



**When I tell
my story,
I'm in charge**

Ethical and effective storytelling in advocacy

Rachel Ball
Human Rights Law Centre

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Author bio

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Abbreviations

ACLU	American Civil Liberties Union
ACOSS	Australian Council of Social Services
AIVL	Australian Injecting & Illicit Drug Users League
ASRC	Asylum Seeker Resource Centre
CCR	Center for Constitutional Rights
CLC	Community Legal Centre
HPLS	Homeless Persons' Legal Service
HRLC	Human Rights Law Centre
HRW	Human Rights Watch
ISHR	International Service for Human Rights
LCCLC	Loddon Campaspe Community Legal Centre
NACLC	National Association of Community Legal Centres
NYPD	New York Police Department
PILCH	Public Interest Law Clearing House
RG 3081	Residents Group 3081
VLA	Victoria Legal Aid
WDVCS	Women's Domestic Violence Crisis Service
WLSA	Women's Legal Services Australia
WLSV	Women's Legal Service Victoria

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Introduction

Executive summary

Stories are powerful. They can cut through prejudice, build understanding and motivate people to challenge injustice. Storytelling can empower individuals and communities by recognising their experience and expertise and promoting their agency. Storytelling also gives rise to difficult ethical questions and risks for clients, communities, community legal centres (CLCs) and campaigns.

The challenge for progressive lawyers and activists is to develop a framework for storytelling that maximises systemic and sustainable advocacy outcomes and empowers participants while recognising and mitigating risks. The alternative is a policy and law reform agenda that relies on dry statistics and legal analysis and omits the insights and perspectives of people affected by injustice.

This is a report on effective and ethical storytelling in advocacy. Its findings are primarily based on over sixty interviews with CLCs, international human rights organisations, peak bodies, academics, researchers, journalists, media managers, writers and people who have told their own stories in human rights and social justice campaigns. The interviews uncovered a depth of experience and a diversity of perspectives, as well as techniques that can inform the use of storytelling in policy and law reform work.

There is no 'best practice' model for storytelling in advocacy, and decisions about when and how to use stories will depend on the issue, the audience, the capacity and wishes of participants and the priorities and working methods of the CLC. Nevertheless, there is much to gain if we recognise that stories are central to our work and approach the challenge of storytelling with respect, humility and creativity.

Report scope and structure

There should be no doubt that CLCs' direct service work should be supplemented and supported by advocacy for systemic change. The case has been convincingly and comprehensively made, including in Nicole Rich's 2007–2008 Victoria Law Foundation Fellowship report, *Reclaiming Community Legal Centres: Maximising Our Potential So We Can Help Our Clients Realise Theirs*.¹

Peter Noble, Coordinator of Loddon Campaspe CLC, described CLCs' ability to reach beyond direct service delivery and engage in proactive advocacy and policy work as their greatest strength.² CLCs' policy and law reform mandate is also reflected in funding agreements and accreditation schemes and was approved in a recent statement from the former Federal Attorney-General, Mark Dreyfus QC.³

This report takes CLCs' advocacy function as a starting point and focuses on one advocacy method: storytelling. It is not a 'how-to' guide, but rather an attempt to

¹ Nicole Rich, *Reclaiming Community Legal Centres: Maximising Our Potential So We Can Help Our Clients Realise Theirs* (Victoria Law Foundation and the Consumer Action Law Centre, 2009).

² Peter Noble, 'The Future of Community Legal Centres' (2012) 37(1) *Alternative Law Journal* 22.

³ See, for example, Attorney-General's Department, *Commonwealth Community Legal Services Program Guidelines* <www.ag.gov.au/LegalSystem/Legalaidprograms/LegalServicesProgram/Pages/CommonwealthCommunityLegalServicesProgram.aspx>; *National Association of Community Legal Centres Risk Management Guide*, copy on file with author; the Hon Mark Dreyfus QC MP, 26th Lionel Murphy Memorial Lecture (30 May 2013).

map options, identify relevant considerations and provide examples that will assist CLCs to incorporate storytelling in their advocacy for systemic change.

Chapter 2 discusses the range of approaches to storytelling in advocacy, from written case studies, to direct testimony in CLC campaigns, to community development models where storytelling is initiated and controlled by communities. Questions and tensions that arise in each approach are identified.

Chapter 3 outlines the benefits of storytelling and argues that stories are effective advocacy tools and can also empower individuals and communities and strengthen democracy.

Chapter 4 looks at risks and ethical issues for individuals, communities, campaigns and CLCs. It considers the potential for storytelling to cause harm to individuals, privilege voices and exploit unfair power relationships. This section also examines legal risks and professional obligations.

Chapter 5 sets out five principles for effective and ethical storytelling: valuing consent; encouraging participation; considering collaboration; employing a variety of campaign tactics; and crafting the story.

Chapter 6 discusses different storytelling techniques, including: submissions and reports; recorded stories; direct testimony at formal hearings, in meetings and at public events; and media engagement.

Examples of advocacy campaigns that involve storytelling are included throughout the report. The examples are snapshots from Australia and overseas and they present a range of methods and approaches to storytelling. They are not full case studies and they do not include analysis of ethics or effectiveness. However, it is hoped that these examples will provide inspiration and motivation for storytelling in advocacy.

Methodology

The findings in this report are based on semi-structured interviews with a range of organisations and individuals experienced in research, advocacy and storytelling. The list of interviewees is contained in Appendix 2. (Some interviewees preferred to be known only by their first name and are referred to as such.) The report also draws upon a basic literature review, focusing on Australian and overseas literature on community lawyering and human rights advocacy. A bibliography is contained in Appendix 3.

Feedback

Comments on the report are most welcome and should be sent to:

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Storytelling and advocacy

Approaches to storytelling

Storytelling in policy and law reform can take a variety of forms. It ranges from de-identified case studies, to direct testimony in civil-society-led campaigns, to storytelling projects initiated and controlled by communities. These are not distinct categories, they exist on a continuum along which client and community participation generally increases and CLC control generally decreases.

The extent to which benefits of storytelling are realised (chapter 3) and risks assumed (chapter 4) will depend on the approach taken. This chapter considers different approaches to storytelling, identifies the context in which they are used and highlights some of the tensions inherent in each.

This report does not promote one approach over the others, nor does it suggest that there are easy answers to the tensions identified. Advocacy is not an exact science and there is no formula that can be relied upon to guarantee ethical practice or to produce effective outcomes. The purpose of the advocacy, the audience, the capacity and wishes of the stakeholders, and the resources and working methods of the CLC will all be relevant in determining how stories are incorporated in advocacy.

While one method is not specifically endorsed, it is recommended that the full range of possibilities be considered and a conscious decision be made about which approach to adopt. A clear, predetermined decision about the way in which storytelling will be approached allows CLCs to be upfront about their plans so that clients and communities are in a position to make an informed choice about whether and how they wish to participate.

Case studies

Written case studies describing the experiences of clients have long been central to CLCs' policy and law reform work.⁴ They are also central to the work of international human rights organisations, peer advocates, journalists and researchers.

Written case studies may be the best way of relaying information about the impact of an unfair law, policy or practice in circumstances where clients or communities are not willing or able to tell their own story and participate in the campaign. CLC clients may not have the time or inclination to contribute to advocacy by telling their stories directly or there may be other personal or practical impediments to direct storytelling.

For example, a woman escaping domestic violence may be concerned for her safety and struggling to maintain housing, childcare and employment. She may have family law proceedings on foot and be prohibited by law from identifying people involved in the proceedings.⁵ Women's Legal Service Victoria (WLSV) assists many clients who are dealing with these and other obstacles and who

⁴ Louis Schetzer, 'Community Legal Centres and the Future of Law Reform' (1999) 23(5) *Alternative Law Journal* 254, 255.

⁵ *Family Law Act 1975* (Cth) s 121.

are therefore not in a position to participate in public advocacy around the laws and policies that affect them. To ensure that these women's experiences inform public debate and decision-making, WLSV has developed a case study bank that they draw upon in their policy and law reform work. Case studies are de-identified and only used with the written consent of clients. Joanna Fletcher, Chief Executive Officer of WLSV, said that clients almost always consent and observed that 'there is a real feeling among clients that they want their stories to be told. We have been surprised, especially in some of the more difficult cases. It was not what we expected.'⁶ Where women are keen to participate in public advocacy on violence against women, WLSV refers them to the Domestic Violence Crisis Services' Media Advocates Program (discussed in the media engagement section in chapter 6).

While de-identified case studies minimise some risks for lawyers and clients, they also generate complexities and tensions. Is the story's authenticity and impact diminished when it is told by an outsider? Is the agency of individuals and communities compromised when they do not participate in the development and use of their stories? What level of consent is required and how can it be obtained in the context of the provision of services to clients who may be vulnerable to coercion?

Direct testimony

Some clients and communities are willing and able to play a more active role in advocacy and, as many people interviewed for this project emphasised, there is great value in people telling their own stories. Direct testimony has the potential to be more powerful and more empowering than stories told second-hand.

Stories may be written or recorded, they may be told directly at public events, parliamentary inquiries and meetings with decision-makers, or they may be passed on through the media.

Often direct testimony is included in campaigns that are resourced, facilitated and ultimately controlled by professional lawyers or advocates. This approach allows organisations to coordinate campaign activities, build and maintain strategic alliances, create a platform for public and private lobbying and lend their name and credibility to a campaign.

There are also tensions inherent in this model of storytelling. Why and to what extent should organisations determine the method and purpose of telling stories that are not their own? What are the implications when stories are censored? How do you seek informed consent when the consequences of storytelling in advocacy are unpredictable? How do you deal with risks and responsibilities to clients and communities while resisting overprotection and paternalism?

⁶ Interview with Joanna Fletcher, CEO, Women's Legal Service Victoria (Melbourne, 2 April 2013).

Drone wars

Farea Al-Muslimi is a Yemeni youth activist, writer and freelance journalist and a self-described ambassador for America. In March 2013 he testified before a United States Senate Committee, describing the impact of a drone strike in his remote farming village in Yemen, just six days earlier.⁷

The hearing was the first time a person directly impacted by targeted killings had spoken to United States lawmakers. Mr Al-Muslimi described the effect of the drone strike in his village, Wessab:

There is nothing villagers in Wessab needed more than a school to educate the local children or a hospital to help decrease the number of women and children dying every day. Had the United States built a school or hospital, it would have instantly changed the lives of my fellow villagers for the better and been the most effective counterterrorism tool. And I can almost certainly assure you that the villagers would have gone to arrest the target themselves.

Instead of first experiencing America through a school or a hospital, most people in Wessab first experienced America through the terror of a drone strike. What radicals had previously failed to achieve in my village, one drone strike accomplished in an instant: there is now an intense anger and growing hatred of America.⁸

Mr Al-Muslimi described conversations with people whose family members had been killed in drone strikes and his own experience of hearing a drone hovering overhead.

Following his testimony, Mr Al-Muslimi received dozens of requests to speak to the media and an invitation to the White House. Jo Becker from Human Rights Watch describes his address as 'by far the most effective part of the hearing'.⁹ Sarah Knuckey, Research Director at New York University's Center for Human Rights and Global Justice, said that it was 'one of the most important moments in targeted-killing advocacy'.¹⁰

⁷ United States Senate Judiciary Committee, Subcommittee on the Constitution, Civil Rights and Human Rights, video, *Hearing on Drone Wars: The Constitutional and Counterterrorism Implications of Targeted Killing, Testimony of Farea Al-Muslimi*, 23 April 2013 at 56:58 <www.senate.gov/isvp/?comm=judiciary&type=live&filename=judiciary042313p>; transcript, *Drone Wars: The Constitutional and Counterterrorism Implications of Targeted Killing: Statement of Farea Al-Muslimi*, 23 April 2013 <www.judiciary.senate.gov/pdf/04-23-13Al-MuslimiTestimony.pdf>.

⁸ Ibid.

⁹ Interview with Jo Becker, Advocacy Director, Children's Rights Division, Human Rights Watch (New York, 30 April 2013).

¹⁰ Interview with Sarah Knuckey, Research Director, Center for Human Rights and Global Justice, New York University (New York, 1 May 2013).

Community-led advocacy

In community-led advocacy a person not only tells their own story, they also control when, where, how and why it is told. This approach sees the lawyer or other professional playing a subordinate role.

A community development or organising model 'privileges movement politics over law reform efforts'.¹¹ This approach places responsibility for the use of the story in the hands of its owner and reflects the view that '[t]he lawyer's role is more the oiler of the social change machine than its motor; the motor of the machine remains masses of people'.¹²

There are tensions inherent in this approach too. What happens if a community does not have sufficient common interest or the capacity or will to organise and run campaigns? What are the consequences when individuals within a community who are less able to participate are excluded? Are local, community-based movements able to combat centralised, well-resourced and powerful corporate and political interests?

¹¹ Scott L Cummings and Ingrid V Eagly, 'A Critical Reflection on Law and Organising' (2000–1) 48 *UCLA Law Review* 443, 443.

¹² Steve Bachmann, 'Lawyers, Law and Social Change' (1984) 13 *New York University Review of Law and Social Change* 1, 21.

Residents Group 3081

Residents Group 3081 (RG 3081) is a group of residents from local housing estates advocating for the people of West Heidelberg, Bellfield and Heidelberg Heights.

Dr Liz Curran worked with residents to establish the group in 2008, when she was the Director of West Heidelberg Community Legal Service. The group meets fortnightly to undertake training and activities to strengthen and facilitate community advocacy.

In 2010 the group made a submission to a Parliamentary Inquiry into the Adequacy and Future Directions of Public Housing in Victoria. RG 3081 organised three focus groups for public housing tenants, people waiting on public housing and homeless people in their local area. West Heidelberg Community Legal Centre provided support and capacity-building for participants, including training in the government consultation and decision-making processes.

Liz Curran explained that the residents group needed significant support and training in order to be able to participate in the inquiry process:

It should not be assumed that people have the skills that they need in order to participate in formal processes and they may need capacity-building. This can be time and resource intensive and needs to be factored into any action. The residents group was supported and trained at each stage and if they needed further support it was available, but it was ultimately their perspective that was presented.¹³

RG 3081's submission consisted of transcripts from the focus groups, explaining that the 'stories speak for themselves and give a worthy account of their tales of living in public housing or homelessness'.¹⁴ Participants were de-identified because of concerns about potential reprisals.

The submission included these comments about housing waiting lists made by a Somali mother:

We live in flat house with a family. I have four children and the oldest one is eight years old and a seven year old and two years and four-month old baby. We actually overcrowded, three kids unfortunately sleep in one room together and we live in an upstairs flat so it's a bit hard when you have children. The flat is for single it's not for family. They give us when we are single people. The waiting list we have in that area is a bit hard. They say maybe next five years you're going to be there.¹⁵

The group also appeared before the Parliamentary Committee and highlighted a number of stories that were told in the focus groups. A committee member described their evidence as 'phenomenal'.¹⁶

¹³ Interview with Dr Liz Curran, Australian National University (phone, 24 August 2013).

¹⁴ Residents Group 3081, submission to the Victorian Committee for Family and Community Development, *Inquiry into the Adequacy and Future Direction of Public Housing in Victoria* (27 January 2010) 1.

¹⁵ *Ibid* 6.

¹⁶ Residents Group 3081, *Transcript of Proceedings for the Inquiry into the Adequacy and Future Direction of Public Housing in Victoria*, 11 February 2010, 9.

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The benefits of storytelling

This chapter sets out four benefits of storytelling in advocacy. These benefits should be taken as potential, rather than inevitable, because their realisation will depend on the details of the campaign as well as the strength of its execution, its ethical framework, risk management and good fortune.

Effective advocacy

Stories are central to effective advocacy.¹⁷ Everyone interviewed for this project commented on the critical role that storytelling plays in creating a platform for discussion and debate, building communities of solidarity, convincing people of the need for change and compelling decision-makers and the public to act.

In recognition of the power of stories, the American Civil Liberties Union (ACLU) has its own full time 'story finder', who described her role in the following way:

the issues we focus on need a human face. My job is to find someone who can fill that role and help them show why we should care about the issue, be it the disparity in the arrest rate for marijuana possession or the 80 000 people in solitary confinement. Issues are often difficult to comprehend in the abstract, but a person can bring them alive.¹⁸

In addition to bringing an issue alive, stories can make people care. In the words of a great modern-day storyteller, Ira Glass, stories are a 'machine for empathy'.¹⁹ They are particularly important when advocacy relates to a group that is marginalised or stigmatised. In the United States campaign to abolish juvenile sentences of life without parole, campaigners observed that direct testimony and storytelling was important because 'legislators are more open to relating to the victims. If they don't know anyone who's committed a crime or had a family member who has committed a crime, they don't have empathy for them. They think they are defective human beings; that these people can't be saved.'²⁰

Empathy and understanding lead to better advocacy outcomes. During his recent trip to Australia, Ken Roth, Director of Human Rights Watch, said 'the more we can show the real lives involved, the better able we are to change public opinion'.²¹ Robert Godden, Asia-Pacific Campaign Coordinator for Amnesty International, expanded upon this idea:

¹⁷ See, for example, Rich, above n 1, 20, 80; Meg McLagan, 'Introduction: Making Human Rights Claims Public' (2006) 108(1) *American Anthropologist* 191, 193.

¹⁸ Interview with Alisa, Story Finder, American Civil Liberties Union (ACLU), and Jamal Dakwar, Director of the Human Rights Program, ACLU (New York, 14 May 2013).

¹⁹ Paul Brandeis Raushenbush, 'Ira Glass, Religion and the Empathetic Power of Storytelling', *Huffington Post* (online), 22 January 2011 <www.huffingtonpost.com/paul-raushenbush/ira-glass-and-the-empathe_b_806048.html>.

²⁰ Jo Becker, *Campaigning for Justice: Human Rights Advocacy in Practice* (Stanford University Press, 2012) 241.

²¹ Ken Roth, 'Global Flashpoints and Human Rights in Foreign Policy' (speech delivered at Human Rights Law Centre seminar series, Melbourne, 21 March 2013).

We tend to target them [people in power] with detailed, legalistic, scientific research reports, briefings or submissions. We stand up in UN forums or government lobbying meetings and present 'serious' information. We enter into a particular form of information exchange that often deliberately excludes individual stories and predominantly uses text rather than images. But what this does is to actually allow those in power to avoid having to deal emotionally with the issues. They get the cold stats and can respond in a cold way.²²

In addition to challenging 'cold' responses to injustice, stories can be evidence of a problem and of the need for change. In fact, stories may also be the best evidence available in relation to some issues. Monica, a former peer advocate with Australia's peak sex worker organisation, Scarlet Alliance, explained:

Sex workers are marginalised and stigmatised so they don't have the status within mainstream society. You just don't hear their voices most of the time, but we need to hear those voices to know what is happening and what the problems are. You can't get that information from groups that are just arguing for their moral agendas ... The stories are important because that's the way a marginalised group gets heard.²³

Writer Tony Birch cited police violence and the detention of asylum seekers as further examples of where 'the authorities are hell-bent on controlling information, so a person telling their story is absolutely vital'.²⁴

The type of evidence contained in stories can be an important complement to data and analysis. Stories can encompass the complexity and overlapping realities of human experience and reveal truths that do not lend themselves to statistical measurement and analysis.²⁵ Maria Katsabanis, who worked with a small group of Muslim women on the digital storytelling project described later in this chapter, explained that the stories 'show the universal impacts of a range of personal issues. They weren't just about family violence, they were also about the women's experiences as migrants, the intersections of age, race, gender and class and disability.'²⁶

There is a need for multiple forms of evidence and analysis to support effective advocacy, and this is discussed in the section on context and the campaign in chapter 5, but stories are certainly a critical part of the evidentiary mix.

²² Robert Godden, 'How To Prick the Conscience of a Dictator and Why the "Poster Child" Works' (22 September 2011), *The Rights of Exposure* <<http://therightsexposureproject.com/2011/09/22/how-to-prick-the-conscience-of-a-dictator-why-the-'poster-child'-works/>>.

²³ Interview with Monica (phone, 25 June 2013).

²⁴ Interview with Tony Birch (Melbourne, 25 June 2013).

²⁵ Harsh Mander, 'Words for the Heart: Researching People's Stories' (2010) 2(2) *Journal of Human Rights Practice* 252, 257.

²⁶ Interview with Maria Katsabanis, Policy Officer, Australian Human Rights Commission (AHRC) and Sarah Winter, Senior Advisor, AHRC (Sydney, 11 June 2013).

Legal Aid and the Lords

In response to proposed cuts to Legal Aid, law centres in the United Kingdom (the British equivalent of CLCs) assisted in the organisation of a series of seminars in the House of Lords. The seminars, which were arranged by Lord Willy Bach, addressed the impact of funding cuts on particular groups in the community. Julie Bishop, from the Law Centres Network, explained that ‘stories and clients were critical to the campaign. We had to turn the debate so that it wasn’t about a faceless group of “poor people”.’²⁷

One of the speakers at a seminar was the mother of an autistic child who had been ‘sanctioned’ for saving a small portion of her son’s payment to fund a much-needed holiday for him. She had been able to access legal aid through the Islington Law Centre to appeal the finding. Julie Bishop said that:

[h]er telling that story was a turning point ... The case was not a major case. It involved a simple point of law and a small sum of money. It was the impact of the case on her family’s life that made the difference. The story showed how a seemingly simple case can make such a big difference to someone’s life ... The whole place was bleary-eyed listening to this story ... She was such a good advocate. She was just telling her story and telling it very well. In the setting it was very powerful.²⁸

The woman’s speech contributed to a concession in permitting legal aid for advice and assistance for welfare benefit appeals on a point of law in the upper tribunal.

Individual empowerment

Storytelling has the capacity to empower individuals. By recognising and promoting stories we respect the expertise of those who have experienced injustice and we promote their political agency. The capacity for empowerment is particularly important given that unfair power relationships regularly lie at the heart of injustice.

Not all storytelling methodologies will be empowering. The potential for some storytelling strategies to have the opposite effect is discussed in chapter six. Nevertheless, the overwhelming feedback from those interviewed for this project was that many people are happy to tell their stories as part of a campaign. Nicole Rich, Director of Research and Communications at Victoria Legal Aid, explained the potential for individual empowerment in the following way:

²⁷ Interview with Julie Bishop, Director, Law Centres Network (London, 9 April 2013).

²⁸ Ibid.

We presume that the clients are just going to be worried about the risks, and of course the risks must be taken into account, but clients are just like us, they feel good about helping other people ... I've seen that dramatic impact on clients who felt really empowered by the fact that they actually got to say 'this happened to me and it was unfair and I don't want it to happen to anyone else'.²⁹

Tony, a member of the New South Wales Homeless Persons' Legal Service (HPLS) consumer advisory committee, StreetCare, has told his own story in meetings with government officials and politicians, at public meetings and as part of StreetCare's video project.³⁰ Tony said:

I think that what StreetCare does in a nice way and in a decent way is stand beside us and help us to move forward ... You've got to sometimes let people take a risk, and learn to handle pressure day by day. I think that's what StreetCare is teaching me.³¹

Empowerment is not only an end in itself, but a characteristic of effective human rights advocacy. Purvi Shah, from the Center for Constitutional Rights (CCR), explained:

We don't do storytelling because we like the idea of it: we do it because it's strategic. Storytelling is part of our theory of social change. When people gain the confidence to tell their own stories it is transformative for many parts of their lives. Developing a sense of your own power is a necessary foothold of fighting injustice. Through storytelling people become leaders and fighters and they begin to learn how to wield their own power.³²

²⁹ Interview with Nicole Rich, Director of Research and Communications, Victoria Legal Aid (Melbourne, 2 April 2013).

³⁰ Public Interest Advocacy Centre, *In Their Words: StreetCare's Video Project* <<http://www.piac.asn.au/news/2013/02/music-helps-tony-talk-about-homelessness>>.

³¹ Interview with Tony, StreetCare and Lou Schetzer, Senior Policy Officer, NSW Homeless Persons' Legal Service (Sydney, 14 June 2013).

³² Interview with Vince Warren, Executive Director, Center for Constitutional Rights (CCR), Annette Dickerson, Director of Education and Outreach, CCR, and Purvi Shah, Social Justice Institute Director, CCR (New York, 6 May 2013).

Why is the NYPD after me?

CCR has joined a movement of community members, lawyers, researchers and activists to campaign to end discriminatory targeting and harassment by the New York Police Department (NYPD). Campaign activities include the publication of a report, *Stop and Frisk: The Human Impact*, and a federal class action lawsuit, *Floyd v City of New York*.³³

CCR assisted Nicholas Peart to write an opinion piece entitled 'Why Is the N.Y.P.D. After Me?' that was published in the *New York Times*. He wrote:

These experiences [of being stopped and frisked] changed the way I felt about the police. After the third incident I worried when police cars drove by; I was afraid I would be stopped and searched or that something worse would happen. I dress better if I go downtown. I don't hang out with friends outside my neighborhood in Harlem as much as I used to. Essentially, I incorporated into my daily life the sense that I might find myself up against a wall or on the ground with an officer's gun at my head. For a black man in his 20s like me, it's just a fact of life in New York.³⁴

Vince Warren, Executive Director of CCR, explained:³⁵

[Nicholas Peart's opinion piece in the *New York Times*] was one of the key pivotal points around shifting public opinion about stop and frisk. Because his story resonated with people, he has to talk about his story many other times for different audiences. He and I spoke after one of the TV shows we did together, and he surprised me by saying, 'thank you for listening to me'. He said, 'I've been telling my story around the block but people just say, "don't even bother", because nobody ever listens'. But by continuing to tell his story, you can see this young man realising his power, his own potential to persuade just through his experience, and I think that for him it's been a very eye-opening experience.

Community development

Storytelling can also contribute to the power and influence of communities. Community participation and control over storytelling can develop the skills of community members. Conversely, centralised and professionalised advocacy has the potential to reinforce the subordination of communities.³⁶ This risk is discussed in the section on appropriating power in chapter six.

³³ *Floyd, et al v City of New York, et al*, 813 F.Supp.2d 457.

³⁴ Nicholas K Peart, 'Why Is the N.Y.P.D. After Me?', *New York Times*, 17 December 2011, SR6.

³⁵ Interview with Vince Warren, et al, above n 32.

³⁶ Gerald P Lopez, *Rebellious Lawyering: One Chicano's Vision of Progressive Law Practice* (Westview Press, 1992); Stephen Wexler, 'Practicing Law for Poor People' (1970) 79 *Yale Law Journal* 1049.

A community-development-based approach creates the potential for storytelling in advocacy to 'alter the process of subordination rather than merely minister to the injuries that those processes generate'.³⁷ The importance of community development is recognised within the Australian CLC sector, with the CLC model being 'rooted in community development and collaborative approaches'.³⁸ Kon Karapanagiotidis, Chief Executive Officer of the Asylum Seeker Resource Centre (ASRC), explained:

[i]f we are genuine about equality for asylum seekers in the broader community we need to mirror this in our own organisational culture and practice. The more we have asylum seekers speaking on their own behalf the stronger our voice will be ... If we invest in mentoring and leadership training for asylum seekers they can be a key part of our campaign, lobbying and public speaking work. The positive impact of having asylum seekers speaking for themselves in the public domain will be profound.³⁹

Maximising community development through storytelling requires a focus on processes. As with individual empowerment, this approach can also have a positive impact on advocacy outcomes.

Community participation in storytelling projects can also lead advocates towards more powerful and honest stories. Monica, from Scarlet Alliance, explained 'if you've never had an experience you can't really relate or build trust. People don't want to tell their story to someone who doesn't understand.'⁴⁰

Community-based approaches can also have positive implications for the sustainability of campaigns and the use of resources. Lou Schetzer from New South Wales' HPLS described the benefits of consumer participation in homelessness advocacy:

they've all got a history and talents that they can bring to consumer advocacy and it's drawing on that talent ... Tony with his music, AJ with his photography, Dale and Dave with their small business experience, these are skills that we benefit from ... They can bring their talents and skills to make really powerful accounts and stories. That is one of the strengths of StreetCare.⁴¹

³⁷ Lucie E White, 'To Learn and Teach: Lessons from Driefontein on Lawyering and Power' (1988) *Wisconsin Law Review* 699, 754.

³⁸ Rich, above n 1, 99.

³⁹ Kon Karapanagiotidis, *A Study into the World's Best Practice Working with Asylum Seekers: A Report for the Winston Churchill Memorial Trust of Australia* (2012) 18.

⁴⁰ Interview with Monica, above n 23.

⁴¹ Interview with Tony and Lou Schetzer, above n 31.

War in the suburbs

In 2012 the Australian Human Rights Commission partnered with Outreach at Ultimo College, Sydney Institute of TAFE, to design and deliver a program to support women from minority groups experiencing discrimination, racism and violence and build advocacy capacity within their communities. Fifteen of these women completed the Certificate IV in Skills for Career Development: Human Rights Education and Advocacy. Several of the participants were also members of the communities they worked in.

The course covered government decision-making structures, relevant domestic and international law and had a strong focus on using social and digital media for advocacy.⁴² *Sanna's Story* is one of the digital stories produced as part of the course.⁴³ In the video, Sanna describes the racism that she and her family have experienced since moving to Australia. She speaks about her parents' strength in the face of racist violence and abuse and says at the end of the video: 'here I am now empowering women to make sure they know their rights so that they can live with dignity and choose who they want to be'.

Maria Katsabanis, one of the program's facilitators, said that the digital storytelling component was, for many of the participants, 'the most transformative part of the program'.⁴⁴ She spoke about the deeply personal nature of some of the stories the women decided to capture in their digital project:

the pain was ever-present. You have to manage it carefully, slowly, with lots of debriefing afterwards. You need a very experienced facilitator and we had the fantastic Dr Paula Abood who has over twenty-five years' experience teaching in community-based settings and in course development, and is a highly respected community leader, teacher and human rights advocate.⁴⁵

When the course ended, participants decided to continue to work together independently and to use their newly acquired skills to advocate on issues that affect their communities.

Strengthening democracy

Storytelling in advocacy can also benefit society by contributing to participatory democracy and ensuring that a diversity of voices is heard in public debate. By challenging the monopoly that privileged, well-resourced individuals and organisations often hold over public discussion and debate, storytelling creates space for the wisdom, experience, analysis and aspirations of marginalised people and communities.⁴⁶

⁴² Interview with Maria Katsabanis and Sarah Winter, above n 26.

⁴³ Something in Common website, *Sanna's Story*, 5 December 2012, Australian Human Rights Commission <<http://somethingincommon.gov.au/get-inspired/sannas-story>>.

⁴⁴ Interview with Maria Katsabanis and Sarah Winter, above n 26.

⁴⁵ Ibid.

⁴⁶ Harsh Mander, above n 25, 260; Liz Curran, 'Making the Legal System More Responsive to Community: A Report on the Impact of Victorian Community Legal Centre Law Reform Initiatives' (2007) 67.

Powerful forces can operate to silence voices and stories. Phil Lynch, who was working at the Public Interest Law Clearing House (PILCH) when it was part of the legal team that challenged the Australian Government's decision to prevent asylum seekers aboard the cargo vessel MV *Tampa* from entering Australia in 2001, observed:⁴⁷

It wasn't for literally weeks, if not months, after people were transferred from the *Tampa* to Nauru that we knew any names or saw any faces. There was this extraordinary media coverage of the rescue of 438 people; it was front page news for weeks, and there was not one face shown, not one story told; we did not know the name of one single person on the boat until they were well and truly ensconced in Nauru and demonised by the Government as potential terrorists.

Stories can be powerful weapons against such attempts to dehumanise groups and exclude their voices from democratic institutions and processes.

Kan Yama Kan

Kan Yama Kan, which means 'once upon a time' in Arabic, is a play that Fitzroy Learning Network produced in 2002 in order to give asylum seekers a voice at a time when they were routinely dehumanised by politicians and in the media.

The project was facilitated by a group of professionals including director Robin Laurie and Melbourne writer Arnold Zable. In a series of workshops preceding the performance, the asylum seekers refashioned the script, and added their stories to it. In the play, asylum seekers told their stories directly to the audience. Arnold Zable described the impact: 'when audiences came and saw asylum seekers live, face to face, telling their stories, it was mesmerising for them and straight away layers and layers of prejudice dropped away and they saw asylum seekers as fellow human beings'.⁴⁸

After a run at Trades Hall in Melbourne, the play toured around regional Victoria and eventually went to Canberra where Carmen Lawrence and other politicians arranged for part of it to be shown in a theatre in Parliament House. Following the performance, delegations of advocates, including refugees from Iran, Iraq and Afghanistan, met with over fifty politicians. For many of those politicians, it was the first time they had ever seen an asylum seeker face to face.

⁴⁷ Interview with Phil Lynch, Executive Director, International Service for Human Rights (Geneva, 29 April 2013).

⁴⁸ Interview with Arnold Zable (Melbourne, 26 June 2013).

4

Risks and ethics

Despite the thorny ethical questions that arise when people's stories are used in advocacy, there is currently no ethical code that advocates can rely upon for guidance. While many working in the community legal sector are lawyers, it is not always adequate or appropriate to transplant the ethical standards that apply between lawyers and their clients to a relationship developed around an advocacy project. Of course, in some circumstances a lawyer–client relationship may exist with its corresponding duties and obligations. However, human rights advocacy invokes additional risks and multiple responsibilities to participants and communities, and to the issue and campaign.⁴⁹

This chapter considers some of the risks and ethical dilemmas associated with storytelling in advocacy. Looming over all these risks are the consequences of excluding stories. Without stories our advocacy will be less empowering for clients and communities and less likely to lead to sustainable, systemic change. Unless we try to manage the risks, we contribute to a system that discounts the voices of marginalised individuals and communities.

Paul Gready writes in 'Responsibility to the Story' (his introduction to an excellent volume of articles on human rights storytelling in the *Journal of Human Rights Practice*): 'there is no point being worthy but ineffectual. Clearly what we need here is an "enabling ethics" that facilitates and enhances protection and promotion of human rights, rather than one that continually places obstacles in our way.'⁵⁰

The discussion that follows is not intended to discourage CLCs from using stories in advocacy, but rather as a basis for the development of an 'enabling ethics' that assists us to identify and mitigate the risks.

Individual harm

Individuals who share their stories in the context of a campaign often do so at significant personal risk, particularly when they are identified or identifiable. Storytelling can lead to discrimination, reprisals, backlash and other negative and unpredictable consequences for individuals and their families and friends. Participation in advocacy can also raise people's expectations of positive outcomes and cause disappointment and disillusionment when those expectations are not met. The very process of storytelling can reawaken trauma. Whether or not a person telling their story is a client, and whether or not they are identified in the story, we must be aware of and upfront about these risks.

Jane, a peer educator at Harm Reduction Victoria, discussed the consequences of telling her story in the course of her work:

I'm out about my drug use; I don't hide the fact that I have a history of drug use. I go around doing presentations all the time from a drug user's perspective. Afterwards people will come up to me, tell me how compelling my story is, just be full of praise. Then there'll be a job going at their agency and I'll apply for it and they won't want me to work for them.

⁴⁹ Paul Gready, 'Responsibility to the Story' (2010) 2(2) *Journal of Human Rights Practice* 177, 187.

⁵⁰ *Ibid* 189.

Coming here and outing myself has been the end of the road for my drug and alcohol career. In the beginning when I did decide to disclose I was convinced that I was making a fully informed decision, but I guess in hindsight I wasn't ... I regret it for my career, but not for all the good it's done and all the people's minds it's changed along the way ...⁵¹

Some risks can be mitigated through de-identification, and most of the CLCs and human rights advocacy organisations interviewed for this project de-identify stories as a matter of course. However, de-identification is an imperfect business and changing a person's name and a few personal details may not be enough to prevent them from being identified. Several interviewees also expressed their concern that de-identification can strip a story of its authenticity and reinforce stigmatisation.⁵² De-identified stories are also less likely to elicit a response from decision-makers and the media.

Most of the organisations interviewed for this project explained that they manage risks to the individual through a commitment to full disclosure and consent, discussed further in the section on consent in chapter 5. Danna Ingleton, a Research and Policy Advisor for Amnesty International, said:

[d]o no harm is an important concept, but I prefer to think about it as 'do no harm that has not been agreed upon'. It's not our choice, and human rights defenders all over the world put themselves at risk as a part of their daily work and that's what brings about change.⁵³

Peter Noble from Loddon Campaspe CLC (LCCLC) suggested that the best approach is to explain the risks and ask people whether they want to accept them, he said, '[i]t's important not to second-guess what a person wants based on your own assumptions about them'.⁵⁴ This is also the approach taken by the Asylum Seeker Resource Centre, which operates on the principle that 'you've got to respect the ethics, be sensitive to exploitation and provide appropriate support and training, but you can't treat clients as children. They are adults and they are not helpless and their legal problem doesn't define who they are'.⁵⁵

Privileging voices

By their very nature, individual stories capture and privilege particular voices or perspectives. As a result, storytelling can oversimplify complex situations, misrepresent communities, perpetuate stereotypes and distort priorities.⁵⁶

⁵¹ Interview with Jane, Harm Reduction Victoria, 20 June 2013.

⁵² Interview with Jude Byrne, Australian Injecting & Illicit Drug Users League (AIVL) (phone, 26 June 2013).

⁵³ Interview with Danna Ingleton, Research and Policy Advisor, Campaigning for Individuals, Amnesty International (London, 8 April 2013).

⁵⁴ Interview with Peter Noble, Coordinator, LCCLC and Anna Howard, Principal Solicitor, LCCLC (Bendigo, 27 March 2013).

⁵⁵ Interview with Kon Karapanagiotidis, Executive Director, Asylum Seeker Resource Centre (Melbourne, 27 March 2013).

⁵⁶ See Robert Godden, 'How To Prick the Conscience of a Dictator and Why the "Poster Child" Works' (22 September 2011), The Rights of Exposure website <<http://therightsexposureproject.com/2011/09/22/how-to-prick-the-conscience-of-a-dictator-why-the-'poster-child'-works/>>.

Certain stories may be selected for telling because they are deemed to be more likely to capture the public's attention and imagination. They may also be told because they resonate with an advocacy organisation's predetermined principles and priorities. In 'Innocence and Experience: Melodramatic Narratives of Sex Trafficking and Their Consequences for Law and Policy', Carole Vance discusses the impact of anti-trafficking videos that tell the stories of 'blameless' young women and 'evil' traffickers and clients.⁵⁷ Vance argues that by omitting more common, diverse and complex scenarios and ignoring influences not easily depicted in narrative form (such as international economic institutions and migration policy) the frame of analysis is narrowed and inappropriate and harmful responses are adopted.

Meghan Fitzgerald discussed the need to resist the temptation to focus on the 'sympathetic' or easily understood victim when making the *Off the Record* video, discussed below:

One of the things that bothers me is that often in advocacy there's a pressure to reframe an issue so that it resonates with dominant tropes and principles. I don't feel that is always progressive. Often you are not challenging the underlying assumptions, which you need to do in order to be true to the people you are working with. So you end up an apologist for these non-active, non-empowered victims, rather than providing a space for them to have a voice and dignity.⁵⁸

Particular voices may also be privileged in cases where some members of a broader group enjoy a greater degree of agency than others. Cassandra Goldie, Chief Executive Officer of the Australian Council of Social Services (ACOSS), provided the example of the stories told in advocacy around the then Australian Government's cuts to single parent payments.⁵⁹ She emphasised that the voices of single mothers were vital to the success of the campaign, but was aware that they had to be supplemented with other information and perspectives:

the women who have been involved in speaking up are typically tertiary educated and articulate and have had various forms of paid work, so they are a particular subset of the broader community of single parents. For them the taper rate was the most important thing, because they were in work and that would have delivered for them in a way that the base rate wouldn't have. But there is a whole group of the most impoverished families who are more disadvantaged in the labour market and will probably end up relying heavily on the base rate in their unemployment payment.⁶⁰

⁵⁷ Carole Vance, 'Innocence and Experience: Melodramatic Narratives of Sex Trafficking and Their Consequences for Law and Policy' (2012) 2(2) *History of the Present: A Journal of Critical History* 200.

⁵⁸ Interview with Meghan Fitzgerald, Social Action, Policy & Law Reform Manager (Melbourne, 27 May 2013).

⁵⁹ Interview with Cassandra Goldie, CEO, ACOSS (Sydney, 12 June 2013).

⁶⁰ *Ibid.*

ACOSS's approach to responding to gaps in the stories was to ensure that their advocacy also drew upon broad research, a strong evidence base and strategic alliances with a variety of groups.

Decisions about which voices will be privileged in advocacy must strike a balance between efficacy and authenticity.⁶¹ One way to do this is to ensure that stories are situated within a broader campaign that can provide context to the story, discussed in chapter 5.

Off the Record

Off the Record is a fifteen-minute documentary about criminal-record discrimination, supported by Fitzroy Legal Service, Flat Out, Youthlaw and Flemington and Kensington Community Legal Service. The documentary, available at <http://offtherecordcampaign.com>, contains interviews with individuals who have been subject to discrimination on the basis of their criminal record as well as community lawyers, academics and others.

Advocates working on the documentary had to decide how they would frame the issue, including whether to focus on victims of discrimination who had committed minor offences (who might be more likely to elicit sympathy from the viewer) or those who had been convicted of more serious crimes.⁶² Meghan Fitzgerald, who was part of the team that developed the video, explained, 'I didn't feel that it was right to exclude all the people who have committed very serious offences, but not offended for twenty years, or who had been effectively rehabilitated'.⁶³

It was recognised that people who had committed serious crimes were more reflective of Fitzroy Legal Service's client group and had an important and powerful story to tell. The project group decided that the video should honestly acknowledge the complexities and realities of the issue.

Appropriating power

Lawyers and other professional advocates do not own the stories they tell. There is a risk that, in telling other people's stories, lawyers and advocates appropriate not only stories, but sources of power. Stories that focus on victimhood may also have the effect of excluding people from public debate and decision-making by casting them as objects of pity reliant upon external intervention.⁶⁴

⁶¹ Sam Gregory, 'Transnational Storytelling: Human Rights, Witness and Video Advocacy' (2006) 108(1) *American Anthropologist* 191, 204.

⁶² Interview with Meghan Fitzgerald, above n 58.

⁶³ *Ibid.*

⁶⁴ Gready, above n 49, 183. See also Arthur Kleinman and Joan Kleinman, 'The Appeal of Experience; The Dismay of Images: Cultural Appropriations of Suffering in Our Times' (1996) 125(1) *Daedalus* 1.

The United States literature reviewed for this report contains extensive analysis of lawyer domination in relationships with clients and communities.⁶⁵ Commentators have noted that ‘lawyering relationships – like all relationships – cannot be purged of power or the possibility of coercion and complicity with group domination’.⁶⁶

The analysis is often directed towards legal advice and casework services, but the difficulty extends to all aspects of community lawyering:

Even when clients have voluntarily agreed to engage in organizing activities, it is not clear that the outcome will be free of lawyer domination. Lawyers practicing in organizing contexts may be reluctant to cede control in group settings and restrain their more adept verbal skills in order to advance client empowerment.⁶⁷

To an extent these concerns can be mitigated through a commitment to free and informed consent in storytelling projects, discussed in chapter 5. However, power dynamics are gnarly and more may be required to genuinely recognise and, to the extent possible, address them. Critical self-reflection and humility are important, as are efforts to maximise participation and collaboration in storytelling, also discussed in chapter 5.

Legal and professional obligations

There are legal risks and professional obligations associated with storytelling in advocacy. Some, but not all, depend on the existence of a lawyer–client relationship. The legal risks outlined below can generally be managed by ensuring that consent is gained for the release of information and care is taken not to defame third parties or jeopardise ongoing or prospective legal proceedings. These matters are examined briefly below. For more information, see Redfern Legal Centre’s toolkit, *Speaking Wisely: Considerations and Strategies for Managing Public Comment*.⁶⁸

Privacy and confidentiality

Privacy laws exist at both the federal and state level and regulate the way personal information (information that identifies or could identify a person) is collected and used by government agencies and certain private sector organisations.⁶⁹ These laws are unlikely to apply to most CLCs, however some CLCs are obliged to comply with privacy laws as a condition of their funding agreements.

A duty of confidentiality also applies to communications between lawyers and clients.⁷⁰ This duty prevents lawyers from disclosing information provided for a specific purpose and not otherwise public knowledge, both during the retainer and after its termination. Obligations of privacy and confidentiality are met if the client authorises disclosure.

⁶⁵ See, for example, Lucie E White, ‘To Learn and Teach: Lessons from Driefontein on Lawyering and Power’ (1988) *Wisconsin Law Review* 699; Lopez, above n 36; Wexler, above n 36; Cummings, above n 11.

⁶⁶ Angela Harris, Margaretta Lin and Jeff Selbin, ‘From “The Art of War” to “Being Peace”’: Mindfulness and Community Lawyering in a Neo-Liberal Age’ (2007) 95 *California Law Review* 2073, 2115.

⁶⁷ Cummings, above n 11, 497.

⁶⁸ Redfern Legal Centre, *Speaking Wisely* (May, 2012) <<http://rlc.org.au/publication/speaking-wisely-considerations-and-strategies-for-managing-public-comment>>.

⁶⁹ See the *Privacy Act 1988* (Cth) and the *Information Privacy Act 2000* (Vic).

⁷⁰ Equity protects confidential information provided by a client to a lawyer and this may be an implied term of a contract between a lawyer and their client. Confidentiality is also protected by professional conduct rules.

In some cases confidentiality clauses in settlement agreements will preclude storytelling and public advocacy around a particular case. Such clauses are particularly common in discrimination cases. Melanie Schleiger, Manager of the Equality Law Program at Victoria Legal Aid explained, 'sometimes confidentiality terms are agreed to as a matter of course. There should be a premium put on this and lawyers have a role to play here.'⁷¹ If a person wishes to tell their story to advocate around a particular issue, they should not be prevented from doing so due to a confidentiality term that was not carefully considered in settlement negotiations.

Legal professional privilege

Legal professional privilege protects confidential information contained in communications between the lawyer and client that are for the dominant purpose of giving and receiving legal advice.⁷² Lawyers need to be aware that if information protected by legal professional privilege is referred to in a case study, then privilege over relevant documents may be waived.⁷³ Significantly, a case study that discloses the gist or substance of the legal advice provided might waive privilege with respect to all documents produced that influenced the legal advice.⁷⁴

Defamation

Where stories refer to third parties there is a risk that CLCs could be liable for defamation if the reputation of the third party is harmed. While there are defences to defamation, for example the defence of justification where the statement is substantially true, the burden would lie on the CLC to establish any defence.⁷⁵ Care needs to be taken when stories identify third parties and the facts in these stories should be clearly substantiated.

Publication of information in legal proceedings

While a case is under judgment, or sub judice, the publication of material that might prejudice the trial could attract contempt of court proceedings. Care should be taken where stories relate to pending (in criminal law) or current (in criminal and civil law) proceedings and storytellers should avoid prejudging issues before the court.⁷⁶ Comment that fairly and accurately reports proceedings in an open court will not be contemptuous.⁷⁷

In addition, the *Family Law Act 1975* (Cth) and the *Family Violence Protection Act 2008* (Vic) contain non-publication clauses. Breach of these clauses could result in prosecution of the client and the CLC. Stories that relate to issues that fall under either of these laws should therefore be de-identified.

⁷¹ Interview with Melanie Schleiger, Manager of the Equality Law Program, Victoria Legal Aid (Melbourne, 6 August 2013).

⁷² *Esso Australia Resources Limited v Commissioner of Taxation* (1999) 201 CLR 49.

⁷³ *Australian Wheat Board Ltd (AWB) v Cole (No 5)* [2006] FCA 1234.

⁷⁴ *Australian Wheat Board Ltd (AWB) v Cole (No 5)* [2006] FCA 1234.

⁷⁵ *Bashford v Information Australia (Newsletters) Pty Ltd* (2004) 204 ALR 193, [10].

⁷⁶ Redfern Legal Centre, *Speaking Wisely*, above n 68, 38.

⁷⁷ *Re Consolidated Press Ltd* (1937) 37 SR (NSW) 255 at 257–8; *R v Sun Newspapers Pty Ltd* (1992) 58 A Crim R 281 at 286–7 (Byrne J).

5

Five principles of ethical and effective storytelling

Consent

Consent is central to ethical and effective storytelling in advocacy. As lawyers and advocates, we have a legal and ethical obligation to ensure that we don't misuse people's stories. Without consent, storytelling can undermine people's agency, cause material and psychological harm and damage relationships of trust with clients and communities.

The nature and form of consent will vary depending on the purpose and method of storytelling and the circumstances of the person involved. Consent for the use of de-identified written case studies may differ from consent to appear in an internet video. Consent from a client involved in ongoing legal proceedings will differ from consent from a community leader with advocacy experience. This section does not prescribe a particular approach to obtaining consent, instead it considers issues that should inform the approach adopted.

De-identified case studies

Views as to whether there is a legal requirement for consent for de-identified case studies differ. Legal and professional obligations are unlikely to require consent in this circumstance.⁷⁸ Nevertheless, most CLCs interviewed seek consent for the use of de-identified stories as a matter of best practice. Joanna Fletcher from WLSV explained:

whether or not there is a legal requirement to get consent for the use of a de-identified case study, it's best practice to do so, particularly for our clients. If our client were to recognise herself in something that we'd produced and we hadn't asked her, it would really damage her trust in us.⁷⁹

There will be a point at which information is so general or fictitious that it cannot be properly described as a story in the sense discussed in this report. For example, quantitative information about how many people reported an interaction with a local authority, or a combination of several people's experiences. Such materials may be a useful way to present data, but they do not engage the benefits outlined in chapter 3.

Free and informed consent

Consent for the use of a story must be fully informed and freely given. Informed consent means that people should be aware of why and how their stories will be told and of the foreseeable risks and benefits, including outcomes that are not likely. People may be hopeful that storytelling in advocacy will help them get a visa or custody of their child and such expectations should be identified and addressed.

⁷⁸ Letter from National Association of Community Legal Centres to the Law Council of Australia, 30 March 2012, 2 <www.naclc.org.au/cb_pages/submissions.php>.

⁷⁹ Interview with Joanna Fletcher, above n 6.

Informed consent also requires openness about the nature of the CLCs' work and the likelihood of an ongoing relationship and support. Many interviewees emphasised that they are not mandated or resourced to run consumer advocacy or community support programs. Others cautioned against creating an unrealistic expectation that a campaign would continue indefinitely. For example, when discussing the *Every Single Woman* video described in this chapter, Debora Singer from Asylum Aid explained:

I spoke to [the women who told their stories] about what they wanted to do about keeping in touch. Because one of the things I didn't want to do was say, 'well that's it, you've made the film, we're never going to see you again', but I also knew we don't run a support group here, you know, my colleagues are lawyers and there was a limit to what I could offer.⁸⁰

There will also be a limit to what CLCs can offer participants and this will vary depending on the priorities and working methods of individual CLCs. These limits should not necessarily impede advocacy, but participants should understand what is on offer so that they can make an informed choice about whether they want to be involved in a campaign.

Consent must also be freely given. This requirement may be difficult to determine in the context of a busy casework service where people are in need of assistance and the immediate legal issue is at the forefront of the lawyer and client's minds. It may be that in this context it is only possible to request and receive consent for the limited use of a client's information (de-identified case studies, for example). In some circumstances it may not be appropriate to seek consent for use of personal information at all.

A client's sense of obligation or gratitude for receiving a free legal service may also muddy the quality of consent. Kon Karapanagiotidis from the ASRC said, 'the reality is that people will say yes out of a sense of gratitude and you just have to accept that and manage it. You need to weigh up the risks and make an ethical assessment.'⁸¹ CLCs can be selective about who is approached to contribute their stories to a campaign. Another way to manage issues around consent in the context of legal services is to collaborate with organisations and networks and work with stories and storytellers who are not clients. The value of collaboration and working with networks is discussed later in this chapter.

As a practical matter, many interviewees saw written consent as a way to promote clarity about what has been agreed, create a record that can be referred to later, save time, and to provide people with information about what they need to do if they change their mind.

⁸⁰ Interview with Debora Singer, Policy and Research Manager, Asylum Aid (London, 10 April 2013).

⁸¹ Interview with Kon Karapanagiotidis, above n 55.

'Vulnerable' clients

Even where CLCs make every effort to secure free and informed consent, they may have concerns based on the vulnerabilities of participants. Academic researchers have noted the potential for stereotyping and exclusion that comes with the 'vulnerable' label:

Regrettably, the term 'vulnerable' too often gets played as a bioethical trump card, summarily tossed on the table in the course of debate, sometimes with the stern admonition that it would not be decent to exploit such subjects. Given the absence of agreed-upon standards for identifying and responding to vulnerability, such a move too often serves as a conversation-stopper, abruptly ending dialogue rather than furthering it. It may be possible to do better.⁸²

A better approach is to consider individual circumstances and context. This approach mirrors normal practice in determining capacity to consent in relation to the full range of CLC services and activities, including giving instructions in a legal matter. Issues of capacity are not always simple, but nor are these issues particular to law reform and advocacy. CLC workers frequently make difficult determinations around capacity and consent and there is no reason to suppose that special rules or exclusions should be applied in the context of law reform and advocacy.

Participation

Stories tend to be more powerful when they're told by the people who experienced them. The details people include when they're talking about their own lives, their body language and tone and the authenticity of their experience are generally more captivating and credible than a story told second-hand.

The very act of telling a personal story and being heard can also be a powerful experience. Many of those interviewed for this project observed that often people simply want to tell others what happened to them, that there is merit in storytelling for its own sake. Melbourne writer Arnold Zable spoke about a series of storytelling workshops he ran in bushfire-affected areas following the 2009 Black Saturday fires. After one of these sessions, a participant approached him and said, 'I'm glad we're getting counselling, but sometimes you feel like a client. Sometimes you feel like a victim. When I tell my story, and when I write it, I'm in charge.'⁸³

As discussed in chapter 2, participation is not always possible and case studies may be the best or only way to relay important information about the experiences of clients and communities. Well-crafted case studies can be powerful and persuasive evidence.⁸⁴ However, a single story told directly in a recording, at a meeting or at a public event is likely to have greater impact than several written, de-identified case studies. It is therefore worthwhile allocating resources to support and promote participation as a complement to other less risky or resource-intensive storytelling strategies.

⁸² Kenneth Kipnis, 'Vulnerability in Research Subjects: A Bioethical Taxonomy' in National Bioethics Advisory Commission (ed.), *Ethical and Policy Issues in Research Involving Human Participants* (National Bioethics Advisory Commission, 2001), G3.

⁸³ Interview with Arnold Zable, above n 48.

⁸⁴ Willard C Richan, *Lobbying for Social Change*, 2nd edn (1996), 131–4.

The land holds us: Homelands in the Northern Territory

For over three years Amnesty partnered with the Alyawarr and Anmatyerr communities of Utopia homelands, using a participatory, human rights based approach to research and campaigning. The partnership produced the report, *The Land Holds Us: Aboriginal Peoples' Right to Traditional Homelands in the Northern Territory*.⁸⁵

The subject of the report was identified after extensive consultation with communities and NGOs in the Northern Territory. Sarah Marland, Amnesty International Australia's Indigenous Rights Campaign Co-ordinator, and co-author of the report, commented that:

the project would not have worked if we had not worked in partnership with the community. The strength of that partnership meant that the community was on board and that other NGOs supported and contributed to the campaign. It also meant that the people who read the report believed us. We weren't just a bunch of white people with another theory about problems facing Aboriginal people in the Northern Territory.⁸⁶

In addition to collaborating in the identification of the topic for the report, communities also participated in publicity and advocacy, speaking at the report's launch in Canberra, attending meetings with ministers, presenting at a press conference and briefing the Senate Committee on Rural and Regional Affairs.



Valda Morton, Ricky Tilmouth, Rosalie Kunothe-Monks, Ngarla Kunothe-Monks, Lenny Jones and Rosco Loy representing the Alyawarr/Anmatyerr peoples of the Utopia homelands for the launch of Amnesty International's report The Land Holds Us, Canberra, 2011. © Andrew Taylor and Amnesty International Australia.

⁸⁵ Amnesty International, *The Land Holds Us: Aboriginal Peoples' Rights to Traditional Homelands in the Northern Territory* (2011).

⁸⁶ Interview with Sarah Marland, Indigenous Rights Campaign Co-ordinator, Amnesty International (Melbourne, 4 June 2013).

Rosalie Kunoth-Monks, an Alywarr and Amnatyerr elder from Utopia homelands, was part of the community delegation to Canberra. She speaks about the homelands in this video on Amnesty’s website. She describes the Alywarr and Amnatyerr Peoples’ approach to partnering with Amnesty as follows:

The emotional pain we are going through is more painful than a swift physical death. We need emotional and mental health yet the government policies cripple both of these. We have been demonised, the assimilationist attitude has intensified, yet there is a small ladder by which you can climb into the white man’s world. But I have had my journey sung to me, my journey is not just me, it goes back thousands of years, our indigeneity is reviving and coming, it touches and loves every one of our people. People are going back to what made them strong over thousands of years; people are not moving off their land. Outside of that to assist us we need professional people, such as Amnesty International.⁸⁷

Sarah Marland attributed the report’s success to the combination of the expertise and testimony of people from the Utopia homelands and the platform for advocacy that Amnesty was able to provide.

Collaboration

CLCs have relationships beyond their client base and people in communities and networks will often be better placed to participate in storytelling campaigns than CLC clients. Working with community groups can circumvent issues that arise in the context of a lawyer–client relationship, including potential risks to ongoing or prospective litigation and concerns around consent.

Several of the organisations interviewed for this project prefer to work with non-clients when they use stories in their advocacy. The three women who participated in the Every Single Woman project discussed below were all identified through Asylum Aid’s community networks. Debora Singer explained:

we are very aware that the clients are being provided with legal services so the whole idea of getting informed consent is a problem because people tend to say yes because they feel they have to. To guard against that we don’t ask current clients to get involved in those things.⁸⁸

Vince Warren from the Center for Constitutional Rights said:

if you’re representing a client on an issue that affects multiple people, partnership with the group that’s affected is important. You often find wonderful storytellers in the larger group that tell the similar stories to your client, and you can bring them forward in a manner that amplifies your case.⁸⁹

Denis Nelthorpe from Footscray Community Legal Centre spoke about how community leaders ‘may be better able to articulate problems, to be in the media gaze, and these leaders have often experienced the same problems as the clients’.⁹⁰ For this reason, Footscray CLC works closely with community leaders,

⁸⁷ Amnesty International, *The Land Holds Us*, above n 85, 41.

⁸⁸ Interview with Debora Singer, above n 80.

⁸⁹ Interview with Vince Warren, above n 32.

⁹⁰ Interview with Denis Nelthorpe, Manager, Footscray Community Legal Centre (phone, 5 June 2013).

including by employing some to assist with advocacy projects and community legal education.

In addition to identifying helpful stories and potential storytellers, engaging with communities also provides an opportunity to strengthen important relationships. Cooperation and collaboration between legal and non-legal groups can contribute to the success of policy and law reform campaigns and to the health and effective operation of the community legal sector.⁹¹

Every Single Woman

Every Single Woman is a campaign for a gender-sensitive asylum system in the United Kingdom. Asylum Aid produced materials, including a video, comparing the support available to women seeking asylum with that available to all other women in the United Kingdom and argued that a woman seeking asylum must be afforded the same minimum standards as everyone else.

Asylum Aid's video centred around three women, Rani, Cecilia and Rahel, who had been through the asylum system.⁹² In the video, Cecilia, who had been in prison and in an immigration detention centre, says 'rather than me going to be in a detention centre, it's good for me to be in prison for the rest of my life'. The campaign's name came from Cecilia, who said 'every single woman should be treated the same, every single one'.⁹³

The women attended Asylum Aid's Annual General Meeting, where the film was shown. After the film was shown, Debora Singer, who coordinated the campaign, was surprised that the women wanted to thank her for giving them the opportunity to take part in the film. As she explained:

I really hadn't expected them to start thanking me ... I'd gone into it with a sense that we're asking these women to do us a favour and it's all one-sided. And yes we're not going to exploit them and do anything horrible, but I thought the gain is all on our side, and it wasn't.⁹⁴



© Changing Images/Asylum Aid.

⁹¹ Studies have shown that the most effective human rights legal organisations work cooperatively and collaboratively with non-legal human rights NGOs. See the discussion in: Richard J Wilson and Jennifer Rasmusen, *Promoting Justice: A Practical Guide to Strategic Human Rights Lawyering* (International Human Rights Law Group, 2001); Amanda Tattersall, *Power in Coalition: Strategies for Strong Unions and Social Change* (Allen & Unwin, Sydney, 2010); Leslie Crutchfield and Heather McLeod Grant, *Forces for Good: The Six Practices of High-Impact Nonprofits* (Jossey-Bass, 2008).

⁹² Asylum Aid, *Every Single Woman* <<http://www.asylumaid.org.uk/the-womens-project/every-single-woman-campaign/>>.

⁹³ Interview with Debora Singer, above n 80.

⁹⁴ *Ibid.*

Context and the campaign

In an advocacy context, stories are not told for their inherent worth or entertainment value, they are told in the hope that they will change the status quo. A story's impact will generally be vastly improved where those who hear it understand the context. Storytelling should be part of a broader campaign, 'a strategy rather than a stand-alone product or event'.⁹⁵

A story told without context or the support of other campaign activities can be dismissed as a 'cherry-picked' anomaly, or misinterpreted or distorted to support an unhelpful agenda. Further, if a story is not told as part of a campaign, people will not know how to respond. This misses an opportunity to engage support and can contribute to 'compassion fatigue' that makes it difficult to mobilise in the future.⁹⁶

In addition to stories, successful campaigns tend to include smart messaging and communications, a strong evidence base, robust partnerships and coalitions, strategic legal and political interventions, grassroots support and high-level champions.⁹⁷ These strategies assist storytelling by showing that the story represents a systemic issue, and in ensuring that it leads the audience to useful conclusions and actions.

⁹⁵ Gregory, above n 61, 193.

⁹⁶ Sam Gregory, 'The Participatory Panopticon and Human Rights: WITNESS' Experience Supporting Video Advocacy' (paper presented at Exploring the Past, Anticipating the Future, annual meeting of the ISA's 50th Annual Convention, New York Marriott Marquis, New York, 15 February, 2009) 25.

⁹⁷ Wilson above n 91; Tattersall, above n 91; Crutchfield, above n 91; Becker, above n 20.

Surviving on income support

The 2013 ACOSS annual conference included a plenary session on the experiences of people trying to survive on income support payments in Australia. One of the panel members was Tony, a man who had been unemployed for two years, during which time he had sent out over five hundred resumes and received only three interviews. At the time of the conference, Tony was facing eviction. A video featuring Tony speaking about his experience of being long-term unemployed is available online.⁹⁸

At the time of the conference, Tony was in a vulnerable position, but he was willing and able to speak about his experience. Cassandra Goldie, Chief Executive Officer of ACOSS, recognises that there may be risks for those who speak publicly about their own difficult circumstances, but commented, 'we've got to allow people to take their own risks. It's not our job to be a gatekeeper.'⁹⁹ She moderated the session on surviving on income support and described her role as being: 'to articulate what was peculiar to a person's circumstance and what was a systemic issue, relying on statistics and other evidence. If someone does not play this role you run the risk of people throwing money at a particular situation to try to shut it down.'

Shortly after the conference, Tony and other long-term unemployed people were sponsored by the Business Council of Australia to attend a post-budget lunch with the Treasurer. During the lunch he told his story, emphasising that what he wanted most was a job. Following the lunch, one of the attendees offered Tony a six-month contract and he is no longer unemployed.

⁹⁸ ACOSS, *\$35 a Day is Not Enough, Geraldine and Tony's Story* <www.youtube.com/watch?v=1NSPFkVvh7s>.

⁹⁹ Interview with Cassandra Goldie, above n 59.

Crafting the story

Regardless of who is telling the story, it is important to consider how it will be told. Stories are not effective if people stop reading, listening or watching before they get to the end.

Lawyers are not trained in storytelling and some interviewees commented that the case studies that lawyers prepare often read more like affidavits. Edwin Rekosh from PILnet said 'most of us, when we're telling stories, we think chronologically. This happened, then this happened, then this happened. People aren't even listening any more by the time you get to the point of the story.'¹⁰⁰

Poorly crafted case studies can have negative impacts beyond boredom. Meghan Fitzgerald from Fitzroy Legal Service observed that in some case studies:

you can just hear the way they [lawyers] are distilling all the experience through their own filter until there's nothing left of the person. They have no agency; they have no identity; they just have a bunch of labels that someone has put on them ... Labels strip a person of their humanity ... You can't feel those case studies at all.¹⁰¹

There are techniques that can be learned to avoid turning stories into dull chronologies or collections of unhelpful labels. The writers and teachers interviewed for this project all agreed that the skills and techniques are easily taught. Some organisations, including PILnet in New York and Women's Legal Service Victoria, have run storytelling workshops for staff.

Another common observation from the writers interviewed for this project was that detail is the key to a compelling and authentic story.¹⁰² A good story creates a scene and calls on the senses. Maureen McCarthy, a novelist who also teaches creative writing, said that people sometimes omit this essential ingredient because they lack confidence: 'often people will skip over the detail because they're not confident that it's interesting or relevant. They're nervous about the truth. It's like they're back in school and they might get it wrong, but really it's the truth and the detail that makes the story.'¹⁰³

Even when the story is being told second-hand, there are ways to include details that make the story compelling and authentic. For example, direct quotes or observations can bring an otherwise dry set of facts to life.

¹⁰⁰ Interview with Edwin Rekosh, Executive Director, PILnet (New York, 30 April 2013).

¹⁰¹ Interview with Meghan Fitzgerald, above n 58.

¹⁰² Interview with Tony Birch, above n 24; interview with Arnold Zable, above n 48.

¹⁰³ Interview with Maureen McCarthy (phone 3 July 2013).

Shani Cassidy's statement: They didn't even ask his name

Shani Cassidy's teenage son, Tyler, was shot dead by police in 2008. Earlier this year she filed a communication with the United Nations Human Rights Committee concerning Australia's failure to ensure that police-related deaths are properly investigated by an independent body.

The media release issued by the Human Rights Law Centre on the day the communication was submitted included a statement from Shani Cassidy, part of which reads:

I don't want any other mother to have to go through what I have.

We live with Tyler's loss every waking moment. We also live with the trauma and memories of the tarnished investigation that followed, and of watching his life – and ours – be publicly scrutinised and distorted in the media.

Tyler has gone, and nothing will bring him back. However, ensuring a better, independent investigation process will help other families to avoid the kind of suffering we are going through. I will never hold my son again, but I will do everything I can to ensure that no one else has to experience the horror that we have lived with since he died.¹⁰⁴

Anna Brown from the Human Rights Law Centre, was part of the legal team that worked on the communication and related media coverage and said:

We knew that Shani's involvement in the media discussion would attract attention and raise public awareness and understanding of the issue, but Shani had already been let down by the media coverage of her son's death and of the coronial hearing that followed. The statement was a way that her story could be heard with an acceptable level of intrusion and exposure for her.¹⁰⁵

The journalists who reported on the UN communication were most interested in Shani's statement and all quoted from it. Anna Brown observed, 'I have no doubt that Shani's statement increased and improved the coverage'.¹⁰⁶

¹⁰⁴ Shani Cassidy, 'They Didn't Even Ask His Name', Individual Communication to the United Nations Human Rights Committee, 30 May 2013 <www.hrlc.org.au/they-didnt-even-ask-him-his-name>.

¹⁰⁵ Interview with Anna Brown, Director of Advocacy and Litigation, Human Rights Law Centre (Melbourne 4 July 2013).

¹⁰⁶ Ibid.

6

Methods of storytelling

Submissions and reports

Including case studies and stories in submissions and reports is the most familiar form of storytelling in advocacy. CLCs commonly include case studies in submissions to parliamentary inquiries and many also produce reports using the traditional human rights 'monitoring and reporting' methodologies.¹⁰⁷ Many CLCs maintain a database of case studies for use in their policy and law reform work. Several CLCs have developed sophisticated systems and there is scope for further research and reporting on best practice in this area.

Safety first in family law

Put Safety First in Family Law is Women's Legal Services Australia's (WLSA) campaign calling for the Australian government to reform family law to make sure it keeps women and children safe.

WLSA developed a campaign website that includes information on relevant provisions in Australian family law, evidence of the need for change, updates on the law reform process and assistance for women and organisations wanting to contribute to the campaign.¹⁰⁸

Resources available on the website include a 'submission writing kit' designed to assist others to make submissions to a Senate Committee inquiry into the Family Law Legislation Amendment (Family Violence and Other Measures) Bill 2011. The kit emphasises the inclusion of individual stories, stating, 'It is important that the Parliament hears your experiences and opinions on how the family law system is or isn't working to protect women and children from family violence.'

Links to the Put Safety First in Family Law website were distributed through single mothers' forums and email lists and around forty submissions that were provided to the Senate Committee were facilitated by the website, which had more than five thousand visits and the position papers, and submission writing kits were downloaded 500 times.

The campaign was successful and the *Family Law Legislation Amendment (Family Violence and Other Measures) Act* came into effect on 7 June 2012, amending the *Family Law Act* by prioritising issues of children's safety in decision-making over an ongoing meaningful relationship.

¹⁰⁷ Kenneth Roth, 'Defending Economic, Social and Cultural Rights: Practical Issues Faced by an International Human Rights Organization' (2004) 26 *Human Rights Quarterly* 63, 67.

¹⁰⁸ Women's Legal Services Australia, Put Safety First in Family Law <<http://safetyinfamilylaw.com/>>.

Beyond the Prison Gates

The Homeless Persons' Legal Service (HPLS) in Sydney has recently completed a project detailing the experiences of homeless people following their release from prison. The project report, *Beyond the Prison Gates: The Experiences of People Recently Released from Prison into Homelessness and Housing Crisis*, contains stories and recommendations gathered through interviews with twenty-six homeless people who have exited prisons or institutions.¹⁰⁹ For example, one of the participants is quoted in the report saying:

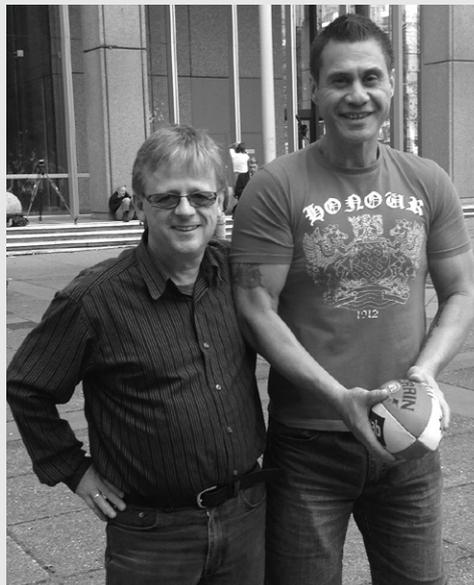
A bloke's suddenly let out of jail, no money, nowhere to go. He had no idea what to do. He had no home, no clothing, no accommodation, no family support and there is a lot of guys out there, a lot of people ... and they've got no support. They get out and they are just dumped on the street like a piece of flotsam. What do they do? They commit a crime and go back to jail because at least they get four walls and a roof and a meal.¹¹⁰

Members of StreetCare, HPLS's consumer advisory group, undertook the interviews with support from the HPLS Policy Officer. StreetCare members also assisted in the design of the interview instrument and the identification of interviewees.

Tony, a StreetCare member who conducted interviews for the project, explained:

I got on well with them was because they made one or two decision and I made one or two decisions and they ended up in jail for it ... I could understand them, I could understand what they've been through, because I've been homeless on and off since 1997.¹¹¹

Lou Schetzer, New South Wales HPLS Senior Policy Officer, said that the involvement of StreetCare members was key to the success of the interviews, 'it wasn't the regular sort of interview. People really opened up.'¹¹²



Lou Schetzer and Tony.

¹⁰⁹ Louis Schetzer and StreetCare, *Beyond the Prison Gates: The Experiences of People Recently Released from Prison into Homelessness and Housing Crisis* (Public Interest Advocacy Centre, 2013).

¹¹⁰ *Ibid* 47.

¹¹¹ Interview with Lou Schetzer and Tony, above n 31.

¹¹² *Ibid*.

'Vile' people smugglers to impoverished boat crew

During 2011–12, Victoria Legal Aid (VLA) acted for a large number of impoverished Indonesian fishermen charged with aggravated people smuggling, an offence that carries a mandatory minimum sentence of five years. VLA's casework was supplemented by advocacy that contributed to a dramatic shift in the public perception of their clients and, eventually, a change in government policy and prosecutorial practice.

Nicole Rich, Director of Research and Communications at VLA, commented that, 'the whole frame was that people smugglers were the most evil, vile form of human life. We had to humanise our clients before we could tackle the legal unfairness.'¹¹³

Among other activities, VLA made submissions to relevant Senate Committee inquiries. In addition to analysis and commentary on the legal issues, the submissions highlighted the circumstances of their clients.¹¹⁴ VLA's submission on the Detering People Smuggling Bill 2011 states that,

we have come to learn a lot about the way in which people smuggling operates, the roles played by the Indonesian fisherman and how they are recruited. This knowledge comes both from reviewing multiple briefs from the CDPP [Commonwealth Department of Public Prosecutions] and from obtaining instructions from a large number of clients. There are a small number of repeating scenarios that have emerged from that experience.

The repeating scenarios are demonstrated in de-identified case studies that illustrate the poverty of the Indonesian men, the desperate circumstances of their families and the deception of the organisers of people smuggling operations. Ramir's story is one example:

Ramir is 26 years old and was born in Sulawesi. He was educated to halfway through secondary school but remains illiterate. Ramir moved to Java for work in his late teens and worked as a fisherman on other people's boats. He is married with two young children.

Ramir was approached by a person he had never met before and offered five million rupiah (about \$500) to take a group of people from Java to Kupang on West Timor. Ramir was taken to a boat where he met the captain and two other crewmen and they anchored slightly offshore. At night time the group of passengers got on board and they started travelling east. It was only after being away for three days that he asked where he was going and was told Australia. At this point there was no land in sight and he was powerless to turn the boat around. Ramir remains in custody awaiting trial and is angry at the people smugglers who tricked him into undertaking the journey.¹¹⁵

¹¹³ Interview with Nicole Rich, above n 29.

¹¹⁴ Victoria Legal Aid, *Submission to the Senate Legal and Constitutional Affairs Inquiry into the Crime Amendment (Fairness for Minors) Bill 2011*; Victoria Legal Aid, *Submission to the Senate Legal and Constitutional Affairs Inquiry into the Migration Amendment (Removal of Mandatory Minimum Penalties) Bill 2012* <<http://www.legalaid.vic.gov.au/sites/www.legalaid.vic.gov.au/files/vla-submission-migration-amendment-removal-mandatory-minimum-penalties-2012.doc>>.

¹¹⁵ Not his real name. Ibid.

Recorded stories

CLCs and other advocacy organisations are increasingly using technology to record and share stories. Video and audio recordings can capture the power of a story, create opportunities for participation, allow advocates and storytellers to maintain control over content and facilitate distribution on websites and through social media.

WITNESS, the New York based organisation that supports human rights groups around the world to integrate video into documentation and campaigning, has produced a series of toolkits for advocates who want to use video to create change.¹¹⁶ The toolkits include lessons and best practices from over twenty years of experience, including on how to turn raw footage into a finished narrative that will contribute to meaningful action, and on best practices in filming for human rights documentation, evidence and media.¹¹⁷

Videos can also be used to publicise and complement submissions and reports. For example, Human Rights Watch reports are usually released with a short video featuring advocates, victims and other experts.¹¹⁸ Some of the raw footage contained in the videos is provided to media outlets to maximise coverage.¹¹⁹

¹¹⁶ WITNESS, *How To* <www.witness.org/how-to>.

¹¹⁷ Gregory, above n 96, 2.

¹¹⁸ Human Rights Watch, *Multimedia* <www.hrw.org/multimedia>.

¹¹⁹ Interview with Jo Becker, above n 9.

Justice Mamas

In 2011 more than ninety-five thousand young people were held in adult prisons in the United States. Some of these facilities place children in solitary confinement for weeks, months and even years for various reasons, including 'for their own protection'.¹²⁰

The American Civil Liberties Union (ACLU) is working with prisoners' rights groups and the families of prisoners to end the solitary confinement of young people. On Mother's Day 2012, ACLU released a series of audio recordings of 'Justice Mamas', the mothers of children held in solitary confinement.

The stories were recorded by ACLU's story finder, who came into contact with most of the families following the release of ACLU and Human Rights Watch's report, *Growing Up Locked Down: Youth in Solitary Confinement in Jails and Prisons across the United States*, which is based on interviews and correspondence with more than one hundred and twenty-five young people who spent time in solitary confinement.

The stories told by mothers in the audio recordings are shocking accounts of their children's time in solitary confinement and its impact on them and their families. Embedded within the stories are some of the central messages of the campaign, including that people in solitary are not 'the worst of the worst'. They are young people, often with mental illness, some of whom have never committed a violent crime.

Theresa Riordan's son Jay has been in solitary confinement for five years. Theresa said:

He was always a good kid. I never had problems with him in high school. He always had plenty of friends. He had the same friends for many years. He'd always try to find the best in people. He was always very compassionate with people. Jay was my oldest, he was my helper kid. He was placed in solitary confinement immediately. Within two weeks I could see a change in his eyes, in his attitude ...

He won't eat ... Jay has already lost one third of his body weight. He is down to about 120 pounds. You just see him shrinking up to nothing. My son walks around like he's 80 years old. He's 28.¹²¹

The ACLU's story finder said that the stories were intended to 'overcome this barrier where everyone thinks it's Hannibal Lecter and he should be there. It's not the case'.¹²²

¹²⁰ Human Rights Watch and ACLU, *Growing Up Locked Down: Youth in Solitary Confinement in Jails and Prisons Across the United States*, 9 October 2012 <www.aclu.org/criminal-law-reform/growing-locked-down-youth-solitary-confinement-jails-and-prisons-across-united>.

¹²¹ ACLU, *A Mother's Love is Undeniable* <www.aclu.org/sites/default/files/justice-mamas/theresa.html>.

¹²² Interview with Alisa, above n 18.

In the Public Eye

In the Public Eye is a series of six stories told by people experiencing homelessness who have received fines for 'public space offences' like travelling on public transport without a ticket, being drunk in a public place and begging. Two of the stories are video, three are audio and one is written.

The stories are compelling evidence that fining people for being homeless is not the solution. For example, Emma became homeless at sixteen. During her time sleeping on the streets she received fines for not having a tram ticket and for begging. She said:

Most of the times you just grab the fine off the police officer and you shove it in your pocket because you're on the street, you're a drug addict, you can't afford to pay the fine ...

At the time there wasn't really much of an effect, but now they've built up and built up and you sort of get quite a shock because you see how much they add up to. Even with my lifestyle at the moment and trying to budget, the fine system is just ridiculous. I mean how is someone on the pension meant to be able to pay \$250 for not having a ticket?

The stories were produced by the PILCH Homeless Persons' Legal Clinic with pro bono assistance from Quiver Communications. Lucy Adams from the Homeless Persons' Legal Clinic said, 'Government were extremely receptive and open to hearing personal stories that illustrate the direct impacts of their laws and policies on people's day-to-day lives'.¹²³



Attorney-General Robert Clark launching In The Public Eye, with a photo of Emma on the screen behind him. Photo courtesy of the Homeless Persons' Legal Clinic.

¹²³ Interview with Lucy Adams, Senior Lawyer, PILCH Homeless Persons' Legal Clinic (Melbourne, 17 September 2013).

Direct testimony

CLCs and advocacy organisations regularly speak at formal hearings and public events and attend meetings with decision-makers. These hearings, events and meetings provide opportunities for clients and communities to tell their stories. Direct testimony and contact with people affected by an issue makes it more difficult for decision-makers and others to dismiss problems or dehumanise the people affected.

The power of direct testimony is exemplified in one of the stories contained in the Residents Group 3081 submissions, discussed in chapter 2. A member of the group had been paying rent to the Office of Housing for a house that had been condemned and was full of asbestos. The resident describes a meeting with the Minister of Housing which led to their relocation just three days later, saying: '[a]s soon as I fronted the Minister of Housing, eye to eye, where he could not lie, he could not ignore me'.¹²⁴

¹²⁴ Residents Group 3081, *Transcript of Proceedings*, above n 16, 3.

Human Rights Council's review of Sri Lanka

In March 2013, the United Nations Human Rights Council adopted the outcomes of its Universal Periodic Review of Sri Lanka. Phil Lynch, Director of the International Service for Human Rights, attended the council session and said, 'You can sit for days in the Council listening to fairly bland reports and statements and there's a palpable enlivening and jolting when people directly affected by human rights violations take the floor to make statements.'

One of the most powerful interventions in the Sri Lanka review was a statement given to the council by Dr Kasippillai Manoharan, whose son was killed by security forces. Dr Kasippillai said:

My name is Dr. Kasippillai Manoharan. On 2 January 2006, Sri Lankan soldiers brutally murdered my beloved son Ragihar on a beach in Trincomalee. My family and I were forced to flee Sri Lanka because we sought justice for his killing.

Today, 7 long years have passed since my son's murder, without any justice or decision from the Sri Lankan courts . . . For years, the government of Sri Lanka has promised me that it would take action on my son's case, but nothing has happened.

That terrible incident on the beach in Trincomalee on the 2nd January 2006 has marked my family forever.

With all the pain of losing my son Ragihar, I seek your help and that of the Human Rights Council to move the investigation of the murder of these five young men to the international level because I have no hope for justice in Sri Lanka.¹²⁵

Time is extremely limited in council sessions and accredited NGOs only receive a two-minute slot in which to speak. Dr Kasippillai's testimony was facilitated by Amnesty International and Phil Lynch commented that, 'to [Amnesty International's] great credit, despite the huge amount of work it has done on war crimes in Sri Lanka, they saw that the most important contribution they could make was giving their two minutes to this man'.¹²⁶

¹²⁵ United Nations, *Consideration of Sri Lanka UPR Report 38th Meeting 22nd Regular Session Human Rights Council*, 15 March 2003, at 39:26 <<http://webtv.un.org/watch/consideration-of-sri-lanka-upr-report-38th-meeting-22nd-regular-session-human-rights-council/2227262872001/>>.

¹²⁶ Interview with Phil Lynch, above n 47.

Media engagement

The media can provide an extremely effective forum for publicising a story and supporting a campaign. The broad audience and significant influence of the media means that getting print, radio or TV coverage of a story is often the most effective and efficient way of bringing it to the attention of decision-makers and the public.

CLCs can secure media coverage by contacting journalists directly, issuing a media release or media pack (which may include audio, photos or videos) or preparing or assisting to prepare an opinion piece.

Media engagement brings particular risks and lawyers are understandably nervous about encouraging clients and communities to speak to journalists. Control over how a story or issue is presented is relinquished and the impact of negative portrayal can be devastating. Most interviewees who dealt with the media on a regular basis cited examples where the journalists distorted, sensationalised or misreported personal stories. Even where the coverage is positive, the news story can seem inadequate. As Michelle Griffin, state editor at *The Age* said, 'news stories are short and lives are long and complex'.¹²⁷

Given the nature of the risks, it is important that people who speak to the media are given proper support. CLCs may try to distinguish between friendly and non-friendly media, arrange media training, attend interviews with journalists, discuss parameters prior to interviews and ask to check facts and hear quotes back once the interview is complete. Even with all these protections in place there can be no guarantees. Nevertheless, without media coverage the experiences of clients and communities and the related CLC advocacy efforts are likely to go unnoticed.

¹²⁷ Interview with Jane Lee, Legal Affairs Reporter, *The Age*, and Michelle Griffin, state editor, *The Age* (Melbourne, 4 June 2013).

Sahar's media advocacy

Four years ago, Sahar participated in media advocacy training run by Women's Domestic Violence Crisis Service (WDVCS) in Victoria. Since then she has been interviewed by print and TV journalists and spoken at public events, including White Ribbon Day at Federation Square, an event attended by hundreds of people.

Sahar attributes her good track record with the media to her practice of being clear with journalists about what she wants from an interview and what she will and will not discuss. She explained, 'I don't want a story about "poor Sahar with a problem". I don't want it to be just about me, I want to give a message.'¹²⁸

The messages that Sahar conveys in her advocacy are drawn from her own experience of domestic violence and the barriers she faced when she tried to escape it:

I want to break down the stereotypes, for people to see that you don't have to be wearing torn clothes to be a victim of domestic violence ...

I also want to help other women. I meet women who have been through similar things to me and no one is batting for them. When I'm looking at that camera, my face shows that he tried to destroy me, but I have not been destroyed. I want other women to see that.

WDVCS's media advocates program coordinator, Adrienne Agg, said that a desire to help others is the most common motivation for women who participate in their program.¹²⁹ WDVCS hopes that the two-day course and any public engagements that follow are empowering for the women involved, in addition to contributing to better public debate and decision-making around domestic and family violence. This has certainly been Sahar's experience. In her words, 'when I stand in front of an audience at Federation Square, that audience is my power and that power is going to trickle down'.

¹²⁸ Interview with Sahar, domestic violence advocate (phone, 12 June 2013).

¹²⁹ Interview with Adrienne Agg (Melbourne, 4 June 2013).

Missing persons

When Daniel Rosewall went missing in January 2010, his family experienced great difficulty trying to manage his financial affairs. Daniel's bills piled up, his account was overdrawn and David and Julie Rosewall, Daniel's parents, were told that there was very little they could do.

Loddon Campaspe Community Legal Centre (LCCLC) worked with the Rosewall family on a law reform campaign to address the failure of Victorian laws to allow for the family or friends of a missing person to manage their estate. Mr and Mrs Rosewall's participation was central to the success of the campaign.¹³⁰ The Rosewalls spoke to print and television journalists, met with politicians and presented at public events. LCCLC crafted the legal arguments and proposed options for reform, making arguments alongside the Rosewalls.¹³¹

Lawyers at LCCLC recognised that while there wasn't always precise alignment between their messaging and the Rosewalls', any issue of inconsistency was clearly overridden by the power and value of the Rosewalls' voice being heard in the debate.



Julie Rosewall, Anna Howard and David Rosewall – supporters of Safekeeping: A Guide to Managing the Affairs of Missing Persons – at Parliament House. Photo courtesy of Loddon Campaspe Community Legal Centre.

¹³⁰ Interview with Peter Noble and Anna Howard, above n 54.

¹³¹ See, for example, 'Financial Controls Changed', *Stateline Victoria*, 20 August 2010 <www.abc.net.au/news/video/2010/08/20/2989319.htm?site=centralvic>.

In the driver's seat

In the Driver's Seat: Achieving Justice for Taxi Drivers in Victoria is a report that documents work undertaken by the Taxi Driver Legal Clinic, a joint project to address the legal problems of low-income taxi drivers run by the Federation of Community Legal Centres and Footscray Community Legal Centre.¹³²

The report, which includes case studies based on the real experiences of the clinic's clients, generated media interest and was covered by the ABC's *Law Report*, hosted by Damien Carrick. The *Law Report* story, 'Dark Side of the Vroom', featured interviews with Denis Nelthorpe from Footscray Legal Centre, Lucinda O'Brien from the Federation of Community Legal Centres, Juliet Akello from Wyndham Legal Service and Sid, a taxi driver who happened to attend the clinic on the evening of Damien Carrick's visit.

Sid described the difficulties he was experiencing due to an insurance company and his own taxi club's failure to pay damages to a third party following an accident. Sid had reported the accident immediately and paid the insurance excess, but was still being pursued for the debt:

Sid: ... at the moment I am having debt collection letters sent to my home and I'm sort of having a very strange situation where I can't sleep peacefully at night because of having all these issues around me.

Damien Carrick: Do you have friends or colleagues who have had similar situations?

Sid: All the time. This taxi club, they have not only this many similar incidents where they are not caring about the customers, they are just there just to get the money out of people and not looking after their customers ...

Denis Nelthorpe said that people who listened to the *Law Report* generally commented that the interview with Sid was the most memorable and powerful part of the show.¹³³

¹³² Federation of Community Legal Centres and Footscray Community Legal Centre, *In the Driver's Seat: Achieving Justice for Taxi Drivers in Victoria* (2012).

¹³³ Interview with Denis Nelthorpe, Manager, Footscray Community Legal Centre (Cairns, 25 July 2013).

7

Conclusion

We are privileged to hear the stories of people in our communities. Just as these stories inform the way we view the world, they can inform and influence people outside our offices and organisations. I hope that this report offers incentive, instruction and inspiration for CLCs to incorporate storytelling in their advocacy for systemic change.

There is no 'best' way to include storytelling in advocacy, but there are considerations we can be aware of that will help us realise opportunities for effective and empowering advocacy and ensure that we are sensitive to the risks, but not hobbled by them. These considerations are summarised in Appendix 1.

As a first step, we need to recognise that facilitating storytelling is a core part of our role as progressive lawyers and one of the most effective ways for us to empower communities, protect human rights and create positive social change.

Appendix 1: Quick guide

Why should we include storytelling in our advocacy?

- Stories are an important part of effective advocacy for systemic change. They can cut through prejudice, build understanding, create a platform for discussion and motivate people to challenge injustice
- Storytelling can empower individuals and communities by recognising their experience and expertise and promoting their agency
- Stories contribute to participatory democracy by ensuring that a diversity of voices is heard in public debate

How can we include storytelling in our advocacy?

- People can tell their stories at public events, parliamentary hearings and in meetings with decision-makers
- We can create and distribute video and audio recordings of people telling their stories
- We can assist and support people to tell their stories through the media
- Written stories can be included in submissions, reports and letters to decision-makers

What risks should we consider before embarking on a storytelling project?

- Potential harm to individuals, their families and communities
- The possibility that focusing on one particular story serves to exclude other voices and perspectives
- The risk that lawyers and other professional advocates disempower clients and communities by seeking to control the way their stories are told
- Certain legal and professional risks and obligations (including confidentiality, legal professional privilege and defamation) should be kept in mind

How do we minimise the risks and maximise the benefits of storytelling in advocacy?

- Consent for the use of a story should be fully informed and freely given
- Prioritising participation can make storytelling more effective and empowering
- Working with community groups and networks can circumvent issues that arise in the context of a lawyer–client relationship
- Storytelling should be part of a broader campaign that incorporates a strong evidence base, robust partnerships and coalitions, strategic legal and political interventions, grassroots support and high-level champions

Appendix 2: Interviews

ABC	Jeff Waters
American Civil Liberties Union	Jamil Dakwar
American Civil Liberties Union	Alisa
Amnesty International	Danna Ingleton
Amnesty International	Sarah Marland
Amnesty International	Robert Godden
Association for the Prevention of Torture	Audrey Olivier
Asylum Aid	Debora Singer
Asylum Seeker Resource Centre	Kon Karapanagiotidis
Australian Council of Social Services	Cassandra Goldie
Australian Human Rights Commission	Sarah Winter
Australian Human Rights Commission	Maria Katsabanis
Australian National University	Liz Curran
Australian National University	Simon Rice
Australian Injecting & Illicit Drug Users League	Jude Byrne
Bertha Foundation	Jennifer Robinson
British Institute of Human Rights	Sophie Howes
British Institute of Human Rights	Sanchita Hosali
Centre for Applied Human Rights, University of York	Paul Gready
Center for Constitutional Rights	Vince Warren
Center for Constitutional Rights	Annette Dickerson
Center for Constitutional Rights	Purvi Shah
Center for Human Rights and Global Justice, New York University	Sarah Knuckey
Columbia Law School	Peter Rosenblum
Consumer Action Law Centre	Gerard Brody
Crisis Action	Andrew Hudson
Domestic violence advocate	Sahar
Equal Rights Trust	Dimitrina Petrova
Federation of Community Legal Centres	Lucie O'Brien
Federation of Community Legal Centres	Darren
Fitzroy Legal Service	Meghan Fitzgerald
Footscray Community Legal Centre	Denis Nelthorpe
Harm Reduction Victoria	Jane
Homeless Persons' Legal Clinic	Chris Povey
Homeless Persons' Legal Clinic	Lucy Adams
NSW Homeless Persons' Legal Service	Lou Schetzer

Social rights advocate	Charandev Singh
Human rights advocate	Vickie Roach
Human Rights Law Centre	Hugh de Kretser
Human Rights Law Centre	Anna Brown
Human Rights Watch	Jo Becker
International Service for Human Rights	Phil Lynch
Kingsford Legal Centre	Edwina MacDonald
Law Centres Network	Julie Bishop
Law Centres Network	Pamela Judge
Loddon Campaspe CLC	Peter Noble
Loddon Campaspe CLC	Anna Howard
Melbourne University	John Tobin
Monash University Law School	Adrian Evans
National Association of Community Legal Centres	Jill Anderson
Office of the High Commissioner of Human Rights	Marcella Favretto
Office of the High Commissioner of Human Rights	Elena Ippoliti
Physicians for Human Rights	Christy Carnegie Fujio
Physicians for Human Rights	Jillian Tuck
PILnet	Ed Rekosh
Redfern Legal Centre	Jo Schulman
Scarlet Alliance	Monica
StreetCare	Tony
Swinburne Institute for Social Research	Linda Briskman
<i>The Age</i>	Jane Lee
<i>The Age</i>	Michelle Griffin
Victoria Legal Aid	Nicole Rich
Victoria Legal Aid	Melanie Schleiger
Women's Legal Service Victoria	Pasanna Mutha
Women's Legal Service Victoria	Joanna Fletcher
Women's Domestic Violence Crisis Service	Adrienne Agg
Writer	Tony Birch
Writer	Arnole Zable
Writer	Maureen McCarthy

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“Victoria Law Foundation recognised a need in the community legal sector for staff to reflect on their practice, conduct research or improve or renew their skills. The Foundation provided the necessary funds via their Community Legal Centre Fellowship to address this need. They then provided excellent support to help me create a useful resource manual for the sector.”

Rachna Muddagouni
2006/2007 CLC Fellow



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Cover photo: Sahar

Sahar is a survivor of domestic violence and a media advocate.

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