



SUBMISSION 25<sup>th</sup> November 2013

ABORIGINAL LEGAL RIGHTS MOVEMENT

## **SUBMISSION TO THE PRODUCTIVITY COMMISSION**

### ***Access to Justice Arrangements; Public Inquiry***

#### **Introduction**

ALRM is the peak body in South Australia for the provision of advice and representation to Aboriginal people and advocating for the recognition of their rights in the justice system of the State of South Australia and the Commonwealth. ALRM is one of the network of ATSILS that cover the Commonwealth of Australia.

ALRM welcomes the opportunity to make a submission to the Commission. In making this submission we are conscious of the sorry history of interaction between the Aboriginal people and the justice system, since colonisation. Aboriginal people are seen as being unwillingly subject to the justice system rather than active participants in it. Thus we assert that Aboriginal people need more and better access to justice by existing legal remedies and the creation of appropriate remedies to deal with their unique legal problems. At the same time ALRM needs the resources to be able it to make a strategic decisions to enable it to assist communities and individuals in improving their lot through the civil justice system.

In this submission, we note and rely upon the collected wisdom of many reports and Inquiries including the RCIADIC, the Bringing Them Home Report, the collected Social Justice Commissioners' Reports, previous reports of the Productivity Commission, the Office of Evaluation and Audit, the Australian Institute of Criminology and numerous Parliamentary Inquiries into legal aid, access to justice and Aboriginal Legal Services.

Overwhelmingly, such research confirms that Aboriginal people are grossly over-represented in criminal courts, prisons, Watch houses, youth detention centres, but under-represented in diversion programs and alternatives to imprisonment.

Relevant to the current Inquiry, Aboriginal people are also under-represented among those who seek civil remedies. This is in part due to inadequate provision of services in Family Law and civil litigation for Aboriginal people in SA, including the provision of interpreters. We confirm the findings of the Office of Evaluation and Audit, and Parliamentary Committee reports which suggest that ALRM, as the peak body for provision of civil law legal services

to Aboriginal people, is inadequately funded to meet existing commitments, let alone unmet and uncharted need.

ALRM is unable even now to provide for the need of civil advice and representation in all suburban Adelaide areas, let alone the numbers of Aboriginal people living in the regional and vast remote areas of the State including the APY Lands. It may be that it is in the remote communities that the need for increased access to civil justice is the greatest, as well as the least facilitated.

The Aboriginal Legal Rights Movement reiterates the need for increased capacity to service the unmet civil and Family Law needs in order ultimately to address the fact that a lack of access to civil law remedies leads to an escalation of involvement with the criminal justice system, increased hardship, continuing disempowerment and a lack of confidence in the Australian legal system as a whole.

The multiple barriers to access to the civil justice system in South Australia are exemplified by the intertwined issues of social disadvantage, poor health, low income and unemployment, lack of affordable and appropriate housing or homelessness faced by Aboriginal people. All these factors contribute to a lack of access to the civil law system, as well as being exacerbated by that lack of access. Homelessness and social disadvantage naturally lead to public exposure, increased police scrutiny, and unfortunately often to engagement with the criminal justice system.

Much can be said of early intervention in this cycle of disadvantage, and ensuring easier access to civil remedy, thereby enhancing and properly recognising civil law rights is likely to lead to increasing confidence in the legal system, and alleviate social disadvantage and perhaps thereby a decrease in criminal law matters overall.

Naturally ALRM is caught up in this cycle as we are required to prioritise criminal justice clients. As a lack of legal services resources leads to a lack of access to civil justice, so a lack of access to civil justice often leads to engagement in criminal justice, where ALRM resources are expended.

In addition, the Aboriginal Legal Rights Movement submission refers to other areas of significant encroachment upon the lives of Aboriginal people by the justice system. We refer to the In Need of Care jurisdiction under the Children's Protection Act, and the continuing over representation of Aboriginal youths in the process of children being taken away from their families, deemed 'in need of care', by government authorities. This process has unfortunate and ongoing results in terms of separation from kin and country, and unsatisfactory resolution of cases in terms of reunification and related issues. This in turn is often related to other forms of Aboriginal disadvantage and its consequences. For example ALRM is now picking up more cases of children "in need of care" where the issue is acquired brain injury, whether from foetal alcohol spectrum disorder (FASD) or brain injury from some other cause. These cases in turn reemphasise the need for ALRM to act for communities in Licensing Court proceedings in order to control takeaway liquor getting on to dry communities. ALRM, through this submission wants to inform the Inquiry of the need

for ATSILS to be better able to assist Aboriginal communities to use the civil justice system to address these issues of social disadvantage by enabling them to gain access to remedies which will address that social disadvantage.

### **Terms of Reference 1: Costs of legal representation and trends over time**

We submit that continual underfunding of the Aboriginal Legal Rights Movement has limited attempts to cover the provision of legal aid across the whole of the State during the last 40 years of its operation. With the inevitable focus upon personal liberty and those who face the criminal justice system and incarceration, efforts to assist Aboriginal people assert and protect their civil rights have all too often been thwarted by lack of available resources. We again note that a failure to assist in addressing civil law issues early very often results in escalating hardship eventually leading to criminal justice matters. Just as it has been widely noted that a failure of the justice system to resource rehabilitation in the criminal justice system leads to escalating costs of crime, likewise in the civil law jurisdiction, a failure to properly resource access to civil justice leads to more entrenched hardship and escalating costs to society through homelessness, desperation, disempowerment and further eroded faith in and respect for the legal system.

### **Terms of Reference 2: Inadequate measurement of demand for resources**

It is clear that ALRMs default priority is to assist those Aboriginal people who face the criminal justice system, particularly where a loss of liberty is the likely outcome. Due to inadequate funding, this apportionment of resources means that a large number of people, many of whom are reliant on the grant of Aboriginal Legal Aid in absence of any alternative source of aid, are effectively precluded from access to the civil justice system.

Having said that, it is impossible with any accuracy to estimate how many people miss out. On the one hand there are those who actively seek assistance but due to lack of resources are referred to other solicitors or service providers. Whether or not they are eventually successful in securing the assistance they need is largely unknown.

On the other hand, there are an unknown number of Aboriginal people, particularly on the APY Lands and other remote areas, who do not even seek assistance. This may be due to widespread ignorance of their civil rights, the availability of services, systemic helplessness which assumes no assistance is available, fear of engagement with the mainstream legal system, etc.

Again, ALRM has the cultural knowledge and experience to impact these widespread barriers to accessing civil justice, but not the means. Further expenditure on Community Legal Education, outreach solicitor visits to remote communities, and capacity to take on casework would make a world of difference to Aboriginal people in remote areas, but this is an area likely to remain under-serviced and unmeasured until further funding can be provided.

Essentially, ALRM provides the fullest range of legal services in criminal, family law, child protection and civil law as its resources allow from time to time. It is impossible to estimate numbers of people who remain without recourse or remedy due to ALRM's incapacity to assist beyond the constraints it faces.

### **Complex Needs of Aboriginal People**

This submission will also cover the complex needs of Aboriginal people and the need for legal services that fulfil the following criteria.

1. Able to deal with the cultural needs of Aboriginal people when they are disadvantaged distressed and subject to inter-generational trauma.
2. ALRM will also look at the question of lack of availability of interpreters when they are required particularly in the north and west of the State
3. Consequences of petrol sniffing and intergenerational alcohol abuse –FASD and related issues

### **Terms of Reference 3: Factors that contribute to the cost of legal representation in Australia**

#### **[a] barriers to new graduates in the legal profession**

ALRM is continually approached by new law graduates and newly admitted practitioners who are seeking to do volunteer work, since they are unable to get paid work as lawyers. Their only way into the profession is by experience gained as volunteers ALRM is regrettably unable to provide work to these graduates in most cases because of our inability to purchase professional indemnity insurance for them. The usual cost is around \$5000 p.a. Usually they are unable to provide it themselves, however ALRM can and does provide volunteer work to solicitors who are admitted and have their own practising certificates- at their own expense.

ALRM submits that a practical solution for this dilemma would be for Compulsory Professional Indemnity Schemes to work on the basis of providing inexpensive or no cost cover for volunteer practitioners who work without fee or reward in the Public legal aid sector.

If newly admitted practitioners are able to work for ALRM our Continuing Professional development and mentoring schemes can be and are applied to assist them in gaining professional expertise and advancement. This will in turn increase the number of practitioners who have the skill sets necessary to work effectively in the ATSILS environment

## **[e] legal profession rules and practices**

ALRM notes the operation of the legal professional rules, the Australian Solicitors Conduct Rules and in particular the question of Rule 10 in relation to past clients and the way in which this impacts upon ALRM services particularly to remote outback communities. ALRM is a party to and supports the request by NATSILS to the Law Council of Australia to amend Rule 10, along the lines of various Canadian precedents, to give greater flexibility to ATSIILS to act in past client conflict situations. This particularly applies to remote communities where there are no other legal aid resources than the ATSIILS to cover the community in question.

### **Terms of Reference 5: Language barriers,**

There is an evident lack of interpreter services available despite an obvious need, and the clear importance of trained interpreters to assist in the equitable engagement of Aboriginal people in the civil law justice system.

Much of the information distributed by government and other stakeholders is presented in English, meaning that those who do not read or have a good understanding of English Language are reliant upon interpretation by those who do. Trained interpreters are essential to ensure such often complex information is not misinterpreted, thus adding to confusion. The lack of resources available to train and employ interpreters in Aboriginal languages and Aboriginal English only adds to the array of impediments Aboriginal people face in accessing and asserting their civil law rights, and meaningfully engaging with the legal system more generally. We refer generally to the NATSILS submission in that regard .

### **Terms of Reference 6: The economic and social impact of the costs of accessing justice and securing representation**

Due to the unfortunate history of dispossession, removal, and disempowerment of Aboriginal society, many Aboriginal people find themselves living their lives in unfavourable and impoverished circumstances, within a 'first world' society.

Regardless that people who are already impoverished are devastatingly impacted by debt, housing issues, fines, and other civil law issues, the costs of seeking remedy and redress through the legal system are prohibitive along with the many other barriers faced in accessing justice.

## **Terms of Reference 7: The impact of the structures and processes of legal institutions on the costs of accessing and using them**

Legal structures are generally intimidating, particularly where Aboriginal people are overrepresented in the criminal justice system and that jurisdiction is the ‘experience’ people have had with the legal system. This represents a hurdle for many people in then approaching a lawyer or the Courts for assistance with civil matters.

ALRM is aware that regardless of our mandate to assist and represent the legal interests of Aboriginal people, many assume that lawyers are merely part of a larger and oppressive system, and fear engagement for that reason.

With better funding and resources ALRM would seek to address this perception, particularly in regional and remote areas, through the provision of Community Legal Education on civil law rights and remedies, and the services available to potential claimants. However ALRM remains mindful that such a program of education and increased awareness of civil law rights will inevitably open the floodgates of hitherto unmet need in those communities, which ALRM lacks the appropriate funding to properly and diligently cope with.

Specific issues confronting ALRM in relation to Reference 7 includes disproportionate costs of transcripts for trials and filing fees for court process. Unlike the Legal Services Commission of South Australia, ALRM, not being a state government instrumentality, is obliged to pay full costs for filing fees in court process it issues in state courts as well as having to pay for all transcripts in trials and other Court hearings, where possession of a transcript is essential to the proper presentation of the case.

Costs of transcript in the Supreme and District Court of SA are \$7.20 per page

Costs of filing fees for court process:

Magistrates Court appeals	\$212
Civil appeals	\$2,262
Summons Magistrates Court civil	\$131
Summons District Court civil	\$1,133
Summons Supreme Court civil	\$2,262
Trial fees:	
District Court	\$1,133
Supreme Court	\$2,262

Much has been said in the other submissions before the Commission on the vital importance of early intervention in addressing civil law needs to prevent the escalation in overall cost.

For example, a remote client does not seek legal assistance in a matter which may have been remedied through early negotiation or mediation, which then ends up in litigation incurring all the associated costs of that process.

### **Terms of Reference 8: Alternative mechanisms to improve equity and access to justice**

There is a significant dearth of appropriate levels of funding to legal aid organisations in providing culturally appropriate, timely legal education, advice and representation to clients who would not otherwise be able to afford to access civil law justice.

There is a continuing need for culturally appropriate mediation services, flexible timeframes and well informed consideration of appropriate/alternative remedies.

Such services would also need to be flexible in terms of servicing remote areas. An example is the Relationships Australia contract for Family Law mediation. Such services often are (or are perceived to be) culturally inappropriate, and in any case are not readily accessible by people from remote areas.

There are Aboriginal Health Services with Social and Emotional Wellbeing programs and services which would likely be more culturally appropriate, extant outside of metropolitan areas, and accessible to Aboriginal people in remote areas.

### **Terms of Reference 10: Data collection across the justice system**

Finally there should be a discussion on terms of reference 10 data collection across the justice system that would enable better management and evaluation of cost drivers and the effectiveness of measures to contain these. ALRM observes that it is a continuing disadvantage that the method of data collection required of it by the Commonwealth Attorney-General's Department is inconsistent with that used by the South Australian Police, South Australian Courts Administration Authority and the Legal Services Commission of South Australia. Those data collection systems are at least based upon court file numbers which are based upon criminal pleadings in the Magistrates Court. It is submitted that in South Australia a data collection system should be uniformed as between police, courts and legal aid bodies. This is a matter which ALRM has attended to in various discussions with the Attorney-General's Department in relation to the National Partnership Agreement review.

### **Increased costs of civil litigation due to State Government litigious response to civil wrongs**

A pertinent example of where the costs of access to civil justice are greatly increased, requiring further funding commitment by ALRM to pursue important civil wrongs by the

State of South Australia against Aboriginal families, is the so called “Stolen Generations” cases.

These matters, relating to the forced removal of children from their families, highlight that there is a cost to the system where a wrong has affected a large class of persons, by acts of government which clearly attracts liability, and where that government refuses to negotiate an efficient redress scheme, but rather forces all claimants into expensive and time consuming litigation.

The costs to ALRM in terms of solicitor’s time, obtaining documentary evidence, research of individual cases, briefing Counsel, and other disbursements obviously have to be sourced out of ALRMs already tight operational budget. The costs to clients are the great passage of time, usually a lifetime of having been removed from family and the attendant loss of community and culture, and the emotional expenditure involved in revisiting a source of pain and loss, to the fact that potential claimants will pass away during the litigation process before their claims are determined. Regardless of the costs in terms of funding, ALRM is committed to assisting Aboriginal people who were subjected to removal from family in seeking recognition and remedy for the past wrongs of the State.

These costs are to be weighed against the efficiencies of implementing a redress scheme for those affected, such as has been implemented in other jurisdictions around Australia. The following submissions are included here by way of example of the matters brought up in these claims. ALRM considers such claims require ongoing support as the neglect in failing to properly recognise and address this glaring social wrong merely contributes to and perpetuates the cycle of disadvantage and disempowerment of the Aboriginal people of South Australia.

For the purposes of the submission ALRM now moves to specific instances and examples of needed changes and improvements both to access to civil justice and to improved remedies

### **Stolen Generations cases in SA**

*Appendix 1* is a Newsletter produced by ALRM for the information and update to members of the community who identify as Stolen Generation. We include it here as a demonstration of ALRM’s commitment to the redress of past wrongs by the State of South Australia, and as a response to the sad fact that the State Government continues to do nothing whatsoever to attempt to acknowledge the damage done to the lives of those Aboriginal people both directly and indirectly affected. ALRM continues to urge the State Government to adopt an efficient redress scheme. We also include an ALRM submission on the Bill before the SA Parliament on Stolen Generations Reparations. This Bill was sponsored by Ms Franks MLC.

### **Children’s Protection Act**

ALRM is concerned about the continuing process of removing Aboriginal children from their families under the *Children’s Protection Act*. Aboriginal families continue to be over



represented in the Child Protection jurisdiction-In 2011/12 Aboriginal & Torres Strait Islander children were 8 times more likely than non-Aboriginal children to be in out of home care (*Child Protection Report 2011-12 Australian Institute of Health and Welfare*),

ALRM is also concerned about the inadequate representation of persons before the court in Child Protection proceedings. By a process of de facto triage, ALRM is only able to represent parents, yet in the circumstance of extended Aboriginal kinship systems other family members may well be entitled to representation and may have a legitimate interest in the outcome; but they are not represented because ALRM only acts for parents. ALRM cannot represent other extended family members due to potential conflict of interest. ALRM does not have resources to brief these cases out (ALRM annual briefing budget is approximately \$50,000 p. a.).

ALRM is concerned that these people, who should be represented parties in the litigation may be brought to court, be provided by the Crown Solicitor with a bundle of court documents, but whilst they may have access to an interpreter, they will have no access to legal representation. ALRM does not presume to say that their cases are or are not meritorious; it simply says it is unsatisfactory that potential parties who have locus standi in Child Protection litigation, do not receive representation due to inadequate resources and inability to brief them out at short notice.

### **Example**

ALRM knows of one case where it represented the Mother and another relative travelled by bus to Adelaide from Indulkana community over 1000Km away, arrived at the Youth Court and was presented with a quantity of documents as the Crown's case. The person had access to an interpreter in court but not to legal representation. The person was extremely confused with the nature of the proceedings. Not having been informed of their situation, ALRM could not anticipate the need to arrange representation and in any event did not have resources to provide the person separate representation or brief out at short notice. The trial proceeded on the day. This person should have had access to an interpreter when the state first intervened and had removed the child from her care. .

### **Non-adherence to the Aboriginal Child Placement Principle**

From ALRM experience, State intervention relating to the removal Aboriginal & Torres Strait Islander children has not improved. The Aboriginal Child Placement Principle (APP), which is the legislative policy overseeing the decision making and placements for Aboriginal children, is not complied with in the majority of Child Protection cases(NB the aim of the APP is to preserve and enhance children's sense of identity as Aboriginal & Torres Strait Islander through maintaining a connection with their family community and culture – *Monoham Aboriginal Child Placement Principle guide 2002*) . Very often Aboriginal children from regional and remote areas are placed in non-Aboriginal foster placements in the metropolitan areas where they are separated from family, community and culture. This non-compliance with the (ACPP) is a serious disadvantage to Aboriginal families as it undermines the reunification process, resulting in long term guardianship orders.

ALRM is also concerned about the Permanency Planning and Child Attachment principles and we state these contravene and ignore the cultural importance of the Aboriginal child rearing practices. We argue that this research and perspectives does not take into account Aboriginal cultural aspects and are written from a non Aboriginal perspective.

Aboriginal children are raised within their own families and form many attachments throughout their lives. This is an important cultural practice and instills identity, resilience and culture. Many grandparents (including Uncles and Aunties who are also viewed as Grand Parents) have traditionally taken on the main carer role for their grandchildren. Grandparents are a critical role in Aboriginal society. They have the knowledge, the wisdom and cultural contexts that they instill in their grandchildren. Many grandparents are unable to seek the supports of the Child Protection Agencies, as they are not provided with sufficient financial resources to look after their grandchildren. We argue that it would be much more cost effective measure than paying for longer term foster parents. We also argue that this would be a more cost effective measure for non-Aboriginal grandparents too. ALRM also argues that many Aboriginal children are more likely to be placed in the long term care of non-Aboriginal families because of existing policies and practices.

The ALRM highlights the potential and already existing intergenerational impact on Aboriginal families, of children having been raised long term under the care of the Minister. We advocate that this must be further explored through research.

ALRM is of the view that many Aboriginal children who have remained within the care of the Minister are more than likely to have their children removed. We suggest that Aboriginal children, who were under the care and control of the Minister, experience a greater deficit in parenting skills; greater disconnection from their culture and identity, isolation for their siblings and extended families.

We argue that Aboriginal children residing under the care of the Minister do not necessarily grow up to be better parents, than they would have, if they remained within their family setting, (with exemption to cases where Aboriginal children were placed in care due to serious substantiated Abuse). We argue this may demonstrate that whatever is occurring with Aboriginal children placed within the care of the Minister is having a further detrimental impact on future Aboriginal generations.

ALRM is concerned that child protection agencies are becoming more risk adverse in their decision making. We argue that many decisions are now being determined on what the risk is to the Department, instead of what the risk is to the child. We argue that it is much more difficult for an Aboriginal child to be returned to a family, or likely to live within their extended Aboriginal family because of the amount of static information kept on the records [often outdated information], and that updated assessments of circumstances are not taken into account by child protection workers.

We are concerned about the many Aboriginal children being removed from their parents due to poverty experienced by Aboriginal families. We continue to advocate that current funding should be targeted within the community and NGO sector, to enable Aboriginal families to

have longer term case workers working with them, with a view to enabling families to remain together and to reduce the high numbers of Aboriginal children being placed into long term departmental care. We believe that this is a much more cost effective measure and that the outcomes will contribute to better parenting practices in the longer term.

A more comprehensive policy is required to address this disadvantage. It is crucial for support services to be accessible in regional and remote communities such as rehabilitation facilities, reunification services to avoid Aboriginal children being relocated to the metropolitan areas and away from their families and communities.

Unfortunately conditions for Aboriginal people living in remote and regional communities continue to be characterised by poverty, poor health, poor housing, high levels of substance abuse and extreme levels of family violence. These factors need to be addressed if neglect and abuse is to be reduced within Aboriginal families, and thereby the overrepresentation of Aboriginal children in Child Protection proceedings. We argue that this is more than likely the case for the more Traditional peoples living in remote communities and where English is a second or third language. We are very concerned about the lack of use of interpreters as well as the lack of knowledge on Traditional child rearing practices.

### **Remoteness of Aboriginal communities**

Other issues to be considered include those arising from the remoteness of Aboriginal communities where Aboriginal people live and the disadvantages that flow from that remoteness in terms of lack of access to services and the criminalisation of conduct flowing from that lack of access to services. We also highlight the difficulties many living in remote areas face in accessing the justice system generally through lack of telecommunication technologies, a lack of proficiency in utilising such technologies where available, the reliability in terms of functionality of such technologies in remote areas, and the appropriateness of such technologies for access to justice. Even a seemingly basic telephone link-up for a Court matter, speaking to a lawyer or other service provider may be problematic where the only available telephone is situated in the midst of a very public and noisy part of a remote community.

Even where telecommunications are available and utilised, they must be judged as culturally appropriate as well as appropriate to the purpose. For example, with a telephone link-up where the subject person has English as a second (or third or fourth) language it will be extremely difficult to ensure that understanding has been gained. Likewise, a video link-up has been described by one client as “I thought I was in a movie”. Many would find the idea of appearing on a screen before an unknown crowd quite disturbing, and certainly distracting from the purpose.

Attached is ALRM correspondence to the Department for Correctional Services SA on point, and their reply. *Appendix 2*

### **Drivers Licences**

In particular, consideration should be given to the question of motor vehicle offences in remote areas and the criminalisation of Aboriginal conduct flowing from the use of motor vehicles and continuing inability to get drivers licences. The importance of motor vehicle transport to persons living in remote communities is self-evident for the whole range of reasons; access to health care, obtaining food and essential domestic supplies, employment, cultural and familial responsibilities, abiding by formal obligations such as Centrelink and Court appearances. The cultural interpersonal obligations which govern Aboriginal people's lives are such that a person with access to a motor vehicle may face considerable pressure from family and community to facilitate transport within and outside remote areas where other modes of transport are not available. Unfortunately where a driver has been unable to obtain a driver licence, or has had theirs suspended, may face a choice between committing driving offences entailing legal sanctions, or offending their cultural or basic familial responsibilities. Apart from the criminal sanctions for driving unlicensed/disqualified, the civil justice issue which confronts Aboriginal people is the question of remoteness, inaccessibility of services and inability to access the documentation or be sufficiently literate to obtain a drivers licence. ALRM notes in that regard, with cautious optimism, actions being taken by the SA government to streamline requirements for drivers' licences on the APY Lands. (See Australian Newspaper 13<sup>th</sup> November page 2)

We also refer to the "Aboriginal People Travelling Well: Issues of safety, transport and health" report, Y. Helps, Commonwealth Department of Infrastructure, Transport, Regional Development and Local Government, 2008: [http://www.infrastructure.gov.au/roads/safety/publications/2008/pdf/RSRG\\_1.pdf](http://www.infrastructure.gov.au/roads/safety/publications/2008/pdf/RSRG_1.pdf)

This report raises concerns with the difficulties remote Aboriginal people have in obtaining a driver licence, and some of the consequent behaviours which can lead to criminal offences. We note with concern that this report dates back to 2008 and little has changed.

## **The effect of Liquor Licencing Laws on Aboriginal Communities in South Australia**

### **Liquor Licencing Law**

ALRM attaches to this submission its submission to an SA Parliamentary committee on needed reforms to liquor licencing law in order to improve access to justice for Aboriginal communities in SA. *Appendix 3*

A significant number of communities are by their own volition dry communities, this occurs by their invoking regulations under the *Aboriginal Lands Trust Act* and by virtue of Land Rights Legislation whereby the APY and Maralinga Tjarutja statutory corporations are allowed by their enabling legislation to pass by laws regulating and prohibiting the

possession of alcoholic liquor on the lands. They also want to control their members' access to takeaway liquor so as to prevent and control grog running. ALRM submits that an important aspect of access to civil justice for Aboriginal communities is improved access to the Licencing Court. ALRM has acted for several communities in the past (and going back to 1991) and still acts for 2 communities which desire to control access to take away liquor to their community members. The consequences of success in liquor licencing litigation for Aboriginal communities are enormous. For example in 1991 a remote community managed with the assistance of the Liquor and Gambling Commissioner to have a particular liquor licence varied by preventing sales of most forms of takeaway liquor to persons resident at or travelling to the Community in question. The Health Service noted a 40% reduction in presentations for alcohol related violence in the 6 months following the licence change. That was in 1991, Litigation in relation to those licenced premises is ongoing.

ALRM attached to this submission our submission on the need for reform of licencing law in South Australia. *Appendix 3*

There is ample and overwhelming evidence that the cycle of social disadvantage and alcohol abuse is contributing to the further destruction of Aboriginal culture and further eroding the already poor health outcomes for these communities. Much has been said about 'closing the gap' between the health of mainstream Australians and Aboriginal Australians. Closing the gap between these two broad groups in their relative access to and protection of civil rights is equally important.

Closing this gap means scrutinising the history of forced removal of Aboriginal children from their families, current practices and systemic attitudes of State government authorities such as Families SA, the Crown Solicitors, and the Judicial system in cases of Child Protection measures, but also in addressing the underlying legal frameworks which continue to allow self-perpetuating social disadvantage to flourish under irresponsible governing of liquor licensing of premises.

The 'responsible service of liquor' and trading hours in city centres have been the subject of recent public debate due to the increasing levels of alcohol fuelled violence and antisocial behaviour centred around nightclubs, particularly in the Eastern Capitals. Some high profile cases involving 'king-hit' deaths have been widely broadcast and public opinion has become focussed on these issues.

However what of the very long history of alcohol violence which continues to destroy Aboriginal communities in remote Australia? ALRM has been the quiet achiever in seeking much stronger regulation of the provision of takeaway liquor at licenced premises accessible to remote Aboriginal communities in South Australia.

The failure to impose sensible restrictions on those licenses contributes directly to the abuse of alcohol in remote communities, with all the attendant issues such as health problems including those affecting women and babies and young children, morbidities associated with

alcohol abuse including cardiovascular disease, diabetes and liver disease. In addition domestic and community violence, personal injury including through motor vehicle accident, and premature death.