

# Human Rights - Aussie Rules: Making fair play our goal



**Eastern Community Legal Centre**  
**Submission to the**  
**National Human Rights Consultation**

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## Human Rights in Australia: A question of fair play

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*“The great thing about sport ... is that it doesn’t matter what your background is, your cultural upbringing, your language or colour or religion, or even who you barrack for ... everyone on the field is worthy of being there. Everybody is respected. Differences in culture or background fade into the turf as it were. Success hinges on respectful relationships and relying on your team mates ... Everybody has to help each other otherwise teams don’t work. That’s what we need to do with our country.”*

Professor Mick Dodson,  
Australian of the Year 2009, Co-Chair of Reconciliation Australia,  
Australian Football League Industry Conference, November  
2008.

Human rights are internationally recognised standards that make life fair, fostering respect, responsibility and teamwork amongst people. Just as written rules govern fair play on the sports field, likewise, human rights principles are strengthened by their commitment to paper, in the form of a Constitution or Statute.

In Australia, we have no such guiding document. Instead, we rely on nebulous ideals such as the fair go and the stability of our parliamentary democracy.

ECLC has witnessed, in the thirty five years of its operation, the increasing erosion of the fair go and undermining of Australia’s human rights record, both at a national and local level. For these reasons, a Human Rights Act is long overdue.

Further, ECLC is concerned that community understanding of human rights is confused by the absence of a clear statement of rights and too much emphasis on technical legal discussion.

In surveys conducted by ECLC in the east of Melbourne during 2008, our service found knowledge of human rights principles was poor, with only 36% of those surveyed saying they understood key principles.

Without a system of human rights protection or education for young people, new arrivals or the broader community, ECLC believes that the responsibility of government to prevent future incidents of cultural, racial and religious intolerance and violence is jeopardised.

In particular a lack of human rights education in schools, where young people first encounter cultural, racial and religious difference, exposes society to the ongoing societal and economic costs of bullying and social exclusion.

This is why ECLC emphasises that any improvement to the legal protection of human rights in Australia must go hand in hand with a national education program.

Finally, ECLC believes that both legislative change and education programs should aim to communicate about human rights in a uniquely Australian way. Human rights principles should be real, practical and connected to the everyday lives of Australians. ECLC believes sport, a universal language of fair play that transcends cultural and linguistic difference, holds the key to a national approach to human rights education.

## Summary of Recommendations

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ECLC recommends to the National Human Rights Consultation that the Commonwealth government:

1. provide formal legal protection of principles of the fair go, best encapsulated by rights set out in the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR).
2. prioritise human rights protection for the benefit of vulnerable communities significant in the Eastern Region of Melbourne, particularly:
  - Seniors
  - Indigenous Communities
  - Young People
  - New arrivals
3. enact a Federal Human Rights Act that fosters responsibility, respect and equality between people and provides a mechanism for individual complaint for breaches of those rights
4. develop and implement a national human rights education program, prioritising young people at primary and secondary schools
5. meet immediately with the National Human Rights Education Committee and its state counterparts to develop a national approach to human rights education at both primary and secondary levels.
6. provide funding to support community-based human rights education programs.
7. explore ways of integrating human rights education for young people with learning about the rules of fair play and good sportsmanship.

## Human Rights – The Rules

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Eastern Community Legal Centre (ECLC) believes *all* people are born with the right to dignity, freedom and an entitlement to wellbeing and happiness. People are also born into a community, where the lives of one person shape those of another.

Human rights are the preconditions for human potential, fostering responsibility, respect and equality between people and providing a set of rules of fair play governing our interdependence.

Human rights are more than aspirational goals or constructed legal entitlements. For some people, these rights emanate from natural law, an unspoken code necessary for the peaceful existence of humanity. For people of faith, human rights are seen as blessings from their chosen God. In most Western nations, human rights emanate from the rational enlightenment of humankind about its spiritual, genetic and environmental interconnectedness.

ECLC likes to think of human rights as rules for the game of life, more analogous to a sports code, guiding the standard of behaviour within free, democratic societies. The essence of this code is contained in four key principles: Freedom, Respect, Equality and Dignity (“FRED”)

Across the globe and generations, many attempts have been made to definitively list human rights - The Magna Carta, the US Bill of Rights and the French Declaration of the Rights and Liberties of Man are some examples. Each statement was the culmination of learning after periods of war, human loss and instability.

The Universal Declaration of Human Rights (UDHR), also enacted in the devastating wake of war, was the “first international legal effort to limit the behavior of nation-states and press upon them duties to their citizens”. It attempted to establish a complete set of standards governing the way people interact with each other, common to all cultures and nations.

Australia played a leading role in the enactment of the UDHR. Regrettably, Australia’s early pioneering never transferred to the national stage. Today we remain the only

liberal democracy without a national instrument embedding human rights standards within the moral and legal framework of the country.

In the 60 years since the UDHR was adopted Australia has come under increasing scrutiny for the way it treats indigenous people, refugees, gays and lesbians, women and other minorities.

The National Human Rights Consultation is an opportunity for Australia to return to its early role as a steward of the UDHR and to create a long overdue, uniquely Australian statement of human rights principles.

## **A fair go – The goal posts for Human Rights**

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ECLC believes that human rights are already a fundamental value of the Australian way of life, represented by the colloquial concept of the “fair go”. A “fair go” is understood in Australian slang as a call for equal opportunity and fair treatment.

While the fair go is an Australian policy cliché with extraordinary power<sup>1</sup>, there is no legal definition or protection of the concept.

Human rights laws are an opportunity to provide legislative protection of the fair go - to provide a list of rights and entitlements which ensure just treatment and human dignity for all Australians.

ECLC believes that the best way to distill the fair go into legislation is through support for the two categories of human rights known as Civil and Political rights *and* Economic, Social and Cultural rights. ECLC refers to the list of rights set out in the ICCPR and ICESCR, but acknowledges that these lists may not be exhaustive.

ECLC acknowledges that civil and political rights – the right to vote, the right to a fair trial and others – are essential freedoms required for citizens to fully participate in the Australian democracy. These rights are the minimum standards which should be protected in any just society and the absence of a statement of these rights either in

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<sup>1</sup> Peter Saunders, What is Fair About a 'Fair Go?', Policy, Autumn 2004, <http://www.cis.org.au/policy/autumn04/autumn04-1.htm>

the Australian Constitution or legislation is a significant deficiency in our system of government.

As a community legal centre, ECLC assists clients on a daily basis for whom lack of education, income, stable housing or a reasonable standard of health are barriers to democratic participation in society. We know civil and political rights will have reduced meaning to our clients if they do not enjoy the basic conditions of economic, social and cultural wellbeing. For this reason ECLC believes Civil and Political and Economic, Social and Cultural Rights are interdependent.

### **Economic, Social and Cultural Rights**

As a member of the National Association of Community Legal Centres and the Australian Human Rights Group, ECLC has had the opportunity of reviewing many submissions to the National Consultation. To this end, it refers to and endorses sections 59-76 of the Human Rights Legal Resource Centre's submission to the National Human Rights Consultation, which it believes best represents its position in relation to the importance of protecting both Civil and Political and Economic, Social and Cultural Rights.

In addition, ECLC believes that it is a political reality of recognising Economic, Social and Cultural rights, that some obligation will be placed on government to provide minimum standards of service in areas such as housing, education and health. We believe that, far from being seen as a reason to shy away from their protection, this political reality should be seen as an opportunity to help clarify and prioritise government service delivery. A rights-based focus to resource allocation works. The right to a fair trial, which is partially protected by the Australian Constitution, has resulted in public resources being allocated towards the development of a transparent legal system (including the implementation of a national legal aid scheme and community legal centres).

We have considered ways in which Economic, Social and Cultural Rights might be protected in a human rights act without overburdening government. One way might be to reframe second generation rights so that they protect citizens only from the extreme denial of rights.

For example:

- The Right to housing is reframed as a Freedom from homelessness
- The Right to food is reframed as a Freedom from hunger
- The Right to education is reframed as a Freedom from ignorance, illiteracy and innumeracy.
- The Right to health, is reframed as a Freedom from illness

We believe economic, social and cultural rights could be protected in a minimum way, without diminishing the Federal Government's capacity to determine the extent to which it funds that protection.

### **Worker Rights**

ECLC also believes that Worker rights outlined in the ICESCR – such as the right to work, fair remuneration, safe and healthy working conditions and to form trade unions – provide a unique opportunity for the Federal Government to provide long term protection of rights at work.

### **Third Generation Rights**

ECLC is concerned that Australia is currently three generations behind the global human rights debate. While discussions are ensuing globally on how to advance the rights to the environment, economic development and peace, Australia is, embarrassingly, still trying to protect basic individual freedoms at home. Australia's influence on the global development of emerging human rights laws is diminished as a consequence.

Even our own citizens believe we are lagging behind. ECLC received contributions from members of the local community calling for a right to a clean, sustainable, ecologically balanced environment to be recognised in Australia. Even if it is too early to develop such a right, given the urgency of action on climate change, ECLC believes that there is merit in a human rights-centred approach to environmental policy making.

**ECLC recommends to the National Human Rights Consultation that Australia**

1. **provide formal legal protection of principles of the fair go, best encapsulated by rights set out in the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR).**

**Players First – Human rights for vulnerable people**

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ECLC believes that the protection of the above human rights is fundamental to advancing the wellbeing of vulnerable people in the Eastern Region of Melbourne.

A human rights-centred approach underpinning Government action and public policy would greatly improve the lives of vulnerable people in the communities of the Eastern Region of Melbourne. We provide the following case studies to support this view:

**ECLC Case Study 1. Seniors Rights – a delicate balance between individual freedom and public safety.**

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Recently, ECLC came to the assistance of a man in his eighties, who was living on his own in a private residence and had his licence cancelled by VicRoads because of alleged deficiencies in his eyesight, which the man disputed. The decision left him socially isolated, without a motor vehicle for transport to shops, relatives or to access essential services.

The decision to cancel his licence was made without consultation with him, without conducting an older driver assessment or any regard to the impact such a decision would have on his freedom and enjoyment of life. Further, it provided no support to the individual to enable him to cope with the impact of its decision. VicRoads failed to balance the public interest in safe roads with the individual's human rights. It failed to do this because it had no statutory or other legal compulsion to consider broader human rights considerations when regulating road safety.

ECLC also received a submission from the Melbourne East General Practice Network providing anecdotal evidence that aged persons receiving medical services were at risk of discrimination because of their age. It was reported to us that some doctors made assumptions about the mental faculties of aged people which ignored their capacity to consent to medical treatment and/or recommendations about their ongoing care. This included their right to choose what treatment to accept when facing a debilitating illness. Local doctors raised concerns about the adequacy of existing laws to protect patients' rights to self-determination and dignity.

ECLC's first-hand knowledge of violations of the rights of older persons led our centre to partner with other legal centres and community organisations to develop Seniors Rights Victoria, a service targeted at preventing elder abuse. Seniors Rights Victoria deals with cases involving a variety of forms of elder abuse, which violate an older persons right to life, liberty and the security of person. Further, our service produces *Older and Wiser*, a resource booklet providing advice about legal and financial issues affecting seniors in our community.

Older Australians face the prospect of an increased imposition by the State in their lives, as they become more and more dependent on social security and care, health services and transportation provided by others. The incidence where this tension between individual freedom and broader societal and economic issues will only escalate as Baby Boomers move into retirement and beyond. The human rights framework provides a way to resolve disputes arising from the changing needs of aging Australians.

## **ECLC Case Study 2. Indigenous Rights to Education**

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Healesville, a township on the rural fringe of the Outer-East of Melbourne is home to the second most populous indigenous community in Victoria. The historic connection between Healesville and local indigenous people dates back to the establishment of the Coranderrk Aboriginal Reserve in the area in 1863.

Young indigenous people in Healesville experience significant disadvantage, arising not only from systemic racial discrimination and poverty, but also from geographic isolation, lack of public transport and social services.

The starkest example of disadvantage occurs in education. Despite high levels of enrolment at primary school level, young indigenous people in the outer east have a significant drop out rate at high school, with only one student in the last five years completing VCE. This is consistent with state-wide statistics which indicate that in Years 11 and 12, 41% of indigenous students will leave school, compared with 18% of non-indigenous students<sup>2</sup>.

To combat indigenous disadvantage at schools in the outer east, the state government employs only one Koorie Education Worker to provide support to indigenous young people attending four schools. One worker provides:

- a link between schools, indigenous students and their families
- daily pastoral care for individual indigenous students, including school breakfasts and lunches and a means of transport between isolated homes and the schools.
- indigenous cultural awareness education within multiple school and local government communities

While successive workers in this position have demonstrated high levels of commitment and professionalism to the task, the position is, in our view, over-stretched and under-funded.

Existing laws and policy are failing indigenous students and provide no remedies for systemic failures in education, an under- allocation of resources or the mismanagement of individual learning.

The inclusion of Economic, Social and Cultural Rights in a Federal Human Rights Act is therefore of significant importance to indigenous communities. It provides hope that disparities between indigenous and non-indigenous populations in health, education and employment, may be remedied by a human rights-centred approach to service delivery.

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<sup>2</sup> Wannik (*Learning Together- Journey to Our Future*): Education Strategy for Koorie Students in Victoria, Department of Education, 2008, p 10 at [www.eduweb.vic.gov.au/edulibrary/public/govrel/Policy/wannik.pdf](http://www.eduweb.vic.gov.au/edulibrary/public/govrel/Policy/wannik.pdf)

### **ECLC Case Study 3. Young People**

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Young people, particularly from indigenous, migrant and refugee backgrounds, are over represented in the justice system. Their capacity to understand laws, police procedures and legal processes, the concept of consent and general knowledge about life is diminished because of their age and background. Further, young people have very limited knowledge of their rights in criminal proceedings.

In Victoria, the law requires that an adult be present during formal police questioning of a young person under 18 years of age. When a parent or guardian is unavailable, an adult 'Independent Person' is required to be in attendance. Despite this law, ECLC has managed cases in which young people have been required by police officers to give statements or participate in formal interviews without seeking advice or counsel from a lawyer, parent or guardian.

This led our service to partnering with the Centre for Multicultural Youth and the Youth Affairs Council of Victoria to develop the Youth Referral and Independent Person Program (YRIPP)<sup>3</sup> in the Eastern Region, which co-ordinates adult volunteers to provide advice about rights to young people during police questioning.

In ECLC's experience, existing laws were insufficient to create a culture of rights protection for young people within Victoria Police. A Human Rights Act would provide greater onus on police to protect the rights of young people. More particularly, a Human Rights Act that enacted the Convention on the Rights of the Child, would strengthen protections we have sought to provide to young people through the YRIPP service.

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<sup>3</sup> YRIPP was shortlisted for the Australian Human Rights Medal (Community Organisation) by the Australian Human Rights Commission.

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## **ECLC Case Study 4. The exploitation of new arrivals by businesses**

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ECLC has come to the assistance of a number of new arrivals from the Horn of Africa who have experienced exploitation because of their limited knowledge about rights in Australia.

Recently, we provided assistance to a new arrival who had purchased a motor vehicle from a used car dealership. Our client, who was born in the Sudan where motor vehicle licensing is not required, was unlicensed at the time of purchasing the vehicle. Despite knowledge of this, the car salesperson, finance company and the insurer proceeded with the sale of all three products. The client later had an accident in the vehicle and the insurer refused coverage of his claim on the basis that he was unlicensed.

While there is well-developed protection against unconscionable contracts, cultural and linguistic barriers, the limited resources of new arrivals and the costs of litigation are unlikely to result in many civil claims of this nature. While existing discrimination laws provide assistance for people who are denied equal treatment in the provision of some goods and services, there is no positive obligation on businesses providing goods and services to consider the human rights of the purchaser or to take into account cultural and linguistic differences when finalising a sale or insurance contract.

The real problem in this case is that, while it is the car salespeople, insurer and finance company with all the power and knowledge about existing laws and entitlements, the burden of achieving justice falls on the new arrival. It is their responsibility to inform themselves of consumer laws, credit laws, road safety laws and entitlements to discrimination complaints to protect their rights. ECLC believes that the absence of a general responsibility to respect the human rights of others, is a major impediment to existing laws in Australia.

A Human Rights Act, along with a national human rights education program, would place greater emphasis on the responsibility of the community to care about rights, particularly for new arrivals and other people whose knowledge of rights is limited and therefore are more vulnerable. Far from opening litigious floodgates, this may prevent individuals, government and business behaving in unlawful ways.

Over time, ECLC hopes that the *Victorian Charter of Human Rights and Responsibilities Act (2006)* (“VCHRR Act”) will create a human rights culture in Victoria which reduces incidents like the case studies above. Progress would be fast-tracked with a national Human Rights Act.

### **ECLC recommends to the National Human Rights Consultation that Australia**

2. **prioritise human rights protection for the benefit of vulnerable communities significant in the Eastern Region of Melbourne, particularly:**
  - **Seniors**
  - **Indigenous Communities**
  - **Young People**
  - **New arrivals**

## **Missing the Mark - the inadequacy of current protection**

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ECLC submits that the rights of Australians living in the east of Melbourne, particularly those vulnerable groups identified above, are inadequately protected by the current legal and education system. This is because:

1. **Australia has no constitutional or statutory Bill of Rights at a federal level and is the only liberal democracy in the world without such a statement. ECLC believes that the absence of such a document is evidence alone of insufficient legal protection of human rights.**
2. **Australia has poor legislative protection of human rights.**

While ECLC acknowledges that Australia has some legislative protection of human rights - the *Racial Discrimination Act 1975* (Cth), the *Sex Discrimination Act 1984* (Cth) and the *Disability Discrimination Act* provide limited protection to people who are discriminated against in the course of their employment or in the provision of some state

services - this legislation is inadequate both from a legal and a public policy perspective.

The major downside to the suite of anti-discrimination legislation in Australia is that it frames human rights protection from the assumption of infringement. It is our view that this sends the wrong message to all tiers of Government and to the broader community. Rather than a positive statement of rights and responsibilities, existing legislation focuses on transgressions. Further, the dispersed and incomplete nature of human rights protected by these laws is a significant limitation.

A Human Rights Act would significantly reframe the human rights landscape and affirm a commitment to the political sovereignty of the people in Australia by protecting human dignity. This shift would align Australia with a global trend affirming individual human rights against the “exercise of totalitarian, bureaucratic and institutional power – widely identified as the greatest threats to the liberty of the individual and democratic freedoms”<sup>4</sup>

ECLC also believes that existing legislation does not adequately implement Australia’s international treaty obligations. Australia is obligated to enact into domestic law:

- The Universal Declaration of Human Rights
- Convention on the Elimination of all Forms of Discrimination Against Women
- International Convention on the Elimination of all Forms of Racial Discrimination
- International Covenant on Civil and Political Rights
- International Covenant on Economic, Social and Cultural Rights
- Convention on the Rights of the Child
- Convention on the Rights of Persons with Disabilities
- Convention against Torture

While Australia has incorporated some of the rights identified in these treaties none of the covenants have yet been fully incorporated into Australian law. Australia’s failure fully to incorporate its undertakings in relation to human rights leaves Australia in breach of international law.<sup>5</sup>

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<sup>4</sup> A Mason, G Lindell; *The Mason Papers*, (Federation Press, Sydney, 2007) p208 at Google Books: <http://books.google.com.au/books?id=5mEpgbOPkgEC>

<sup>5</sup> Australian Human Rights Group, Submission to the National Human Rights Consultation.

### **3. Australia has limited opportunities for individuals to challenge infringements to human rights**

At present the primary way Australia has implemented its international human rights obligations has been to give citizens the opportunity to compel the government to consider human rights when making decisions. A small body of case law has developed providing guidance on how and when government departments should consider human rights issues.

Aside from this, Australians have no capacity to bring an action against state or private entities or individuals for breaches of human rights. This is a significant failure in human rights protection in Australia and has led to many Australians being forced to resort to initiating claims at an international level.

It is hard to imagine any other area of the law where the federal and state governments would consider it acceptable for individuals to have to resort to off-shore litigation in order to achieve justice, yet this is the situation faced by people who claim abuse of their human rights in Australia.

### **4. State based human rights laws, while commendable, haven't gone far enough.**

In Victoria, greater legal protection of human rights has been made possible through the enactment of the *VCHRR Act*. ECLC applauds the Victorian Government for taking the step to recognise human rights.

The strengths of the *VCHRR Act* include the requirement that a statement of compatibility be completed when considering new legislation and the empowerment of courts to refer legislation inconsistent with the *VCHRR Act* back to parliament for review.

However the weakness of the legislation is that it fails to protect economic, social or cultural rights and provides no avenue for individual complaint. While there are provisions placing obligations on the Victorian Government and some instrumentalities to act consistently with the legislation, there is no strict requirement to comply, nor are there enforcement procedures.

**5. Australia has no national human rights education curriculum or promotional program, for young people in schools, new arrivals or the broader community leading to a lack of public knowledge about human rights principles .**

ECLC has formed the view that there is a limited understanding of human rights within its own and the broader community.

In 2006, prior to the enactment of the *Victorian Charter of Human Rights and Responsibilities Act*, ECLC engaged in community education and consultation about human rights. ECLC became concerned during this process that the local community's understanding of human rights was in fact poor and confused by technical legal discussion and political argument.

ECLC identified a need to provide accessible education about human rights to young people and the broader community and, in the absence of a national program, began providing human rights education in a way that was connected to the everyday lives of the local community.

In 2007, ECLC was granted funding by the Victorian Equal Opportunity and Human Rights Commission's Community Grants to conduct human rights education at community festivals in the outer-east. The *Human Rights - On the Festival Stage* project saw ECLC engage a professional drama group, Carp Productions, to develop, write and present a short performance at community festivals in the east, promoting awareness of the VCHRR Act, specifically the underlying principles of Freedom, Respect, Equality and Dignity ("FRED"). The performance piece, *Fred's Fair Play* was developed and performed at eight community festivals within the Eastern region during 2008, including the Knox and Maroondah Festivals.

ECLC conducted surveys of people who watched *Fred's Fair Play*, gathering important information about local community knowledge of human rights. Again, our concerns about the lack of human rights knowledge within our local communities were confirmed. While 100% of those surveyed believed human rights to be important, only 36% of respondents said they understood the key themes of human rights principles.

Regrettably, lack of understanding of or respect for human rights is having negative impacts in the wider community. There have been a number of high profile national incidents of cultural intolerance, including the Cronulla Riots and more recently violent attacks on Indian communities.

ECLC welcomes the Federal Government's recently launched joint initiative with the Adult Multicultural Education Services, "It's Your Right", providing information about human rights to new arrivals to Australia and hopes that this is a sign of further initiatives in human rights education.

## **Kicking Goals – A game plan for human rights protection**

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**ECLC recommends to the National Human Rights Consultation that Australia**

- 3. enact a Federal Human Rights Act that fosters responsibility, respect and equality between people and provides a mechanism for individual complaint for breaches of those rights.**

ECLC believes that a Human Rights Act offers the best, practical legal mechanism for fostering human rights. ECLC has reviewed the model statute proposed by the Human Rights Act for Australia Campaign and commends the draft act to the Consultation and the Federal Government.

**ECLC recommends to the National Human Rights Consultation that Australia**

- 4. develop and implement a national human rights education program, prioritising young people at primary and secondary schools.**

Despite being a community legal centre, ECLC understands that human rights will not be better protected in Australia by only the creation of a legal document that lawyers understand. Whether or not agreement is reached on greater legal protection of human rights, ECLC recommends implementation of broad-based community education about human rights, particularly for children and young people.

Currently, there is an absence of comprehensive and cohesive human rights education within the National and State curriculum at either a primary and secondary school level.

ECLC participates in the Victorian Human Rights Education Committee, a collaborative committee consisting of representatives from the State Government, church groups, lawyers, academics, teacher unions and other community organisations working on ways to improve human rights education.

To date, this group, along with other advocates of human rights education across the country, have struggled to place human rights on the curriculum of schools. To combat the lack of formal education, many community legal centres (including ECLC), tertiary institutions, NGO's and other non-profit and community organisations have attempted to fill the gap by providing one-off or pilot education programs. However ongoing sources of funding for such initiatives are limited.

### **ECLC Case Study 5. The Human Rights are Aussie Rules Project**

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In the absence of a national or state-based human rights curriculum, ECLC has developed an extra-curricular education program for primary schools that links human rights principles to the ideals of fair play and good sportsmanship.

With support from philanthropic organisations, a pilot program of the Human Rights are Aussie Rules project will be launched later this year. ECLC is looking to government and other entities to support and partner with this project.

### **Background**

Prior to the enactment of the *Victorian Charter of Human Rights and Responsibilities Act*, ECLC engaged in community education and consultation about human rights.

During this process, ECLC identified a need to provide accessible education about human rights that was connected to the everyday lives of young people and the broader community.

In pursuit of this goal, ECLC chose sport – the metaphor of underlying principles of fair play and good sportsmanship – as the medium to teach young people and their families about human rights.

In a creative and inspiring project combining love of sport and the arts, ECLC produced a drama performance, Fred's Fair Play. Through the story of an Aussie Rules loving fairy named FRED (Freedom, Respect, Equality & Dignity) the play uses sport, music and dance to engage primary school-aged children in a discussion about human rights.

With the assistance of theatre in education specialists, Carp Productions, the production was performed at eight community festivals within the Eastern region during 2008, including the Knox, Maroondah and Whitehorse Festivals.

Now ECLC is developing a workshop and classroom kit, including teacher and student aids, to bring the play into primary schools across the Eastern Region of Melbourne.

### **Project aim**

ECLC believes that by comparing the rules of fair play in life to the rules on the sports field, concepts of equality, human dignity and justice become very easy to relate to, rather than just being abstract ideas. An understanding of human rights strengthens communities, particularly where the cultural, racial and religious background of people is diverse. ECLC aims to reduce the incidence of racial, religious and cultural bullying and intolerance at schools.

### **Why Primary Schools?**

ECLC believes the early years of schooling are instrumental in providing a young person's learning about respect for people who have different values, experiences, backgrounds and beliefs from them and their families.

Further, at primary school, parents and families tend to maintain day to day contact with the school, participating in school activities, excursions, sporting events and

lunchtime programs. This provides ECLC with the opportunity of also providing education about human rights to adults.

Primary school is also the first time young people learn the principles of fair play on the sports field. By connecting the ideal of the good sport – respect for rules, safety and the unbiased decision of umpires – to the principles of human rights, ECLC engages with young people about human rights in a way that is relevant to their daily lives.

## **Why Sport?**

The idea of linking sport and human rights came from a community based reference group formed by ECLC to help develop ideas for Fred's Fair Play. This group included young people, community service organisations, local lawyers and business people. From these discussions a table was developed comparing human rights principles to sporting rules. See Attachment A.

Further theoretical and academic support for this idea came from conference papers of the 1999 *How to Play the Game Conference*, where an in-depth discussion about sport and human rights took place amongst human rights lawyers, campaigners and sportspeople. There was a consensus across all the papers given at this forum that:

*“Sport has universal value, and is a social movement striving to contribute to the development of a peaceful and better world. Society expects many important and worthwhile things from sport and uses sport to support various fundamental social values and ethical principles such as equality for all people, fair play, respect for the loser, friendship, solidarity, justice and democracy, international peace and understanding.”*

Dr Doris Corbett,  
Ethics and Moral Behaviour in Sport: A Human Rights Issue,  
How to Play the Game Conference 1999

Sport as metaphor for human rights is particularly useful in communicating with young people from culturally and linguistically diverse backgrounds because it is a universal language common to all cultures. It also has profound resonance to indigenous communities.

Further, sixty-six percent (66%) of Australians play a team sport, requiring a commitment to a set of standards and rules about good conduct, sportsmanship and fair play.<sup>6</sup> Sporting heroes are revered in Australia, not just because they are good athletes, but because they are “good sports”, regarded as standard-bearers of integrity and decency.

ECLC’s project seeks to tap into the goodwill in sport, an accepted and fundamental part of the Australian way of life, and thereby transpose goodwill to the concept of human rights. By targeting primary aged children, the association between sport and human rights - the importance both on and off the sports field of freedom, respect, equality and dignity - has an opportunity of progressing through teenage years into adulthood. For more information about our project and opportunities for funding, see Attachment B.

**ECLC recommends to the National Human Rights Consultation that the Commonwealth Government:**

- 5. meet immediately with the National Human Rights Education Committee and its state counterparts to develop a national approach to human rights education at both primary and secondary levels.**
- 6. Provide funding to support community-based human rights education programs.**
- 7. Explore ways of integrating human rights education for young people with learning about the rules of fair play and good sportsmanship.**

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<sup>6</sup> ABS Participation in Sport 2005-2006

## About Eastern Community Legal Centre

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Eastern Community Legal Centre (“ECLC”) is located in the Eastern region of Melbourne and serves the Cities of Whitehorse, Boroondara, Manningham, Maroondah and Knox and the Shire of Yarra Ranges. ECLC offers free legal advice from its offices in Box Hill and Boronia during the day, at night and also through various outreach locations across the east, with a priority being given to those who are disadvantaged.

The Eastern Region has a number of areas of significant socio-economic disadvantage. Healesville in the Shire of Yarra Ranges, is home to the second most populous indigenous population in Victoria. The cities of Whitehorse, Maroondah and Knox host large communities of new arrivals to Australia, particularly from the Horn of Africa and Burma.

In addition to direct legal services, ECLC also focuses on community development activities that empower clients, workers and the general community. It raises awareness of its service, new legal developments and human rights through projects and partnerships, educational sessions, media releases, festivals and events and community displays.

ECLC also produces a range of legal education materials and self-help guides, in language accessible to the general public.

In 2006 ECLC was engaged to educate the community about a Charter of Human Rights and Responsibilities prior to its enactment. It held community consultations in conjunction with the Victorian Council for Social Service Organisations (VCOSS) and also made submissions to the Charter inquiry. Since 2006, ECLC has engaged in community consultation about human rights and has developed human rights education projects for the local community, particularly the theatre production Fred’s Fair Play.

In preparing its submission to the National Human Rights Consultation, ECLC consulted with the following community groups and networks:

- Aston Forum
- Healesville Community Network
- Knox Youth Network

- Manningham Community Services Planning Group
- Manningham Youth Providers Network
- Maroondah Youth Network
- Melbourne East General Practice Network
- Outer East Health & Community Support Alliance
- Shire of Yarra Ranges Youth Network

For more information about the Human Rights are Aussie Rules Project and Fred's Fair Play, please visit our website at [www.eclc.org.au](http://www.eclc.org.au).

## Appendix A.

### How human rights principles compare to the principles of fair play in sport

Human Rights Principle	Principle of Fair Play
The right to freedom and equality	The right and ability to play sport regardless of age, sex, race, religion or nationality.
The right to express cultural difference	The right to wear “team colours”.
Freedom of religion	Freedom to support your team, worship sporting heroes and wear hats and scarfs.
Freedom of movement and assembly	Freedom to sit where you like at a game, join supporters groups
The right to a fair trial (unbiased courts, presumption of innocence, freedom from arbitrary detention and exile)	The right to an independent umpire, sporting judiciaries and legal representation at same.
Freedom of thought and expression	The right to chant and make banners supporting your team.
Right to life, liberty and security of person; freedom from torture, cruel, inhumane and degrading treatment.	Rules about striking, obstruction and dangerous play. The “sin bin”.
Freedom from slavery	The right to choose where when and how you play sport, right to withdraw from the game.
Freedom to elect representatives	Elected players organisations, international sporting bodies

Attachment B:

**Human Rights are Aussie Rules:**  
an education project using principles of fair play  
to teach young people about human rights



*Fred's Fair Play* performed to children and their families at the Knox Festival

## About the Project

In 2007, Eastern Community Legal Centre, with support from the Victorian Equal Opportunity and Human Rights Commission's Community Grants Program, engaged a professional drama group, Carp Productions, to develop, write and present a short performance to young people aged 9-14 years promoting awareness of the Victorian Charter of Human Rights and Responsibilities. The performance piece was developed and performed at eight community festivals within the Eastern region during 2008, including the Knox and Maroondah Festivals in the outer-east of Melbourne.

Through the story of an Aussie Rules loving fairy named FRED (Freedom, Respect, Equality & Dignity), the show, "*Fred's Fair Play!*" uses the metaphor of sport to engage primary aged children in a discussion about human rights principles.

Having successfully presented the play at festivals, ECLC now intends to expand its work into Schools in the Eastern and Outer-Eastern region of Victoria, targeting communities identified as disadvantaged or with other special needs, such as Indigenous, rural and isolated and bushfire affected communities in the Shire of Yarra Ranges, culturally and linguistically diverse communities in the Cities of Knox and Maroondah and communities with low socio economic indicators in the Cities of Maroondah, Knox and the Shire of Yarra Ranges.

The Human Rights are Aussie Rules Schools Project will provide a creative, extra -curricular educational package for use in each school.

ECLC envisages that the package would comprise:

1. Delivery of the drama performance *Fred's Fair Play* (45 mins) and production of a DVD of same.
2. Classroom workshop/discussion (45 - 75 mins) incorporating game theory and other activities
3. Development, production and printing of a Classroom Kit, including teacher notes, student booklet and Human Rights Collector Cards.

***The project will be unique because it:***

- transfers human rights education from text books and the classroom to the sports field and the stage;
- utilises a universal metaphor of fair play and good sportsmanship as a way of introducing human rights to young people;
- utilises game theory and ethical leadership development techniques to train young people about human rights;
- provides human rights education in a stimulating and accessible way.

***The project will achieve:***

- a greater awareness of human rights at the school community level;
- increased appreciation in young people, particularly within targeted disadvantaged communities in the outer east of Melbourne, of their individual rights and responsibilities;
- education of young people about the importance of respect and dignity for all peoples, regardless of cultural, linguistic, religious or racial background.
- community discussion and engagement with human rights generally.

**For more information about the project contact**

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## **Human Rights are Aussie Rules - Project Support and Funding**

ECLC is now seeking partnerships with government, philanthropic organisations, arts and sporting associations to ensure that its education project continues in the future. We are now seeking partnerships to sustain the project during 2009-2010. You can help by supporting the project in one of the following ways:

### **Funding School Communities in Need**

You can help the following targeted school communities in the outer east of Melbourne understand human rights principles by giving or funding the following amounts:

- Indigenous and bushfire-affected schools (4 schools): \$10,120.00
- Rural and isolated schools (16 schools): \$40,480.00
- Culturally and linguistically diverse schools (8 schools): \$20,240.00
- Schools in low socio economic areas (15 Schools): \$37,950.00

### **Schools Based Funding**

Or you can support one or more schools individually by paying the per school cost of delivery of the project.

- Per school cost of delivery (performance, workshop and materials): \$2,530.00

### **Project Based Funding**

Or you can support the development and delivery of aspects of the project

- Theatre performance (120 schools) :\$60,000.00
- Educational workshop: \$18,000.00
- Design and production of educational materials: \$35,000.00

## **Project Partners**

### **[Eastern Community Legal Centre](#)**

Eastern Community Legal Centre is located in the Eastern region of Melbourne and serves the Cities of Whitehorse, Boroondara, Manningham, Maroondah, Knox and the Shire of Yarra Ranges. ECLC offers free legal advice from its offices in Box Hill and Boronia and various outreach locations, with a priority being given to the disadvantaged. In addition to direct legal services, ECLC also focuses on community development activities that empower clients, workers and the general community.

[www.eclc.org.au](http://www.eclc.org.au)

### **[Carp Productions](#)**

Carp Productions is a theatre company that specialises in children's entertainment, performing 350 shows per year at kindergartens, libraries, schools and festivals. The founders and directors of Carp Productions have a combined 18 years experience in theatre-in-education performance. Carp Productions developed and performed "Fred's Fair Play".

[www.carpproductions.com](http://www.carpproductions.com)

### **[Australian Centre for Human Rights Education \(ACHRE\)](#)**

The Australian Centre for Human Rights Education (ACHRE) works collaboratively to develop strategies and tools for the promotion, adoption and enactment of human rights. With a vision of a society where people flourish and fully participate in society, as active and engaged citizens, ACHRE emphasises empowerment through learning.

<http://www.rmit.edu.au/achre>

### **[Australian Football League – Multicultural Development Program](#)**

The AFL Multicultural Program assists migrant and refugee communities to access Australian Football. The program introduces young people from targeted culturally and linguistically diverse communities to Australian Football and influences mainstream Australian Football clubs to embrace multicultural diversity.

<http://www.afl.com.au/Development/Multicultural/tabid/10286/Default.aspx>

### **[Sports Without Borders Foundation](#)**

Sports Without Borders is a not for profit organisation, dedicated to providing support for young people from migrant and refugee backgrounds who are involved or want to get involved in sport by funding pathways and direct financial assistance that supports them.

[www.sportswithoutborders.net.au](http://www.sportswithoutborders.net.au)

