

# Human Rights Law Centre 12 Annual Report 13



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The extraordinary quality, volume and impact of the Human Rights Law Centre's work is only possible because of our partnerships.

Thank you for being part of the picture



2	Joint statement from Chairperson and Executive Director
4	How we work
5	Strengthening legal protections of human rights in Australia
6	Protecting the human rights of lesbian, gay, bisexual, transgender and intersex Australians
8	Protecting the human rights of people in detention
11	Ensuring Australia complies with its international human rights obligations
12	Advancing the human rights of Aboriginal and Torres Strait Islander peoples
14	Promoting and protecting women's rights
15	Protecting human rights beyond our borders
16	Ensuring proper accountability for police use of force and police-related deaths
18	Extending our reach in 2012/13
19	Our Governance, staff and supporters
21	Funding
22	Thank you
24	Financial Statements

# Joint statement from Chairperson and Executive Director

## The Human Rights Law Centre is an extraordinary organisation.

We say that from the perspective of being the HRLC's outgoing Chairperson and incoming Executive Director.

The quality, volume and impact of the HRLC's work relative to its resources is truly extraordinary.

Amongst a range of notable achievements over the past year, the HRLC played a key role in developing and securing the passage of laws which for the first time established Federal protections for gay, lesbian, bisexual, transgender and intersex Australians against discrimination. We also provided vital support to the *No To Homophobia* campaign which has been endorsed by a number of prominent Australians and whose messages on stopping homophobia have reached millions across Australia.

Our legal advocacy helped to prevent the forced return of around 100 asylum seekers prior to their claims for protection being properly assessed. Resources we helped develop in the process were used by refugee advocates to secure the proper processing of hundreds more asylum seekers in the same situation.

We advanced human rights arguments in important High Court cases on free speech and on laws that only apply to Aboriginal and Torres Strait Islander communities. We fought for better human rights protections in areas ranging from the rights of women to access reproductive

health services without fear and harassment to the peaceful assembly rights of public housing residents.

We worked to hold Australia to account on the world stage at the United Nations and to ensure human rights concerns were not overlooked in Australian foreign policy.

Our work received widespread international, national and local mainstream media attention and in December 2012 the HRLC was awarded the prestigious Australian Human Rights Commission Law Award.

We achieved all this with just seven staff and an annual budget of \$829,000.

How does the HRLC achieve so much with so little?

Partnerships.

## Our success relies on partnerships.

We are a mandate driven organisation. We exist to protect and promote human rights in Australia and through Australian foreign policy.

The HRLC's model focuses on high-level action and influence to bring about systemic changes that improve people's lives on the ground, bringing dignity, respect and freedom from persecution, violence and prejudice.

We don't work on the ground in Aboriginal communities, prisons or immigration detention centres across the country, but we do work closely with organisations that do.



So whether it's with the Asylum Seeker Resource Centre, the National Congress of Australia's First Peoples, the Victorian Gay and Lesbian Rights Lobby or the Queensland Prisoners' Legal Service, these are the partnerships that we form, lending our expertise and influence to advance shared goals.

We can only undertake our work because of the enormous support we receive from law firms and barristers acting pro bono. The vast majority of our work is done in a range of pro bono partnerships with private law firms and barristers and we also benefit from other pro bono support including secondments of lawyers.

We don't rely on government funding for our success.

Less than 15% of the HRLC's funding comes from government and this proportion is diminishing. The support of private donors, philanthropic foundations and law firms enables us to achieve the impact we have. The fact that the vast majority of our funding and in-kind support comes from non-government sources is critical to our ability to undertake strong, principled independent advocacy on rights issues.

## Thank you for supporting us.

We know we'll face many human rights challenges in the coming year, but with your help our strategic mix of evidence-based advocacy and legal action will continue to influence policy and strengthen protections for human rights.

Amongst our priorities will be reducing the shocking over-imprisonment of Aboriginal and Torres Strait Islander peoples, protecting against the repeal of Federal racial vilification laws and challenging the continued assault on the rights of asylum seekers and refugees.

For both of us, it is an honour to serve the Human Rights Law Centre in our different roles. We pay tribute to the founding HRLC Executive Director, Phil Lynch, who left in February to take up an international human rights leadership role in Geneva. Phil's dedication and outstanding work has been integral to the HRLC's success and we are confident he will have an even greater impact in his new role.

We also congratulate Michael Kingston on becoming the new HRLC Chairperson and we welcome the former President of the Australian Human Rights Commission and former Federal Court Judge, Catherine Branson, to the HRLC board.

We are confident that the HRLC is well-positioned to continue to successfully secure stronger legal protections for human rights in Australia and beyond.

With your support, we look forward to building on our record of impact and addressing the significant and systemic human rights challenges of the next 12 months.

Ros Grady  
Chairperson

Hugh de Kretser  
Executive Director

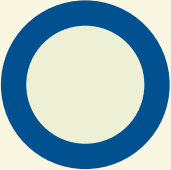


# How we work



The Human Rights Law Centre protects and promotes human rights in Australia and beyond through a strategic mix of legal action, advocacy, education and capacity building.

The Human Rights Law Centre is an independent and not-for-profit organisation. Donations are tax-deductable. For more information about our work, impact and how you can support principled human rights leadership, visit: [www.hrlc.org.au](http://www.hrlc.org.au)



### **STRATEGIC PARTNERSHIPS**

The coalitions we coordinate harness the resources and expertise of leading community organisations, lawyers and human rights experts.



### **INTEGRATED TACTICS**

We advance human rights through a tactical combination of research, education, evidence-based advocacy and strategic litigation.



### **HIGH-LEVEL INFLUENCE**

Our tactics directly engage powerful decision makers and actors, including Ministers and senior officials, superior courts, the media and the UN.



### **SYSTEMIC HUMAN RIGHTS REFORM**

Our work results in justice for individuals, changes in policy and practice, and stronger protection of human rights in law and on the ground.

# Strengthening legal protections of human rights in Australia

“We need to build understanding of what human rights are and how they work and how they aren't adequately protected in Australia and what this means for vulnerable Australians.”

HUGH DE KRETZER,  
The 2013 Joan Kirner Social Justice Oration.



## OUR WORK

The HRLC advocates for strong and effective Australian laws which protect human rights and which implement Australia's obligations under international human rights treaties. We also conduct strategic litigation to address significant human rights violations or to advance and strengthen human rights law through test cases.

## OUR IMPACT

### Defending freedom of speech and protest rights

The HRLC intervened as a “friend of the court” in an important High Court case concerning free speech. The case, *Attorney General for South Australia v City of Adelaide*, examined local council laws that prohibited “preaching, canvassing or haranguing” and handing out printed material in Adelaide's Rundle Street Mall without a permit. The High Court's decision was a stark reminder of the lack of protections for free speech in Australia's Constitution.

Together with Fitzroy Legal Service, the HRLC assisted Occupy Melbourne protesters in a Federal Court case where we argued that the forced eviction of peaceful protestors breached freedom of expression and peaceful assembly rights. Although the decision vindicated some of the protesters' concerns, it once again highlighted the need for stronger legal protections for free speech.

### Pushing for effective discrimination laws

The HRLC was involved in research, coalition-building and advocacy aimed at strengthening Australia's anti-discrimination laws. We met with Government officials, appeared before a parliamentary committee and in the media to make the case that our laws should work to prevent discrimination from occurring in the first place and to ensure improved accountability and remedies for victims.

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*“The right to freedom of expression carries with it special duties to prevent speech that incites racial or religious hatred.”*

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### Protecting public housing residents' political freedoms

The HRLC represented two public housing residents and successfully relied on Victoria's Human Rights Charter to change Victorian Government policies which breached public housing residents' rights to freedom of expression and peaceful assembly. The policies expressly banned residents from holding political rallies of any kind on housing estates and banned residents from placing political information on noticeboards. They also locked out elected politicians and candidates from estates by banning door knocking and barring them from booking community facilities.

## LOOKING AHEAD:

The HRLC will:

- Continue to seek to improve the protection of free speech, voting and peaceful assembly rights through advocacy and strategic litigation.
- Advocate to ensure adequate protections against racial vilification remain in Federal law.
- Work with government, academics and the community sector to develop improved indicators to measure the realisation of human rights in Australia.

# Protecting the human rights of lesbian, gay, bisexual, transgender and intersex Australians



## OUR WORK

The HRLC conducts strategic litigation and advocacy for equal recognition and treatment of LGBTI people under law and to realise substantive equality.

## OUR IMPACT

### **New laws protecting lesbian, gay, bisexual, transgender and intersex Australians**

The HRLC played a key role in developing and securing the passage of laws which for the first time established Federal protections for gay, lesbian, bisexual, transgender and intersex Australians against discrimination.

### **Tackling homophobia**

The HRLC provided key support to the groundbreaking *No To Homophobia* campaign including developing the website [www.notohomophobia.com.au](http://www.notohomophobia.com.au) to provide tools and information for people experiencing or witnessing homophobic harassment. The HRLC's Anna Brown was national spokesperson for the campaign and part of the campaign's steering group.

The ongoing campaign features TV advertisements which have run on national TV networks and were screened at two AFL Preliminary Finals as well as at games throughout the 2013 season. The campaign has been endorsed by a range of high profile people and its messages have reached millions of Australians.

### **Supporting marriage equality**

The HRLC provided legal support to Australian Marriage Equality to obtain an authoritative legal opinion from leading legal experts on the constitutionality of state and territory-based marriage equality legislation.

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*“Equality contributes to fairer, healthier, safer and more productive communities.”*

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### **Removing the stigma of historical criminal convictions for consensual homosexual conduct**

Gay men across Australia continue to live with the stigma and shame of criminal convictions for conduct that was de-criminalised in the early 1980s. The HRLC is assisting individual clients and working with parliamentarians towards legislative reform to have criminal convictions for buggery and other past offences that targeted consensual homosexual conduct removed from people's records.

The increasing prevalence of working with children checks and criminal checks in employment are compounding the impacts of these past discriminatory laws.

### **LOOKING AHEAD:**

The HRLC will:

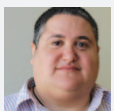
- Continue to advocate and litigate for equal recognition and treatment of LGBTI people under the law including continuing to provide legal support to Australian Marriage Equality.
- Advocate and litigate for laws and policies that accurately and respectfully recognise transgender, intersex and gender diverse individuals and preserve their bodily integrity.
- Continue to resource and support the *No To Homophobia* campaign and work for reforms to remove historical convictions for consensual homosexual conduct.





“The modernisation of our anti-discrimination and equality laws should be guided by people with experience and expertise in the field, not extremists who would have us wind back the clock to a time when people could be refused service because of the colour of their skin, their gender, sexuality or political beliefs.”

ANNA BROWN, Big picture lost in debate over anti-discrimination laws, ABC's The Drum.



## FINALLY, A LAW THAT RECOGNISES ME:

Tony Briffa discusses what Australia's new discrimination laws mean to him

As an intersex person I have spent my whole life being told that I am something that I'm not.

As an infant, doctors operated on me without my consent to “normalise” me and I have had to live with the consequences of that surgery ever since.

It's hard to describe how important and significant it is to be recognised somewhere in the law as an intersex person and feel as though I finally have the right not to be discriminated against because of the way that I was born. It meant I finally became a person in the eyes of the law.

The laws that were passed by the parliament earlier this year include protections against discrimination on the basis of “sexual orientation”, “gender identity” and, importantly, “intersex status”. Intersex is defined as possessing sex characteristics that are neither wholly female or wholly male or a combination of both female and male.

As someone who is part of the queer community it was a very special occasion to finally have protections against discrimination for all lesbian, gay, bisexual, transgender and intersex people. In terms of the intersex protections in particular, this was a groundbreaking achievement for Australia – a world first – and will help me and other intersex people to be protected from unfair treatment. Importantly, these laws will raise awareness of the very existence of intersex people, so there can be greater understanding and acceptance of our differences and place in society.

I was very grateful for the role that the Human Rights Law Centre played in advocating for these changes. The original draft legislation released by the Government did not properly recognise and protect transgender and intersex people from discrimination

so we needed to convince the politicians that changes had to be made and that the laws needed to be passed before the federal election.

We were able to provide the legal advice that the HRLC worked on with Peter Hanks QC, Kris Walker and Elizabeth Bennett to the drafters of the legislation to support the need for a separate attribute of “intersex” defined in a way that accurately described our differences and the discrimination we face.

I worked closely with Anna from the HRLC and others. We met with Ministers, members of committees and individual parliamentarians. For many of these people it was the first time they had physically met an intersex person. I was able to tell my story and we could see their understanding grow, as I described my experiences at airports where I had been stopped by security and asked to explain myself after walking through a body scanner, for example.

Civil rights movements through history have succeeded because they have had a face to a cause, someone that carries with them a message about the way discrimination impacts on a person and their family and friends.

Thankfully for me, my story is also a positive one of acceptance within my local community.

I think this law is only the beginning. Being recognised and protected in the law means intersex people everywhere in Australia can feel safe to start telling their stories and our voices will start being heard.

# Protecting the human rights of people in detention



## OUR WORK

The HRLC advocates for a system of independent oversight and monitoring of places of detention to prevent and respond to ill-treatment.

We work to challenge the prolonged arbitrary detention of asylum seekers and refugees and to ensure that asylum seekers' claims for asylum are properly assessed.

We advocate for improved health care in prisons and to stop the transfer of children and young people to adult prisons in breach of children's rights protections.

## OUR IMPACT

### **Stopping the forced return of asylum seekers before their claims are properly assessed**

Our legal advocacy helped to prevent the forced return of around 100 asylum seekers prior to their claims for protection being properly assessed. The HRLC's intervention meant their asylum claims were assessed under normal processes instead of a new truncated, secret screening-out process which limited access to legal advice. Refugee advocates have used template letters developed by the HRLC to secure the proper processing of hundreds more asylum seekers in the same situation. We also undertook preparation for a legal challenge to the new screening process and highlighted the flaws and risks in the new process in media advocacy.

### **Addressing the prolonged, arbitrary detention of refugees**

The HRLC's legal advocacy helped to secure the transfer into community detention of two asylum seekers who had been found to be refugees but were being held in prolonged, indefinite detention because of untested criminal allegations. In one case, our client was held in detention months after police decided not to investigate the allegations. We are exploring a broader legal challenge to this practice with other clients.

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*“Basic dignity and respect must be afforded to anyone deprived of their liberty.”*

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Along with key partners, the HRLC successfully pushed for the establishment of an independent mechanism to review the indefinite detention of refugees who have been refused a permanent visa as a result of an adverse security assessment.

### **Challenging deterrence-based asylum seeker policies**

The HRLC has also been a strong and prominent voice in the public debate on asylum seeker policy. We advocated that safe pathways to protection are the way to prevent deaths at sea – not violating the human rights of survivors. We highlighted the cruelty and illegality of Australia's deterrence-based policies in the media and had them raised on the world stage at the UN Human Rights Council.



“Ninety-eight per cent of offenders will eventually be released from prison and about 5,500 prisoners are released into the Victorian community every year. It’s better to release prisoners gradually with monitoring and conditions than simply letting them go unsupervised. That is what parole is all about.”

HUGH DE KRETSEK, Strong parole system will benefit community, The Herald Sun.



## THE MARGIN FOR ERROR IS NIL:

Our Director of Legal Advocacy, Daniel Webb, discussing the HRLC’s work on the Australian Government’s ‘screening out’ practice for Sri Lankan asylum seekers

In October 2012, the Department of Immigration began using the “enhanced screening process” for Sri Lankan asylum seekers arriving in Australia by boat.

Screening is used to make an initial determination as to whether a person is genuinely seeking protection. People are either “screened in” and go through the normal, more thorough refugee assessment processes, or they’re “screened out” and abruptly returned without any more comprehensive processing or consideration.

Enhanced screening is not rigorous or thorough enough to ensure Australia doesn’t return genuine refugees to persecution. It involves just a single, short interview with one or two Departmental officials shortly after a person has got off the boat. People are interviewed without access to legal advice. No reasons for decisions are given. There’s no independent review process. There’s no right of appeal.

It’s a shortcut that increases the risk of error in a context in which the margin for error is nil. Mistakes are irreversible and result in people fearing persecution being forcibly returned to their persecutors. Over 1100 Sri Lankans have already been involuntarily sent back to Sri Lanka after being screened out.

The issue was first brought to our attention by a refugee advocate who had been contacted by families of asylum seekers who had been sent back to Sri Lanka. We worked with a pro bono firm, Allens, and barristers to assess the legality of the process and develop a legal challenge. Drawing on those foundations, a legal challenge is now being run by the Refugee and Immigration Legal Centre in partnership with Allens.

To help uncover more information about what was an incredibly secretive process, we also made a series of Freedom of Information requests and worked with sympathetic parliamentarians to put specific questions to the Department of Immigration during Senate Estimates hearings.

We engaged in media advocacy on the issue and worked with journalists who prepared stories that were highly critical of the screening process. We also briefed international human rights organisations to assist them in developing their own advocacy strategies on the issue.

We received a flood of calls every week from asylum seekers in distressed states fearing imminent deportation. We acted for about 100 people who had been screened out, helping to have them screened back in and remain in the country for a proper, fairer assessment of their refugee claims. We also sought urgent action from the UN Special Rapporteur on torture.

Perhaps most effectively, we worked closely with other advocacy organisations to develop some basic templates and advice which they then used to assist their own clients who’d been screened out. As well as the individuals we acted for directly, we’ve assisted advocates around the country to prevent the deportation of hundreds of their own clients.

In addition to helping to prevent the forced removal of hundreds of asylum seekers without due process, we ensured some public accountability for what has otherwise been a secretive and insulated practice. We still have a lot more work to do on the issue.



*Protecting the human rights of people in detention –  
OUR IMPACT continued*

**Stopping ill-treatment in places of detention**

The HRLC continues to advocate for the ratification of the UN's Optional Protocol to the Convention against Torture and Ill-Treatment (OPCAT) which establishes national and international mechanisms to scrutinise places of detention to prevent and respond to ill-treatment in detention. To date, the ACT, Northern Territory and NSW have taken steps to introduce legislation to facilitate the system of inspections required under OPCAT.

**Improving prisoner health care**

The HRLC continues to advocate for improved health care for prisoners with blood borne viruses. The HRLC provided legal support to a health organisation whose advocacy contributed to the ACT announcing the establishment of Australia's first ever needle syringe program.

**Preventing the transfer of children and young people to adult prisons**

The transfer in Victoria of a 16 year old Aboriginal boy into solitary confinement in a maximum security adult prison for months highlighted failures of the juvenile justice system and fundamental breaches of children's rights protections. The HRLC collaborated with partner organisations to advocate against the practice in several Australian states of detaining children and young people in adult prisons. Victoria is currently conducting an inquiry into the practice following this advocacy. The HRLC is also exploring legal challenges to the practice in Queensland. The issue disproportionately impacts on Aboriginal and Torres Strait Islander children and young people.

**LOOKING AHEAD**

The HRLC will continue to advocate for the ratification and implementation of the Optional Protocol to the Convention against Torture.

The HRLC will advocate and litigate:

- For improved health care in prisons.
- To prevent the use of prolonged solitary confinement.
- To stop the transfer of young people to adult prisons.

The HRLC will work with key partners to advocate, litigate and use UN human rights mechanisms to:

- Challenge the offshore processing of asylum seekers in Nauru and Papua New Guinea.
- Prevent the prolonged arbitrary detention of asylum seekers and refugees.
- Ensure that asylum seekers' claims for asylum are adequately assessed with access to proper legal help.

# Ensuring Australia complies with its international human rights obligations

“Disturbingly, Australia has introduced a policy of ‘screening out’ asylum seekers arriving from particular countries; that is, returning them to their country of origin even before they have an opportunity to lodge an asylum claim.”  
HRLC statement to the UN’s Human Rights Council.

## OUR WORK

The HRLC leads, coordinates and supports engagement by Australian non-government organisations and individuals with United Nations’ human rights mechanisms to scrutinise Australia’s human rights record and ensure it is complying with international human rights obligations.

## OUR IMPACT

### Engaging with UN bodies to monitor Australia’s human rights obligations

The HRLC coordinated a coalition of Australian NGOs to provide detailed briefings to the UN Human Rights Committee ahead of Australia’s next review under the International Covenant on Civil and Political Rights. The HRLC also delivered an oral statement updating the UN Human Rights Council in Geneva on Australia’s lack of progress on key human rights issues such as the treatment of asylum seekers and Aboriginal and Torres Strait Islander peoples.

### Keeping Australia accountable on child rights and disability rights

The HRLC was a member of the steering committees for the development of comprehensive NGO reports for both the Convention on the Rights of the Child and the Convention on the Rights of Persons with Disabilities.

### Building the capacity of human rights defenders

Together with leading international NGO, the International Service for Human Rights, the HRLC published a detailed guide for human rights defenders on securing the domestic implementation of recommendations made by UN human rights mechanisms. Effective follow-up by civil society is vital to ensuring that UN recommendations improve the human rights situation on the ground. The Guide considers strategies and tactics that NGOs can use to contribute to the implementation of UN recommendations at the national level.

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*“Australia was elected to the UN Security Council on the promise that it would be an advocate for human rights for all. It’s time to come good on that promise.”*

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## LOOKING AHEAD

The HRLC will:

- Prepare and contribute to major NGO reports on Australia’s human rights record for upcoming reviews under the Convention against Torture and Ill-Treatment, International Covenant on Civil and Political Rights, Convention on the Elimination of Racial Discrimination and Convention on the Elimination of Discrimination against Women.
- Advocate for improved domestic mechanisms to ensure that the decisions and recommendations of UN human rights bodies are implemented by Australia fully and in good faith.
- Continue to use UN human rights mechanisms and complaints processes to hold Australia to account on the international stage for its human rights obligations.

# Advancing the human rights of Aboriginal and Torres Strait Islander peoples



## OUR WORK

The HRLC is working with Aboriginal and Torres Strait Islander organisations and other key partners to reduce the shameful over-imprisonment of Aboriginal and Torres Strait Islander peoples.

We collaborate with Aboriginal and Torres Strait Islander organisations to advocate for the implementation of the recommendations of the Expert Panel on Constitutional Recognition of Indigenous Australians.

The HRLC also works with Aboriginal and Torres Strait Islander organisations on cases seeking to protect and promote human rights. We have a particular focus on implementing the principles and standards contained in the UN Declaration on the Rights of Indigenous Peoples.

## OUR IMPACT

### Improving the way government agencies assess proof of Aboriginality

Working with Fitzroy Legal Service, the HRLC played a key role in representing Aboriginal actor Jack Charles to secure improvements to the way the Australia Council for the Arts assesses proof of Aboriginality when considering applications for funding for Indigenous Arts grants.

### Challenging discriminatory laws

The HRLC advanced human rights arguments on behalf of the National Congress of Australia's First Peoples in the High Court case *Maloney v The Queen*. The case concerned the legality of "special measures" which apply only to Aboriginal communities and whether they breached racial discrimination. In a disappointing decision, the High Court rejected an interpretation of racial discrimination laws that would have been consistent with international human rights jurisprudence.

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*"The principles of self-determination, land and cultural rights, and participation in decision-making processes must be better reflected and enshrined in Australian law."*

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### Reducing Indigenous over-imprisonment

The imprisonment rates of Aboriginal and Torres Strait Islander peoples are shameful. Aboriginal people are 15 times more likely to be in prison and imprisonment rates have increased around 50% over the past decade. In close collaboration with National Aboriginal and Torres Strait Islander Legal Services, the HRLC brought key legal, human rights and welfare organisations together to develop a campaign to promote national action to address the underlying causes of Indigenous over-imprisonment.



“The Coroner’s damning finding that the death of an Aboriginal man in police custody was “preventable”, and resulted from “completely inadequate and unsatisfactory treatment”, highlights the urgent need for all places of detention to be subject to independent monitoring and oversight.”

PHIL LYNCH, Sign up to prevent jail deaths, The Age.



## LOOKING AHEAD

The HRLC will work with key partners to:

- Launch and conduct a campaign to reduce the over-imprisonment of Aboriginal and Torres Strait Islander peoples.
- Continue to advocate for the recognition of and equality for Aboriginal and Torres Strait Islander peoples in the Australian Constitution.
- Continue to provide legal support to Aboriginal and Torres Strait Islander organisations and communities to protect and promote human rights.



### **I SHOULDN’T HAVE TO PROVE MY ABORIGINALITY:** **Edited version of Jack Charles’ letter to the Australia Council for the Arts regarding its proof of identity policy**

I consider myself an elder statesperson of indigenous performing artists in Australia, also an activist, performer, and lore man. I believe it’s my role to use my status partnering with white law to work to change this policy completely.

I was the first fully professional Aboriginal actor here in Australia. I shouldn’t have to prove my Aboriginality. I’m in the national archives, my portrait is in the National Gallery.

The impact on me personally of the ‘proof of identity’ policy, and being told I would have to make efforts to bring papers proving my Aboriginality assaulted and shattered my senses. I have no doubt that I am Aboriginal. No one should doubt my Aboriginality.

Many are perplexed by such a request and feel very much slighted and abused. The quest for one’s racial/kinship beginning isn’t an easy journey for many of the stolen generations in particular. For myself, I feel there is a marked ignorance or disrespect to place the onus of proof upon myself given my life journey with which so many are familiar. My Aboriginality alone is the solid rock upon which I stand tall and proud. I am a proven, born again, black fella.

No one, neither the Governor General or the Governor of NSW or any of the performing theatres I’ve worked with, has ever asked to me to prove my Aboriginality. I believe the board should accept at face value the

evidence given by anyone seeking funding. We as a community of performing artists do not believe that there are many white people coming into organisations claiming to be Aboriginal. If there is, all these names need to be outed in their magazines – it will be seen very soon if anybody is pulling the wool over the board’s eyes. And you need then to charge them with perjury and fraud.

I do feel I’m on solid sacred ground in my stance. I believe this policy is somewhat insidious and culturally damaging. It is vital that we don’t dash the dreams and hopes of individuals across the nation, individuals who in their own right can’t come to the talking table and dispute or argue this particular policy.

Many of them aspire to be actors, go to Aboriginal colleges for the arts around the country. And many of them are pale skinned, yet perform as Aboriginals mainly because of the simple fact they acknowledge themselves as Aboriginal – there they are Aboriginal.

We need parity here. Common sense approaches need to be taken that show respect, and show understanding for the problems people are facing on the frontlines in getting proof of Aboriginality.

I have retained Fitzroy Legal Service and the Human Rights Law Centre to provide a legal opinion in relation to the proof of Aboriginal identity policy and proposals put forward by the Board. As you will see, the content is consistent with my own strong views on this issue.

# Promoting and protecting women's rights

"The days of serious arguments against equality are over. The idea that a woman might miss out on a promotion because of her sex, or be denied access to goods and services because of her race is abhorrent to most Australians."

RACHEL BALL, Missed opportunities in changes to anti-discrimination laws, ABC's The Drum.



## OUR WORK

The HRLC promotes a human rights based approach to violence against women to ensure that government agencies fulfil their legal obligations to prevent and respond to violence against women.

We also work to ensure that women can access reproductive health services safely and without harassment.

## OUR IMPACT

### Using human rights to prevent and respond to violence against women

The HRLC prepared a range of factsheets outlining the human rights obligations of government to take positive steps to prevent and respond to violence against women and explaining ways human rights mechanisms can be used by advocates to enforce these obligations.

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*"Women should be able to access health services without fear of harassment, abuse and other intimidating behaviour."*

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### Ensuring women can access reproductive health services without fear and harassment

The HRLC worked with the Women's Legal Service in Tasmania on responding to legislation in the Tasmanian Parliament which decriminalises abortion and establishes safe zones around reproductive health clinics to prevent the harassment of women accessing services. The HRLC is also working in Victoria to ensure women can better access reproductive health services without fear and harassment.

## LOOKING AHEAD

- The HRLC will pursue legal avenues to ensure women can access reproductive health services safely and without harassment.
- We will assist domestic violence organisations to use human rights complaints mechanisms to prevent and respond to violence against women.
- We have also begun scoping a project to prevent and respond to violence against women in police and prison custody.



# Protecting human rights beyond our borders

“For too long Australia supported the pro-military and anti-reform remnants of the Suharto regime. Now we have an opportunity to better align ourselves with the mainstream Indonesian human rights movement that recognises that the problems in West Papua do not have a military solution.”

TOM CLARKE, Australia's evolving position on West Papua, *The Australian*.



## OUR WORK

The HRLC promotes the protection of human rights through Australian foreign policy, particularly in relation to Indonesia and Sri Lanka, and also seeks to ensure Australian businesses operating overseas respect human rights.

## OUR IMPACT

### Capitalising on Australia's UN Security

#### Council position

Through media and other advocacy, the HRLC has encouraged Australia to use its two year position on the UN Security Council to advance human rights.

### Promoting accountability for human rights violations in Sri Lanka

The HRLC convened sold out events in Melbourne and Sydney to highlight human rights violations in Sri Lanka and to urge Australia to support international efforts to press Sri Lanka for accountability on war crimes.

The HRLC also facilitated a screening in the Australian Parliament of the feature length documentary, *No Fire Zone*, about war crimes committed at the end of the Sri Lankan civil war in 2009.

We also conducted research examining the extent of cooperation between the Sri Lankan and Australian Governments on stopping asylum seeker boats from leaving Sri Lanka and the risks of Australian complicity in the abuse and persecution of people who are prevented from leaving.

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*“If we don't stand against war crimes and crimes against humanity, what do we stand for?”*

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### Pushing for media access and human rights monitoring in West Papua

The HRLC ensured that ongoing human rights abuses occurring in Indonesia's Papuan provinces were put on the agenda when the Australian Prime Minister and senior Ministers undertook visits to Indonesia. Our media advocacy on the issue has continued to push for international media access and human rights monitoring in Papua as well as called for a complete review of Australia's support for Indonesia's elite counter-terrorism unit, Detachment 88.

## LOOKING AHEAD

The HRLC will:

- Continue to advocate for the protection and promotion of human rights in Australian foreign policy relating to Indonesia and Sri Lanka.
- Advocate and explore litigation to stop Australian involvement in extrajudicial killings by United States military and security bodies in overseas drone operations.
- Expand our work to advocate and litigate to ensure that Australian businesses respect human rights in their overseas operations.

# Ensuring proper accountability for police use of force and police-related deaths



## OUR WORK

The HRLC works to secure the independent investigation of police-related deaths in accordance with international human rights law.

The HRLC also seeks to ensure appropriate human rights safeguards are used in relation to the use of force and other police powers.

## OUR IMPACT

### Pushing for independent investigation into police-related deaths

When 15 year old Tyler Cassidy was fatally shot by Victorian police officers in 2008, it was Victoria Police that conducted the investigation into the death and prepared the brief of evidence for the Coroner. This year, the HRLC assisted Tyler's mother, Shani Cassidy, to lodge a complaint with the UN Human Rights Committee seeking a favourable ruling from the Committee to spur federal and state governments in Australia into establishing independent models for investigating police-related deaths.

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*“Rather than simply having review powers, what is required is an independent body with the ability to take carriage and conduct of an entire investigation from the word go.”*

---

### Appropriate police use of force and Tasers

The HRLC continued to advocate for appropriate human rights safeguards around the use of force by police including the use of Tasers. The HRLC convened a roundtable with an international guest expert, senior members of Victoria Police, policy makers and community lawyers to discuss the current state of evidence on the health risks and international best practice in relation to Taser use.

### LOOKING AHEAD:

The HRLC will:

- Continue to advocate and litigate for the establishment of independent bodies to investigate police-related deaths and allegations of torture and ill-treatment.
- Continue to work with government, police forces and police oversight bodies to develop appropriate human rights safeguards around the use of police powers.



“Imagine the outcry if employers investigated deaths in their workplace, or if a rugby club was left to investigate if its players should be suspended for on-field incidents? The risk of collusion would be real, the investigations would lack transparency and legitimacy and there would be a decline in accountability. Yet this is the situation that prevails in relation to police-related deaths.”

ANNA BROWN, Independent inquiry the only way for police killing, The Sydney Morning Herald.



## THEY DIDN'T EVEN ASK HIM HIS NAME: Statement from Shani Cassidy regarding UN Communication

I submitted a complaint to the United Nations Human Rights Committee with the assistance of the Human Rights Law Centre. I submitted this complaint on behalf of my son, Tyler.

Tyler was shot dead by three Victoria Police officers. He was 15 years old. My son died just 73 seconds after police officers first approached him. They sprayed him with two canisters of OC foam. They then fired 10 bullets at him, five of which hit him and ultimately killed him. They didn't even ask him his name.

I have made a complaint to this Committee because I feel it is so important that deaths like Tyler's be investigated properly by a truly independent body. The investigation was conducted by Victoria Police because, in Victoria, there is no independent body able to investigate deaths like my son's. Until such a body exists there can be no justice here.

The night he died, Tyler was upset and he was armed with knives. But he was also a child – just fifteen years old, alone, and distressed in an empty outdoor skate park.

Tyler's death was investigated by members of the same police force at whose hands he died. The police officers who killed my son were not even treated as suspects. Contrary to the usual practice of Victoria Police when dealing with others involved in homicides, the interviews of the police officers who shot Tyler were not recorded. By contrast, the investigating officers treated me and my family like the criminals rather than the victims. For example, our conversations and meetings with Victoria Police were secretly recorded by them.

Victoria Police made comments to the media that demonised my son including on the very night he died. They breached their policy on Media Interaction

Following a Critical Incident and didn't seek the Coroner's approval before they released a statement which argued that the use of fatal force on Tyler was justified. The most distressing and personal challenges of my son's life were made public. His dignity and privacy were disregarded, and our memories defaced.

When you lose a child in circumstances like these, you need to know the truth of what happened. We, the Australian community and grieving families, also need to be able to have confidence in our institutions.

Tyler has gone, and nothing will bring him back. However, ensuring a better, independent investigation process will help other families to avoid the kind of suffering we are going through.

I will never hold my son again, but I will do everything I can to ensure that no one else has to experience the horror that we have lived with since he died.

**This is an edited extract of Shani Cassidy's statement given to the media in May 2013 when the HRLC filed a communication with the UN's Human Rights Committee. A complete copy of the statement can be found online at: [www.hrlc.org.au/they-didnt-even-ask-him-his-name](http://www.hrlc.org.au/they-didnt-even-ask-him-his-name)**

# Extending our reach in 2012/13



□ The six principal law firms we worked with over the past year provided over 6800 hours of pro bono legal work to support the HRLC, including casework, research, casenotes and secondments. The value of this work was \$2.8 million.

□ Leading barristers at the Victorian, NSW and Queensland Bar as well as volunteers and interns provided substantial additional support.



□ We worked on over 30 major ongoing human rights matters including High Court cases, UN complaints and a range of other legal cases.

□ We delivered 20 submissions to Parliamentary and other inquiries on topics ranging from racial vilification to reproductive health rights to police powers.



□ We distributed our bulletin Rights Agenda to over 3,200 subscribers each month plus many thousands more via our website and social media.

□ There are now over 600 key human rights case summaries available to the public online for free on our website.



□ Our advocacy and news reached over 10,000 followers via Twitter and over 4500 Facebook supporters.

□ Our work received international, national and local media attention in over 170 media reports, articles and interviews.



□ We convened or spoke at over 50 human rights seminars and events.

□ Our website received 113,551 visits.

# Our Governance, staff and supporters

The HRLC is a not-for-profit company limited by guarantee. We have been endorsed by the Australian Taxation Office as a public benefit institution attracting deductible gift recipient status.

The HRLC is governed by a Board of Directors and has an Advisory Committee to provide strategic assistance and advice.

## BOARD AND OFFICERS

Name	Position	Date of Appointment
<b>Ros Grady</b> Chief Executive Officer and Professor, Centre for International Finance and Regulation	Past Chairperson	23-11-2011
<b>Jamie Gardiner</b> Vice-President, Liberty Victoria		16-11-2010
<b>David Manne</b> Executive Director, Refugee and Immigration Legal Centre		11-12-2006
<b>Fiona McLeay</b> Executive Director, Public Interest Law Clearing House		23-11-2011
<b>Melanie Schleiger</b> Equality Law Program Manager, Victoria Legal Aid		10-10-2008
<b>Michael Kingston</b> Chief Legal Officer, Australian Securities and Investments Commission	Chairperson	12-10-2012
<b>Jon Webster</b> Partner, Allens		12-10-2012
<b>Ilana Atlas</b> Pro-Chancellor, Australian National University		12-10-2012
<b>Catherine Branson</b> Former President Australian Human Rights Commission		09-08-2013
<b>Hugh de Kretser</b> Executive Director	Company Secretary	12-04-2013
<b>Diane Sisely</b> Human Rights Academic		03-06-2006 to 13-08-2012
<b>Philip Lynch</b> Executive Director	Past Company Secretary	03-01-2006 to 12-04-2013



## ADVISORY COMMITTEE

### Vanessa Lesnie

Director of Strategic Projects,  
Australian Human Rights Commission

### Nicolas Patrick

Pro Bono Partner and Head of Pro Bono and  
Corporate Responsibility - International, DLA Piper

### Alexandra Richards QC

Senior Counsel, Victorian Bar

### Chris Sidoti

International Human Rights Expert and  
former Australian Human Rights Commissioner

### John Tobin

Associate Professor, Melbourne Law School

## STAFF

### Philip Lynch

Executive Director *(to January 2013)*

### Hugh de Kretser

Executive Director *(from February 2013)*

### Rachel Ball

Director of Advocacy and Campaigns

### Anna Brown

Director of Advocacy and Strategic Litigation

### Emily Howie

Director of Advocacy and Research

### Ben Schokman

Director of International Human Rights Advocacy

### Daniel Webb

Director of Legal Advocacy

### Tom Clarke

Director of Communications

### Frank Deans

Accountant

## SECONDEE LAWYERS

**Richard Griffin** Lander & Rogers

**Emily Brott** King & Wood Mallesons

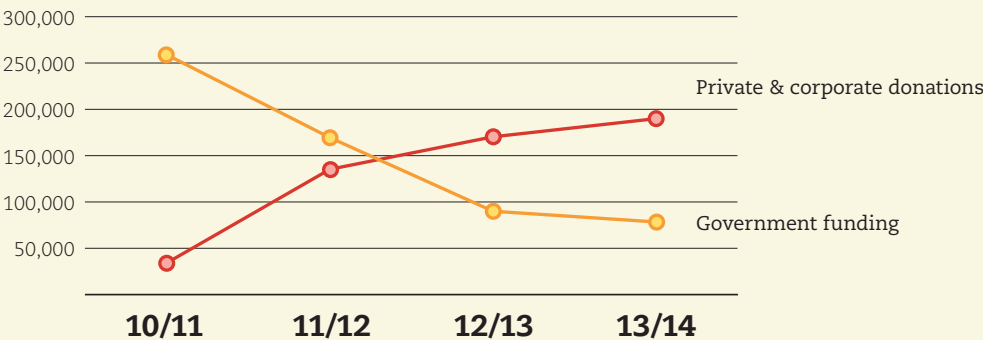
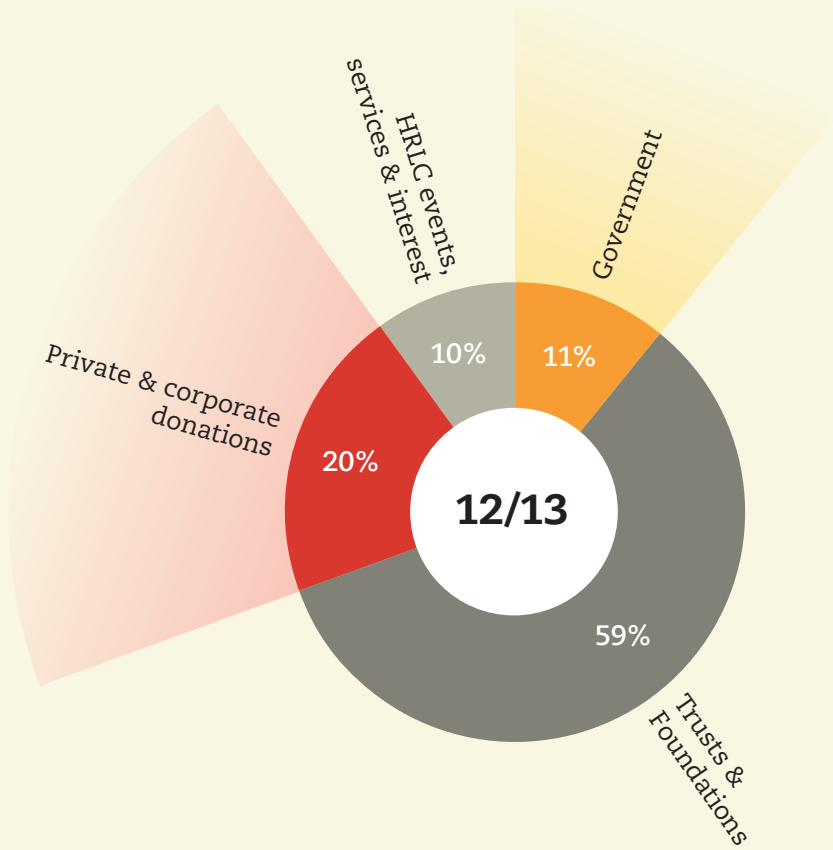
**Rowan Minson** King & Wood Mallesons

**Madeleine Forster** DLA Piper

**Emily Christie** DLA Piper

# Funding

Our human rights impact is only made possible thanks to the passionate and generous contributions of our supporters. With just 11% of funding coming from government this year, our dedicated donors and pro bono partners have ensured that our human rights work has not only been sustained, but strengthened. Your ongoing support will ensure we can continue our vital work to advance human rights in Australia.



# Thank you



## OUR DONORS AND FUNDERS

### **\$25,000+**

Legal Services Board of Victoria  
Victorian Government:  
Department of Justice  
Myer Foundation  
Reichstein Foundation  
Story Street Fund - Australian  
Communities Foundation  
Victoria Law Foundation  
SKAR Foundation  
The Trust Company

### **2012/13**

### **\$10-25,000**

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Peter Hanks QC  
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Ian Melrose  
Oak Foundation  
Trawalla Foundation  
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### **\$5,000-9,999**

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 Sam Ure  
 Daniel Webb

Donors marked \* made donations at our 2013 Human Rights Dinner. These donations were shared equally with Justice Connect (formerly called PILCH).

### PRO BONO SUPPORT

The substantial pro bono support provided by leading law firms and barristers enables us to conduct strategic litigation and cutting edge human rights test cases in superior courts. In addition to assisting with pro bono legal matters, a number of firms supported the HRLC in a range of other ways including seconding lawyers to us and assistance with human rights case notes, publications and events. We sincerely thank our pro bono supporters for their support.

#### Major law firm pro bono supporters

Allens  
 Ashurst  
 Clayton Utz  
 DLA Piper  
 King & Wood Mallesons  
 Lander & Rogers  
 Maurice Blackburn

#### Pro bono barrister support

Matt Albert  
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 Michael Stanton  
 Bret Walker SC  
 Kristen Walker  
 Rupert Watters  
 Nick Wood  
 Chris Young

# Financial Statements

Statement of Profit or Loss and Other Comprehensive Income for the Year ended 30 June 2013

	2013 / \$	2012 / \$
<b>INCOME</b>		
Victorian Department of Justice	90,000	144,595
Commonwealth Attorney-General's Department – Human Rights Framework Grant	–	25,000
Legal Services Board of Victoria - Major Grants	92,400	96,413
Legal Services Board of Victoria - Equality Grant	66,600	–
R E Ross Trust	20,000	50,000
Reichstein Foundation - Detention Grant	30,000	–
Australian Communities Foundation - Story Street Fund	50,000	20,000
Victoria Law Foundation CLC Fellowship	35,918	–
Myer Foundation	67,200	–
Other Grant Income	–	51,260
Private Donations	101,524	92,193
Corporate Donations	68,838	43,050
Indigenous Rights Unit - funded by: The Trust Company; Ron Merkel and Beth Charles; SKAR Foundation; Reichstein Foundation; Trawalla Foundation; Rae and Peter Gunn Family Foundation; Shulu Foundation	124,667	–
Interest	21,053	20,696
Event Registrations	9,391	8,887
Annual Dinner	43,705	17,511
Legal Costs	–	5,227
Training and Teaching Services	1,691	3,250
Refunds & Reimbursement	3,758	3,817
Other Income	2,629	5,308
<b>Total Income</b>	<b>829,374</b>	<b>587,207</b>

	2013 / \$	2012 / \$
<b>EXPENDITURE</b>		
Occupancy expenses	40,212	36,087
Operational & administration expenses	172,644	70,300
Employee benefits	508,646	380,810
<b>Total Expenditure</b>	<b>721,502</b>	<b>487,197</b>
<b>Total Comprehensive Income</b>	<b>107,872</b>	<b>100,010</b>

Statement of Financial Position as at 30 June 2013

<b>Current assets</b>		
Cash and cash equivalents	635,585	562,769
Trade and other receivables	27,636	57,038
Total current assets	663,221	619,807
<b>Total assets</b>	<b>663,221</b>	<b>619,807</b>
<b>Current liabilities</b>		
Trade and other payables	23,305	23,128
Provisions	56,434	72,421
Grants received in advance: -	95,978	164,107
(1) Legal Services Board - Major Grant \$45,600		
(2) Legal Services Board - Equality Grant \$29,207		
(3) Reichstein Foundation Detention Grant \$20,000		
(4) Victoria Law Foundation - CLC Fellowship \$1,175		
Total current liabilities	175,717	259,656
<b>Non-current liabilities</b>		
Provisions	20,903	1,422
Total non-current liabilities	20,903	1,422
<b>TOTAL LIABILITIES</b>	<b>196,620</b>	<b>261,078</b>
<b>NET ASSETS</b>	<b>466,601</b>	<b>358,729</b>
<b>Equity</b>		
Retained earnings	466,601	358,729
<b>TOTAL EQUITY</b>	<b>466,601</b>	<b>358,729</b>

This is an extract of the HRLC's audited financial statements for the year ended 30 June 2013. For a full version visit [www.hrlc.org.au](http://www.hrlc.org.au)

# The Human Rights Law Centre protects and promotes human rights in Australia and beyond through a strategic mix of legal action, advocacy, education and capacity building.

The Human Rights Law Centre is an independent and not-for-profit organisation. Donations are tax-deductable. For more information about our work, impact and how you can support principled human rights leadership, visit: [www.hrlc.org.au](http://www.hrlc.org.au)



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**Lander & Rogers**  
Lawyers