills that law students should learn can effectively be taught through work for real clients. Through their work in clinical programs students not only learn to practice law but also to provide necessary legal services to disadvantaged clients and communities.

In the *Clinical Legal Experience* courses, the compulsory *Law Lawyers and Society* course and the clinical program in *Employment Law*, students develop their understanding of issues of social justice as well as developing interviewing, negotiation, drafting, submission writing and advocacy skills. They are introduced to the fundamentals of office management and explore ethical issues such as how to select potential clients when demand for legal services far outstrips the Centre's ability to assist.

The objectives of the courses are:

1. To develop students' critical appreciation of the law and legal system in Australia through participation in a legal practice working for clients who are financially or otherwise disadvantaged

2. To enhance students' contextual understanding of the law and legal process by exposing them to real clients with legal problems

3. To provide students with a detailed understanding of the legal aid system and develop students' understanding of issues of access to the legal system for the Australian community

4. To develop students' awareness of the role of lawyers in practice in the legal system

5. To develop students' understanding of ethics and responsibility in a workplace setting

6. To introduce students to the importance of developing basic lawyering skills to a high level of proficiency including communication, interviewing, drafting and negotiation

7. To develop students' ability to see beyond a casework approach to legal problems by providing opportunities to participate in campaign and education work

8. To encourage students to see the law as a vehicle which can be used to protect and develop human rights

Recent Students

SESSION I 2000 – CLE

Peter Alexander
Teena Balgi
Symone Bates
Nicholas Bender
Trent Le Brenton
Liz Caldon
Andy Chan
Amrita Chandra
Winnie Choy
Bet Collopy
Joanne Coorey
Sarah De Largie D'alton
Jeremy Eisman
Eric Ho
Stuart Irvine
Tom Kuan
Cecilia Minogue
Mark Newton
Chris Nunn
Lina Nguyen
Thomasin Opie
Mark Tan
Jasmine Tsen
Annelies von Tiedemann
Stephanie Wei-Ni Wen
Helen Wodak
Gary Yuen

SESSION 2 2000 – CLE

Gerald Aronstan
Stuart Connor
Brian Costello
Angela Cowan
Bernadette Duell
Lisa Emanuel
Bassina Farenblum
Ragnii Grainger
Matthew Grant
Sharon Krochmalik
Stephanie Lenn
Bobby Liontos
Adele Low
Timothy McCauley
Danielle Moutou
Sally Murphy
Karin Ragel
Sylvia Raptis
Trish Ryan
Marissa Sandler
Emily Sunman
Viet Chau Tran

SUMMER 2000 – CLE

Melissa Asimus
Rosilyn Bartley
Edita Berntsen
Scott Briggs
Angela Chan
John Cusick
Phoebe Emery
Melissa Goode
Krishni Goonesena
Samantha Joseph
Duane Kreighan
Seema Khanna
Jasmine Lee
Melissa Lewis
Amelia Meers
Amelia Montague
Sri Ogden
Wendy Pan
Terri Roberts
Scott Sanders
Michael Swan
James Thompson
Nicole Van de Gard

Before the course I wasn't sure if I wanted to become a lawyer or if I had the skills. Now I feel confident enough to say that I will be a damn good lawyer.

Student Feedback

Employment Law Clinic

The Commonwealth Government provides funding to Kingsford Legal Centre for clinical legal education for law students at the University of NSW. Due to the high demand in the community for advice on employment matters, the funding was allocated to setting up an employment law clinic and in March 2000, the Commonwealth Attorney General, the Honourable Daryl Williams, launched the new employment law clinical program.

The employment law clinic is unique in the fact that it provides students with the opportunity to specialise in one area of legal practice and preference is given to students who have previously done employment related subjects.

The employment clinic co-exists with the general clinical program at the Centre, so far very harmoniously, and all students appear to benefit enormously from the cross-fertilisation that occurs between the groups. We have places for a maximum of eight employment students per session. Students undertaking the clinic have a separate employment law class program and attend a reduced load of the general clinical legal education classes

Students gain experience in a wide range of employment matters such as unfair dismissals, unfair contracts, unpaid wages, workplace harassment and bullying, discrimination and work safety.

Casework undertaken by the students has predominantly involved assisting clients with underpayment of wages and/or entitlements and unfair dismissal matters. In the advanced stage of the course students have the opportunity to represent clients at conciliation depending on their interest in doing so, level of experience and ability. This aspect of the course has been enthusiastically taken up by many of our students who have represented clients at conciliation under supervision, and on their own with some very impressive results.

Our clients have benefited enormously from student representation as the majority of our clients are on low incomes and cannot afford a private solicitor especially in a jurisdiction where the average awards of compensation are very low and for this reason solicitors are not in a position to take these matters on spec. Legal aid is not available for unfair dismissals except for clients at special disadvantage. This year we have assisted 22 clients in settling their unfair dismissal matters and successfully represented one of our clients at arbitration in the Australian Industrial Relations Commission (see case note on *Phillips v Toyota Motor Corporation Pty Ltd*).

The Centre has had overwhelming support for the employment clinic from private practitioners specialising in employment law who have generously given their time to participating in our volunteer solicitor roster for weekly advice sessions and in delivering seminars as part of the class program. Students say they have gained invaluable practical experience in working with private practitioners in the advice sessions and have praised the high quality of the seminars. This year we have provided advice, information and referral on employment matters to 991 people.

SESSION 1 2000 – EMPLOYMENT LAW

David Ryan
Erin Driscoll
Vicki Fair
Banjo Stanton
Greg Moore

SESSION 2 2000 – EMPLOYMENT LAW

Melissa Asimus
Rosilyne Bartley
Sarah De Large D'Alton
Tara Ende
Tom Kuan
Cecilia Minogue
Lydia Savoulis

SUMMER 2000/01 – EMPLOYMENT LAW

Peter Alexander
Gerald Aronstan
Stewart Coulson
Jennifer Engel
Brian Kelleher
Sharon Krochmalik
Chen Fu Lioe
Paul Weston

National & International work

The Centre continues its work with other clinical legal educators in Australia by;

- maintaining a clinical listserve for clinical legal educators in Australia to communicate on issues of shared concern;

- publishing the Guide to Clinical Legal Education in Australian Universities 2000 which collects details of all clinical courses in Australia;

- continuing publication of the only newsletter on clinical legal education. This newsletter highlights developments in Australian CLE.

The Centre ran a number of sessions at the Sixth Australasian Conference on Clinical Legal Education held by La Trobe University at Beechworth from 7-9th December 2000. Workshops run by Centre staff were on clinics and social justice, mainstreaming clinical legal education in the curriculum and specialist clinics.

In July 2000 Frances Gibson attended the Midwest Clinical conference in St Louis, USA which was an invaluable chance to explore ideas about clinical teaching methods with US clinical educators.

Thank you to all the staff for the support you have given during the session. I have learned a great deal at KLC and it was one of the best courses I have undertaken.

Student Feedback

Working with the Community

Kingsford Legal Centre remains the only free legal service in the Eastern suburbs. We are grateful for the voluntary services of a dedicated group of solicitors and barristers who work with the staff of the Centre and students to provide a high degree of expertise in a broad range of legal areas. Our services are principally available to those living in the Randwick and Botany Council areas. The Centre also provides a state wide discrimination service and a Sydney Metropolitan wide employment law service. The services we provide include:

- on Tuesday and Thursday evenings – face to face appointments
- employment law advice on Wednesday afternoons
- telephone advice in the two evening sessions, plus employment law advice on Wednesday mornings
- day time appointments for those who are unable to attend at night time or with special needs
- Immediate, urgent advice for community workers in the local area during working hours
- A specialist discrimination advice and casework service
- A specialist employment law advice and casework service
- Specialist child support advice sessions on a fortnightly basis
- Specialist tenancy advice provided at the Centre with the assistance of the Eastern Area Tenants Service
- Ongoing legal casework and representation
- Referral to other agencies

2000 ADVICE TRENDS

In 2000 Kingsford Legal Centre:

- provided services to 4223 people, not including those reached through our community legal education or policy projects, an increase of over 40% since last year
- gave advice to 2637 people, of those 1728 in face to face interviews and 1057 via the telephone
- opened 375 new cases
- provided information and referral to 741 people
- dealt with 196 discrimination problems

Some of the trends in advice work have changed since our last annual report.

Since the establishment of the specialist employment law service we have assisted nearly 1,000 people with employment law problems. A significant part of this service is telephone advice with over 540 calls in the year.

Our area other of specialty, discrimination law, saw us giving advice to a wide range of people from around the State and this flowed into our casework practice.

There continues to be heavy demand for family law advice with 685 requests for assistance on family law matters in the year. These clients are also needing more complex assistance as they are often involved in litigation without legal representation. Obviously this level of advice is difficult for us to provide in a one off appointment. We are currently discussing ways of dealing with this situation including negotiating with the Legal Aid Commission to establish a family law outreach session staffed by legal aid lawyers at the centre.

One of the biggest growth areas in advice in 2000 was in regard to consumer and debt problems. With the number of requests for advice in this area doubling since 1999. Tenancy problems also pre-dominate with 195 queries in the year.

We continue to provide a large amount of advice on traffic offences and other criminal matters. Usually in these matters we do not provide representation but there are always exceptions . Neighbourhood disputes, social security problems and domestic violence also figure heavily in our advice work .

CASEWORK TRENDS AND KEY CASES

Kingsford Legal Centre's new employment law clinic assisted 22 applicants in unfair dismissal matters to negotiate settlements with their employers.

We assisted a man from a non-English speaking background who was dismissed from his job as manager of a 7 Eleven store when he refused to change his shifts from 2 night shifts and 3 day shifts per week to all night shifts. Mr Z had been an industrious and loyal worker for two years and had family responsibilities which made it impossible for him to work all night shifts. During his employment Mr Z had never been paid overtime or penalty rates for weekends, sick leave or annual leave entitlements.

We assisted him in negotiating a settlement of his unfair dismissal matter which included reinstatement with 8 weeks back pay and payment of his annual leave entitlements accrued over 2 years. Mr Z preserved his right to pursue other unpaid entitlements.

We assisted three women in separate cases of pregnancy discrimination involving termination of employment to reach satisfactory settlements of their matters. Two of the matters were lodged in the NSW Industrial Relations Commission and one was pursued in the Human Rights and Equal Opportunity Commission (HREOC).

One of the issues in dispute in the case conciliated at HREOC was whether Ms F was entitled to maternity leave when she became unfit for work one month prior to the date she had intended to commence maternity leave. This issue arose because Ms F had no sick leave entitlements and was one month short of 12 months employment.

The employer, a well know insurance company, refused to accept Ms F's medical certificates and argued that as she had not completed 12 months continuous service she was no longer entitled to maternity leave. We argued that the company's refusal to authorise her leave of absence so as to preclude her from qualifying for maternity leave amounted to unlawful discriminatory conduct on the basis of her pregnancy.

The matter was satisfactorily settled for payment of general damages, an apology, an undertaking by the employer to brief human resources staff in equal employment opportunity (EEO) and anti-discrimination legislation and review its EEO policies to include information on pregnancy discrimination.

The atmosphere at the Centre – there is a real warmth and energy which makes it very different to anywhere else I've worked

Student Feedback

UNFAIR DISMISSALS

***Helen Phillips v Toyota Motor Corporation Australia Ltd* – AIRC**

Helen Phillips worked for Toyota for seven years as a casual canteen assistant. During this time Ms Phillips was regularly offered work until she sustained a workers compensation injury. After notifying her intention to resume work, offers of work fell away dramatically until she was not offered any work at all. Ms Phillips made several attempts to clarify her employment status with Toyota and finally received a letter stating, *at this stage you will not be called upon to perform casual canteen duties.... all monies owing including superannuation will be forwarded to you...* On advice from KLC Ms Phillips lodged an unfair dismissal application in the Australian Industrial Relations Commission.

After two unsuccessful attempts to conciliate the matter, it was set down for arbitration on 23 November 2000 before Commissioner Lawson. Duncan Inverarity generously represented Ms Phillips on a pro bono basis.

At the hearing Toyota argued firstly, that there was no continuing employment relationship and in the alternative, that Ms Phillips had abandoned her employment. We argued that there was a termination at the initiative of the employer for which no valid reason was given and therefore was harsh, unjust or unreasonable.

Commissioner Lawson found in favour of Ms Phillips and ordered Toyota to pay her the equivalent of 3 months pay.

STOLEN GENERATIONS

Joy Williams Test Case

This is a case being brought by a member of the "stolen generation" against the NSW government. It is the first case of its kind to reach trial in Australia.

Our client, Joy Williams, is claiming damages for negligence, breach of fiduciary duty, breach of statutory duty and false imprisonment on the part of the Aborigines Welfare Board. In the 1940s, when our client was a child, the Board was under a statutory responsibility to 'provide for the custody and maintenance of the children of aborigines'.

Our client was separated from her mother shortly after birth and was then placed in a series of children's homes. She claims that having being placed in these homes, she was deprived of a maternal attachment figure, she suffered depression, and she was subjected to abuse and neglect. She claims that her disturbed behaviour should have been apparent to the Board and it should have taken steps to refer her to a child guidance clinic. However, having placed our client in one children's home shortly after her birth, and then arranging for her to be transferred to another one at the age of four, the Board made no further inquiries about her progress. Left untreated, her mental health was severely affected. By the time she left the home she had developed a psychiatric illness known as borderline personality disorder and soon afterwards became addicted to drugs and, later, alcohol.

The case has been running since 1989. The first landmark in the litigation came in 1993 when the Court of Appeal allowed an extension of the limitation period in which to take legal

action. In 1999 the matter went to trial in the NSW Supreme Court where we were unsuccessful. A subsequent appeal in August 2000 was also unsuccessful.

In essence, the judges of the Supreme Court found that the behaviour of our client at the children's home was not a cause for concern, so that the Board could not be held liable for the disrupted life she led after she left the home. They also found that the way that our client was treated in the two homes was not wrong by the standards of the day. Both the trial judge and the appeal judges were also reluctant to impose any legal duties upon the Board to look after children in our client's position which would leave the Board open to a claim for damages.

We have now applied to the High Court for special leave to appeal (this is the first step in lodging an appeal with the High Court to reconsider the Supreme Court's appeal decision). Our argument is that the Supreme Court judges were wrong in their assessment of our client's treatment and behaviour as a child, and that the Board, as an arm of the state, was under a legal duty to take active steps to look after the wellbeing of children in its care. The application for leave to appeal to the High Court will be heard by the Court on 22 June 2001.

IMMIGRATION

When Smiles Replace Tears

Being granted a visa to be allowed to live in Australia is no easy task. No one knows this better than our client, S. She has spent the last 11 years trying to obtain a visa, for her now 12 year old son to allow him to live with her in Australia.

Our Client's Case

Our client arrived in Australia on a visitor visa from Macedonia in 1990. At that time, her son B was only 11 months old. B was left in the care of his grandparents for what was intended to be a short term arrangement.

However, after arriving in Australia, Our client married and applied for residence. Meanwhile, B's application for a dependent child visa to Australia had been unsuccessful.

Our client sought review of the decision to refuse B's visa by the Migration Internal Review Office (MIRO). On review, the decision to refuse the visa was affirmed. Our client then sought review of this decision by the Migration Review Tribunal (MRT).

In order to obtain a visa, B was required to satisfy the prescribed criteria namely that he is the dependent child of an Australian citizen or permanent resident:

To qualify for the dependent child visa, B had to be wholly or substantially in the daily care and control of his mother. The officer reviewing the original application found that at no time did our client exercise any control over B's upbringing in matters of guidance and the making of decisions in issues of importance during his development, nor did she provide on-going daily care to her son that is the essence of being, as a minor child, dependent on an adult parent. This view was not unexpected, as past case law suggested that it was virtually impossible to exercise daily care and control of a child living in another country.

The review officer further noted that the Department of Immigration had invited Our client to lodge an application for a sub-class 104 visa ('last remaining relative' visa). At the time of this invitation, Our client received incor-

rect legal advice to review the sub-class 101 decision rather than lodge a new application for the sub-class104 visa.

Our client then contacted Kingsford Legal Centre (July 1997) and since that time, she lodged a sub-class 104 application. When war broke out in Yugoslavia the Australian Embassy in Belgrade closed for a period of 2 years and upon re-opening, the Embassy was unable to locate B's last remaining relative visa application. By the beginning of this year, after an array of wranglings with the Department and several solicitors not much had changed – B was still estranged from his mother. Our client was quite prepared to return to live in Macedonia if this application was unsuccessful.

We were finally granted a hearing date in March 2000, having lodged the review application in 1997. Vedna Jivan was now the solicitor in charge of the case and so began the task of preparing a submission to support our client's application for review, in the MRT, of the decision to refuse her son's dependent child visa.

Preparing for the Hearing

This included reading many decisions by Ellen Goodman, the Member who would be hearing our case. Reading Member Goodman's decisions was a fairly intimidating experience in that she seemed to be reluctant to grant visas in situations similar to our own. At the same time, we had to collect any primary evidence demonstrating our client's care over B over the past 11 years.

Before the Tribunal

Armed with our submissions and rather large evidence folder we went to the Tribunal. We were prepared for a two hour hearing involving phone interviews with our client's parents in Macedonia and then at least a six week wait before a decision was made. Needless to say we were shocked when the whole hearing went for a total of 18 minutes and a decision was handed down immediately.

The Tribunal Member told our emotional client that she had made a decision based on the submissions handed to her however she had a few things she needed to clarify with our client in order to be sure of her decision. The questions the member asked did not come as a surprise as they addressed some of the issues that we had grappled with while preparing our client's case. The Member was very impressed with our submission, saying that it was very comprehensive, convincing and one of the best she had ever seen. She said that the submission's discussion of cases in which "wholly or substantially in the daily care and control" was interpreted broadly was very convincing. The Member said she was prepared to adopt this broad interpretation in our case. Therefore, on the facts of our case she was convinced that B could be wholly or substantially in the daily care and control of our client, despite the geographical distance between them.

Smiles replaced tears as our client heard the news that B's visa was to be granted. The fear however that the Department of Immigration may appeal the decision was somewhat daunting but the 28 days passed without incident.

Postscript

It was an incredibly fulfilling experience to have met success in this uncompromising area of law, particularly as we knew it would result in the reunion of a mother and son. However, we all recognised that it is going to become increasingly harder to achieve these positive outcomes in light of the Government's announcement last year of new, more stringent immigration quotas. For example, only a handful of people

annually will be allowed to enter Australia on "last remaining relative visas."

B arrived in Australia to an elated mother on 25 April 2001. Congratulations to Sharon Krochmalik, Debbie Nathan and Marissa Sandler, a team of students who gave it their all.

COMMUNITY LEGAL EDUCATION

Further to last year's comprehensive survey on the CLE needs of the local community and community workers, the Centre as part of its Access and Equity policy has continued to be an active provider of legal education to the community in 2000. The Centre has formalised its program. Vedna Jivan, as CLE Coordinator now assigns one day per week towards the program. She has been assisted by Fay Bird, on College of Law placement who has been instrumental in setting up the program. Community legal initiatives by the Centre in 2000 included:

- talks and presentations
- information packs
- newsletters and articles
- radio interviews
- stalls at open days
- media campaigns
- pamphlets

Community legal education was provided on:

- discrimination
- domestic violence
- appearing in court
- victims compensation
- using interpreters
- interviewing
- wills and powers of attorney
- mobile phone contracts
- apprehended violence orders
- HIV and AIDS awareness
- tenancy
- family law
- mental health issues
- Stolen generation/Indigenous issues
- Working in the public interest

The Centre provided education sessions to community organisations, students, pensioners, volunteers and professional organisation such as:

- The Arabic Women's Association
- Seniors Groups
- Migration Agents
- RICC DV group
- Legal Aid Commission
- UNSW Legal Careers Fair
- Waverly Domestic Violence Court Assistance Scheme
- Vietnamese Judges delegation
- South Maroubra Tenants Group
- Eastern Suburbs Disability Interagency

With the new Employment law students at the Centre, initiatives are under way to incorporate CLE into the Employment law program. This includes radio programs, seminars any other inventive ways of providing CLE.

PUBLICATIONS

In 2000 the Centre continued its contribution to the Lawyers Practice Manual with Vedna Jivan on the Editorial Committee. In addition Anna Cody updated a chapter on "Complaints to the Anti Discrimination Board"and Frances Gibson updated a chapter on Legal; Aid Advice and Assistance in NSW". The Centre also contributed to the Law Handbook for which Frances Gibson wrote a chapter titled "Representing yourself in court".

I have gained more here than from any other single course at Uni. The friends I've made as well as the experiences I've had have been priceless. Mostly I've gained an understanding of the inequalities of the legal system and what can be done to lessen that inequality – invaluable

Student Feedback

Policy & Law Reform Work 2000 — Working for Human Rights

Policy and law reform work is an important feature of the Centre's work and it's commitment to human rights, social justice and a fairer legal system.

Our commitment to social justice is based on an understanding that human rights and social justice are two sides of the same coin. Without a fair and just legal system, human rights cannot be enforced, and without a basic legislative framework of human rights (including civil, political , social and economic rights) the legal system cannot claim to be fair or just.

Working for social justice is a central feature of KLC's teaching methods. In our clinical programme, all students are required to undertake a project, usually either a community legal education activity or a social/legal policy project. Each session, students also attend seminars on the practicalities of undertaking policy and law reform work and community legal education. In this way we hope to build upon the broad aims of the teaching programme to provide for justice education as well as legal education.

Issues we have worked on in the last year can be broadly categorised into the four following areas:

- Access to justice and the legal system
- Civil, political, social and economic rights
- Rights of the Indigenous community, particularly as regards the stolen generation:
- National and international work

ACCESS TO JUSTICE AND THE LEGAL SYSTEM

Examples include:

- Submissions to Legal Aid Board re changes to family and civil law structure:
- "Law For All" a research project and publication assessing legal need in the Inner Sydney region;
- NCOSS Family Law project "Going It Alone"
- Youth Justice Coalition research project into youth conferencing
- TAAP delegation to Minister for Fair Trading regarding funding for tenancy advice services
- Negotiations over the "Legal Helpline" telephone service,
- Participation in NSW Industrial Relations Commission Users group sub committee;
- Input into NSW Combined Group of CLC's pre-budget submission to State Government

RIGHTS OF THE INDIGENOUS COMMUNITY, PARTICULARLY AS REGARDS THE STOLEN GENERATION

Examples include:

- *Williams* test case litigation
- Submissions/appearance at Senate Enquiry re stolen generations

CIVIL, POLITICAL, SOCIAL AND ECONOMIC RIGHTS

Examples include:

- Submissions to Federal Government re Sex Discrimination Act and IVF
- Rentwatchers Campaign, including a public forum and the development and participation in the civil liberties "hotline" during Olympics
- Access to children for prisoners
- Submissions to State Government re same sex relationships
- Submission to HREOC consultation re age discrimination
- Submission to State Government re Bill of Rights
- Submission to Law Reform Commission Review of Anti-Discrimination Act 1977
- Submission to Attorney General re domestic violence

NATIONAL AND INTERNATIONAL WORK

Examples include:

- Contributed to the Australian Social and Economic Rights Project (ASERP) report to the United Nations Committee on Economic, Social and Cultural rights.
- Giving evidence on behalf of the ASERP at hearings of the United Nations Economic and Social and Cultural Rights Committee in Geneva on Australia's human rights record and the stolen generation.

KINGSFORD LEGAL CENTRE STAFF ARE ALSO MEMBERS OF THE FOLLOWING FORUMS

NSW Combined Group of Community Legal Centres –

Law Reform Committee

Human Rights and Discrimination Sub Committee

Employment Law Sub Committee

New South Wales Council of Social Services (NCOSS) Board

NSW Industrial Relations Commission User's Group

Boarders and Lodgers Action Group

Stolen Generation Network

NATIONAL ASSOCIATION OF COMMUNITY LEGAL CENTRES

Michelle Burrell is the NSW State Representative on this national peak body which represents community legal centres across the country. Michelle has particular responsibility for work on programme and funding issues. This includes negotiating with State and Federal governments on policy relating to the Community Legal Services Programme. In 2000, this work was largely focussed on the Service Standards and Performance Indicators Project and the development of a new national data system for community legal centres.

Amazing team and system at KLC. Great learning centre.

Student Feedback

LAW FOR ALL

In August 2000, the NSW Attorney General, Bob Debus, launched the report - "Law For All – An Analysis of Legal Needs in Inner Sydney" at Parliament House.

Jointly produced by Kingsford, Inner City, Marrickville and Redfern Legal Centres, much of the initial research was undertaken by Social Work students at KLC.

The project involved collating and analysing demographic data to indicate legal need in the Sydney region. In addition, structured interviews were undertaken with a range of organisations including community legal centres, community organisations, specialist support services, government agencies, the NSW Legal Aid Commission, and members of the private legal profession.

When reviewed for the Alternative Law Journal, by Andrea Durbach, Director of the Public Interest Advocacy Centre, Law For All was described as a "comprehensive, concise and opportune report, offering invaluable information and analysis which has application beyond the four centres and the communities that form the focus of the study".

Law For All has also been published by the NSW Law and Justice Foundation on its website at www.lawfoundation.net.au/grants/lawforall.html

RENTWATCHERS OLYMPIC HOTLINE

Rentwatchers is an action group of lawyers, tenants and housing workers, concerned about the impacts of the Sydney Olympics upon the people who live here, particularly tenants and people who are homeless.

In the run up to the Olympics we saw increased evictions and rapidly inflated rents as landlords sought to cash in. We also saw the government introduce draconian legislation to remove basic civil liberties such as the right to assemble or protest freely in particular parts of Sydney. The police and Olympic security personnel were also given increased powers to move on homeless people or others deemed to be a nuisance such as young people.

In order to keep an eye on the police and to ensure the additional powers were not abused Rentwatchers established an assistance line which operated for the duration of the Olympic Games 24hours/day, 7days/week. The aim of the telephone service was to provide a point of contact to those who feel that they have been subjected to unnecessary force by the police or other "authorised persons" or that their rights had been violated as a consequence of the operation of the new laws, and particularly to provide legal assistance to homeless people who have been arrested or detained. 35 volunteer solicitors (including those at KLC) were rostered to be on call. The role of the volunteers was to respond to requests for advice after arrests, provide advice to homeless/youth on the phone or face to face, visit persons in gaol and appear in court for bail hearings.

WORKING WITH THE UNITED NATIONS

In August Anna Cody travelled to Geneva to appear before the United Nations Committee on Economic Social and Cultural Rights, the body responsible for monitoring the implementation of the International Covenant on Economic, Social and Cultural Rights.

The Australian government ratified the Covenant in 1975 and as with all state parties is required to report to the Committee every five years, detailing the measures it has taken to observe the rights under the Covenant and to implement them into domestic law and policy. In 1998 the Australian Government submitted its third periodic report to the Committee for the period 1990 to 1997.

In August the United Nations Committee conducted hearings to examine Australia's report and its compliance with the Covenant. The hearing process allows non-government organisations (NGOs) the opportunity to make formal submissions to the committee prior to the government's submission. After the hearings the Committee meets to deliver its Concluding Observations on the government's compliance with the Covenant.

Anna appeared before the UN Committee as an NGO representative from the NSW Combined Community Legal Centre's Human Rights and Discrimination Committee (the HRD Committee). Her trip was funded by the NSW Law Foundation. In September 1999 the HRD Committee[1] joined a coalition of over 50 non-government community and welfare organisations and interested individuals in contributing to the Australian Social and Economic Rights Project (ASERP). The project involved producing a non-government parallel report on Australia's compliance with the Covenant. Compiling the national report was a six-month process which required extensive liaison, consultation and coordination with NGOs from all over the country. The final ASERP report was submitted to the United Nations in April 2000 and cited extensive evidence of the failure on the part of the government to meet its obligations under the Covenant.

Six representatives of organisations involved in ASERP attended the hearings in Geneva. Some of the key issues raised by the ASERP submissions and noted by the UN Committee in their Concluding Observations include:

- the disadvantage suffered by indigenous Australians and in particular discrimination in employment, housing, health and education
- the high incidence of youth unemployment
- the exploitation of home-based outworkers in the garment industry
- industrial legislation which has the effect of discouraging collective bargaining and restricts the right to strike
- cuts to social security generally and in particular, the adverse effects of the

I have gained an appreciation of different people and their many and varied legal and other problems. An increase in my own self awareness of issues such as discrimination, poverty, difficult family relations, mental health issues.

Student Feedback

mandatory two year waiting period for social security payments suffered by migrants

- the failure to protect women, particularly Aboriginal women, from domestic violence
- the widening gap between rich and poor and the increase in homelessness
- the reduction in funding for public education and the deterioration of teachers' working conditions.

The ASERP report was very effective in drawing international attention to human rights issues in Australia and demonstrated how the combined effort and commitment of poorly resourced non-government organisations can make an impact on the world stage. The participation in this project by the Human Rights and Discrimination Committee reaffirmed the importance of legal centres working together and in cooperation with other organisations in the furtherance of our social justice goals.

[1]Members of the HR/D committee who contributed to the ASERP report were Anna Cody, Phillip Dicalfas of South West Sydney Legal Centre, Richard Hardy of the Immigration Advice and Rights Centre, Joanne Moffitt of South West Sydney Legal Centre and Kingsford Legal Centre, Simon Moran of the Public Interest Advocacy Centre, Sharon Offenberger of Disability Discrimination Legal Centre and Meena Sripathy of the Welfare Rights Centre at whose initiative the Committee became involved.

David Coorey

People & Partnerships

The Centre continued to work closely with the private profession, community organizations and funders during the year.

FREEHILLS SECONDED SOLICITOR

David Coorey outlines his experience at Kingsford Legal Centre:

"I worked at Kingsford Legal Centre on secondment from Freehills from April 2000 until February 2001. My experience of working at the Centre was simply fantastic. I loved every minute of it. Not only was it a wonderful opportunity to work in different areas of law that I had never practiced in. The experience also taught me much about myself and what it means to be a lawyer.

One of the things that struck me the most when I first came to work at Kingsford was the vitality of the place. Students interacting directly with clients on a daily basis; volunteers and full time staff; all working tirelessly to create a centre for learning for students, and a place where local members of the community can come to receive free legal advice.

I was both excited and daunted by the challenge that this presented. What would the other lawyers feel about the fact that I had such little experience in these areas of law?

As it turned out, it was the very fact that these were new areas of law that became one of the most interesting aspects of the job. But more importantly still, I came to realise that it was never a matter of me versus them. It was always about us. And I think that is how I got by – everyone working together, bringing individual views and skills to solve each new problem.

I became particularly interested in discrimination law and worked on some great cases. In one discrimination case, we successfully challenged two leading airlines in a claim of less favourable treatment against a passenger who suffered from anaphylaxis (a severe peanut allergy). What stuck in my mind was our clients' genuine concern that people be made aware of the condition and that with proper care and precaution that people who suffer from the condition can lead relatively normal lives. To that end, our client rallied the leading current affairs program Today/Tonight Program on Channel Seven to run a story on sufferers of anaphylaxis, with the hope of educating the community about this condition.

I would have to say that some of the most satisfying experiences I had whilst working at the Centre was to see just a little bit of justice being done to people who had long suffered from injustice and prejudice. Like the client who was subjected to almost two years of constant harassment and intimidation by an obsessed neighbour. Reprieve only came when an AVO was issued against the perpetrator and the perpetrator realised that breaching the AVO may threaten his freedom and liberty. Or the client who was wrongfully evicted from his Department of Housing unit after the his ex-wife provided false and misleading information to the Police and the Department of Housing. He was only reinstated into his Department of Housing accommodation after almost two years of letters, phone calls and meeting with the Department – and even pleas to the Minister to take note of his situation.

I believe that what made the experience of working at Kingsford so rewarding was the people that I worked with during the year. Fran, Jo, Anna, Vedna, Kalli, Michelle and Kate are great people and great fun to work with.

I realise that I was extremely fortunate to be given the opportunity of working at the Centre. I can't recommend the experience highly enough."

I am very interested in volunteering on advice nights once I have my practising certificate.

Student Feedback

Volunteers

Our volunteer lawyers are an integral part of our organization. Without a dedicated team of volunteers the Centre would never be able to meet the huge demand for legal advice from our community.

In 2000, we were able to expand our volunteer programme. Working in partnership with nine leading law firms, we established a specialist employment advice session, held weekly. Each firm sends a lawyer to the Centre to provide advice to clients and work with students undertaking the specialist employment law clinical course.

Welcome and thankyou to the following lawyers taking part in this new initiative:

Ron Baragry
Bryan Belling
David Brand
Joe Catanzariti
Rowan McKenzie
Neil Napper
Mark Paul
Peter Punch
Tony Woods

Evening sessions remain the lynch pin of the Centre's advice service. Displaying incredible commitment and despite their heavy workloads, each of our fifty or so evening advice session volunteers come to the Centre once a fortnight. We would like to take this opportunity to express our sincere thanks to all our volunteers for their hard work and loyalty to the Centre.

Roxanne Adler
Vannessa Anderson
Stefan Balafoutis
Sally Barber
Robyn Banks
Belinda Barry
Richard Beasley
Simeon Beckett
Neroli Butt
Elisabeth Coffey
Sherene Daniel
Sue Donnelly
Simon Etherington
Margaret Faux
Michelle Finnane
Rachel Francois
Brad Gauvin
Rebekah Gay
Edward Gilchrist
John Gray
Daniel Grynberg
Michelle Hannon
Roger Harper
Julie Hart
Dani Hartman
Tricia Hobson
Duncan Inverarity
Andrew Jungwirth
Asheesh Kalmath
Sharon Katz
Katie Kemm
Fiona Kerr
David King
John Longworth
Tim Massey
Karen McMahon
Dave McMillan
Murray McWilliam
Julian Millar
Sue Mordaunt
Margot Morris
Maria Nicolof
Mary O'Connell
Alan Segal
Mike Steinfeld
Helen Tot
Tulsi van de Graaf
Neville Wyatt

John Longworth

Margot Morris

Duncan Inverarity

Robin Banks

PRO BONO ASSISTANCE AND SUPPORT

During 2000 the Centre received invaluable assistance from:

Duncan Inverarity
Noeline Rudland
Bart Vasic
Dragan Gasic
Margaret Faux
Julian Millar
Mike Steinfeld for advice and assistance in personal injury matters,
John Longworth and Sue Mordaunt – assistance and advice in Family Law matters
Kate Eastman who ran classes for students on discrimination law,

Thank you also to our employment lawyers who ran classes:

Duncan Inverarity
Joe Catanzariti
Robert Reitano
Ian Latham
Neale Dawson
Peter Punch
Michelle Campbell
Sherene Daniels
Sonia Terpstra
Ann Milson

We also thank Gilbert & Tobin, Clayton Utz and Blake Dawson Waldron for accepting cases from the Centre into their pro bono programs.

PUBLIC INTEREST LAWYERS CLASS

Continuing in the spirit of providing students with varied perspectives on careers in law, the Centre as part of its class program organised three classes with panels of public interest lawyers to speak about their experiences, career paths and share their thoughts with the students.

The class has been very popular and students who have commented on how interesting and inspiring the speakers have been. Some students who had their sights set on careers in the corporate sector have commented on how they have now found themselves in the "corporate vs community" dilemma.

Our thanks to our 2000 panellists:

Nicholas Cowdrey, QC, Director of Public Prosecutions, Co-Chair, Human Rights Institute of the International Bar Association

Meena Sripathy, Solicitor, Recipient of Inaugural Global Public Interest Lawyers Scholarship, NYU

Michelle Hannon, Pro Bono Solicitor, Gilbert &Tobin, Executive Member, ALHR

Simon Moran, Solicitor, Public Interest Advocacy Centre

Jennifer Giles, Magistrate, NSW Local Courts (formerly at Womens Legal Resource Centre)

Arthi Patel, Solicitor, Mongolian Lawyers Association, Australian Volunteers Innternational

Harriet Grahame, Solicitor, Legal Aid Commission, Drug Court Pilot Project

Sonya Terpstra, Solicitor, Australian Manufacturers Union

Elizabeth Boyle, Registrar, Family Court ((formerly at Legal Aid Commission)

Richard Funston, Solicitor, Legal Aid Commission, Childrens lawyer of the Year

Reg Bartley AM, Author, Judicial Member, ADT

Rocque Raymondo, Member, Refugee Review Tribunal

A very big and sincere thank you to all of the staff for everything you have taught me about the law, community welfare issues and for helping me to grow as a lawyer and a person

Student Feedback

Consultative Committee

As part of UNSW Law School, the Centre has a structure different to most community legal centres. A Consultative Committee made up of representatives of local agencies provides the Centre with a direct link to the community, providing advice, feedback and evaluation of the Centre's work. This helps us to ensure that the Centre provides a quality service that meets the community's needs.

The Centre thanks the 2000 Committee members for their contribution and support:

Elizabeth Beesley
Botany Council Community Services

Cassie Hatton
The Shack Youth Service

Rosa Loria
Botany Migrant Resource Centre

Caroline Mason
Randwick City Council Community Services

Carmen Moran
School of Social UNSW

Dr Christine Parker
Law School UNSW

Cilla Pasupathy
UNSW Law Society

Keilly Russell
Botany Family and Children's Centre

Julie Spies
Kooloora Community Centre

Anne Stegman
Randwick Information and Community Centre

Frances Gibson

Anna Cody

Vedna Jivan

Joanne Moffitt

Staff

FRANCES GIBSON

Frances has been the director at Kingsford Legal Centre since 11995, and is a lecturer at UNSW Law School. She is responsible for the management of the Centre and is a case-work solicitor. Frances is also responsible for the *Clinical Legal Experience* course and *clinical legal education component* of the *Law, Lawyers and Society* course.

ANNA CODY

Anna has been a solicitor in the Centre since 1995 and is a teacher of the *Clinical Legal Experience* course. During her time at the Centre she has increased the amount of domestic violence work undertaken by the Centre in the areas of policy, education and casework. Anna has recently completed a Masters of Law Degree at Harvard University.

VEDNA JIVAN

Vedna has been at the Centre since 1996. Vedna is a volunteer at Immigration Advice and Resource Centre and has worked at various legal centres as a locum solicitor including Campbelltown and Redfern before coming to Kingsford.

JOANNE MOFFITT

Joanne Moffitt is the solicitor supervising the employment law clinic. Since her admission in 1996, Joanne has previously worked at South West Sydney and Campbelltown Legal Centres and the NSW Working Women's Centre.

MICHELLE BURRELL

Michelle is the Coordinator of KLC. Michelle has worked in the community sector in Australia and Britain since 1984. Michelle's background is in housing issues as well as community legal centres. Michelle has been at KLC since January 1999. Michelle is employed to coordinate and plan service delivery at KLC. Her duties include supervising social work students at KLC.

KALLIOPE CHRISTOS

Kalliope started in the Centre in November 1998. She is currently the Centre's Administrator. Kalliope is responsible for the financial management of the Centre's funds, including the Centre's trust account. She also manages student enrolments and rosters, and she supervises the performance of students in their administrative duties.

MURRAY MCWILLIAM

Murray began his involvement with the Centre through his participation in the Clinical Legal Experience course, summer session 1997-1998. Murray is employed to maintain the KLC library.

PHOEBE BESLEY

Phoebe works five hours per week, producing various publications. She is a graphic design student.

In 2000, KLC assisted 4,223 people

Problem Types

TOTAL NUMBER OF CLIENTS ASSISTED

Family Law	685
Criminal Law	509
Civil Law	1842
Discrimination Law	196
Employment Law	991
TOTAL	**4223**

ADVICES

Family Law	428
Telephone	102
Face to Face	326
Criminal Law	302
Telephone	82
Face to Face	220
Civil Law	1164
Telephone	277
Face to Face	887
Discrimination Law	119
Telephone	56
Face to Face	63
Employment Law	624
Telephone	540
Face to Face	232

BREAKDOWN OF PROBLEM TYPES (including referrals)

FAMILY LAW

Divorce	109
Child Contact	66
Child Maintenance	12
Child Support	39
Child Residency	35
Specific Issues	12
Property in Marriage	39
Property in De Facto	22
Property	36
Child Welfare/protection	17
Parental abduction	10
Other Family Law	288
Total	**685**

CRIMINAL LAW

Traffic Offences	57
Trespass	38
Family Violence	37
Violence	75
Assault	72
Drink Driving	11
Victims/Witnesses	7
Family Violence Order	37
Theft	18
Drug Offences	8
Harassment	21
Other Criminal Offences	128
Total	**509**

CIVIL LAW

Debt and Credit	233
Tenancy	195
Wills/probate	122
Neighbours	110
Motor Vehicle Accident	107
Immigration	64
Social Security	36
Other Govt/Admin	33
Consumer	
Solicitor complaints	25
Insurance	53
Building disputes	23
Services	37
Other Consumer	123
Power of Attorney	53
Injuries	
Personal Injury	66
Crimes Compensation	43
Work Injuries	29
Family Assault	25
Other Injury	7
Fines	13
Other Civil Law	445
Total	**1842**

DISCRIMINATION LAW

Discrimination Law	196
Total	**196**

EMPLOYMENT LAW

Employment Law	
Unfair Dismissal	315
Other Employment Law	676
Total	**991**

NEW CASES OPENED, BY PROBLEM TYPE

Family	33
Criminal (includes DV)	70
Civil Law	169
Discrimination	32
Employment	71
Total	**375**

Income and Expenditure Report

Period Ending 31 December 2000

INCOME	
Attorney-General's Clinical Legal Initiative	101,536.82
Community Legal Services Funding Program	128,703.18
Garendon Legal Costs and Disbursements	0.00
Williams Legal Costs and Disbursements	8,441.00
Legal Costs and Disbursements	21,593.71[1]
Donations	7,493.14
Investments	2,514.80
Total	**270,282.65**
EXPENDITURE	
Salaries	407,248.31
Disbursements and Costs	4,409.00
Materials and Running Costs	87,354.20
Equipment and Maintenance	66,718.21[2]
Travel and Conferences	12,758.81
Williams Legal Costs and Disbursements	9,171.35
Total	**587,659.88**
Net Results Surplus/(Deficit)	-317,377.23
UNSW Contributions	240,257.38[3]
Result for the Period Surplus/(Deficit)	-77,119.85
Prior Year Adjustment	24,622.35
Prior Year Accumulated Funds 98	48,438.00
Prior Year Accumulated Funds 99	96,788.17[4]
Accumulated Funds	**92,728.67**

NOTES

[1] Legal costs and disbursements are an abnormal item which vary considerably from year to year.

[2] The sum of $18,464 was accrued in December 2000 , relating to the purchase of a photocopier. This accrual is not included in this 2000 Cash Report, but will appear in the 2001 Cash Report.

[3] KLC is a unit of the Faculty of Law at the University of New South Wales. As such all its accounts operate within the financial structure of the Law Faculty. The faculty's position in respect of KLC since its inception has been that it provides "deficit" funding. That is, the faculty meets the shortfall required to provide an appropriate level of resources (staff and non staff) to ensure the continuing viability of the Centre. In 2000 the amount allocated was $240,257.38. Included in the contribution from UNSW is an amount of $30,000 given by the Vice Chancellor.

[4] An amount of $52,341 was carried forward from the Attorney General's Clinical Legal Initiative Funding from 1999, for capital expenditure. This sum was fully expended in 2000.

Thank You

KLC would like to thank all its funders, donors and supporters.
In 2000 these included:

- Commonwealth Attorney General's Department
- Legal Aid Commission of NSW
- Randwick City Council
- Friends of Kinsgford Legal Centre
- Moore Park Cricket Association Judiciary Committee
- Special thanks to Vedna Jivan for her photographic skills

We also acknowledge the generous support of the University of NSW

Notes

Kingsford Legal Centre is committed to social justice and to promoting access to and reform of the legal system.

We aim to provide quality legal services to the community and to promote excellence in clinical legal education, whilst fostering a critical analysis of the justice system.

THE UNIVERSITY OF
NEW SOUTH WALES