



State Budget Submission

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Victoria Best and Fairest



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Achieving social justice involves addressing inequalities and discrimination created by our social, economic and political systems. In the justice system, this involves recognising and tackling the reasons why particular groups of people – including women in prison, people with a mental illness, Indigenous people, people from culturally and linguistically diverse backgrounds and young people – disproportionately come into contact with the justice system.

Attaining justice in Victoria is fundamental to achieving a fair and socially sustainable community. Investing in resources and ensuring equity of access to services removes barriers to participation in community life, guards against discrimination and has at its core a fundamental respect for human rights.



Access to justice

VCOSS supports the Government's stated commitment to increase the availability of community legal services and welcomed additional resources for community legal services in the 2007-08 Budget.

Nevertheless, demand for community legal advice and casework services continues to severely outstrip supply. Recent analysis of community legal services demonstrated that civil and family law services have almost doubled over a ten year period, and there were significant increases in family violence advice and cases, and credit and debt issues.¹

The Senate Legal and Constitutional Affairs Committee Report (2004) into legal aid and access to justice noted the vital role played by community legal centres in helping to achieve a fairer, more accessible and more effective civil justice system. The Report identified that the funding available to centres was insufficient to meet demand, and recommended an increase in core funding to existing community legal services and establishing new services to help ease the burden.²

The report also recommended that where new legislation may increase demand for services, governments should provide corresponding increases in funding to compensate.³ The right to a fair hearing is included in the newly introduced *Charter of Human Rights and Responsibilities 2006* and is a non-derogable norm under international law. Interpretation of this right in comparable jurisdictions suggests that it is likely to include the right to legal advice as well as to legal representation.⁴ If this proves to be the case, an increase of funding to community legal services may well help to reduce unmeritorious claims brought before the courts.⁵



Women in prison

The number of women being incarcerated in Victoria has increased by 20 per cent in the last seven years (from 10.5 per 100,000 in 2000 to 12.6 in 2007).⁶ The 'Better Pathways' Strategy is a welcome initiative to address this increase and the unique circumstances of women's offending and recidivism, but it remains to be seen whether the strategy produces the required results. A transparent and accountable review process for this and other Corrections strategies needs to be available so that such initiatives can be analysed and assessed.

The conditions of women in prison also remains a concern, and VCOSS and the Federation of Community Legal Centres called for a systemic review of women's prisons after producing a submission documenting discriminatory practices.⁷ While the Victorian Equal Opportunity Commission accepted 'that at face value the Submission raises some allegations which may disclose breaches' of the Equal Opportunity Act and recommended that Corrections Victoria conduct an independent human rights audit of women's prisons,⁸ to date, this recommendation has not been acted upon

and the majority of issues raised in the report remain to be addressed.

Indigenous overrepresentation

Overrepresentation of Indigenous people in the criminal justice system remains a challenge. In 2007, Indigenous Victorians were over 12 times more likely to be imprisoned than non-Indigenous Victorians, and the rate is increasing despite the fact that rates of imprisonment for non-Indigenous people are decreasing.⁹ Aboriginal and Torres Strait Islander youth are also three times more likely to be cautioned when processed by police.¹⁰

VCOSS welcomes the Government's commitment to date in finding means to tackle these issues and the Koori Courts in particular have been a demonstrated success, with a marked improvement in just outcomes for participants.

Family violence

Family violence is the most common cause of death, disability and illness in Victorian women under the age of 45¹¹, and Access Economics estimated in 2004 that the cost was approximately \$2 billion over a 12 month period.¹²

The Victorian Law Reform Commission conducted an inquiry into family violence laws and produced a report in 2006 calling for extensive reform of legislation, policy and practice to improve the justice system's response to family violence¹³

VCOSS welcomed the provision for domestic violence community lawyers and other measures in the 2007-08 Budget, and the ongoing commitment of the Government to tackling this issue.

Recommendations

- 1 VCOSS proposes that the Government increase investment in Legal Aid and Community Legal Services in 2008-09 to ensure that all Victorians have equal access to justice, particularly in light of the potential increase in demand from the operation of the *Victorian Charter of Human Rights and Responsibilities*.
- 2 VCOSS proposes that the Government resource an independent human rights audit of women's prisons in Victoria.
- 3 VCOSS proposes that the Government continue working with Indigenous communities to seek, and adequately fund, solutions to the overrepresentation of Indigenous people in the criminal justice system, with priority given to:
 - a. finalising the Indigenous Family Violence 10 Year Strategy and providing resources for its implementation in 2008-09;

- b. expanding the Frontline Youth Initiative program to better promote positive engagement with Indigenous young people and their families; and

- c. developing a community-based Indigenous women's diversionary program.

- 4 VCOSS proposes that the Government provide recurrent funding for the Indigenous Women's Justice Forum after the successful evaluation of the two-year trial.
- 5 VCOSS proposes that the Government build on the commitment in the 2007-08 Budget to sexual assault and family violence services, and provide adequate funding for the implementation of all legislative and non legislative reforms proposed in the Victorian Law Reform Commission report.

Endnotes

- 1 Federation of Community Legal Centres, *Federation Justice Initiatives Strategy*, Jan 2007 – June 2008, Federation of Community Legal Centres (Vic) Inc.
- 2 Senate Legal and Constitutional Affairs Committee, *Inquiry into Legal Aid and Access to Justice*, June 2004; Victorian Law Reform Commission: *Civil Justice Review*, Recommendation 60 at [11.51].
- 3 Senate Legal and Constitutional Affairs Committee, June 2004. Victorian Law Reform Commission: *Civil Justice Review*, Recommendation 8 at [2.116].
- 4 B Schokman & P Lynch, *The Right to a Fair Hearing: The Relevance of the Charter of Human Rights and Responsibilities Act 2006 (Vic) to Civil Justice*, Submission to the Victorian Law Reform Commission Civil Justice Review, Human Rights Law Resource Centre Ltd, December 2006. p 9-10.
- 5, p32
- 6 Australian Bureau of Statistics, *Corrective Services – June Quarter 2007*, September 2007, ABS, Canberra p 13.
- 7 Equal Opportunity Commission of Victoria, *Women Prisoners In Victoria: A report on the considerations and conclusions of the Equal Opportunity Commission of Victoria in determining whether to seek the Attorney-General's consent to conduct a formal investigation into systemic discrimination against women in Victorian prisons*, Equal Opportunity Commission of Victoria, 2006, p5.
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- 9 Australian Bureau of Statistics, September 2007, ABS, Canberra, p. 11 & 15.
- 10 Victorian Aboriginal Justice Agreement Phase 2 (2006), 8, in Federation of Community Legal Centres (Vic), *Victorian State Justice Policy Positions*, December 2006.
- 11 Victorian Health Promotion Foundation, *The Health Costs of Violence: Measuring the burden of disease caused by intimate partner violence*, VicHealth, Melbourne, 2004.
- 12 Federation of Community Legal Centres (Vic), December 2006.
- 13 Victorian Law Reform Commission, *Review of Family Violence Laws: Final Report*, Victorian Law Reform Commission, 2006.