

Equality Before the Law

In 1973, the Commonwealth Parliament heard a Ministerial Statement on Legal Aid. It stated that “one of the basic causes of the inequality of citizens before the law is the absence of adequate and comprehensive legal aid arrangements. . . . The ultimate object of the Government is that legal aid be readily and equally available to citizens everywhere in Australia.” Getting legal advice should be no more difficult than taking your car to a service station for repairs.

That Ministerial Statement announced the entry of the Commonwealth Government into the modern legal aid era and brought Commonwealth funding for the Australian Legal Aid Office, the Aboriginal Legal Service and community legal centres. It committed the Commonwealth Government to making equality before the law a reality - not just an empty ideal.

Fifty-three years later, where is our national Government on its commitment to equality before the law?

- Only 8% of Australians qualify for legal aid under current legal aid means tests; 14% of Australians live below the poverty line. Can you imagine a Medicare system that covered only 8% of the population?
- Over the last 5 years, cuts have meant that 45,000 people failed to obtain legal aid in Australia. Can you imagine any those 45,000 people standing here with us in front of these courts today? In Law Week 2016, can we honestly say to them that our legal system delivers equality before the law?

- Those suffering these cuts are our most vulnerable people:
 - Young people across the country facing criminal prosecutions in Magistrates' Courts without legal aid, unless they are likely to go to jail;
 - Women attempting to obtain the protection of the courts in family violence cases without legal aid;
 - Indigenous Australians. At a time when indigenous rates of imprisonment are higher than they have ever been, ATSILS is underfunded and further cuts are pending;
 - 160,000 Australians who have not been able to get advice from community legal centres because they too are inadequately funded and they too face further cuts.

I could add to this list. But here's the point. Successive Commonwealth governments have shown by their inaction how little they care about equality before the law:

- On a per capita basis, Australia spends half of what the UK spends on legal aid;
- Commonwealth funding for Legal Aid Commissions is declining in real terms;
- The Commonwealth Government spends twice as much on its own legal services as it does on legal aid for the whole population.

The Legal Aid Matters Campaign calls on the Commonwealth Government to do three things:

1. Return its share of Legal Aid Commission funding to its pre-1997 level of 50%; up from the miserable 33% where it has sat since 1997;
2. Provide the \$200m recommended by the Productivity Commission to establish a decent system of civil legal aid; and,
3. Abandon the proposed cuts to Community Legal Centres and ATSILS.

The total amount needed to meet these Campaign Objectives is an additional \$350m per annum.

This federal election provides the opportunity for us to tell the candidates that we want our next *national* government to make another Ministerial Statement on legal aid and re-commit the Commonwealth Parliament to equality before the law. Why? Because our constitutional foundations depend on the rule of law. A legal system which is so conspicuously unequal threatens those foundations.

David Neal

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