



Law Matters

Aboriginal Legal Service of WA

Summer 2010 - 2011

Law Matters

Aboriginal Legal Service of Western Australia (ALSWA)

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Merry Christmas from ALSWA

On behalf of the Aboriginal Legal Service of WA (ALSWA) I would like to wish everyone a very happy and safe Christmas and New Year.

It has been an extremely busy year for ALSWA and I thank and commend our staff throughout the State for their ongoing commitment to our organisation.

Indigenous peoples continue to be over-represented within the court and prisons systems and ALSWA will continue to do whatever we can to redress this imbalance.

Thank you also to our Executive Committee members for providing a wealth of knowledge, skills and support for our agency. I am extremely proud of our ongoing work within WA's justice system. Stay safe all and have an enjoyable Christmas and festive season.

In Unity

Dennis Eggington
ALSWA CEO



ALSWA offices will close at 12 noon on Friday 24 December 2010 and re-open at 8.30 am on Wednesday 5 January 2011. For urgent legal advice relating to a criminal law matter during these dates, please phone our After Hours Officer in Perth on 08 9265 6644

ALSWA Mural unveiled

The boardroom at ALSWA's Perth head office is now proudly adorned with a spectacular mural outlining some of the historical events that have occurred in ALSWA's 36 year history. The mural was done by David Wirrpanda Foundation and Central Institute of Technology 'Solid Futures' program students with artist Peter Farmer (*Continued on page 3*)



ALSWA CEO Dennis Eggington pictured with David Wirrpanda at the unveiling of the Moorditj Mural

Law Matters returns to Noongar Radio on 9th February 2011



ALSWA produces and presents a fortnightly radio program on 100.9FM (6NME) Noongar Radio in Perth. Find out more about ALSWA's work and legal issues:

**Every 2nd Wednesday
11.00 am - 12.00 noon
(Repeated Sundays at 5pm)**



If you've missed any of our programs you can have a listen to Law Matters on our website at www.als.org.au under 'Media' Radio Programs.

**Law Matters
6NME Noongar Radio 100.9 FM**

ALSWA Staff pictured at 6NME's studios in Perth Leashay Eggington, Robyn Ninnette, Gilbert 'Jack' Calyun, Jolene Farrell, Tamara Gillespie, Dennis Eggington, Kenny Sutton and Monica Collard

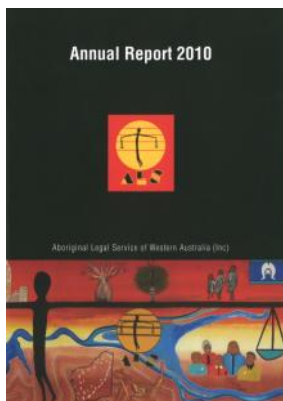
Check out our website www.als.org.au

ALSWA's website is continually being updated so if you haven't logged on for awhile, check it out at www.als.org.au

You'll find up to date Indigenous News, ALSWA media statements, submissions, publications, legal information, radio programs, information about ALSWA's history and more!

ALSWA - Striving for justice for our people for 36 years

2010 Annual Report available online



The Annual General Meeting of the Aboriginal Legal Service of WA was held in Perth on 8 December 2010.

Our 2010 Annual Report can be viewed on our website at

www.als.org.au

This Report will provide you with an overview of ALSWA's work within the justice system for the past financial year and also features examples of our community work

and various events that ALSWA has been involved in throughout the year.

The cover of the report features the spectacular Moorditj Mural (see story on next page).

Moorditj Mural unveiled *Continued from page 1*

ALSWA sponsored the Moorditj Mural project and CEO Dennis Eggington said the agency was thrilled to be involved in such an exciting project. "The students have done an incredible job at researching ALSWA's history and creating this visually spectacular and historical mural. This

was a wonderful community collaboration that will ensure that all who visit ALSWA's Head Office in Perth will be inspired and informed about the long and important history of ALSWA". The mural spanning 5 metres in length was unveiled in front of 80 guests by Mr. Eggington, project

artist Peter Farmer David Wirrpanda (David Wirrpanda Foundation), Jodie Schroder (DWF), Anne Blythman (Central Institute of Technology Executive Director Health, Community Services and Languages and DWF students Amanda Sampi and Travis Hansen.

Moorditj Mural Participants

Students Gilbert 'Jack' Calyun, Jolene Farrell, Travis Hansen, Darren Hart, Megan Holiner, Devin Indich, Deborah Jones, Whitney Joseph, Jamie-Lee Little, Glen Miller, Karina Riley, Candice Nundle, DWF Mentors Dale Kickett, Alicia Janz, Eddie Brown and Central Lecturers Peter Dooley and Chris Hodson



Clockwise: David Wirrpanda unveils a section of the Moorditj Mural, DWF students Glen Miller, Jolene Farrell, Jamie-Lee Little, Craig Hill, Amanda Sampi, Jordan Gliddon, Gilbert 'Jack' Calyun, Darren Hart, Travis Hansen, Candice Nundle, Amanda Hansen, 3 youth work students, Dennis Eggington, David Wirrpanda with students Jolene Farrell and Gilbert 'Jack' Calyun who are now both employed at ALSWA, DWF Mentors/Role Models Dale Kickett, Alicia Janz, Kirby Bentley, Josie Janz and Troy Cook, Ken Wyatt Liberal Member for Hasluck with ALSWA staff Parames Karpusamy, Seranie Gamble, Kim Axford, Emma Bradley, Kristy Gaunt and John Bedford, Project artist Peter Farmer with Miranda Farmer who also assisted during the mural project.

(Group photo of students at top right, courtesy of Tamara Binamat ABC Local)



MERRY CHRISTMAS AND HAPPY NEW YEAR

From the Staff of the Aboriginal Legal Service of Western Australia (Inc)



Above: ALSWA staff pictured in Perth recently attending a Statewide ALSWA Staff Conference

ALSWA History Project Update from Fiona Skyring (Project Coordinator)

The ALSWA history project is nearly finished, and the manuscript of the book has been submitted to UWA Publishing. After editing and production design, the book is scheduled to be released in August 2011.

Project co-ordinator and author Fiona Skyring spoke with over sixty people who had been involved with the establishment and development of the Aboriginal Legal Service, and researched the history in ALSWA's archival files and other library collections.

The project was funded with grants from Lotterywest, AIATSIS, the Department of Premier and Cabinet and the Commonwealth Attorney-General's Department.

Minara Resources supported Fiona's research trips to Laverton. ALSWA gratefully acknowledges the funding and financial assistance from all of these sponsors.

ALSWA staff in the regional offices provided invaluable support during Fiona's visits across the State to interview people.

Fiona could not have done the project without the help of ALSWA colleagues nor without the generosity of the interviewees who gave their time and information in talking with her.

The Chief Justice of the High Court of Australia, Robert French AO, was one of the founders of the Aboriginal Legal Service in 1972 and Fred Chaney AO was one of its early supporters.

Along with Emeritus Professor Geoffrey Bolton, ALSWA's Dennis Eggington and former Executive Committee member Clarrie Cameron, they are members of the reference group who have helped to guide the project from its beginning in late 2005.

ALSWA is delighted that the Chief Justice has agreed to write the foreword to the book.



Stolen Wages

ALSWA is concerned that many Indigenous families are still awaiting the rightful return of their stolen wages. ALSWA CEO Dennis Eggington said that thousands of Aboriginal people who helped create the wealth of this state, had their wages stolen and the matter must now be addressed urgently. Speaking out recently Mr Eggington said "It is disgraceful that the government has *still* not responded to the 'Stolen Wages Taskforce Report' from over two years ago. This is obviously not a priority to the Barnett government and is yet another example of a government which is motivated more by profits than by people". Mr. Eggington is concerned that the longer our people are denied justice, for many, restitution will come too late.

"Much of the wealth of this state has been made off of the backs of hard working Aboriginal men and women. For the State Government to continue to deny our people what is legitimately owed is cruel and heartless. If only our cries for justice could be heard above the din of the parliamentary dining room". Aboriginal people deserve more than the crumbs off of the table of the privileged. After all, it was from our land, our sweat and our oppression that this bread was baked" said Mr. Eggington. ALSWA said that if the government fails to address this historical theft of wages, then they should be judged as accessories after the fact. "After all, in the eyes of the law, are we not all equal?"



ALSWA is investigating the possibility of commencing a test case for stolen wages in WA

ALSWA Executive Committee member retires

Paul Sampi (*pictured on right*) has retired from ALSWA's Executive Committee after representing the ALSWA for the West Kimberley region for almost two decades. ALSWA CEO Dennis Eggington said that Mr. Sampi will be greatly missed by the organisation. "Paul is a wonderful man who has contributed so much to ALSWA over the years. He has been instrumental in the work that ALSWA has done on Customary Law and his wisdom and knowledge have provided much strength to our organisation over the years. We wish Paul Sampi the very best for the future and thank him for his long standing commitment to ALSWA".



ALSWA's Dennis Eggington, John Bedford, Peter Collins, Liang Xu (ALSWA Executive Committee) Rosie Sahanna Paul Sampi, Kevin George, Phyllis Simmons, Ian Tucker, Beverly Thomas, Preston Thomas, Michael Blurton, Olivia Roberts, Veronica Williams-Bennell, Victor Woodley, Lorraine Whitby, Violet Whitby, Trevor Eades in Broome.



Human Rights Day 10 December 2010

Excerpt from Speech by ALSWA CEO Dennis Eggington given at the Equal Opportunity Commission in Perth on Human Rights Day 2010.

Is there any justice in the way that a respected Ngaanyatjarra Elder, Mr Ward, died of heat stroke and suffered third degree burns in the back of a prison transport van? There is no justice in a system that allows this situation to happen. There is no justice in a system, where this type of death in custody occurs 20 years after the findings and recommendations of the Royal Commission into Aboriginal Deaths in Custody. There is no justice in a system where Aboriginal people continue to die in custody. Of course we all know about the statistics of disproportionately high numbers of Aboriginal people being incarcerated and coming into contact with the justice system as victims and offenders. Only last month the high rates of Aboriginal recidivism were referred to by the WA Community Development and Justice Standing Committee, in its report on their inquiry into "Making Our Prison's Work." Aboriginal made adult recidivism is 70%, Aboriginal female adult recidivism is 55%, Aboriginal male juvenile recidivism is 80% and Aboriginal female juvenile recidivism is 64%. Where is the justice for Aboriginal people continuing to suffer from this position of disadvantage? Where is the justice in the fact that despite the immense challenge of so many Aboriginal people being in such high contact with the justice system, that our Aboriginal Legal Service does not get any funding from the WA Government? And where is the justice when the funding we do receive from the Commonwealth falls drastically short of the funding provided to mainstream Legal Aid? Where is the justice in these realities of structural disadvantage and ongoing racism that Aboriginal people experience in our daily lives? There is no justice in the WA justice system. Before I discuss some of these issues about justice in a bit more detail, let's consider a bit more what exactly justice is. Where does our understanding of justice come from? Today is International Human Rights Day, a day that we celebrate the anniversary of the Universal Declaration of Human Rights being adopted by the General Assembly of the United Nations in 1948. By looking at the rule of law in this country, we can see that our human rights are not protected. In the absence of a WA or Commonwealth Human Rights Act, we have piecemeal protections of human rights in the common law and through ad hoc bits of legislation. This is not enough. The evidence of our justice system failing Aboriginal peoples, of



ALSWA CEO Dennis Eggington and Equal Opportunity Commissioner Yvonne Henderson

ongoing discrimination and disregard for treating Aboriginal people with respect and dignity, demonstrates that greater recourse for human rights protection is needed to overcome the tyranny of disadvantage and oppressive racism continuing in our society. I'd like you to consider the notion of justice, in light of current debate about the recognition of Aboriginal peoples as original inhabitants of this land in the Australian Constitution. While some people are debating the wording of the preamble, I would like to us go even deeper in our understanding of the inherent dignity and worth of Aboriginal peoples as the original custodians of this land and what this means to us as human beings and our understanding of justice. Aboriginal peoples are the First Nations Peoples of this land. We had our legal, political and social systems in place for thousands of years. There was no justice when our land was taken, no treaties entered, no recognition of our existence as human beings. Our children were forcibly removed, and our culture and identity was disregarded by a dominant colonial force imposing this foreign system of assimilation upon us. Constitutional reform is needed. But this fundamental change of the foundation document upon which all laws, all institutions and the fabric of Australian society is based must be drastically reconsidered in the broader context of human rights discourse. We must get this process right. This is a once in a generation opportunity to create justice for Aboriginal peoples. This is a chance for real, effective and meaningful change to recognise and respect the true position of Aboriginal peoples in this country. The inherent dignity of Aboriginal people as human beings must be recognised as a fundamental starting point in our justice system. There must be recognition of our suffering from historical and ongoing injustices as a result of colonialism and dispossession of our lands, territories and resources that have prevented us from exercising our human rights in particular to development, in accordance with our own needs and interests.

Human Rights Day 10 December 2010 *continued from previous page*

There is an urgent need to respect and promote our inherent rights as Aboriginal peoples, which derive from our political, economic and social structures and from our cultures, spiritual traditions, histories and philosophies. We need to embrace this language and understanding of human rights in the way we consider and talk about justice. The United Nations Declaration on the Rights of Indigenous Peoples provides us with a framework for reshaping our relationship as human beings in a truly just society. This Declaration identifies that justice systems around the world have failed Indigenous peoples who have suffered abuse and oppression by majority governments that have denied us our dignity and respect as human beings. Aboriginal peoples have the right to self determination, to freely determine our political status and to pursue economic, social and cultural development - to autonomy or self-government in matters relating to our internal and local affairs. We have the right to maintain and strengthen our distinct political, legal, economic, social and cultural institutions, whilst retaining our right to participate fully in the political, economic, social and cultural life of the State. These rights, and many others, are set out in the Declaration on the Rights of Indigenous Peoples – a powerful instrument, which we must embrace and implement to create justice in our society, and in WA. The death of Mr Ward could have been prevented if we had increased human rights protections in our system.

Legislative protections of human rights could have created justice in this avoidable situation, instead of such a terrible, unforgiveable injustice in the WA justice system.

Another example of how we could achieve better justice in the WA justice system that I referred to

earlier is through the provision of effective funding for the Aboriginal Legal Service of WA. There is a major disparity in funding mainstream legal aid and Aboriginal legal aid in this country, and especially in WA where we receive no state funding whatsoever in the delivery of our services to Aboriginal people. How can this continue? It is the Aboriginal Legal Service out there in regional areas providing legal assistance and representation to Aboriginal people in need where no one else will go. But of course, we are busy here in Perth as well. But let me ask you do we need reminding, that the reason so many Aboriginal people require the assistance of the Aboriginal Legal Service is because of the past government imposed policies such as segregation, removal, stolen wages and dispossession from land that have denied our people the right to development which continue to have devastating impacts on Aboriginal people today? Aboriginal people were largely under the control of these discriminatory government policies. We have not had the same opportunities as others to develop in our own right, in accordance with our needs and our interests. The Aboriginal Legal Service was created in the 1970s to overcome disadvantage, and tackle racism and inequities in the justice system. There is just as much need for us now, as there was back then. The government at state and federal levels continue to control Aboriginal peoples and create ill-conceived policies and laws that have

devastating consequences. A real commitment is needed to respect the rights of Aboriginal peoples and overcome the gap in our justice system. Meaningful funding for the Aboriginal Legal Service is one part of this complex challenge to create better justice in our justice system. This funding is needed to increase our capacity for service delivery across all levels of practice, which include criminal, family, civil, human rights, community legal education, policy and law reform and prisoner support. It would also include significant increases in funding to adequately provide these services in regional areas. We must think about justice by considering where justice begins for us all as human beings here on Human Rights Day commemorating the Universal Declaration of Human Rights. We must think about justice in the context of human rights and the rule of law – through legislative protections and even deeper, through fundamental change embedded in constitutional reform. We need to close the gap on Aboriginal contact with the justice system. We need better recognition of human rights, which includes collective Aboriginal rights in Australia. We need a constitution that is not racist, and that recognises the true place of Aboriginal peoples as original inhabitants and true owners of this land. The time is right for change. The time is right to recognise human rights are the way forward for creating justice in our currently unjust system.



L-R David Collard, Dennis Eggington, Ronnie Jimbidie, Frantessa Cox, Dee Lightfoot.

(Photos courtesy of the Equal Opportunity Commission)

ALSWA Pamphlets available on website

The Aboriginal Legal Service of WA (Inc) provides legal representation and support services for Aboriginal and Torres Strait Islander peoples in Western Australia.

ALSWA has a range of pamphlets available on our website at www.als.org.au including:

*Services at the Aboriginal Legal Service of WA - **A**rrest - **B**ail - **C**onflict of Interests - **C**ompensation for Criminal Injuries - **C**ompensation for Motor Vehicle Injuries - **D**efamation - **D**iscrimination - **E**xtraordinary Licences - **G**oing Surety - **G**uardianship and Administration - **M**aking a Will - **P**risoner Support Team - **R**estraining Order - **T**raffic Offences - **V**ideo Record of Interview - **Y**our rights as a Consumer*

If you require ALSWA pamphlets to be posted to you or to your organisation please contact ALSWA's Law and Advocacy Unit in Perth on 08 9265 6666.

January 2011



**ALSWA
OFFICES
CLOSE** at
12 noon on
Friday
24/12/10
and
RE-OPEN at
8.30 am on
Wednesday
5/1/2011

Mon	Tue	Wed	Thu	Fri	Sat	Sun
					1	2
3	4	5 ALSWA Offices Re-open	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30
31						

*Merry
Christmas*



**FOR URGENT LEGAL ADVICE RELATING TO A CRIMINAL LAW
MATTER WHEN ALSWA IS CLOSED PLEASE PHONE ALSWA'S
AFTER HOURS OFFICER IN PERTH ON 08 9265 6644**