

THE CLIMATE JUSTICE FIELD GUIDE

FOR COMMUNITY
LEGAL CENTRES



ACKNOWLEDGEMENT OF COUNTRY

We proudly acknowledge the First Peoples of Victoria and their ongoing strength in practising the world's oldest living culture. We acknowledge the Traditional Owners and Custodians of the lands on which we live and recognise all Aboriginal and Torres Strait Islander peoples, their laws and knowledge, and intimate relationship to land and waterways. We acknowledge that sovereignty was never ceded and therefore the original laws still run through the land, waterways and air. From time immemorial, Victorian Traditional Owners have practised their laws, customs and languages, and nurtured Country through their spiritual, cultural, legal, material and economic connections to land, water and resources. Through the strength, resilience and pride of Aboriginal people in Victoria, their cultures, communities and economies endure and continue to grow and thrive today.

We pay respect to Elders past and present and acknowledge the vitality and ongoing life of Country and the intimate relationships First Peoples have with the land, waterways, air and life that is Country. There is no climate justice without First Nations justice and we look forward to a Victorian Treaty with all First Nations clans that recognises the vital importance of Country for all Victorians.



ACKNOWLEDGMENTS

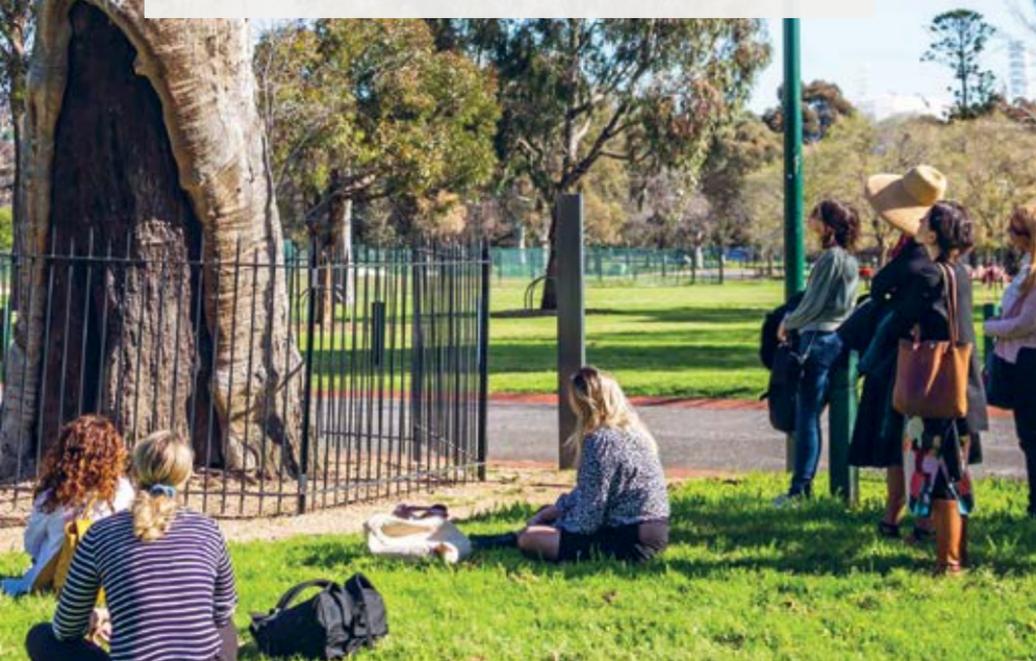
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ABOUT THE FEDERATION

The Federation of Community Legal Centres (Federation) is the peak body for Victoria's community legal centres. Our members are at the forefront of helping those facing economic, cultural, climatic, or social disadvantage and whose life circumstances are severely affected by their legal problems.

For more than 50 years, community legal centres have been part of a powerful movement for social change, reshaping how people access justice, creating stronger more equitable laws, and more accountable government and democracy. We want a community that is fair, inclusive and thriving: where every person belongs and can learn, grow, heal, participate and be heard.

The community legal sector plays an important role in providing advice and representation to clients impacted by climate change and extreme weather events. Community legal centres deliver a range of innovative programs, including early intervention initiatives and justice partnerships with the community, health and social sectors.



FEDERATION
OF COMMUNITY LEGAL CENTRES VIC

CONTENTS

Introduction	6
Glossary	14
Key concepts	21
Chapter 1: Climate justice	32
Community lawyering and climate justice	33
What is access to climate justice	35
Climate change transformation approaches	41
Collaborative climate justice	48
Community legal centres transforming together	52
Chapter 2: Resilient community legal centres	62
Embedding climate justice	63
Chapter 3: The law	78
Why the law?	79
Climate change and legal rights	108
Community legal education and climate justice	117
Chapter 4: Community empowerment	116
Building trust	122
Law reform	127
Summary	136

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INTRODUCTION

Welcome to the Climate Justice Field Guide.

This field guide is a journey through the learnings and experiences of Victoria's community legal centres as they seek to embed climate justice into practice, organisational culture, advocacy and with the communities and lands in which they live and work.

The impacts of climate change are clear. As global greenhouse gas emissions continue to rise, so too will the range, intensity and frequency of climate impacts, putting more and more people and ecosystems at risk.

Climate change is pushing all sectors, including the community legal sector, to adapt, transition or transform. Climate volatilities such as extreme weather events and slow onset climate impacts enter and alter social, cultural, economic and legal systems. This has a knock-on effect on access to justice, which must be framed through a climate and disaster lens to be meaningfully examined in a climate changed world.

Climate change impacts are profoundly harming ecosystems, communities and individuals across Victoria. To ensure a just and equitable future, embedding climate justice needs in all areas of law, legal infrastructure and service delivery must become business as usual. Importantly, it is already evident from climate change impacts that access to justice cannot be achieved without a safe and healthy climate.

As the complexity and unpredictability of climate change increase, it is clear that the journey to climate justice has only just begun. Rather than facing these challenges alone, Victorian community legal centres have sought to work collectively and collaboratively towards a sector-wide transformation to climate justice.

Victoria's community legal centres are working in diverse areas of the law, and are all at different points on their climate justice journey. They are working with many other sectors, organisations and communities, bound, in part, by their commitment to realising climate justice. At the heart of climate justice are inclusivity, intersectionality, and listening to the voices of those with lived experience of climate harm.

This field guide will support people working in community legal centres to build upon these learnings as we collectively expand our capacities and capabilities to prevent, adapt, respond to and recover from climate change impacts. It will assist allied professionals who seek to better understand the approaches used by community legal centres to support access to justice. It reflects the desire to embed the principles of climate justice into our ways of working together.

THE JOURNEY SO FAR

Community legal centres have been working with communities impacted by extreme weather events since their inception but have ramped up activity in the climate justice space in recent years.

In Victoria, the 2009 Black Saturday bushfires saw community legal centres step up to work with their communities in the aftermath of what was then considered an unprecedented extreme weather event. Following Black Saturday, the Federation of Community Legal Centres (Federation) partnered with others in the legal sector in founding the Disaster Legal Help Victoria partnership, to facilitate a coordinated legal response to extreme weather events in the future.

In 2019–2020, a catastrophic fire season known now as Black Summer marked another turning point. Megafires caused massive destruction to homes and habitats and tragic loss of life, livelihoods and ecosystems, covering large parts of Eastern Australia in smoke for weeks. Community legal centres on the frontlines of Black Summer impacts were forced to pivot from business as usual to responding to devastated communities dealing with trauma.

In the aftermath of Black Summer, there was a palpable sense of the harm and trauma experienced by communities due to climate change impacts, as many affected individuals turned to community legal centres for help with their unresolved and unmet legal issues. In response, community legal centres pivoted with their established partnerships and initiated pilot projects to improve access to justice for people experiencing climate change impacts, bravely confronting the enormity of the task ahead of them and stepping into their role in ensuring climate justice.

Community legal centres skilfully adapted their practices and organisational approaches to respond to the Black Summer crisis. The Federation established a statewide Disaster and Climate Justice Working Group for community legal centres to share learnings and collaborate, and new training suites were created and delivered, typically by community legal centres themselves, and new partnerships established. Since 2019, extreme weather events and slow onset climate impacts have increased, accelerated and overlapped. Community legal centres are increasingly experiencing climate impacts in their neighbourhoods, in regional, rural, peri-urban and urban areas. Queries about climate justice from people in communities have become more common.

It was clear that community legal centres needed to support each other to deal with the changing and growing need for climate justice in their communities. Nearly five years on, community legal centres are still dealing with the long tail of climate and disaster legal needs that arose during Black Summer.

By 2024, more than half of Victoria's community legal centres were working on climate justice and disaster projects and initiatives. As more community legal centres have focused their energy on embedding climate justice, a sector-wide holistic transformation looks increasingly within reach.

How can we ensure that our work also addresses the underlying systemic issues that create climate injustice? To identify and meet increasing legal and related social and economic climate justice needs, we need adaptive laws that can respond to climate impacts, as well as operational systems that are resilient and themselves adaptive.

This field guide is the culmination of the lived experience of community legal centres and the communities they work with as they embed climate justice into practice.

WHY A FIELD GUIDE?

A typical field guide assists naturalists to identify plants, animals and ecosystems, and is traditionally associated with nature. This field guide provides insights, strategies, and practical steps for understanding, implementing and promoting climate justice within communities. Description as a field guide was chosen to recognise that humans and their systems are also part of nature. Climate justice is socioecological. Healing the separation of humans from their habitat is a key climate justice goal.

This field guide is a culmination of the work and co-creative learning of Victoria's community legal centres over the past four years. It also draws on evidence-based best practice from other jurisdictions within Australia, especially those focused on access to justice and climate change impacts. It seeks to provide guidance to community legal centre staff about ensuring their centres are resilient and can build their capabilities as we collectively seek a community legal sector transformation towards realising climate justice.

Sometimes the complex and deeply uncertain journey towards climate justice can feel formidable. Community legal centres, like everyone in every sector and every organisation in every community, are walking into the unknown. As we deepen our understanding of climate justice, our field of vision expands. We learn new things all the time: about our communities, the habitat we all live with, and what access to justice really means. Within this complexity, the certainty of shared values leads us towards climate justice and laws that enable and support healthy communities and ecosystems.

ⓘ IMPORTANT

A key thing we have learnt is that the community legal centre model is well suited to the realisation of climate justice.

Community legal centres that work towards climate justice have highlighted their commitment to:

- ▼ Ensuring access to justice and addressing legal needs of communities.
- ▼ Providing a holistic and integrated approach which matches best practice for disaster and climate impacted communities.
- ▼ Place-based approaches which build community resilience needed to realise climate justice.
- ▼ Adaptive organisational cultures that are responsive to change and complexity.
- ▼ Empowerment and advocacy linked to lived experience of clients and communities.
- ▼ Collaboration, partnerships and capacity building.
- ▼ Equitable and systemic approaches and solutions.
- ▼ A unified approach to social and environmental justice.

HOW TO USE THE FIELD GUIDE

The *Climate Justice Field Guide* (Field Guide) is intended as a resource for community legal centres. It is designed to be accessible to everyone at different stages of their climate justice journey.

You can read it from start to finish, but we suspect you may want to jump to specific sections of interest. To help you do this, the Field Guide has been divided into colour-coded chapters so that you can quickly find the information that you need. At the beginning of each chapter there is a summary of what is covered.

If you come across a word, phrase or concept that you are unfamiliar with, you can find out about these in the 'Glossary' and 'Key concepts' sections.

To learn from the experiences of community legal centres as they embed climate justice in their work, look out for the **case studies** included, and linked, throughout.

Community legal centres are regularly developing tools like checklists, templates, frameworks and monitoring supports – we are calling this our "Climate Justice Toolbox". You can find these resources on the Federation's website fclc.org.au/cjfg

Three icons have been used to signpost important information, evidence and resources:



 **IMPORTANT INFORMATION ICON**

 **INSIGHTS AND EVIDENCE ICON**

 **RESOURCES AND TOOLBOX ASSETS ICON**

DIGITAL FIELD GUIDE

You can find a digital copy of this Field Guide and the Climate Justice Toolbox on the Federation's website fclc.org.au/cjfg



CLIMATE JUSTICE TOOLBOX

The Climate Justice Toolbox is an iterative resource, to which guides and resources will be added as we embark on this journey. The digital toolkit will be updated regularly as the capacity of community legal centres grows.



GLOSSARY

Access to justice:

Fair and equitable access to legal assistance as well as access to both formal and informal justice mechanisms without economic, geographic, social, cultural, linguistic, racial, environmental, climatic or other barriers.

Adaptation:

The process of adjusting to current or expected effects of climate change. It involves adjusting behaviour, social systems and laws; and altering the built and natural environment to prevent climate risks.

- ▼ **Incremental adaptation:** Action where the central aim is to maintain the essence and integrity of a system or processes at a given scale.
- ▼ **Transformational adaptation:** Adaptation that changes the fundamental attributes of a socioecological system in anticipation of climate change and its impacts.
- ▼ **Maladaptation:** Actions that may lead to increased risk of adverse climate-related outcomes, increased vulnerability to climate change, or diminished welfare, now or in the future. It refers to actions taken to adapt to climate impacts, but which increase, rather than reduce, vulnerability.

Adaptive capacity:

The ability of systems, institutions, people, plants and animals to adjust to potential damage, take advantage of opportunities, or respond to the consequences of climate change. Read more in chapter 2.

Adaptive law:

Laws and policies that are sufficiently reflective, iterative and capable of responding equitably and adaptively to the instability, uncertainty and unpredictability of climate change.

Climate change impacts:

Also referred to as climate impacts. The many ways in which climate change affects environments and livelihoods. This includes the direct impacts of extreme weather events such as bushfires, floods, storms and drought. It also includes less obvious effects, such as worsening air pollution, heatwaves, species extinction, environmental depletion, sea level rise, food insecurity and higher costs of living.

Climate change transformation:

Deep, structural changes in social, economic, legal and ecological systems to reduce greenhouse gas emissions, enable equitable adaptation and address the root causes of climate harm so that climate justice can be realised. Read more on page 25.

Climate disaster:

A disaster attributed to climate change.

Climate harm:

Injury, damage or loss that occurs at the intersections between social, economic, political, legal systems and natural hazards due to climate change. The risk of climate harm is multi-dimensional, differential and dynamic, and is specific to context, place and systems. Climate harm is created by cultural, economic, political and legal systems.

Climate justice:

Recognition of climate action is an ethical and political issue rather than solely an environmental or technical one, because climate change and its unequal impacts result from intertwining social, political, economic, cultural and ethical choices. Climate justice is about ensuring decisions and actions address the intersecting crises of climate change, ecological degradation, and widening inequalities, with mutually beneficial solutions that do not perpetuate or exacerbate those injustices now or into the future.

It requires combining adaptation, mitigation, and sustainable development in ways that address or even eliminate, the root causes of social and ecological injustices. Climate justice is as concerned with how the work is done, as much as what is done, including who is involved, how, and who is accountable. It centres those most impacted or at risk, because they have the most at stake and know what's needed.¹

The phrase **climate and disaster justice** is used in relation to climate change disasters because disaster justice also pursues fairness and equity in addressing the impacts of climate change disasters, ensuring that all communities and ecosystems receive the necessary protection, support and resources to thrive.

Climate justice recognises the connection between social justice and climate change. It focuses on how the most marginalised communities are being disproportionately affected by climate change. Responses to climate change must be driven by equitable, fair and inclusive interventions. And those in power need to address existing systemic issues and drivers that create and perpetuate inequity and environmental harm.



Climate risk:

The potential for adverse consequences for human or ecological systems as a result of climate change. In climate change, risk arises from dynamic interactions between climate change impacts and the exposure and vulnerability of affected humans and ecological systems. Climate risk is determined by politics and policy as much as by climate change.

There are many frames of risk and when discussing climate risk, it is important to be explicit about which risks are being prioritised or excluded.

Community legal centres:

Independent community organisations that provide free, quality legal information, advice, representation, casework and education. We focus on working with people who are experiencing disadvantage and use what we learn from the experiences of the people we work with to advocate for laws and policies that are fair and equitable.

Disaster:

A serious disruption of the functioning of a community or society at any scale due to the hazardous events interacting with conditions of exposure, vulnerability and capacity leading to one or more of the following: human, material, economic and environmental losses and impacts.

Extreme weather events:

Severe and unusual weather conditions that pose risks to people, property and the environment, such as bushfires, floods, storms and drought. Extreme weather events are becoming more common and more extreme as climate change increases.

Equitable adaptation:

The processes of adjusting and preparing for the impacts of climate change in ways that prioritise fairness, justice and inclusivity.

Intersectionality:

A complex, cumulative way in which the effects of multiple forms of identity and experience combine, overlap or intersect, especially in the experiences of marginalised individuals or groups. It recognises that people's lives are shaped by their identities, relationships and social factors, resulting in intersecting forms of privilege and oppression.

Legal need:

The experience of problems that have a legal dimension, also known as justiciable problems. These are issues that can potentially be resolved through legal processes or interventions.²

Mitigation:

A human intervention to reduce greenhouse gas emissions to minimise the impacts of climate change. It is also a term used in the discipline of Disaster Risk Reduction, referring to actions that minimise or prevent the adverse impacts of a hazardous event. A hazardous event could be an extreme weather event but also includes technological and chemical hazards.

Place-based:

Community-led, relational and strengths-based responses that empower local people to address complex, interrelated issues in a specific geographic location.

Place-based community legal centres:

Provide services to members of their geographic community about everyday legal problems. Some also offer specialist programs, sometimes on a statewide basis.

Resilience:

The ability of a system, community, organisation or society exposed to the impacts of climate related events to resist, absorb, accommodate, adapt to, transform, and recover while ensuring equitable and healthy outcomes for all members and ecosystems.

Slow onset climate events:

Gradual and incremental changes in the climate system that develop over extended periods, often leading to significant impacts on ecosystems and human communities. Examples are sea level rise, increasing temperatures and loss of biodiversity.

Specialist community legal centres:

Provide services for a specific demographic (for example, victim survivors of family violence, or asylum seekers) or for people with a specific legal issue (for example, debt or discrimination). Most offer statewide services.

Vulnerability:

This refers to the degree to which a system (such as a species, ecosystem, community) is susceptible to or unable to cope with the adverse effects of climate change. Read more on page 28.

FIGURES:

Figure 1: Climate Change Transformations	24
Figure 2: Cycles of Disaster Risk Reduction	26
Figure 3: Model of Community Resilience	29
Figure 4: Climate Justice Wheel	31
Figure 5: Foundations of access to justice	36
Figure 6: Barriers to access to justice	37
Figure 7: Intersectionality and the law	39
Figure 8: Transformative Climate Justice	42
Figure 9: Indigenous healing and disaster recovery	44
Figure 10: Community of practice	53
Figure 11: Framework for collaborative action and learning on climate justice	55
Figure 12: Theory of Change	63
Figure 13: Climate Change mental health impacts	75
Figure 14: Monitoring, evaluation and learning	77
Figure 15: Climate Change impacts legal needs	81
Figure 16: Habitat Justice	92
Figure 17: Legal needs data related to Black Summer	98
Figure 18: Human rights and climate change.....	109
Figure 19: Community legal education	118

KEY CONCEPTS

COUNTRY AND CLIMATE HARM

The First Peoples never ceded sovereignty in Australia. Settler law has held dominion over First Nations Country since invasion. As sovereignty was never ceded, the law of the more than 250 First Nations still runs through Country in Australia. Country is inclusive of all relationships between First Nations communities and the lands and waters of Australia.

Sovereignty can be seen as power and authority. For First Nations people, sovereignty is connected to Country. The *Uluru Statement from the Heart* expresses sovereignty as:

*"... a spiritual notion: the ancestral tie between the land, or 'mother nature', and the Aboriginal and Torres Strait Islander peoples who were born therefrom remain attached thereto and must one day return thither to be united with our ancestors."*³

This sovereignty is no less binding for being spiritual.

At the time of writing, no treaty exists between First Peoples and the State of Victoria. The difficult and vital work of recognising First Nations sovereignty has yet to be done. In Victoria, the Yoorrook Justice Commission courageously leads this long-overdue process.

Climate change impacts reflect the effects of colonisation. They are complex, cascading, compounding, accelerating and ongoing. Colonisation was not one event that occurred in 1788, but is instead an enduring structure embedded in culture and systems of power.

The compounding impacts of the forced legal and physical separation of First Nations peoples from Country include massacres, stolen generations, stolen wages, forced removal from Country, high levels of incarceration, high mortality rates and racism, many of which endure to this day.

The relationships between First Nations peoples and Country are inclusive, do not separate human communities from other communities and encompass a deep kinship connection that is not fully recognised by Australian law. Separation from Country due to climate change impacts is form of climate harm.

❗ CULTURALLY APPROPRIATE COMMUNICATION AND ACTION

Everyone involved in emergency and disaster relief needs to understand the importance of culturally appropriate communication and action by disaster authorities, and the trauma of planned relocation and forced evacuation for First Nations people. Disaster evacuation procedures can be resisted by First Nations people due to the repeated trauma of forced displacement from Country and the Stolen Generation. Due to this history there may be a lack trust in authorities' assertions that they will be permitted home.



COMMUNITY
MEMBERS PREPARE
SANDBAGS IN
CUMMERAGUNJA
ON THE NSW –
VICTORIA BORDER⁴

Recognition of the deep interconnectedness of social and ecological health and livelihoods starts with a recognition of First Nations peoples' intimate relationships with Country as the first custodians of the land we collectively inhabit. All climate justice in Australia starts here.

CLIMATE IS NOT OUR ENEMY

Climate change is an outcome of exploitation. Trauma and fear increase in communities as climate change impacts increase in velocity and frequency. Communities that have experienced extreme weather events or are at high risk of experiencing them can be triggered into fight, flight or freeze responses. Climate change is an existential threat to lives, livelihoods and the places we love. Those working towards full climate justice need to take care of emotions and language that may inadvertently paint 'nature', and by extension Country, as the enemy.

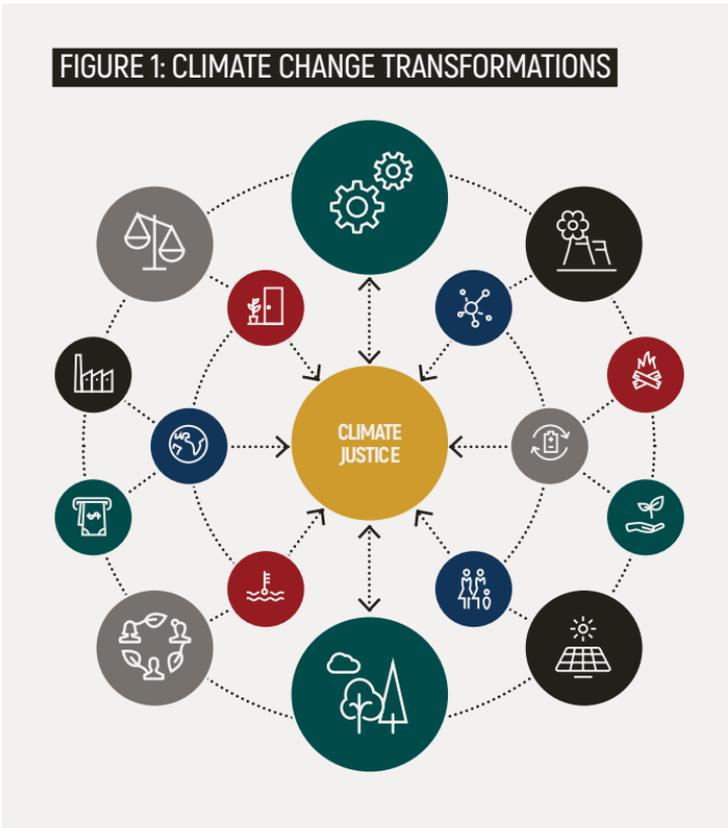
Climate change is a result of an extractive relationship with the ecosystems we rely upon. Settler colonial language and relationship to the environments we live with is resoundingly based on separation, domination, extraction and exploitation. The use of words like 'resources', 'capital' and 'management' in policies and law illustrate our lack of deeper common language that is not about power over nature and each other. This has implications for how we understand climate change.

Climate justice asks us to decolonise our fear of nature, which enables our justification to exploit and destroy it. We hear so much about the 'threat' that nature poses from the media, activists, politicians and in culture, as part of a broader narrative that perpetuates settler colonisation. The language of emergency management and disaster response often describes nature as an adversary to be tamed and made safe. This takes us further away from understanding that the People-Country relationship is inseparable.

The ways that emergency management organisations prioritise human life in Australia can lead to policy and regulatory decisions that perpetuate real danger, by inadvertently continuing the colonial narrative that swathes of ecosystems are ‘too dangerous’ for humans to live with or care for. This is one reason why care for Country that is led by First Nations people needs to be embedded in all emergency management and climate adaptation policies and initiatives.

All ecosystems and human communities face the challenges and risks of the changing climate. If we are to achieve climate justice, all solutions and transformations need to recognise the inherent interdependence between humans and the places they live.

FIGURE 1: CLIMATE CHANGE TRANSFORMATIONS



CLIMATE CHANGE TRANSFORMATIONS

Climate change transformation refers to the full overhaul of a system to create a lasting difference. It requires modifying policies, laws, processes, relationships, mindsets, behaviours and power structures in response to the impacts that climate change has on our society.

A climate change transformations lens is used by community legal centres to empower affected communities and create justice systems that respond effectively to their legal and livelihood needs. It goes beyond incremental adjustments and represent a more profound approach that addresses the fundamental attributes of ecological, social, regulatory, economic and technical systems in response to climate change and its effects.

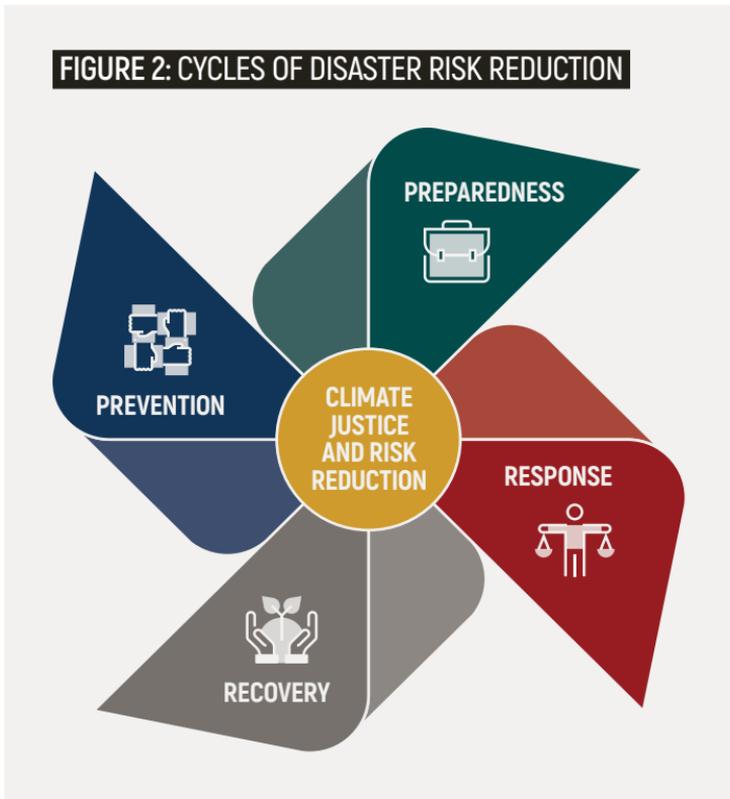
Climate change transformations approaches intend to empower affected communities and create justice systems that respond effectively to their legal and livelihood needs. It is an approach that resonates with community legal centres' key values and approaches of addressing underlying power structures and systemic inequalities that perpetuate climate harm.

Adaptation "... must address and challenge the drivers of risk and harm including various social, political and economic systems and structures. Only an approach to adaptation that moves beyond a sole focus on the biophysical risks of climate change to one that considers the larger and more complex processes that interact and produce harm can address the social, environmental and climate injustices." - David Schlosberg, Lissette Collins and Simon Niemeyer⁵

CYCLES OF DISASTER RISK REDUCTION

The discipline of Disaster Risk Reduction is aimed at putting in place strategies to stop new and existing risks arising from disasters from happening; and managing residual risk, all of which contribute to strengthening resilience.

The four stages of Disaster Risk Reduction are: prevention; preparedness; response; and recovery. The experience of community legal centres is that separating these stages neatly is impossible. In the age of accelerated climate change impacts, communities can be actively engaged in all stages simultaneously.



THERE IS NO SUCH THING AS A 'NATURAL' DISASTER

Climate change and extreme weather events do not cause disasters. Rather, disasters occur as a result of human agency and power relationships. Disasters are not natural. In emergency management a natural hazard, such as a hurricane, earthquake, or flood becomes a disaster only when it affects a community that is not adequately protected and whose population is at risk of climate harm. The word 'nature' only applies to specific hazards and not to the disasters themselves. 

The United Nations Office for Disaster Risk Reduction emphasises that the term 'natural disaster' is inaccurate due to the significant role that human agency plays.⁶

Sociopolitical factors lead to particular people and communities being more at risk to harm caused by climate change and extreme weather events. These factors include social exclusion, racism, lack of property ownership, neglected infrastructure and low state investment in community protection. By identifying the root causes of climate precarity, we can address responsibility and liability for climate disasters.⁷ And when systems are strengthened to meet extreme weather event challenges, we can minimise harmful impacts on our communities.

HOW WE USE WORDS MATTERS: VULNERABILITY AND RESILIENCE

The words we use matter, and their meaning can change over time.

Vulnerability is a key concept in climate change adaptation and disaster risk reduction. Importantly, climate vulnerability, precarity and disadvantage are not inherently present in a person or community, they are created by external factors.

The Intergovernmental Panel on Climate Change (IPCC) confirms that climate change risk occurs when extreme weather events (such as bushfires) interact with socioeconomic processes (such as governance) to create exposure and vulnerability to climate harm.⁸ This framing makes it clear that the causes of vulnerability are socially, politically and culturally constructed.

However, 'vulnerability' is often used to describe individuals' inability to protect themselves and their communities. This can undermine self-determination and community resilience. Poor definitions and use of 'vulnerability' can reinforce power imbalances that imply certain groups are helpless and in need of external intervention.

"As climate harms are stratified by historical, social and political-economic arrangements that differentially render vulnerability a transformative approach presents an opportunity to address the structural inequities that produce climate harm and precarity."⁹

Resilience is another term frequently used in emergency management and has become a key political focus of our time. Climate resilience is the capacity to prepare for, respond to, and recover from the impacts of slow onset climate impacts and extreme weather events. Yet the term 'resilience' can be co-opted by a range of stakeholders who apply value judgements about the capability of communities themselves, rather than the political, social and ecological environment around them. Sometimes this leaves communities feeling abandoned or inadequate because they have not been successful in recovering from an event.

As with vulnerability, climate resilience can also be used to incorrectly place the primary responsibility for reducing climate harms upon the individual or community, leading to neglect of the broader social, economic and regulatory structures that perpetuate or contribute to the harm. Using the term in this way can be a policy justification for neglecting certain communities and individuals and to perpetuate a neo-liberal agenda.¹⁰

FIGURE 3: MODEL OF COMMUNITY RESILIENCE



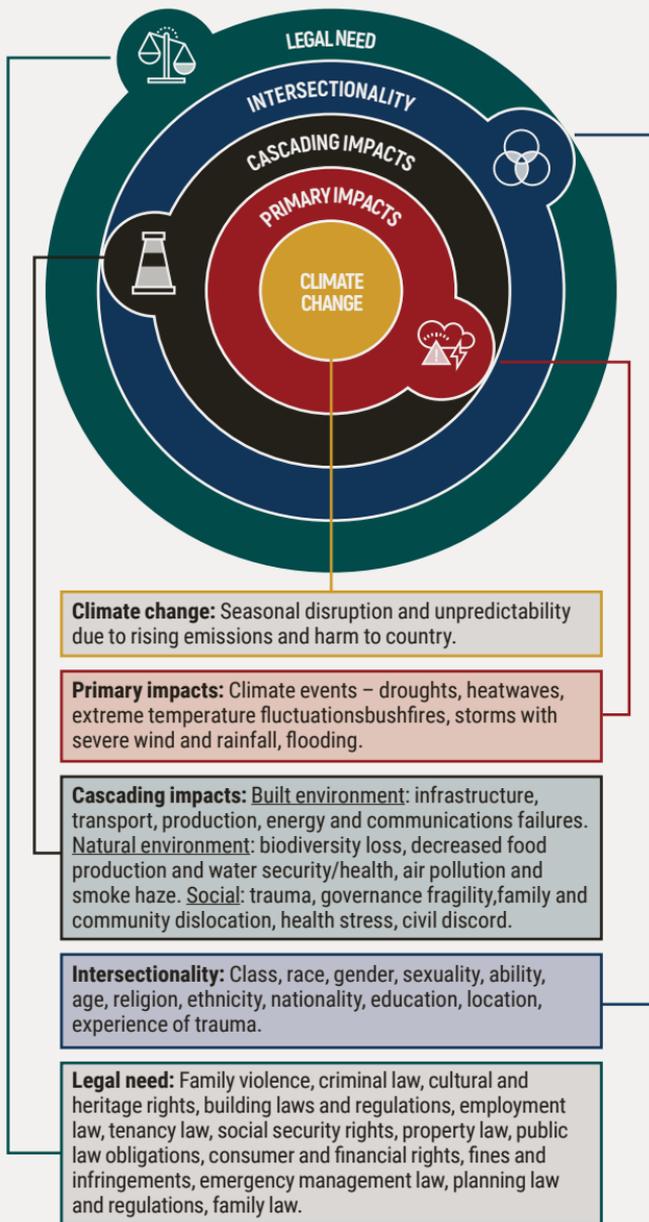
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CLIMATE CHANGE IS NOT A SIMPLE LINEAR PROCESS

The impacts of climate change are complex. They are not isolated, but instead are interconnected and influence various systems. Climate change impacts can be compounding, when multiple climate change impacts occur together or in succession, leading to an intensified overall effect on communities and ecosystems. And they can be cascading, when a chain reaction of consequences is triggered by an initial climate change effect.

Ultimately the impacts of climate are increasing legal need, as illustrated by the *Climate justice wheel* graphic (Figure 4).

FIGURE 4: CLIMATE JUSTICE WHEEL



CHAPTER 1:

CLIMATE JUSTICE AND COMMUNITY LEGAL CENTRES

In this section, you will learn about:

- ▼ The relevance of community lawyering to the realisation of climate justice.
- ▼ The barriers to justice that climate change creates, and the importance of viewing the work of community legal centres through a climate justice lens.
- ▼ The nuances of a transformative approach to climate justice that can address the causes of climate injustice.
- ▼ The importance of partnerships and collaboration to address the climate justice legal needs in communities.

COMMUNITY LAWYERING AND CLIMATE JUSTICE

Community lawyering and climate justice adhere to common values and ways of working with and for communities. Community lawyering is a term for collaborative, community-led approaches to legal services and advocacy. It emphasises integrating lawyers into the communities they serve alongside other professions, such as community development workers and financial counsellors.

Community lawyering values a community development approach, which is well suited to addressing legal needs related to climate justice. Rather than positioning lawyers as the primary agents of change, community lawyering focuses on enabling and empowering communities to address justice issues. Using our understanding of complex and intersecting legal needs, community legal centres seek to address the structural inequalities at the heart of climate injustice.

Climate justice aligns with community legal centres in three ways:

- ▼ Climate justice fits with the fundamental social justice mission of community legal centres;
- ▼ Climate justice reinforces the importance of place-based approaches; and
- ▼ Climate justice draws on community legal centres' holistic, integrated service delivery models to best meet the unique challenges of climate change-induced legal need.

A climate change transformations approach seeks to influence social policy and improve access to justice, including by integrating these into wider climate biophysical and technical policy. This approach aligns with the history and practice of community lawyering.



Community-engaged climate justice lawyering can challenge the power and roles of institutions. We do this by strengthening the agency of communities to ask for laws, service providers, organisations and institutions that respond to and protect communities' holistic legal needs.

For those invested in community lawyering, climate justice inevitably involves not just education for communities and provision of legal advice and representation for clients, but also systemic advocacy and law reform. Climate justice requires community legal centres to draw upon our expertise in casework, community education, law reform and advocacy to do work that is both preventative and reactive to climate change impacts and harms.

WHAT IS ACCESS TO CLIMATE JUSTICE?

Climate justice recognises the connection between social justice and climate change, it includes rights such as adequate housing, freedom from discrimination and social exclusion, and healthy environments. Access to climate justice therefore means an environment where our laws and systems allow all people to achieve those rights, in the face of climate change.

Like all systems, the laws that govern our daily lives need to adapt to climate change impacts to ensure communities can have their everyday legal needs addressed and resolved.

There are many different definitions of access to justice. At its most basic, access to justice is the link between a person's right to seek justice and their effective access to legal systems or remedies.

"Realising or guaranteeing access to justice means fair and equitable access to legal assistance, as well as access to both formal and informal justice mechanisms without economic, geographic, environmental, social, cultural, linguistic, climatic or other barriers."¹¹

Community legal centres have identified foundational factors for achieving access to justice and they are supported by academic study. These elements include: '**Distribution**' - the fair allocation of resources in our communities to help guard against the inequality and discrimination that can exclude people from accessing the legal system; '**Procedural**' - the fairness needed to ensure there are opportunities for everyone to participate effectively in our legal processes; and '**Recognition**' - every person must be treated with dignity before the law.¹²

Also essential to the realisation of climate justice is a fourth element '**Interconnection**' - the recognition that the legal system is interconnected with other systems. Given this, access to justice is enhanced by integrated approaches. A wide understanding of interconnection sees all natural, built, economic and social systems as influencing access to justice. Interconnection also includes intergenerational justice (which recognises ethical responsibilities to future generations).¹³

FIGURE 5: FOUNDATIONS OF ACCESS TO JUSTICE



CLIMATE CHANGE AS A BARRIER TO ACCESSING JUSTICE

There are many barriers that stop people from accessing justice. Climate change impacts are, and will be, experienced as another barrier.

FIGURE 6: BARRIERS TO ACCESS TO JUSTICE



Both slow onset and sudden climate change impacts put pressure on our environmental and social systems. This pressure creates new legal needs and compounds pre-existing issues. These changed conditions can create barriers to accessing justice.

As the law alters and evolves in response to the climate crisis, our collective understanding of climate harm and protections against furthering climate change must also evolve. Something to keep front of mind is the underlying cause of climate change: greenhouse gas emissions. Part of working towards climate justice includes increasing the regulation of greenhouse gas emissions to reduce climate harms.

As climate impacts increase in frequency and complexity, community legal centres must be alert and responsive to the different impacts on communities and individuals, and how these shape their justice needs.

BLACK SUMMER

Reducing barriers to justice

Projects that have monitored and evaluated the responses of community legal centres to Black Summer offer insight into what is needed to reduce access to justice barriers in a climate disaster context. Findings include:

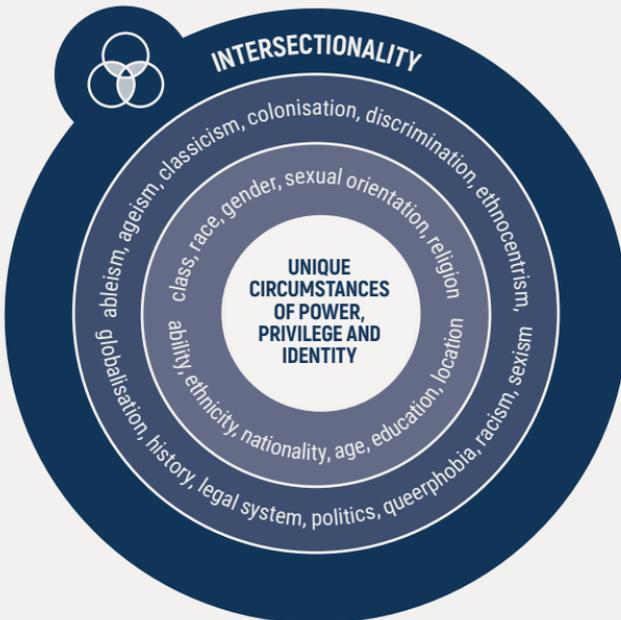
- ▼ Strong service coordination and trauma-informed practice are needed so that people are not forced to re-tell their disaster story to different agencies.
- ▼ Preparedness and early intervention legal responses are highly effective.
- ▼ A 'no wrong door approach' prevents people falling through gaps in a service network.
- ▼ Rural and regional locations, mainstream and Indigenous communities prefer face-to-face legal services.¹⁴

INTERSECTIONALITY

To see the link between justice outcomes and climate change impacts is to understand the interconnections between the changing nature of the places we live, and how reliant our social, legal, cultural and economic lives are upon a healthy and stable environment.

Climate justice is intersectional, in terms of how we understand and resolve the issues. Intersectionality includes acknowledging history, communities, identities and institutions, as well as the natural and built environments, geographies and relationships to Country.

FIGURE 7: INTERSECTIONALITY AND THE LAW



When community lawyers work with, and empower, individuals and communities to access justice in any aspect of their lives, we can also prevent, reduce, resolve and repair incidents of climate harm.

Practising climate justice requires our holistic engagement with individuals, communities and the environment. To understand climate harm and to work towards remedies and solutions, we must address the root causes of inequality.

Let's acknowledge that it is not always easy for community legal centres to prioritise access to climate justice. The wider funding, legal, political and regulatory systems influence our capacity to respond to the vast range of legal needs in the communities we serve. Also, climate change is taking community lawyers into new areas of practice that have not historically fallen into our areas of service delivery, such as planning law, emergency management and local council accountability.

A commitment to supporting our communities to access climate justice will continue to be a journey for community legal centres, balancing these competing interests.

CLIMATE CHANGE TRANSFORMATION APPROACHES

Climate change transformation approaches address climate harm by creating long term changes. It refers to a proactive and fundamental shift in systems, behaviour and norms. Whilst incremental adaptation focuses on maintaining existing systems, transformative adaptation addresses the need to co-create new approaches that are more resilient, sustainable, equitable and inherently socioecological.

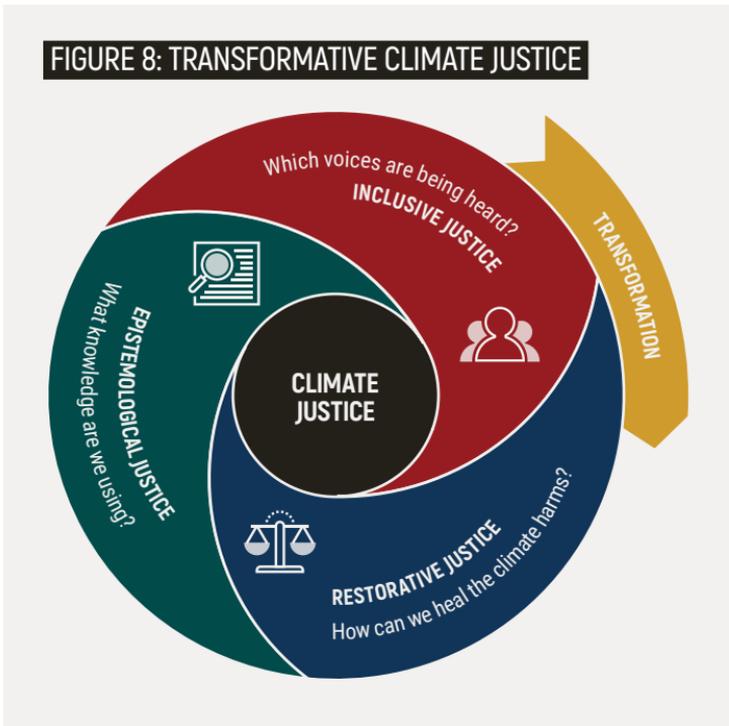
Transformation:

- ▼ Requires transdisciplinary collaborations with multiple stakeholders.
- ▼ Can be actioned in a small or large sphere of influence.
- ▼ Is open to challenging dominant paradigms.
- ▼ Involves cultural change.
- ▼ Requires coordinated efforts across stakeholders and long-term commitment.
- ▼ Requires challenging the underlying assumptions of our laws, regulations and policies and working to transform them.

Community legal centres frequently aim to be transformational across a range of justice issues. To do this, they focus on addressing unequal vulnerabilities and power distributions, while emphasising the importance of local and community participation, engagement and agency.

Transformative climate justice widens our frame. There are at least three elements to work with through a conceptual framework to assist community legal centres in operationalising their climate change adaptation planning and climate justice implementation.

FIGURE 8: TRANSFORMATIVE CLIMATE JUSTICE



Inclusive justice: Which voices are being heard?

Top down and technocratic approaches are rarely democratic and can undermine local adaptive capacities and resources. Being 'consulted' does not mean you have power to influence. Who is being left behind? Who has more influence than others and why?

Epistemological justice: What knowledge are we using?

Diverse ways of knowing and different world views need to be listened to and taken seriously. This ensures that overlooked, and often vital, areas of knowledge are included when identifying problems and solutions. First Nations peoples' knowledge needs to be front and centre of all transformative climate justice.

Restorative justice: How can we heal the climate harms?

To prevent the unequal distribution of the benefits and costs of adapting to climate change, restorative justice requires the healing and protection of those most at risk of climate impacts to prevent further harm. It may include reparations as well as community-based solutions. It involves acknowledging the harm itself and understanding the role of restitution in the healing process.¹⁵

FIGURE 9: INDIGENOUS HEALING AND DISASTER RECOVERY: A SUMMARY OF DIALOGUE

More **culturally responsive practices** in working with **Indigenous peoples** are sorely needed before, during and after **disasters**.

And in a world of **increasingly complex and severe risks**, we need new approaches to better support disaster resilience and recovery for **all communities**.

Indigenous healing and disaster recovery can be brought together through **respectful and thoughtful dialogue** between Indigenous and non-Indigenous people, to create new opportunities to support disaster-affected communities.

SO, WHAT MIGHT HEALING-INFORMED DISASTER RECOVERY SUPPORT FOR INDIGENOUS COMMUNITIES (AND ALL COMMUNITIES) LOOK LIKE?



HOLISTIC APPROACHES TO WELLBEING

Holistic understandings of post-disaster wellbeing, encompassing people, lands, waters and non-human beings.
Spiritual, cultural and social recovery strategies (e.g., artistic expression and storytelling)

SOCIAL RATHER THAN SOLO PROCESSES

Strategies that simultaneously support individual and community healing (e.g., group activities, community events, and story-telling therapies).
Frameworks and resources that are more inclusive of and culturally relevant to Indigenous peoples

IDENTIFYING AND TREATING THE ROOTS OF TRAUMA

Understanding of how personal and community contexts intersect with disaster recovery (e.g. intergenerational trauma, and previous disasters).
Embrace of systemic change (e.g. for decolonisation and climate justice) as a legitimate part of recovery processes

STRENGTHS-BASED AND COMMUNITY-LED PROCESSES

Grassroots disaster recovery initiatives that are culturally and socially specific to each community or person
Strategies for evaluating intervention approaches that are flexible, diverse and dynamic by design.

NEED FOR SOCIALLY AND CULTURALLY SAFE SPACES

Prioritisation of culturally safe and inclusive community recovery spaces during and after disasters

INDIGENOUS NOTIONS OF RESPONSIBILITY, JUSTICE AND FORGIVENESS

Alternative models for responding to post-disaster family violence.
Highlighting personal agency alongside attention to systemic issues after disasters.



[HTTPS://DOI.ORG/10.1016/J.PDISAS.2022.100257](https://doi.org/10.1016/J.PDISAS.2022.100257).
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ARTWORK: FRANCES BELLE PARKER. DESIGN: GEMMA TARPEY-BROWN.

Safe, strong and sustainable Indigenous peoples and communities enhancing Indigenous resilience in the face of increasing disasters.

Aboriginal and Torres Strait Islander people are uniquely and disproportionately affected by climate disasters.¹⁶ Climate challenges arise against a background of unmet legal needs and limited access to culturally-safe services. Aboriginal Controlled Community Organisations (ACCOs) are working to overcome these challenges, but inadequate resourcing limits their impact.

Aboriginal concerns, values, interests and legal status have, in the past been ignored, although the achievements of Indigenous land management have been transformative.

Knowledge of land and adaptation held by First Nations people is based on thousands of years on this land. Community legal centres can encourage governments to engage meaningfully to learn about adaptation, responses and measures to combat climate change.¹⁷

ABORIGINAL SELF-DETERMINED APPROACHES TO ACCESSING CLIMATE JUSTICE

Disaster and climate justice intersect with the work of the Victorian Aboriginal Legal Service (VALS) across all its legal practices: Civil and human rights, crime, family, Balit Ngulu (youth crime) and Wirraway (police and prison accountability). VALS operates statewide and has offices in Preston, Bendigo, Morwell, Mildura, Shepparton, Warrnambool and Werribee.

VALS supports communities to build resilience to climate change by addressing pre-existing legal needs and undertaking community engagement activities (including community legal education).

VALS assists community members in the aftermath of disasters when a multitude of legal issues may arise, such as those relating to housing (e.g. eviction, ending tenancies or repairs), insurance, debt, consumer rights, discrimination, grants, employment, fines, intervention orders, compliance with court orders and family violence.

VALS's Community Justice Program (CJP) is central to this work. For example, following the October 2022 floods, CJP organised barbecues in Mooropna and Shepparton where they brought community together, handed out flood recovery hampers, assisted with grant applications and facilitated referrals across VALS's legal practices.

VALS creates resources. For example, its Disaster Legal Help Check.

VALS advocates for legal and policy reform. It is an active voice in the First Nations disaster resilience sector and the broader disaster legal assistance sector. For example, VALS recently co-facilitated a workshop on disaster legal issues at the National Indigenous Disaster Resilience Gathering in Lismore, New South Wales (**Gathering**).

VALS is one of the six partner organisations of Disaster Legal Help Victoria – in this and other forums VALS advocates strongly for Aboriginal community-led approaches to disaster and for a disaster legal sector that is both culturally safe and disaster-trauma-informed.

VALS participates in place-based climate justice partnerships, including in the Yarra Ranges and Campaspe.

Examples of the powerful, self-determined work of other Aboriginal organisations provided by VALS:

- ▼ National Indigenous Disaster Resilience championing Indigenous leadership in disaster resilience, convening the Gathering and Policy Roundtables and publishing a handbook on Planning Evacuations with Indigenous Communities.
- ▼ Koori Mail's transformation into the central point for local flood relief efforts and community support during the February 2022 floods in Lismore, and the work of We Al-Li in establishing the Northern Rivers Community Healing Hub in response to those floods.
- ▼ Aboriginal Community Controlled Health Services, Traditional Owner Corporations, Recognised Aboriginal Parties and other organisations supporting community members affected by or at-risk of disasters and caring for Country.
- ▼ The All-Indigenous Bunjil Fire Brigade at Lake Tyers Aboriginal Trust operating for over 20 years.



COLLABORATIVE CLIMATE JUSTICE

Climate change poses complex problems that call for integrated solutions. Community legal centres are experts at working collaboratively with partners to deliver holistic services that best meet client and community needs. The current workforce includes lawyers and allied supports, such as social workers and financial counsellors. As more people learn about climate and disaster justice we predict that more staff with diverse legal and allied skills will become members of the already multi-skilled teams that respond to climate and disaster needs in the community.

Community legal centres can capitalise on their existing integrated models to progress our climate justice work. This includes long-term, place-based relationships with other community service providers, partnerships between statewide specialist and place-based generalist community legal centres, and multidisciplinary staffing models. Deep and honest collaboration at an individual and organisational levels will positively support the work towards climate justice.

Just as the depth of local knowledge of place-based community legal centres helps them to respond meaningfully to their communities on climate change, the expertise offered by specialist community legal centres is a vital tool for supporting the complex legal needs that climate change produces. Specialist and place-based community legal centres work closely together to facilitate the referral of complex cases, secondary consultations and the provision of community legal education and upskilling. Successful relationships between specialist and place-based community legal centres are integral to accessing climate justice.¹⁸

SPECIALIST COMMUNITY LEGAL CENTRES CHANGING TO MEET THE CLIMATE JUSTICE LEGAL NEEDS

Specialist community legal centres have pivoted to meet the rising disaster and climate justice needs of communities. They have done this through increasing collaborative community legal education and providing advice and information, guidelines, partnerships and warm referral pathways to meet climate and disaster justice needs.

Examples:

- ▼ Social Security Rights Victoria – Centrelink issues, disaster payments.
- ▼ Consumer Action Law Centre – Insurance and consumer issues due to disaster and climate impacts.
- ▼ Tenants Victoria – Tenants’ rights to safe and adequate housing in disaster recovery and protection from climate change impacts such as extreme weather.
- ▼ Women’s Legal Service Victoria – family violence and family law issues complicated due to disaster and extreme weather events.
- ▼ Victorian Aboriginal Legal Service – matters related to First Nations communities and climate impacts.
- ▼ JobWatch – employment rights in relation to disaster and climate change impacted workplace conditions.
- ▼ Justice Connect – pro bono legal assistance to disaster affected communities and not-for-profits.
- ▼ Environmental Justice Australia – strategic litigation in climate justice, pollution and protecting nature.

WORKING TOGETHER SO THAT SKILLS IN SOCIAL SECURITY LAW ARE AVAILABLE ACROSS THE STATE

In 2021, in the wake of Black Summer, Social Security Rights Victoria (SSRV) received funding from the Victorian Department of Justice and Community Safety to undertake a disaster preparedness and response project.

The first step was to undertake a detailed exploration of the relationship between disasters and social security legal issues. Through legal needs analysis and casework, SSRV concluded that social security legal issues arise as a direct consequence of an extreme weather event. For example, a person's social security problem is associated with the loss of their home to bushfire or flood. There are also indirect consequences of extreme weather events, such as family violence incidents that occur (at higher frequency) in the aftermath of an event that have flow-on effects for a person's social security situation.

In response, SSRV designed and implemented its Disaster Preparedness and Response Plan. The plan's framework has six elements that respond to disasters in the Victorian context, where 37 disasters have been declared since Black Summer, the largest affecting 63 of Victoria's 79 Local Government Areas. The plan has been activated in several ways.

Responsiveness

In the days following the catastrophic floods of 2022, SSRV:

- ▼ Published information on its website about disaster payments and Centrelink obligations.
- ▼ Sent a letter directly to community legal centres in affected areas outlining key information about payments and social security issues that could potentially arise because of the floods.
- ▼ Published a pamphlet providing information about disasters and social security legal issues.

SSRV worked directly with clients experiencing disaster-related social security legal issues. This casework revealed several areas of social security legislation are not appropriately responsive to the exceptional circumstances of disaster-affected Victorians.

Prevention

In June 2023, in collaboration with Economic Justice Australia (the Australian network of social security rights legal centres), SSRV tabled a legal brief to senior staff at the Department of Social Security, Services Australia, and to the Minister for Government Services, the Hon. Bill Shorten, MP. The brief made eight recommendations for legal and administrative reform to prevent the recurrence of avoidable social security legal issues experienced by disaster-impacted Australians. In August 2024 Services Australia updated the Social Security Guide as a direct response to one of these recommendations.

In November 2023, SSRV co-facilitated a webinar for all Victorian community legal centre workers that provided information and resources from seven specialist legal centres about the intersection between disasters and legal issues in their specific areas of expertise.

Collaboration

During 2024, SSRV undertook a series of Community Legal Education activities, in collaboration with regional community legal centres in disaster-affected areas of Victoria, including in-person presentations to workers and the public in Bendigo, Morwell, Mildura, Albury, Mount Beauty and Geelong. SSRV's objective was to raise awareness of the risk of disaster-related social security legal issues, build confidence and capability for workers assisting clients with disaster-related social security legal issues, and to ensure that people had a clear understanding of SSRV's specialist social security expertise and how these services could be accessed.

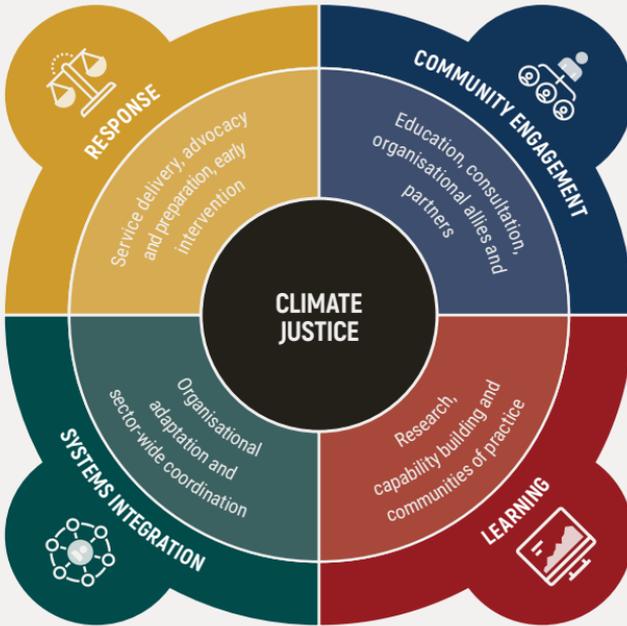
COMMUNITY LEGAL CENTRES TRANSFORMING TOGETHER

Black Summer presented challenges to the community legal sector, experienced foremost by Gippsland Community Legal Service and Hume Riverina Community Legal Service and the specialist centres that supported them. Four years on, there is optimism that a sector-wide transformation towards climate justice is achievable.

Community legal sector transformation in climate change adaptation refers to significant and fundamental changes across our sector to address the impacts of climate change. Deeper than incremental adjustments, a sector transformation for community legal centres involves more profound shifts. It also involves shifting organisational practices and governance.

Community legal centres impacted by extreme weather events in the same region have started the sector's transformation through collaborating and sharing resources with each other to ensure impacted communities are reached, and emerging legal needs are met.

FIGURE 10: COMMUNITY OF PRACTICE



COMMUNITIES OF PRACTICE

A robust and reflective community of practice has been essential for Victorian community legal centres to share information and experiences with each other.

The Disaster and Climate Justice working group convened by the Federation is a community of practice that provides opportunities for co-creation, relationship building and collaboration to be nurtured, and collective understanding of climate justice to be deepened.

An effective community of practice includes:

- ▼ Space for questions and uncertainties.
- ▼ Capacity for sharing projects and initiatives to reduce duplication and encourage replication.
- ▼ Lateral learning and support at moments of overwhelm and implementation.
- ▼ Ensuring all voices in the group can be heard.
- ▼ Content that responds to emerging needs.

Considerations for creating a strong community of practice:

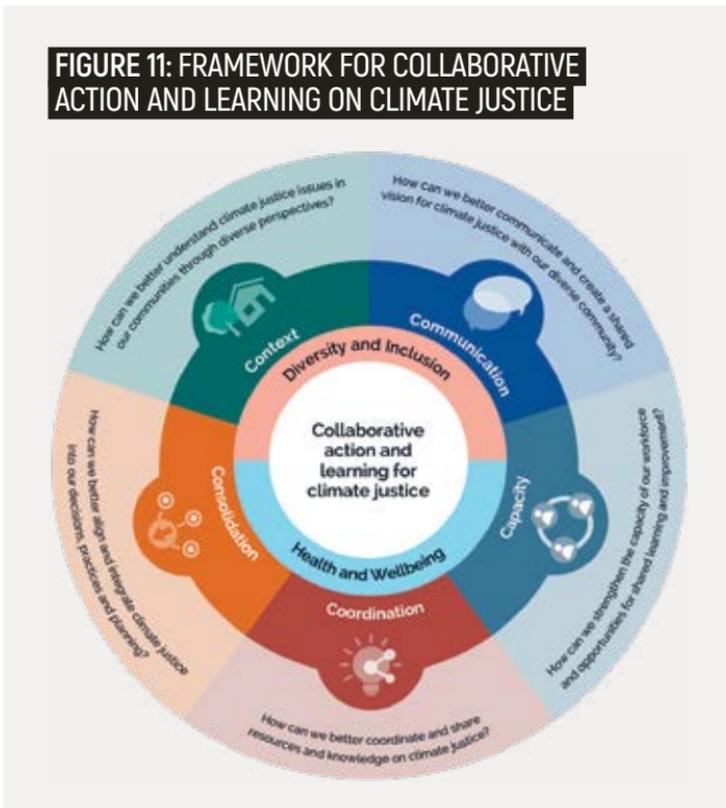
- ▼ Are we sufficiently allowing different bases and cultures of knowledge into the room?
- ▼ How can we stimulate curiosity while rejecting hasty judgement and dismissal?
- ▼ Do we question our own *status quo* practices: that is, our community engagement, contracts we draw up, or how we represent our clients and community?
- ▼ Do community legal centres and staff understand their privileges and power in the disaster and climate justice space?
- ▼ Do we have continuous reflective practice?
- ▼ Do our communities of practice nurture healthy and curious cultures?

PARTNERSHIPS

Community legal centres are skilled at forming partnerships with other social services agencies to provide wrap-around support and to reach clients with limited knowledge about their rights, responsibilities and legal options. These partnerships lead to fast and effective resolutions for clients of issues stemming from extreme weather events and slow onset climate events.

However, to be successful, these partnerships need to have clear processes and strong governance structures in place. Partners need to be accountable not only to the communities they serve, but also to each other, funders and regulators.

FIGURE 11: FRAMEWORK FOR COLLABORATIVE ACTION AND LEARNING ON CLIMATE JUSTICE



WORKING COLLABORATIVELY TO IMPROVE DISASTER RESPONSE: BLACK SUMMER

The Black Summer bushfires heralded the beginning of the climate and disaster justice journey for the team at Hume Riverina Community Legal Service (HRCLS). As the provider of free legal services in Northeast Victoria, HRCLS was committed to providing legal assistance on the ground, to support impacted communities.

With funding from the Commonwealth Government's Legal Assistance Bushfire Support Package to support relief and recovery, the journey began in building relationships and trust within communities.

Relationship building and trust were critical components to HRCLS' strategy for effective service provision in the aftermath of disaster. HRCLS' presence on the ground enabled staff to listen to people's experiences and make connections with community networks and organisations, including Neighbourhood Houses.

As a place-based service, HRCLS utilised existing relationships with local health and community service organisations who also received disaster response and recovery funding. Organisational trust, and clear and effective referral pathways to Gateway Health, Upper Murray Family Care's financial counsellors and Centre Against Violence, enabled HRCLS to quickly pivot and respond. This collaborative and integrated approach now forms the backbone of HRCLS' service design.

Working collaboratively enables holistic client care, with focus beyond the single legal issue of a client, but on the whole person, which supports their intersecting legal, financial, health, and social needs. The clients assisted by HRCLS in the Bushfire Recovery Project were experiencing vulnerabilities to justice and the trauma of the disaster simultaneously, requiring wraparound care critical in accessing justice.

HRCLS established three partnership tiers to support disaster affected communities:

1. **With local community organisations**, enabling HRCLS to build trust and reach people most in need.
2. **With service agencies**, to provide holistic wraparound support to clients.
3. **With specialist community legal services**, to provide the best legal assistance possible. A strong existing relationship with Consumer Action Law Centre meant referral pathways were quickly developed and replicated with other specialist community legal centres including, Social Security Rights Victoria, Tenants Victoria, Women's Legal Service Victoria, and Justice Connect, with co-ordination support from the Federation.

Disaster affected communities were reached, supported and received specialist advice as needed, enabled by these partnerships and relationships.

The support of the broader community legal sector, including the Federation, Gippsland Community Legal Service, Eastern Community Legal Centre, Disaster Legal Help Victoria, and later ARC Justice and others, has been of immense value and is a wonderful example of how services can work together to learn, grow and share.

THE CLIMATE JUSTICE LEGAL PROJECT

In 2020, the Federation joined with the state's specialist environmental community legal centre, Environmental Justice Australia, and the Climate Council, to form the Climate Justice Legal Project (CJLP).

The partnership supported community lawyers to better identify the impacts of climate change on the rights and justice of individuals and communities, and ensure the impacts of climate change are factored into legal and policy considerations.

Harnessing the expertise of each partner, CJLP collaborated on:

- ▼ Developing and delivering climate justice trainings to Victorian community legal centres and at national community legal centre conferences.
- ▼ Advising community legal centres on climate justice issues as they arose.
- ▼ Contributing to the Literature Review developed by the Federation on "Climate Change Impacts on Access to Justice."
- ▼ With the expertise of the Climate Council, contributing to knowledge building on climate justice based on the best available scientific evidence.
- ▼ Contributing to the advocacy report "Climate Hotbeds: Extreme Heat in social housing" developed by Environmental Justice Australia as a resource for community legal centres to understand the legal rights of those in social housing experiencing extreme heat.
- ▼ Amplifying the experiences of communities experiencing climate injustice and the role of community legal centres in addressing climate justice legal need.

CJLP fostered an enabling environment for Victorian community legal centres and in four years, the level of skill amongst community legal centres increased exponentially and new funding streams became available to support community legal projects.

In mid-2024, the partners celebrated the catalytic effect of the project and altered its direction as CJLP had achieved the aim of raising the capabilities and capacities of community legal sector to embed climate justice within their organisations and advocacy.

CLIMATE PARTNERSHIPS PROJECT

Collaborative Action Plans are a way to document the way health and community service organisations, policymakers and sector networks wish to work together to address climate change impacts.

An example is the Climate Partnerships Project, which is bringing together local organisations in the Yarra Ranges and Campaspe regions to strengthen community resilience to climate change. This project, funded by the Commonwealth Government Disaster Ready Fund, is a partnership between Jesuit Social Services Centre for Just Places, Eastern Community Legal Centre, ARC Justice and the Federation of Community Legal Centres a Collaborative Action Plan for the Yarra Ranges and Campaspe regions.

Over a three-year period, the partners will develop a Collaborative Action Plan for the Yarra Ranges (with Eastern Community Legal Centre) and the Campaspe region (with ARC Justice). The partners have a shared vision for mobilising community organisations around climate justice and the project will provide key learnings and pathways for place-based collaborative responses to climate change impacts. Its primary aim is to build an understanding of key health, social services and climate change networks and of shared climate change risks, vulnerabilities, strengths and needs. Its secondary aim is to identify opportunities for collaboration around building capacity and action.

COLLABORATIVE ACTION PLAN

cjp.org.au/research-publications/collaborative-action-plan-for-climate-justice-in-melbournes-west



DISASTER LEGAL HELP VICTORIA

Disaster Legal Help Victoria (DLHV) is a partnership between the Federation of Community Legal Centres, Victorian Aboriginal Legal Service, Justice Connect, the Law Institute of Victoria, Victoria Legal Aid, and the Victorian Bar Association. It connects people to legal help for problems that happen after a disaster. It is a partnership that brings together the local and broader expertise of the Victorian legal sector to coordinate responses to disasters in Victoria.

DLHV facilitates referrals to specialist and place-based community legal centres, Victoria Legal Aid and private practitioners, and coordinates outreach at recovery centres.

It also works to integrate a legal response into emergency management frameworks at local and regional levels, ensuring continuity of care and a strong referral network for clients needing both legal and other support with a 'no wrong door' approach to ensure accessibility.

As a coordinating body, the partnership of DLHV has been invaluable in addressing concerns from community legal centres about the operation of services when extreme weather events occur. A whole of legal sector approach enables access to essential information, such as the operation or suspension of courts in impacted areas, as well as building and sharing the disaster expertise across the Victorian legal sector. DLHV has facilitated several expert opinions relevant to areas of disaster law that were unclear. These expert opinions have enabled community legal centres to disseminate this information to communities so they better understand their rights.

The highly collaborative model of DLHV has resulted in closer relationships between all partners and a deeper understanding of the disaster legal needs of Victorians.

CHAPTER 2:

RESILIENT COMMUNITY LEGAL CENTRES

In this section, you will learn about:

- ▼ Why community legal centres need to adapt their own organisational structures and cultures to withstand climate shocks and changes in service demand.
- ▼ How community legal centres can pivot their programs to respond to sudden and slow onset climate impacts.
- ▼ The governance responsibilities of community legal centre boards in relation to climate risks.
- ▼ The importance of upskilling staff in trauma-informed care approaches.
- ▼ Ways community legal centres can incorporate monitoring, evaluation and learning practices about climate justice into their organisational frameworks.

EMBEDDING CLIMATE JUSTICE IN COMMUNITY LEGAL CENTRES

Victorian community legal centres have collaboratively developed a Theory of Change as a guide to realising climate justice. The Theory of Change is designed to be broad in scope, relevant to all centres, and customisable for specific operating contexts.

FIGURE 12: THEORY OF CHANGE

ASSUMPTIONS	Climate change impacts disrupt systems and requires transformative responses
VISION	CLCs enable access to climate justice for resilient and equitable communities
MISSION	Community engagement, organisational resilience and advocacy for systemic transformation
OUTCOMES	Community and legal sector able to provide better access to climate and disaster justice
INTERVENTIONS	Upskill, engage with community, collaborate, advocate and transform
BARRIERS	Lack of awareness of legal need, organisational resourcing and capability, gaps in laws, policies and systems

 **THEORY OF CHANGE IN TOOLBOX**

An editable version of the Theory of Change table is included in the toolbox.

fclc.org.au/cjfg

ADAPTIVE CAPACITY

Climate change disrupts our systems, organisations, environments, communities and ways of working. In an organisational context, adaptive capacity refers to the extent to which an organisation can make informed, strategic short and long-term decisions when planning for and responding to the negative and positive implications of climate change.¹⁹

To realise climate justice, community legal centres need to be resilient and capable of withstanding climate shocks and changes in service demand. Business continuity, disaster preparation and building adaptive capacity are essential to ensure the health and wellbeing of both staff and the communities that community legal centres serve.

In 2014, a major study found that community sector organisations like community legal centres lack the resources to effectively adapt to both slow onset climate impacts and extreme weather events.²⁰ A key finding of the report was that there is an almost “universal blind spot” in connecting the precarity of people experiencing poverty and disadvantage with the adaptive capacity and climate resilience of the community organisations that work with them.²¹

PREPARING AND RESPONDING TO EXTREME WEATHER EVENTS

Disaster preparation is vital to organisational and community resilience.

DISASTER PLANNING GUIDE IN TOOLBOX

fclc.org.au/cjfg

Extreme weather events lead to increased demand for community legal centre services from communities experiencing trauma and high levels of legal need.

Community legal centres provide trauma-informed services for communities, while at the same time ensuring that their own staff are supported with their experiences of vicarious trauma, or the direct trauma of having lived through and been affected by the same climate change impacts as their clients.

NOT-FOR-PROFIT LAW RESOURCES

Justice Connect's Not-for-profit law program is a national legal service offering free and affordable legal supports for not-for-profit organisations and social enterprises. They have developed a set of valuable resources to help not-for-profit organisations navigate issues relevant to the operations and legal obligations of organisations in preparing for and responding to disasters.

nfplaw.org.au/free-resources/disasters

GUIDELINES FOR ORGANISATIONAL RESILIENCE

- ▼ Complete an organisational adaptive capacity assessment using the Adaptive Capacity checklists.
- ▼ Ensure business continuity plans and procedures incorporate climate risks (including compounding and cascading risks).
- ▼ Recognise the organisational risks that can arise from extreme weather events and different natural hazards as well as slow onset climate impacts.
- ▼ Conduct scenario planning to test how your organisation will respond to climate change and extreme weather events that is tailored to the unique organisational, geographic and social environments of your organisation.
- ▼ Build literacy and awareness of potential and ongoing climate change impacts on your organisation with your staff, and work together to think of ways your organisation can adapt to climate change.
- ▼ Incorporate working in a context of climate change impacts into strategic plans and program logic.
- ▼ Develop collaborative action plans and partnerships focused on meeting surges in demand and addressing gaps in service provision caused by climate change impacts.

ADAPTIVE CAPACITY CHECKLIST IN TOOLBOX

fclc.org.au/cjfg

ADAPTIVE SERVICE DELIVERY

Community legal centres need to be prepared to continue to deliver services in situations where their community is responding to climate impacts. Risks to service delivery include:

- ▼ Physical infrastructure destroyed or damaged, including office buildings, courts and other justice agencies, rendering them unusable or unsafe for work.²²
- ▼ Transportation, electricity, water and telecommunications networks disrupted.
- ▼ Staff experiencing additional stress in personal and work lives, including accommodation precarity and increased caring commitments, which can cause more absences and mental health issues.
- ▼ Longer-term recruitment and retention of skilled staff, especially in rural, regional and remote settings.

What are some ways that community legal centres provide legal assistance in response to slow onset climate impacts and extreme weather events?

KEEPING SERVICES GOING WHEN YOU ARE AFFECTED BY THE DISASTER YOURSELF

ARC Justice is a rights-based, for-purpose organisation incorporating the Loddon Campaspe Community Legal Centre in Bendigo, the Goulburn Valley Community Legal Centre based in Shepparton and the specialist renter support program, Housing Justice.

In October 2022, 12 of the 13 local government areas ARC Justice serves experienced flooding. In a space of a few weeks, tens of thousands of people's homes were damaged, some irreparably, and countless businesses and farms also suffered significant losses.

Public housing tenants rendered homeless overnight were assisted by ARC's Housing Justice team to move into temporary accommodation in neighbouring towns. Many people were experiencing and trying to respond to legal problems, such as accessing emergency social security payments, contacting their insurers, and managing notices ordering them to vacate their homes in 24-hours, yet most did not seek formal legal assistance to do so.

At the time of the flooding event, ARC Justice was in the process of rebuilding from the pandemic, while also dealing with capacity constraints caused by a staff shortage and the burden of covering family violence duty list services in 10 courts across the region. The team was not prepared to meet the need of communities hit by the disaster.

ARC Justice's Shepparton office was sandbagged and some staff members suffered damage to their homes, or were cut off by flood waters. There was no funding specifically for disaster preparation or relief and no expertise in some of the key areas where people needed information. What ARC Justice did have was the coordination support of the Federation and Disaster Legal Help Victoria, plus the commitment from specialist community legal centres to prioritise referrals.

The team quickly found that connecting people who needed legal help with assistance was a challenge, in part because they were not sufficiently connected with other local community service providers outside the family violence space. ARC Justice needed other service providers, who were hearing about the experiences of community members on the ground, to be alert to legal issues that clients were experiencing and to refer them to ARC Justice's programs.

ARC Justice recruited two new staff members who had significant experience in community engagement. These two new staff members have driven the centre's flood response in the two years since the disaster, and were instrumental in providing quick, useful information for people when floods again hit the region for a second time at the start of 2024.

Since the 2002 flood, ARC Justice has strengthened its connections across the catchment, and has helped the team demonstrate the value of legal assistance in preventing and resolving problems exacerbated by the climate crisis. Climate justice is now embedded in its strategy.

COMMUNITY FOCUSED ACTIVITIES

Community legal centres can respond to extreme weather events by increasing phone and online services; and engaging in community engagement and outreach.

Examples of community engagement and outreach during extreme weather events include:

- ▼ attending recovery and evacuation centres;
- ▼ connecting with other community-based organisations;
- ▼ using community relationships, digital tools and social media to increase community awareness about common legal issues; and
- ▼ providing community legal education to affected communities.

Community-focus activities in response to slow climate impacts for community legal centres include:

- ▼ shifting their service delivery to incorporate a climate justice focus;
- ▼ building partnerships with other community legal centres and local community services; and
- ▼ raising awareness of climate justice issues in their communities through community legal education.

Slow onset climate impacts require organisations to adapt their programs to align with the new conditions under which they operate.

SYSTEMIC ADVOCACY ACTIVITIES

Community legal centres can advocate for positive and sustained change following extreme weather events using:

- ▼ traditional media and social media;
- ▼ government relations; and
- ▼ intersectoral networking

Extreme weather events create opportunities for community legal centres in raising awareness of:

- ▼ problems that exist in communities;
- ▼ the gaps in services delivered by governments;
- ▼ emergency services and community organisations; and
- ▼ the flaws in the legal system.

Community legal centres can harness the issues raised by slow onset climate impacts by advocating to improve government systems and responses to climate change through:

- ▼ ongoing advocacy projects;
- ▼ partnerships; and
- ▼ relationship building with journalists and decision-makers at all levels of government.



CLIMATE SUBMISSION EXAMPLES

fclc.org.au/policy_submissions

CLIMATE GOVERNANCE OBLIGATIONS

Climate governance obligations of community legal centres (and other not-for-profit organisations)

The Australian Institute of Company Directors highlights that not-for-profit and community organisations are obliged to consider climate related risks as part of their duties of care and diligence. It is vital that boards and senior management explicitly consider and respond to climate risks to their organisation, mission, infrastructure and operations.

Private entities also have a responsibility to calculate and reduce the organisation's carbon footprint.

While there are currently no specific legal requirements for not-for-profits to incorporate climate governance into their organisation, such an approach is increasingly accepted as best practice; and the Australian Institute of Company Directors has developed a practical guide to help directors of not-for-profits meet their governance obligations to address climate change.

aicd.com.au/risk-management/framework/climate/climate-governance-for-nfp-directors-starting-the-journey-to-net-zero

TRAUMA-INFORMED CLIMATE JUSTICE

Access to climate justice requires recognition of the trauma and mental health challenges that clients and communities face, as extreme weather events accelerate, and slow onset changes erode livelihoods and wellbeing.

“The journey of trauma awareness, trauma sensitivity, trauma-informed, and trauma responsiveness lies in the level of understanding, integration, and proactive action taken in response to trauma. The principles, tools, and skills of neurolinguistic programming can help us become more trauma-sensitive and informed by expanding our capacity to listen and helping us to know how to communicate in a way that mitigates further harm. Learning trauma-informed communication helps individuals in organisations to look through an expanded lens that can make creating a trauma-responsive organisation more effective.”²³

A report published by the Climate Council in 2023 revealed that the number of people experiencing mental health challenges due to climate change is rising.²⁴

Key findings from the report included:

- ▼ Extreme weather events made worse by climate change are taking a heavy toll on the mental health of many Australians.
- ▼ Communities across Australia are reporting mental health challenges that result from worsening extreme weather events. The situation is particularly tough for rural and regional Australians.
- ▼ Stronger action on climate change to reduce greenhouse gas emissions and support communities coping with climate change impacts that can no longer be avoided is fundamental to protecting the mental wellbeing of Australians.

“More than half (51%) of Australians who experienced a climate change-fuelled disaster since 2019 feel their mental health has been somewhat impacted, of whom one in five (21%) claim that the disaster they went through has had a ‘major or moderate impact’ on their mental health.”²⁵

MENTAL HEALTH RESOURCES

Resources that address the mental health needs of people impacted by extreme weather events

Disaster Mental Health Hub:
phoenixaustralia.org/disaster-hub

Psychology for a safe climate:
psychologyforasafeclimate.org

The Mind Remapping Academy:
mindremappingacademy.com

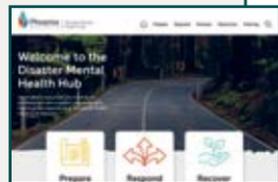
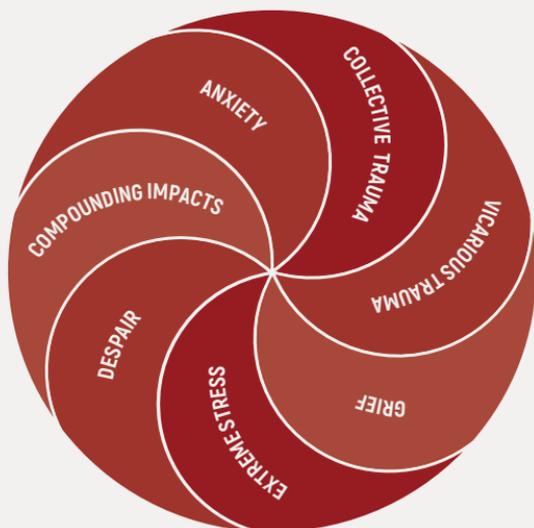


FIGURE 13: CLIMATE CHANGE MENTAL HEALTH IMPACTS

Mental health issues arising from climate impacts include:

- ▼ **Anxiety** considering the horrific implications of climate change
- ▼ **Compounding impacts** that arise or are exacerbated by climate change, such as substance abuse, family violence and the deterioration of health conditions
- ▼ **Despair** at inaction and systemic overwhelm
- ▼ **Extreme stress** as a result of the financial and livelihood implications of climate change impacts.
- ▼ **Grief** due to irreparable loss incurred by our environment due to human actions.
- ▼ **Vicarious trauma** experienced when working with impacted communities.

Collective trauma can also arise in communities, often altering social relationships.

A shortage of mental health professionals in locations affected by climate change frustrate attempts to manage mental health issues that arise from, or are made worse by, climate change impacts. Community legal centres have observed that limited access to mental health support is linked to an increased sense of isolation, and is known to reduce resilience in communities. All mental health support needs to be culturally informed and culturally safe.

People recovering from climate harm are frequently required to undertake onerous administration tasks and engage with multiple agencies. Communities reeling from the trauma of climate harms may find the administration required to rebuild their lives, or prevent further harm, overwhelming. The administration can also be retraumatising, especially if they must retell their story to multiple services with no outcome. This may be one factor of the preference for face-to-face contact with service providers that have a long-term commitment to the area or community.²⁶

REFLECTIVE AND ADAPTIVE CLIMATE JUSTICE PRACTICES

In collaboration with Victorian community legal centres, the Federation developed a monitoring, evaluation and learning guide to support embedding climate and disaster justice into organisational frameworks and practices.

FIGURE 14: MONITORING, EVALUATION AND LEARNING

CONTINUUM OF CLIMATE AND DISASTER JUSTICE MATURITY			
EARLY STAGE	DEVELOPING	TRANSFORMATIVE	
X			CLC GENERAL
	X		SERVICE DELIVERY
		X	ADVOCACY AND LAW REFORM
	X		OPERATIONS

MONITORING, EVALUATION AND LEARNING TABLE IN TOOLBOX

An editable version of the table above is included in the toolbox to help community legal centres embed climate and disaster justice into their operations, practices, programs, community engagement and advocacy.

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CHAPTER 3:**THE LAW AND
CLIMATE CHANGE**

In this section, you will learn about:

The impact of climate change on access to justice – and how clients and communities affected by climate change experience the law and the legal system.

- ▼ Tools that community legal centres can use to identify climate harm and climate justice legal needs.
- ▼ The intersection between climate change and the law, and the barriers to resolving climate-related legal issues.
- ▼ Pathways for communities and community legal centres to use the law and legal rights to realise climate justice.

WHY THE LAW?

The law has the power to influence the trajectory of climate change: it determines how and when emissions are regulated, and who and what is protected from climate harm. The law sets the pathways for how we move into a thriving healthy future together. Climate change is and will change everything, including our legal obligations and how we access justice.

The law can act as both a tool for, and barrier to, realising climate justice. On one hand, climate change threatens the United Nations' Sustainable Development Goal 16 that promotes peace, justice and strong institutions, the rule of law and transparent and accountable institutions.²⁷ On the other, communities across the world are launching legal battles to achieve climate justice.

There is a growing body of international case law about climate justice. Notable cases include:

- ▼ Massachusetts v Environmental Protection Agency (2007)
- ▼ Peruvian Glacier Case (2017)
- ▼ Urgenda Foundation v The Netherlands (2018)
- ▼ Leghari v Federation of Pakistan (2018)
- ▼ Ridhima Pandey v Union of India (2019)
- ▼ Neubauer et al v Germany (2021)
- ▼ Sharma (ad lit: Sister Marie Brigid Arthur) v Minister for the Environment (2022)
- ▼ Greenpeace Southeast Asia and Others v Carbon Majors (2022)
- ▼ Verein Klimaseniorinnen Schweiz v Switzerland (2024)
- ▼ MK Ranjitsinh v Union of India (2024)

☞ TORRES STRAIT ISLANDS CLIMATE CASE

In the Torres Strait Island Climate Case, the complainants were Australian citizens and residents of the Torres Strait Islands. They brought a complaint to the United Nations Human Rights Committee (UNHRC)

The complainants submitted that the Australian Government had failed to adopt climate adaptation measures, including infrastructure, to protect their lives and their way of life, homes and culture against the impacts of climate change, especially sea level rise. They claimed Australia had failed to adopt mitigation measures to reduce greenhouse gas emissions and stop fossil fuel extraction and use.

They argued that Australia was violating their rights under article 2 (non-discrimination clause), (the right to an effective remedy for breach of human rights), article 6 (the right to life), article 17 (the right to private and family life), and article 24 (the rights of children) of the International Covenant on Civil and Political Rights (ICCPR).

The complaints were successful at the UNHRC on almost all points.²⁸



FIGURE 15: CLIMATE CHANGE IMPACTS LEGAL NEEDS

Legal systems are not renowned for their agility, adaptability and responsiveness. Constancy, consistency, fidelity to precedent and rigorous legislative interpretation are integral to judiciary independence from the executive and legislative. Our system of fairness depends on this independence. We are seeing through many cases on climate justice around the world, that the judiciary and lawyers sometimes move more quickly than other arms of government to establish laws that correspond to the climate-changed landscape and set the foundations for climate-just decisions.

IDENTIFYING CLIMATE JUSTICE LEGAL NEEDS

It can be easy to see the need for climate justice in relation to issues such as fossil fuel production. However, inconspicuous climate harms that seep into daily life can be more difficult to identify. Pinpointing the consequential legal needs and potential legal solutions can be more difficult still.

Climate change impacts include incremental changes that occur alongside increasingly frequent and severe extreme weather events. This complexity makes it difficult to identify how different communities experience climate change impacts and how these impacts interplay with legal issues. Community legal centres have learnt that it is necessary to build capabilities to respond to legal need arising from both extreme weather events and slow onset climate impacts.



LEGAL NEED SCENARIOS IN TOOLBOX

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HOW ARE CLIMATE CHANGE AND LEGAL NEED RELATED?

Climate and disaster legal needs do not exist in isolation but are embedded within and influenced by many factors. Climate justice requires legal needs to be resolved within the context of other needs such as housing and financial support, while also recognising that unaddressed legal needs can compound, escalate and negatively impact on individuals' lives and livelihoods.

The groundbreaking *Public Understanding of Law Survey* (PULS) by the Victoria Law Foundation is the most comprehensive analysis of the legal needs of the Victorian community yet conducted. It showed that climate impacts compound and exacerbate pre-existing legal issues.

This results in legal issues clustering in regions most affected by climate change.²⁹ The PULS revealed that the 2019–2020 bushfires resulted in significant legal need, with bushfire-affected individuals more likely to experience problem clustering and to report adverse consequences flowing from those legal issues.³⁰

Interestingly, despite having more legal needs, only a small number of bushfire-affected individuals linked their legal problem to the bushfires, revealing that clients do not connect climate change to their legal needs.³¹ This absence of connection between disaster and legal need is one of the biggest challenges that staff in community legal centres face with their communities because it creates barriers for early intervention and requires pre-emptive community legal education. The evidence from the PULS mirrors the experience of community legal centres for increasing demand for disaster-related legal services. It also supports the need for broad casework intake guidelines, especially when clients aren't connecting their legal problem with the climate impacts. This can be done by widening intake guidelines to include those effected by an extreme weather event or slow onset climate change impacts regardless of their legal needs or circumstances.

Each climate change impact is unique. Some are fast and sudden. Others are slow and almost indiscernible until a tipping point occurs. A sudden storm and the slow erosion of food security are both climate justice issues, yet they can create different legal needs, with each need requiring a nuanced approach to identifying the climate justice issue and its resolution.

FAMILY VIOLENCE DUTY LAWYERING: EXTREME HEAT AND FAMILY VIOLENCE

Two weeks after a three-day heatwave across Victoria, the Melbourne Magistrates Court intervention order court list was 33 per cent longer than usual.

The duty lawyers at court on the day were staff from Victorian community legal centres. These staff observed that the narrative of the applications for intervention orders commonly commenced with “It was a really hot day.” The police also frequently noted that “the family was crowded into one room due to the heat.”

There was an unspoken understanding in the courtroom that the heat had contributed to the expanded volume of incidents and the court list.

While the extreme heat made no difference to the outcomes handed down by magistrates on that day, perhaps it should have.

It is important to recognise that in cases involving family violence, all involved parties require climate-safe housing options.

How might consideration of the heat have made a difference? On the day, there was extra pressure on the court’s systems due to the extreme heat and crowded list.

Should there be recommendations to police on how to approach family violence on extreme heat days? Do police need to consider family members who are at risk, not only of family violence, but of extreme heat? Should the police also consider the health impacts of extreme heat? Should magistrates consider the connection between changed climatic conditions and housing situations when making orders?

FINES: A CLIMATE JUSTICE LEGAL NEED

Ali received a speeding fine whilst driving to assist their elderly mother to evacuate from her unit which was flooding. The town was experiencing power outages. Their mother relies upon electricity for oxygen and doesn't drive due to a medical condition. Ali collected their mother and drove to a recovery centre in the next town where medical provisions were available.

Both Ali and their mother's homes were impacted by the floods. They lost their records and digital and communications equipment except for their phone. They were involved in the long administrative process of finding appropriate alternative accommodation, organising the clean-up, understanding their insurance and tenancy rights. Due to flood damage, they were also relocated to temporary accommodation in the next town.

Ali was unaware of the fine until it was to be heard at the Magistrates Court six months later. They put this down to stress in responding to the flood, caring for their mother and having their life administration systems disrupted.

Ali was given demerit points, resulting in a three month suspension of licence at a time when the family needed Ali to drive between towns and to medical appointments.

From their grassroots and local vantage point, community legal centres can quickly respond to new kinds of legal problems. Community legal centres are often the first to identify new groups of people with legal needs linked to climate precarity. For example, demand for legal assistance in areas of planning, insurance and civil law have increased under a changing climate. Whilst some of these legal areas do not typically fall within traditional fields of public and community legal service delivery, community legal centres have adapted their practices to support clients with these legal needs.

HOW EXTREME WEATHER EVENTS IMPACT LEGAL NEEDS

Numerous Victorian inquiries and reports into bushfires and floods have found that legal assistance following a disaster is an important element in the recovery of impacted individuals and communities.³² Evidence shows that legal need following disasters varies according to the nature and scale of the hazard; plus disasters create new legal needs whilst also exacerbating underlying legal and financial stress. Disasters also lead to new cohorts of people seeking legal help, especially small business owners and farmers.³³

The PULS observed that 53 per cent of respondents affected by bushfires who had faced legal problems reported multiple problems.³⁴

Extreme weather events are often followed by a long tail of legal need. There are many reasons for this, including:

- ▼ Problems may not initially appear to be legal but eventually require engagement with legal processes.³⁵
- ▼ Lack of services, community engagement or community legal education.³⁶

Community legal centres have responded to the changing landscape of legal need the immediate aftermath of extreme weather events by expanding their intake criteria to include clients who would not usually qualify for free legal assistance.³⁷ This is recognition that climate change, in particular climate disasters, can plunge communities into poverty and precarity almost instantaneously.

Disasters cause significant surges in demand for legal assistance, which are immediate, such as access to disaster payments and family violence orders, but also continue for months or years, as people deal with both immediate and longer-term legal issues, such as access to superannuation, insurance claims, housing, financial

assistance, property, planning, and will and succession issues. The impact for community legal centres is that they need to have skilled staff able to respond to the full range of legal need for which clients seek assistance.

Significantly, a climate justice response deals with not only the immediate and longer-term legal needs at times of disaster, but also addresses the underlying social, economic and political drivers that make people and communities susceptible to the adverse ongoing impacts of climate change.

“IT’S A DISASTER! WHAT ARE THE LAWYERS DOING HERE?”

Many people consider law to be a profit-making profession, and therefore sometimes perceive lawyers who attend areas impacted by climate disasters to be opportunists interested in financial gain at the expense of community need. Lawyers can also be perceived as taking advantage of traumatised disaster survivors and ignoring community recovery by focusing only on individual compensation cases. Negative stereotypes (not uninfluenced by American movies) can hinder trust building with impacted communities.

When communities do not yet recognise their legal needs there may be a false perception that lawyers are not needed. Legal health checks are a helpful tool to assist clients to identify legal needs that they did not realise they had.

Community lawyers often need to explain their role to counter the negative stereotypes of lawyers and build trust with communities under extreme stress. That said, community legal centres start from a strong base, with evidence confirming that impacted communities prefer to seek legal advice from embedded local services and preferably face-to-face, which are strengths of the community legal approach.³⁸

THE EMERGENCE OF THE COMMUNITY DISASTER RESILIENCE LAWYER

The community lawyering approach to disaster response and recovery incorporates:

- ▼ Local and community-led engagement.
- ▼ An emphasis on relational ways of working.
- ▼ Trauma-informed holistic care.
- ▼ Adaptiveness and responsiveness.
- ▼ A wide range of different areas of law and practice.

 **LEGAL HEALTH CHECKLIST IN TOOLBOX**

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IDENTIFYING CLIMATE HARM

Climate harm is a useful frame for understanding climate justice but it is not a legally recognised term – yet.

The origins of climate harms are:

- ▼ greenhouse gas emissions
- ▼ ecological neglect
- ▼ failure to protect communities and ecosystems from climate impacts.

Climate harm manifests in the loss of ecosystems, homes and livelihoods, physical and mental health stress and relationship breakdowns.

While insurance legal needs arising from property damage can be clearly attributed to an extreme weather event, the link between a rise in family violence during heatwaves and disasters can be more difficult to verify.³⁹

The PULS revealed that only a small number of individuals affected by the 2019–2020 bushfires linked their legal problem to the fires, demonstrating that clients often do not connect climate change to their legal problems.

Attribution, along with causation, are concepts used in law. Attribution focuses on identifying specific contributors to an event, while causation deals with the fundamental cause and effect relationship between an action and the consequent harm.⁴⁰

“Attribution science” examines whether climate change makes extreme weather events more severe and more likely to occur. It is becoming more sophisticated in tracing the links between climate harm and greenhouse gas emissions. A similar methodology could be adapted by those working on access to climate justice.

Because climate change influences and compounds everything, to achieve climate justice we need to ask important questions about how climate change impacts:

- ▼ displacement
- ▼ health
- ▼ community resources, and
- ▼ our relationships with each other and the places we live.

While climate change is not the only reason family violence or loss of a home occurs, we need to question whether it would have occurred if not for climate impacts. This is attribution systemic thinking. Is climate change making legal issues more severe and more likely to occur?

INSURANCE AS FRONT LINE LEGAL NEED IN EXTREME WEATHER EVENTS

Staff at Consumer Action Law Centre (CALC) have observed high demand for insurance advice following the 2022 flooding events in Victoria. Despite years passing since the flooding event occurred, new clients continue to come forward seeking help with their flood-related issue. Insurance disputes are one of the main presenting legal issues arising in flood-affected communities following disasters.

The Victoria Law Foundation *Public Understanding of the Law Survey* (PULS) clearly identified legal need relating to consumer law as the most prevalent legal need in Victoria, and found this was even more pronounced following the Black Saturday bushfires.

Like many other legal needs, consumer law needs are exacerbated by climate disasters.

CALC's Engagement & Learning and Legal Practice teams visited areas impacted by disasters, including two drop-in community events organised by Maribyrnong Council for residents affected by the 2022 floods.

CALC visited Hume Riverina Community Legal Centre in Albury-Wodonga and Mallee Family Care in Mildura, where clients raised issues relating to insurance claims following storms and flooding, as well as the lack of affordable insurance premiums.

Staff members from, Eastern Community Legal Centre, Ballarat & Grampians Community Legal Service, Hume Riverina Community Legal Service and Disaster Legal Help Victoria's operations team attended CALC's office for shadowing and training days, which included matters related to climate disasters.

CALC continues to provide free legal advice and financial counselling to clients impacted by climate disasters. This advocacy is also seen with our policy and campaigns work on solar panels and the energy market.

CALC's Managing Insurance Lawyer provides expert advice on insurance law relating to climate disasters both within CALC and to the wider community legal sector.

To aid community worker education, CALC has created a free online resource '*Applied Insurance Law – Climate Disasters*', for workers who want to understand more about making insurance claims, claim delays, cash settlements and flood exclusions.

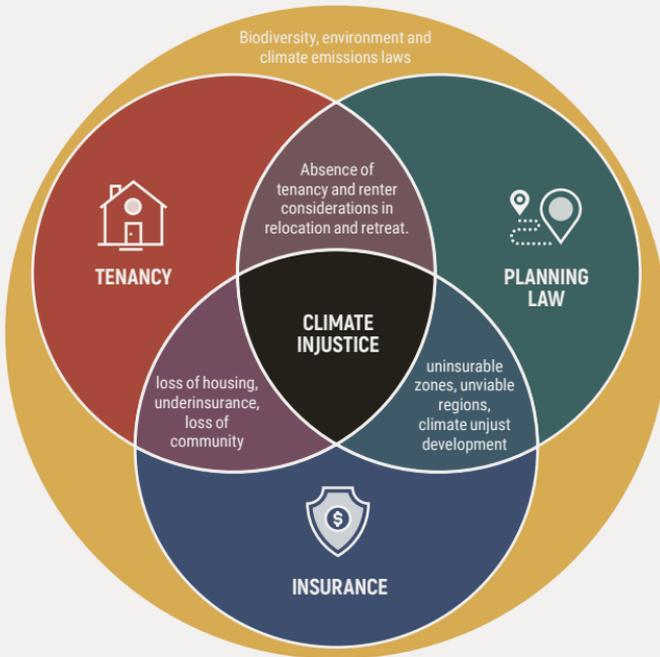
CALC's focus is on ensuring that climate justice issues are easily identifiable and that people in the community affected by climate disasters receive fair responses to assist their recovery effectively.

CALC strives to provide expert advice through its Worker Advice Service, which supports community legal centres to deliver critical services to clients in their communities.

HEALTHY HABITATION

All people have the right to live in a safe and healthy environment, and this includes the eco-systems, infrastructure, cities, neighbourhoods and homes we all rely upon for a healthy life. However, climate change is creating precarity and risk of climate harm to all habitats, including the built environment and human shelter. Many laws intersect and influence whether eco-systems and humans are healthy and thriving.

FIGURE 16: HEALTHY HABITATION FOR ALL



PLANNING AND LAND MANAGEMENT TOOLS

Resources to help the community and community legal centres to better understand the planning and land management legal needs that arose during Black Summer. Produced by Gippsland Community Legal Service, with the assistance of the Monash Climate Justice Clinic and Kingwood Mallesons.

[GCLS-Bushfire-recovery-guidebook.pdf](#)

[Guidebook-to-Public-Land-Management-In-Victoria.pdf \(monash.edu\)](#)

HOUSING

Climate change threatens the safety and habitability of all human homes. Community legal centres are therefore upskilling in areas of law relating to housing that are vital to the realisation of climate justice:

- ▼ insurance law
- ▼ building regulations
- ▼ climate impacts on tenancy rights
- ▼ planning law.

These community legal responses are important because adequate housing is:

- ▼ a human right⁴¹ providing the conditions needed for security, dignity and to thrive,
- ▼ integral to our overall wellbeing, with our home often being at the centre of our social, emotional, material and economic lives, and
- ▼ importantly for climate justice – a key factor in protecting us from hazards and climate harms.

① CLIMATE CRISIS AND THE RIGHT TO HOUSING

The United Nations Special Rapporteur warns that climate change severely threatens enjoyment of the right to adequate housing worldwide in his report to the Human Rights Council in February 2023. The Special Rapporteur stated that:

“There is a need for systemic and integrated urban and rural planning at the national and local levels that fully integrates climate change, disaster risk reduction, location of services and infrastructure, planning for transit, green space, vegetation, the mitigation of heat islands, water and waste management, net-zero building codes and resilience, especially in relation to the informal city.

“Contrary to planning decisions being driven by the financial interests of developers, as is frequently the case, a rights-based approach to planning ensures community participation, especially of marginalised communities, and the collective agency of residents to shape the future of their city.

“Urban and regional planning needs to incorporate risk assessment, mapping and resilience planning, to ensure buildings can withstand changing weather conditions and to minimise the need for rebuilding and repair in the aftermath of climate-induced extreme weather events.”⁴²

CONSUMER ACTION LAW ADVOCATING FOR FAIRNESS

Katherine is retired and relies on the Age Pension as her sole source of income. She had two dwellings on her property that were damaged during the 2022 floods in regional Victoria.

One was a granny flat, which was damaged beyond repair. For this, she received a pay-out from her insurer. The other was a double-storey house, also irreparably damaged. It was insured for approximately \$415,000 at the time of the event. The insurer claimed the property could be remedied and offered \$69,000 as a pay-out to undertake repairs.

Katherine felt this was not consistent with her policy. With her support worker, she contacted Consumer Action Law Centre (CALC) for assistance. Katherine said that she did not understand why the claim for her house was denied given the insurer accepted the claim for her flat and she had obtained an expert report to confirm that her house had suffered irreparable damage.

She was forced to relocate to emergency accommodation because her house was unliveable. She continued to make payments on her home insurance policy.

CALC supported Katherine with her claim by contacting the insurance company to request documents on both policies. The insurance company did not provide documents within the timeframe specified by CALC and due to delay in providing client documents and poor claims handling process, CALC lodged a complaint with the Australian Financial Complaints Authority.

Following discussions with CALC, the insurance company reviewed the cash settlement. In addition to her original payout, Katherine was offered a total loss settlement of \$398,500 to demolish and rebuild the property; \$27,300 to pay for three months of emergency accommodation while the house was being rebuilt; and an additional insurance payment of just under \$1,000.

CRITICAL INSIGHTS ON DISASTER LAWYERING

Taylah Alanis recounts her experience as a new disaster lawyer at Gippsland Community Legal Service.

“Reflecting on my experience stepping into disaster lawyering after the Black Summer bushfires at Gippsland Community Legal Service (GCLS), I thought I was prepared. My prior role as a Bushfire Recovery Case Manager in far east Gippsland gave me insight into the social issues, trauma, and complexities of rural communities.

Initially, I believed the new role would be to assist individuals with common legal issues that place-based community legal centres tend to. However, the reality was quite different. With guidance from other staff at GCLS, namely Senior Lawyer, Simone Elias, and Principal Lawyer, Simon Suttie, I was well supported to adapt to community need and be flexible in my approach. This opened doors for me to provide advice on areas such as planning law, public land management, domestic building issues and medical treatment planning.

One unexpected challenge was the difference in understanding and acceptance of legal support among rural communities when compared to metropolitan areas. There was notable mistrust and a lack of awareness about community legal centres, compounded by community politics and the fear of enforcing rights that might not be supported locally. This was unmistakable where tenancy rights were concerned. Navigating the concerns of community can be tricky, but can be done if approached with humility, empathy and patience.

Additionally, many disaster-related issues, especially in planning law and land management, had no clear legal solutions, often causing further trauma. Despite these challenges, this experience highlighted the need for flexibility and learning in the sector to learn, grow, and address gaps in the legal system when applying a disaster lens.

The key lesson that I learned in disaster lawyering is to be adaptable. Listening to community needs led to the best outcomes. For example, a request for advice on Medical Treatment Decision Makers and Advanced Care Directives prompted GCLS to establish a monthly clinic and a health justice partnership. Flexibility in our guidelines allowed us to partner with King & Wood Mallesons, upskill our team in planning law, and create the *Bushfire Recovery: Planning Law Guidebook*. We also connected communities with the private sector to provide wills and power of attorney services, overcoming travel barriers.

Disaster lawyering is still evolving, but we now have the opportunity to learn from each other and ensure we are better prepared for future disasters.”

TOOLS FOR INCREASING OUR UNDERSTANDING OF CLIMATE JUSTICE

Community legal centres have tools at their disposal to build our capacity to understand and identify climate justice issues.

DATA

The community legal sector is just beginning to understand how to collect data on climate justice legal needs. That said, there are valuable lessons from work done by community legal centres to date that can support strong data into the future.

FIGURE 17: LEGAL NEEDS DATA RELATED TO BLACK SUMMER

CIVIL LAW - MOST FREQUENT PROBLEM TYPES (1 APR 2022 - 4 FEB 2024)



FAMILY LAW - MOST FREQUENT PROBLEM TYPES (1 APR 2022 - 4 FEB 2024)



DATA FROM HUME RIVERINA LEGAL SERVICE

The value of making an early start on well-planned and structured data collection is illustrated by the graphs above where legal needs arising from the Black Summer bushfires became easier to identify. This graph was compiled for an evaluation by the Hume Riverina Community Legal Service following the Black Summer bushfires.⁴³

Data on climate justice is valuable for community legal centres because it helps us to:

- ▼ **understand trends** in climate justice legal needs that clients are experiencing, and watch how those needs change over time, or as a result of different extreme weather events and slow onset climate events.
- ▼ **understand the impacts** of climate change on our clients and our communities.
- ▼ **identify knowledge gaps**, allowing us to collaborate and form partnerships to respond to those gaps.
- ▼ **build the evidence base** to advise policy and law reform decision makers.
- ▼ **show the value of investment** in climate justice to funders and policy makers.

 **DATA COLLECTION GUIDE IN TOOLBOX**

fclc.org.au/cjfg

COMMUNITY SURVEYS

Community surveys are a tool that can help communities and their lawyers get more information on climate impacts and climate-just solutions. Examples include:

- ▼ The lawyers in the landmark Santa Teresa Case⁴⁴ using extensive surveying of those who lived in a remote community to fully understand the housing justice issues they were facing.
- ▼ Sweltering Cities conducting an annual survey for communities that measures house temperatures to monitor changes and impacts.⁴⁵

Surveys of this nature support advocacy and provide valuable understandings as to where climate harm occurs.

LIVED EXPERIENCE

Paying attention to the people and communities who experience the impacts of climate change is vital to understanding how and where climate harm falls. Where possible, community legal centres should incorporate lived experience to ensure solutions and approaches are equitable, effective and grounded in the realities of those most affected. Examples include:

- ▼ forming community consultation groups to advise on climate just responses; and
- ▼ creating opportunities for people with lived experience to share their expertise with law makers and media.

Community legal centres seek to amplify the voices of those with lived experience in ways that are respectful and dignified.

RESEARCH

Research can assist our understanding of how climate change affects clients and communities and their legal needs; and inform policymaking, advocacy and best practice service delivery.

Examples of research that have contributed to the way that community legal centres understand the impacts of climate change on access to justice include:

- ▼ Victoria Law Foundation's Public Understanding of Law Survey⁴⁶
- ▼ Mallee Family Care's report on Extreme Heat Driven by the Climate Emergency⁴⁷
- ▼ Federation of Community Legal Centres' Climate Change Impacts on Access to Justice.⁴⁸

Bringing together researchers or subject matter specialists with lived experience advocates can enhance the analysis of data collected through the research. These partnerships can improve the identification of the specific contributors to climate change legal need and improve capabilities of all involved in the research. 

LOCAL COMMUNITY LEGAL RESPONSE TO AN EXTREME WEATHER EVENT

In June 2021, a devastating storm caused significant destruction across the Yarra Ranges region, destroying 79 properties, damaging a further 177 homes and resulting in over 25,000 trees being felled. There were widespread power outages that lasted up to four weeks, and the water supply was affected. The trauma experienced by the community as a result of this extreme event will be felt for years to come.

Locally, Eastern Community Legal Centre (ECLC) immediately implemented and coordinated its extreme weather event response to the storm event. Drawing on partnerships formed following the 2009 bushfires, ECLC offered community members a welcome local response to their legal needs.

ECLC's response included:

- ▼ attendance at community 'pop-ups' and local meetings;
- ▼ provision of legal pathways for affected community members; and
- ▼ community legal education opportunities and secondary consultations for community service professionals working with affected community members.

ECLC captured the complex nature of the legal and social problems experienced by those impacted by the storm through enhanced intake and triage program. ECLC also made referrals we through their network of partnerships.

A reporting dashboard was developed to capture the centre's overall efforts. This provided valuable data about ECLC's response to the storms, including activities undertaken and the types of problems the community was experiencing.

The dashboard showed that 380 people attended events designed to strengthen community preparedness and resilience through education and capacity building sessions.

ECLC provided over 70 community/partner education sessions focused on preventing legal issues related to climate and extreme weather event impacts and participated in over 100 stakeholder engagements and sector collaborations on matters relating to climate justice, disaster response and recovery.

ECLC was immediately contacted by and engaged with the local council and key agencies and was invited to join the Storm Recovery – People, Culture & Wellbeing Working Group of the Municipal Recovery Committee.

This working group first met within a month of the storm event and continued for the next two years. ECLC also received regular (initially weekly) briefings from local government about the impacts of the storm and recovery efforts.

ECLC's established partnerships and networks with the Yarra Ranges Municipal Relief and Recovery Planning Team and the Yarra Ranges Emergency Relief Network provided pathways for ECLC to reach the community within days of the storm event.

Thanks to prior relationship building, ECLC was ready to engage early with the community, and in a position to provide legal advice and support to community members before their problems escalated.

SYSTEMS THINKING

Systems thinking can help identify climate justice legal needs. Systems thinking helps us to consider the interconnectedness of various components within a system, rather than isolating individual parts. When we engage in systems thinking, we start to understand the broader environment in which legal needs emerge and are addressed. Systems thinking is a departure from traditional linear problem solving because it explores whole systems, how those systems behave, and their interactions with the world.

When using systems thinking, community lawyers address the legal needs of a client alongside an assessment of the broader social and institutional systems that the client is part of and affected by. Users of systems thinking recognise that legal needs do not exist on their own. Legal needs are part of a whole range of structures that are embedded in, and connected to, one another. Whilst we are usually able to find out what is causing legal need, we know sometimes those causes can be difficult (but not impossible!) to change. This is because legal needs exist as part of bigger systems that typically are strong enough to resist change.

A systems thinking approach helps to address clients' legal and other needs, as well as address shortcomings in the social and institutional systems they are part of.

CLIMATE CONSCIOUS LAWYERING

Climate conscious lawyering is an approach that integrates an active awareness of climate change into legal practice. It is a staggered approach that recognises the impact of climate change on legal issues and addresses them in a way that contributes to climate justice.

Climate conscious lawyers acknowledge that climate change exacerbates existing barriers to justice, such as economic and social inequalities, and can lead to new types of legal disputes, such as climate displacement.



Climate conscious lawyers actively identify the intersection between legal problems and climate change issues, provide advice, and litigate in ways that meaningfully address these issues, while considering the immediate legal context and broader implications for the environment and society.⁴⁹

CLIMATE CONSCIOUS LAWYERING IN CONTEXT

South-East Monash Legal Service (SMLS) launched its ambitious South-Eastern Climate Justice program in 2024, as a way of addressing multiple climate needs in the local community.

Going 'back to basics', the team became immersed in research, consulting with experts to build a genuine understanding of the science behind climate change.

One of the aims of the project was to provide community legal education about climate justice. However, as the project progressed, it became clear that there was need for meaningful conversations with the community about their experiences and needs to understand the impact of climate change on their lives.

The program addresses the significant climate challenges faced by groups experiencing disadvantage, acknowledging the profound climate impacts at cultural, economic, political, and legal intersections. This can only be achieved through a comprehensive approach.

To ensure strategies are grounded in real life community needs, SMLS is gathering data through surveys, focus groups, and social media callouts. This grassroots engagement is essential to shaping the program direction and initiatives.

In addition to engaging with the community, SMLS delved into international law, local legislation and case law. Climate litigation around the world has focused on environmental impacts and reducing greenhouse gas emissions, which are vital to achieving climate justice; but little has been made of the direct link between climate change impacts and pre-existing legal issues that individuals face in their daily lives.

SMLS hopes to use this program as an opportunity to shape the legal framework, while empowering individuals in the process.

SMLS is working to develop clear strategies and goals to address the gaps in our legal system in an informed and impactful way, diving deep into existing national legislation and international law around climate and human rights.

SMLS conducted an all-staff training workshop on climate-conscious lawyering that unpacked the impacts of climate change on employment law, family law, family violence, and migration. A valuable learning experience for staff, the presenters and facilitators, and enabled the team to deepen its understanding and commitment to addressing climate justice on the ground.

CLIMATE CHANGE AND LEGAL RIGHTS

There are rights attached to legal needs that arise. These rights may arise in relation to procedural fairness, privacy, consumer issues, financial matters, criminal processes, victim compensation, equal opportunity and anti-discrimination, property, land rights or tenancy, among others.

To access formal justice mechanisms, a person must have a problem that is legal or justiciable in nature. A justiciable problem is one raising legal issues that a court will be prepared to adjudicate. Whether climate harms are justiciable depends on factors like proof of causation, foreseeability of harm and recognition of the complainant's legal standing.

HUMAN RIGHTS

Climate change disrupts the enjoyment of many human rights recognised in international and domestic law.⁵⁰

FIGURE 18: HUMAN RIGHTS AND CLIMATE CHANGE



Human rights approaches to climate change issues might provide a means of protecting future generations' interests from its increasingly severe impacts.⁵¹ Human rights law can be an important legal check on the design and implementation of adaptation policies.⁵² The use of human rights instruments to protect First Nations interests in relation to climate change impacts must always be grounded in the perspectives, knowledge and rights of Indigenous peoples.⁵³

The *Charter of Human Rights and Responsibilities Act 2006* (Vic) (the Charter) provides legal mechanisms for the realisation of 20 human rights, including several that are relevant to climate change and adaptation planning, such as the right to life and the right to property. The Charter has not yet been used to advance climate change related actions.

While Australia does not have comprehensive national legal recognition and protection of domestic human rights, the human rights frameworks that exist can still be useful for influencing policy and decision making.

☞ A RIGHTS-BASED APPROACH

A rights-based approach positions those impacted by climate harm as **rights bearers, not victims**.⁶⁷

In the future, *the Charter* may influence access to climate justice by obliging governments to take human rights considerations into account in adaptation planning and by protecting the rights of all Victorians, particularly the people who are most at risk of climate harms.

① THE RIGHT TO EQUITABLE ADAPTATION

Equitable adaptation refers to the processes of adjusting and preparing for the impacts of climate change in ways that prioritise fairness, justice and inclusivity. A right to equitable adaptation that can be enforced against the state or other parties does not yet exist in Australia but is emerging.

International human rights agencies have declared States and territories must ensure that:

- ▼ appropriate adaptation measures are taken to protect and fulfil the rights of all persons, particularly those most endangered by the negative impacts of climate change. This includes people living in vulnerable areas, for example on small islands, or in riparian and low-lying coastal zones, arid regions and arctic regions.⁵⁴
- ▼ everyone has the capacity necessary to adapt to climate change.⁵⁵
- ▼ there are accountability and effective remedies for human rights harms caused by climate change.⁵⁶
- ▼ maximum available resources are mobilised for sustainable, human rights-based development.⁵⁷

POWER AND THE LEGAL SYSTEM

Community legal centres often stand between the power of the state on one side and individuals and communities on the other. In emergencies and disasters, the power of the state increases. As the frequency and intensity of climate disasters rise it is vital that communities understand their rights in relation to all aspects of emergency management and recovery processes.

To achieve climate justice in its complete sense, we must address how the law often perpetuates power imbalances.

STAY OR GO ORDERS

This video by Gippsland Community Legal Service introduces key aspects of evacuation orders to consider as part of planning for fire emergencies.

gcls.org.au/stay-or-go-evacuation-orders-in-fire-emergencies-in-victoria/

PROTEST LAWS AND POLICE POWERS

Climate and environmental activists in Australia frequently confront the power of the law. In recent years, stringent protest laws penalising those standing up for climate justice have been implemented across the country. Human rights organisations, including Human Rights Law Centre, have criticised this trend as impacting rights of peaceful assembly and expression.

WHISTLEBLOWERS

Climate change whistleblowers expose information related to violations of law, mismanagement of funds, abuse of authority and other issues that contribute to climate harm. A report from Human Rights Law Centre in 2023 found there has not been a single case in which the whistleblower was successful under protective laws in public or private spheres in Australia.⁵⁸

As climate injustice and harm increase, now more than ever we must protect the rights of whistleblowers and protesters.⁵⁹

CRIMINAL LEGAL SYSTEM

As a consequence of climate harm, people may experience situations such as homelessness, trauma, and mental ill health. They may exhibit behaviours that could be considered dangerous to public safety, such as erratic movements and delirium. Sometimes the state reacts with a criminal legal system response, rather than healthcare or other appropriate measures.

The criminal legal system in Victoria has no explicit legal obligation to adapt its policies, procedures and prisons to the changed climate. There is a high risk of penal, carceral and police systems ‘weaponising the weather’ as a form of extrajudicial control and harm unless addressed by positive legal protections. At the Royal Commission and Board of Inquiry into the Protection and Detention of Children in the Northern Territory, it was alleged that during extreme heat days in 2019, guards at Don Dale Youth Detention Centre removed fans from certain child inmates as a form of behaviour control.⁶⁰

The state’s use of climatic conditions as a form of power over those who are already marginalised can be a barrier to accessing climate justice.

PRISONS, CLIMATE AND JUST TRANSITION

This paper from Jesuit Social Services seeks to draw attention to the overlapping social and ecological harms of the prison system, and to make the case for why a just transition must include a focus on decarceration (August 2021).

jss.org.au/policy-submissions/prisons-climate-and-a-just-transition/

HUMAN RIGHTS AT THE HEART OF CLIMATE JUSTICE

Human Rights Law Centre (HRLC) is one of Australia's leading human rights organisations. HRLC uses strategic legal action, policy solutions, and advocacy to support people and communities to build a fairer, more compassionate Australia.

The climate crisis is one of the biggest human rights challenges of our time. Without urgent action, climate impacts like extreme heat, bushfires, and flooding will increasingly cause and exacerbate major human rights violations in Australia and globally, with marginalised and disadvantaged communities hit hardest.

To help respond to this challenge, HRLC established a dedicated Climate Justice Program in 2023. Its climate justice work aims to:

- ▼ shine a spotlight on the human rights impacts of the climate crisis and amplify the voices of people and communities most affected
- ▼ work in partnership with impacted communities to develop transformative human rights-based legal claims
- ▼ advocate for policy and law reform that facilitates a fast, fair, and inclusive transition to net zero.

HRLC is currently exploring potential advocacy and legal action with Aboriginal public housing residents in the Northern Territory who are already living with extreme heat. HRLC works with national partners to build momentum and consensus on embedding the right to a healthy, safe, and sustainable environment into Australian law through a federal Human Rights Act.

In addition to the role that HRLC plays in providing direct support for people and communities on the front lines of the climate crisis, HRLC also campaigns for strong protections for climate and environmental advocates. This includes defending fundamental democratic freedoms such as the right to protest and protecting and empowering climate and environmental whistleblowers to raise concerns about wrongdoing through its dedicated Whistleblower Advice Service and newly released Climate and Environmental Whistleblowing Information Guide.

CLIMATE AND ENVIRONMENTAL WHISTLEBLOWING GUIDE

This report by Human Rights Law Centre is a practical legal resource to support any person to raise concerns about climate and environmental wrongdoing in Australia.

Climate and Environmental Whistleblowing: Information Guide | Human Rights Law



CHAPTER 4:

COMMUNITY EMPOWERMENT AND CLIMATE JUSTICE

In this chapter, you will learn about:

- ▼ Community legal centres' experiences of incorporating climate justice into community legal education.
- ▼ The importance of building trust with communities experiencing climate risks and climate change impacts.
- ▼ Why nuanced climate justice messaging in communications is important.
- ▼ Planning and advocating for law reforms and policy changes that are adaptive and have climate just outcomes for all.

COMMUNITY LEGAL EDUCATION AND CLIMATE JUSTICE

Community legal education and community engagement empowers communities and individuals to understand:

- ▼ how climate change is impacting their lives individually and collectively (and to appreciate that this will become more frequent and more intense)
- ▼ the law and how to navigate it
- ▼ what collective community action can be taken to prevent climate harm
- ▼ their legal rights and obligations, and how to access justice.

Community legal education and community engagement can also demystify the law and make legal processes less daunting.

A little differently from other forms of community legal education, climate justice community legal education not only deals with the law and legal needs, but also informs people of the many systems that determine climate-just outcomes, including climate risks, mitigation and adaptation. It seeks to empower people and communities to access justice, increase their community resilience, and foster the conditions for self-determination as climate change impacts accelerate.

WHAT WORKS FOR COMMUNITY

Findings from an evaluation of the Hume Riverina Community Legal Service responses to Black Summer:

- ▼ People experiencing tragedies prefer an in-person, human-centred response.
- ▼ Responses are most effective when communities were listened to.
- ▼ Communities are eager to engage with services that are familiar to them, and that are in the community on a long-term basis.
- ▼ Community legal education must be provided before a climate disaster occurs, as it is more difficult to provide effectively in the aftermath.
- ▼ Networking and collaborative work strengthens communities and provides broader benefit. Ongoing collaborative work, upskilling and resourcing are required.
- ▼ Strengthening community connections takes time and effort, and this should be recognised to a greater degree in funding models.



KEY LESSONS ON CLIMATE JUSTICE COMMUNITY LEGAL EDUCATION

Here is a summary of learning from community legal centres on climate justice community legal education.

- ▼ Much is still unknown about climate justice. This makes community legal education more than education, but rather a process of co-education and reflective learning.
- ▼ Content is best developed with community, for community. Be honest about what is not known.
- ▼ Community legal education can be an iterative process to develop a mutual understanding of impacts and needs over many sessions and conversations.
- ▼ Incorporating community insight and understandings into content and delivery will help climate justice to meet the realities of our climate-changed world.
- ▼ Done together, legal and climate change literacy can build shared language and understandings in communities in ways that extend their capacities for self-determination and agency.
- ▼ Rights, obligations and remedies for climate injustice are still evolving. Community legal education is therefore a humbling and reflective experience for those delivering and receiving it.
- ▼ It is important to know the local and relevant climate risks and to be informed by both scientific expertise and local community knowledge.
- ▼ The extent of climate risks to the global systems that we rely upon can be overwhelming. It is important to be sensitive to this and not bombard the community. Bombardment can trigger fight, flight or freeze reactions, leading to relevant information being lost.

- ▼ Individual legal needs often cannot be addressed. In these cases, a community resolution approach is a powerful way to work towards achieving climate justice
- ▼ Community legal education forums and encounters can foster shared decision making and responsibility, especially if formal decision makers are included with those who have lived experience of climate change impacts.
- ▼ Regulations can change quickly in emergency situations, such as extreme weather events. Communities need updated information to know their obligations and rights and to access entitlements.

Community legal centres have found that community legal education about climate justice:

- ▼ is an opportunity to bring a strengths-based approach to community responses to climate justice issues.
- ▼ promotes building community connections and therefore contributes to building community resilience.
- ▼ helps communities prepare for the impacts of climate change on their lives, thereby reducing legal need and livelihood stresses.
- ▼ can help people understand new laws and policies that will affect them in terms of local climate risk and adaptation strategies.
- ▼ can reduce trauma, community disinformation and distrust of each other, organisations, the law and government agencies.

BUILDING TRUST:

THE RISKS OF DISINFORMATION AND COMMUNITY DISTRUST

“The consequences of structural problems within our institutions can be seen in communities that are disengaged or mistrustful of the institutions at best, or that experience marginalisation, discrimination or erasure at worst.”⁶¹

The inability of the law to resolve or address climate injustice and harms can lead to distrust of the law, government institutions and even community organisations. This is where community legal education and community engagement – including outreach activities that bring information to locations where people live or spend their time – are vital to building trust and understanding unresolved or unmet legal needs related to climate justice.

Some community legal centres report individuals refusing legal assistance due to a belief that ‘nothing can be done’ and wanting to avoid institutions knowing their whereabouts, living conditions or legal needs. In an age when trust in public institutions is being undermined on many fronts, this is a disturbing trend. A precondition to realising access to climate justice is building relational trust with individuals and communities.

Examples of unaddressed and hidden legal needs:

- ▼ While in recovery from a climate disaster, choosing to live in substandard housing conditions that do not meet council regulations in order to avoid homelessness.
- ▼ A landlord neglecting the heating and cooling needs in a house, but the tenant not asserting their rights due to fear of being evicted or a rent rise.
- ▼ Being made homeless by climate disasters without any government redress or assistance.
- ▼ Avoiding building compliance due to the difficulty of navigating contradictory requirements from insurance companies, local councils and building regulations (which can be compounded by unstable supply chains and the cost-of-living crisis).

TAKING THE JOURNEY WITH COMMUNITY AND CLIENTS

What can appear to be an isolated legal issue, such as a Centrelink, housing or fines matter, could be a problem caused or made worse by the disruption that extreme weather events create. This makes them climate justice issues.

Climate justice issues can seem complex, unknown and overwhelming when communities are trying to just get by, so communicating well about climate justice and climate change issues with communities and wider audiences, such as the media, is extremely important.

While the links between climate harms and everyday legal problems cannot be ignored, communicating these links with community and clients requires a sensitive approach. Community lawyers should be careful not to burden clients experiencing distress with the fear or weight of the climate crisis.

While transformative climate justice involves identifying both the climate justice issues and the systemic changes needed to solve them, the responsibility to do this systemic work should never be thrust upon clients and communities trying to get by in the midst of a disaster.

The connections between rights, justice and climate justice are not often articulated outside academic, activist and policy circles. It is the role of community legal centres to amplify the voices of those impacted by climate injustice and advocate for solutions that match community need.



COMMUNICATING DISASTER AND CLIMATE JUSTICE

Here are messaging considerations to support community legal centres in framing disaster and climate justice in their communications.

This list builds on the work of Environmental Justice Australia through the climate justice legal partnership.

Lead with shared relational values. Build healthy connections and restore relationships that have been impacted by climate harm.



Elevate diverse voices of the community and those with lived experience. Lead with their strength and knowledge, and ensure they have vital roles in making decisions.



Get the timing right. This includes learning when to speak and when to listen.



Start with strengths and avoid extractive storytelling. A trauma-informed approach to climate and disaster justice is essential to avoid re-traumatising communities and individuals. Avoid disaster voyeurism - the sensationalisation of disasters in the media for purpose of attracting attention, increasing viewership or generating profit. Focus on ensuring stories are accurate, and focus on issues that build empathy, connection and community.



Communicate clearly about roles, responsibilities, and possible outcomes. Name who or what is responsible and connect specific experiences to the bigger systemic story. Check with who you are representing and whether the individual solution is applicable to a whole policy proposal.



Focus on what is needed – outcomes, not just the problems or processes. The complexity and systemic nature of climate change can overwhelm even those who have been working in the area for decades. Be sensitive to the mental health impacts on communities and individuals who may be experiencing climate and disaster anxiety.



Use accessible language and inclusive images. Break down big concepts by using simple, tangible language. Use diverse images and stories.



Be honest. Be as accurate as you can. Admit when there are knowledge gaps or uncertain outcomes. Avoid focusing on or repeating myths or accusations. Avoid filling knowledge gaps with untested beliefs.



Understand your audience, be a climate justice translator. There is no single way climate harms appear, and no single solution. All communities, geographies and systems (ecological and social) are diverse.



Connect the dots. Connect the wider ecological, economic and social impacts to the ways they are impacting people's lives, livelihoods and where and how they live. Remember that the audiences and communities you are communicating with have much knowledge to communicate to you and your organisation.



Listen to and work with trusted messengers. Consider experts in areas such as climate science and conservation, as well as local community members who hold positions of trust in the community.



LAW REFORM

Sometimes, the most effective way to resolve or avoid a legal problem is to work to change the unfair laws, policies or practices that are at the root of the problem.

Yet, climate change is a wicked problem that creates challenges for law reform and policy. A wicked problem is a social or cultural problem that is difficult to solve because of its complex and interconnected nature.

A combination of systems thinking and a multi-pronged approach are needed to change laws to address and resolve the different challenges that climate change creates.

CHANGING THE LAW

Community legal centres are experts at systemic advocacy and law reform. Since the 1970s, the sector has been influential in changing laws in pursuit of social and environmental justice. Community legal centres have been instrumental in driving reforms to laws that disproportionately impact the lives of the clients and communities we work with.

This expertise, experience and history means community legal centres have the skills and commitment to also ensure access to climate justice.

❗ ADVOCACY AVENUES FOR CLIMATE JUSTICE

Community legal centres have successfully used multi-pronged approaches to law reform to achieve the change they want to create. Key avenues for advocacy and campaigning are:

- ▼ Meeting with local Members of Parliament, ministers and advisers.
- ▼ Collaborating with other stakeholders.
- ▼ Participating in public inquiries and stakeholder forums.
- ▼ Making submissions to government.
- ▼ Initiating and conducting strategic litigation.
- ▼ Enabling clients to tell their stories and present case studies.
- ▼ Promoting community education and empowerment.
- ▼ Designing a public campaign.
- ▼ Engaging with the media.⁶²

BUILDING SKILLS IN ADVOCACY AND CAMPAIGNING

Many advocacy toolkits are available to support community lawyers with their law reform campaigns.

ONLINE ADVOCACY TOOLKITS

- ▼ *The Change Toolkit* developed by the Federation of Community Legal Centres (Victoria) – this toolkit provides practical advice about advocating for change, with tips on specific advocacy techniques, principles for working in communities and advice on working with the media and seeking funding.⁶³
- ▼ *Talking justice: A guide for community legal centres* provided by Community Legal Centres NSW – this guide focuses on communication and the voice of advocacy messages.⁶⁴
- ▼ *Climate Justice – A Messaging Guide* provided by the Framing Climate Justice project – this guide draws on the expertise of the contributors and contains messaging tips to bring justice into the centre of climate change communications.⁶⁵
- ▼ *Southern Voices on Climate Change Toolkits* provided by the CARE Climate Justice Centre. This toolkit takes readers through eight steps in planning and executing a climate change campaign.⁶⁶

⚠ RISKS OF MALADAPTIVE LAWS

The air conditioner dilemma

Balancing social and climate justice requires a considered, systemic approach to avoid advocating for laws that may be maladaptive that do not create good climate justice outcomes.

Many homes are not climate proofed for extreme heat. For homes to be safe and habitable during times of extreme heat, they may require air conditioning for cooling to minimise health risks.

Air conditioners can save lives.

A common policy ask is to mandate air conditioning for all tenants, including those in social housing. However, this can increase energy poverty for the users, perpetuating economic injustice and contributes to global emissions.

A systemic approach can avoid maladaptation by factoring in obligations around energy justice and using emissions reduction technology. So, for example, a policy to mandate air conditioning for all tenants, would need to be accompanied by policies to make the cost of energy affordable and a commitment to reduce greenhouse gas emissions.

This example is replicated across many areas where laws need to be holistically adaptive to climate change.

MalleeFamilyCare_PublicHousing_Report_2019.pdf

HOW TO APPROACH LAW REFORM WORK THAT INCORPORATES CLIMATE JUSTICE

Identify and campaign for law reform to combat climate harm can at times be simple. An example is improving the thermal quality of homes under Residential Tenancies legislation in ways that do not risk maladaptation. Other times, law reform can be challenging because there is no systemic legal framework requiring climate justice be considered across all areas of policy and law. Issues that underpin climate justice outcomes are not as obvious. An example of this is improving the availability of accurate flood risk data that covers multiple jurisdictions and is relevant to insurance, property and building laws.

Community legal centres have tried and tested different approaches to law reform and recommend:

- ▼ Transdisciplinary collaborations and systems thinking.
- ▼ Participatory processes drilling into the problem to identify specific issues within it.
- ▼ Sequencing changes to understand what drivers are required to create momentum and realise overall aims.
- ▼ Adaptive governance that allows for adjustments as issues change.
- ▼ Commencing with incremental and manageable steps.
- ▼ Ongoing education and awareness.
- ▼ Openness to iterative processes.
- ▼ Commitment to evidence-based policy
- ▼ Mapping out the relevant stakeholders and agencies (recognising many climate justice issues are interjurisdictional).
- ▼ Looking for risks of maladaptation arising unintentionally from law reform activities.
- ▼ Advocating for holistic asks and mapping pathways for realising them.

COMMUNITY-LED STRATEGIC LITIGATION: LTYENTYE APURTE COMMUNITY VS HOUSING CEO

Various Applications from *Santa Teresa v Chief Executive Officer (Housing)* [2019] NTCAT 7 (Santa Teresa case)

Northern Territory v Young [2023] HCA 40

This case involved the residents of four out of 70 households in the Ltyentye Apurte community (also known as Santa Teresa) on Arrente Country. They brought an action to the Northern Territory Civil and Administrative Tribunal (Tribunal) against the CEO of Housing in the Northern Territory (the landlord of their premises). The Tribunal held that the CEO breached their responsibilities to provide properties that were habitable, reasonably secure, and in a reasonable state of repair under the *Residential Tenancy Act 1999 (NT)* (RTA).

The substandard housing conditions that the community members of Santa Teresa experienced reduced their climate resilience and made them more exposed to extreme weather events such as heat waves.

The approach taken by the legal team to understand and respond to the legal needs of the remote First Nations community involved in the Santa Teresa case provides a strong example of community-led and supportive legal practice.

Prior to launching legal action, the legal team met with the community to listen and understand what the community was seeking. This required lawyers to actively listen to the community and ensure that any further action was aimed at creating the community's preferred outcomes.

Through this deep listening, it became apparent that housing, and the Northern Territory Government's failure to adequately address housing issues, were critically important to the community.

Volunteers coordinated by the legal team went door knocking in remote Aboriginal communities to undertake a survey around housing defects. Each defect was then lodged with the relevant government department and progressed through a merits review at the Northern Territory Civil and Administrative Tribunal level. This led to 70 proceedings being commenced at the same time. Of those proceedings, five led to test cases, and one proceeded to the High Court of Australia.

The immediate needs of the community were addressed quickly; however broader legal reforms have taken many years. Losing a strategic litigation case can be a way to highlight legislative inadequacies, especially being able to then leverage from alliances with other organisations to advocate for policy reform, including through media.

Legal processes can themselves provide an opportunity for the public to hear the 'voices' of communities that may ordinarily not get heard through usual media channels and this can place significant public pressure on authorities to bring about the change needed.

ADAPTIVE LAW

We want all our laws to be adaptive laws that are sufficiently reflective, iterative and capable of responding equitably and adaptively to the instability, uncertainty and unpredictability of climate change. This means we need to have climate justice in the front of our mind in any law reform activity. Here is a checklist of climate justice questions community lawyers can ask to plan effective and resilient law reform initiatives.

CHECKLIST FOR ADAPTIVE LAW REFORM

Climate justice questions to consider when assessing law reform initiatives

Can this law reform initiative adapt to sudden changes, such as extreme weather events or disasters?

Will the law reform initiative be flexible enough to adapt as we learn from new climate data, changing conditions and compounding climate change impacts?

Have review mechanisms been built into the law reform initiative so that the law will update and adapt when new conditions emerge or there are unforeseen outcomes as result of climate change?

Will the law reform initiative contribute to the resilience and wellbeing of communities and ecosystems?

Are the burdens and benefits of climate change that would result from the law reform initiative fair?

Does the law reform initiative include provisions that will adequately support or compensate those negatively impacted by climate change?

Have the communities and individuals who will be affected by the law reform proposal been consulted about it? Do they support it?

Does the law reform initiative align with existing or emerging climate justice laws, international agreements, and human rights obligations?

Are mechanisms included in the law reform initiative to ensure coordination across different sectors and legal areas and mitigate against maladaptation?

Have all the stakeholders who will be relied upon to implement the law reform initiative been consulted to assess its viability?

 **ADAPTIVE CAPACITY CHECKLIST
IN TOOLBOX**

fclc.org.au/cjfg

SUMMARY

We know that climate justice is full of new and big ideas, and it can feel overwhelming to learn about its place in the work we do. That's why the Climate Justice Field Guide was created – to be by your side as a resource to connect you to what we know to date.

This field guide would not have been possible without the extensive work undertaken by community legal centres that have shared the learnings and insights from their climate justice journeys. Their contributions have been foundational to creating the guide, and to furthering our understanding of climate justice in the Victorian context.

No matter where you are on your climate justice journey, we hope that this field guide supports you to learn more about the issues behind climate justice, and the actions that community legal centres can take to embed it in our work. We hope that within these colour-coded chapters, you will find information that can support you wherever you are on your journey.

The guide includes recommendations on how to incorporate climate justice into your legal practice, deliver social supports for your communities, and effectively raise your voices in advocacy. The aim of this guide is to help you to make climate justice a core part of your organisational culture.

The Climate Justice Field Guide is just the beginning of a sector-wide transformation to climate justice. Join us.

ENDNOTES

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NOTES

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