

The Civil and Family Law Needs of Indigenous
People 40 Years After Sackville:
Findings of the Indigenous Legal Needs Project

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Introduction: The Role of the Law in the Reduction of Poverty and Disadvantage

In *Law and Poverty in Australia* (hereafter the Sackville Report), Sackville describes being poor as going without basic necessities but also as denial of access to life opportunities and as entrapment within a cycle of disadvantage through poor people's lack of power to 'influence decisions and processes that affect their daily lives'.¹

The report posits that the law has a positive duty to address and the poor have a corresponding right to expect protection against inequalities associated with socio-economic disadvantage. The Sackville Report is concerned with identifying ways in which the law is failing in its duty to the most vulnerable, thereby exacerbating rather than reducing inequity. This inequity manifests as legislation and legal principles of 'considerable importance to the everyday lives of poor people that are heavily weighted against their interests'.² It is also evident in the difficulties they have in accessing the law to 'enforce their basic rights and to protect themselves against grievous injustice'.³ He argues for more purposive action on the part of the law to ensure that the legal system is 'loaded in favour of the weak and exposed'.⁴

The authors of this chapter have recently completed a large-scale study of access to justice – the Indigenous Legal Needs Project (ILNP). This study explored similar issues to those of the Sackville Report but with a specific focus on Aboriginal and Torres Strait Islander people and on civil and family law. The Sackville Report provides us with an important point of reference in evaluating how far we have come in improving access to justice over time.

1 Australian Government Commission of Inquiry into Poverty, Second Main Report, *Law and Poverty in Australia* (AGPS, 1975) (the Sackville Report), 1-2.

2 *Ibid*, 3-4.

3 *Ibid*, 1.

4 L. Scarman, *English Law: The New Dimension* (Stevens, 1974), cited in Sackville Report, above n 1, 2.

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