
ABORIGINAL WOMEN SPEAKING OUT ABOUT VIOLENCE: IS ANYONE LISTENING?

Reflections of Wirringa Baiya Aboriginal Women's Legal Centre

Please note any reference to Aboriginal women and children also includes Torres Strait Islander women and children by implication.

In 1988 a groundswell of Aboriginal women from across New South Wales came together in Parramatta in Sydney's west, with the stated aim of addressing the issue of violence perpetrated against women in their community. Aboriginal women from four corners of the state came together with the common aim of finding solutions for a problem that for too long had been overlooked – violence against women and children.

Subsequent meetings took place, and there was eventually consensus among the women gathered that the issue of violence against Aboriginal women had to be realised and dealt with by the community, with Aboriginal women taking the lead.

The NSW Government was slowly responding to the issues of violence in Aboriginal communities and in 1991 the Secretariat of National Aboriginal and Island Child Care (SNAICC) produced a seminal national resource called *Through Black Eyes*.¹ It aimed to assist Aboriginal communities to tackle issues of family violence, child abuse and neglect of children by getting people to talk about these issues and how best as a community they could deal with them. The Aboriginal women who had been meeting since the 1980's had been talking and responded with a clear objective - to establish a culturally appropriate legal and support service for women and children. A service managed by Aboriginal women, for Aboriginal women.

In 1995 the NSW Attorney General provided funding to establish an independent Aboriginal women's community legal centre managed by Aboriginal women. Finally self-determination for Aboriginal women was being realised.

For too long, Aboriginal women and children had missed out on a legal service for their needs, especially if they were victims of abuse and violence. This was partly because the Aboriginal Legal Service ('ALS') primarily acted for clients who had been charged with criminal offences and due to potential conflicts of interest and a practice of not acting 'black against black'. The ALS could not advise women or

children who were very often, the victims of the violent crimes perpetrated by existing ALS clients. Although the ALS maintained not to act 'black against black', the concern of many Aboriginal women was that the service acted for Aboriginal defendants in situations where the victim was an Aboriginal woman. As a result of this, in the past Aboriginal women and children had no choice but to use mainstream services such as generalist community legal centres and the Legal Aid Commission.

Wirringa Baiya came into being in response to hard lobbying, as well as the recognition of the unmet legal needs of Aboriginal women and children. Officially founded in 1994, Wirringa Baiya was originally named the *NSW Aboriginal Women's Legal Resource Centre*, before the centre was eventually revised and renamed. The words *Wirringa Baiya* are from traditional languages in the Sydney and Northern NSW areas and together mean, 'women speaking out', suitably reflecting the origins of the service.

Today Wirringa Baiya is a state-wide specialist community legal centre within a network of other community legal centres in NSW and Australia. It is funded by the NSW Department of Justice and Attorney General with funding managed by the NSW Legal Aid Commission. The principles of self-determination displayed by the founding members have carried over today with a Governing Board composed entirely of Aboriginal woman from a diverse range of ages and various communities.

Wirringa Baiya specialises in providing legal information, advice, casework, education and advocacy for Aboriginal women and children who are, or have been, victims of violence in NSW. Wirringa Baiya focuses on supporting career development for young women and has provided a nurturing space for many young female Aboriginal law students and non-legal volunteers to participate in the work of the centre.

In recent years our paid staff numbers have doubled: we now have 7 staff members in both part time and fulltime capacities, with three Aboriginal identified positions.

Despite the increase in staffing in recent years, Wirringa Baiya is still seriously understaffed considering the service covers the whole of NSW. Much of the funding for the paid positions remains tenuous, unreliable and inconsistent, and does not properly recognise the need for Aboriginal women and children in NSW to have a dedicated, culturally appropriate legal service.

Wirringa Baiya is very proud of the many valuable contributions to the centre by staff over the years, past and present, paid and unpaid, Aboriginal and non-Aboriginal. We are particularly fortunate at present to have Christine Robinson as our Coordinator, who on International Women's Day this year was formally recognised by the National Aboriginal and Torres Strait Islander Women's Association as one of a hundred exceptional Indigenous female leaders. The award was designed to recognise unique Indigenous women leaders and activists who have helped to "inspire, challenge, develop and break down barriers" for Aboriginal women in their community.

We are also fortunate to have had Rachael Martin, Principal Solicitor, at the helm since 1997. The Law and Justice Foundation recently awarded Rachael the 2010 Justice Medal Award, which is awarded for an; 'outstanding individual commitment to improving access to justice for socially and economically disadvantaged people in NSW'.²

The three core areas of service provision for Wirringa Baiya as with any community legal centre, include legal advice and casework, community legal education and law reform work. We work with our clients from a feminist model of service delivery that is holistic and aims to assist women with both legal and non-legal matters where appropriate. Our clients often have complex legal matters and complicated personal circumstances that might make it difficult for her to access services or support. Wirringa Baiya is responsive to individual client needs and solicitors spend quality time with clients to identify the legal issue and establish a relationship of trust and familiarity. This is crucial as we often deal with matters such as family and domestic violence, sexual violence and child abuse.

WIRRINGA BAIYA'S CASEWORK AND LEGAL ADVICE

We provide legal advice on all areas of civil law, particularly focusing on issues of concern to victims of violence. This includes: victim's compensation, Apprehended Domestic and Personal Violence Orders, care and protection of children, and family law. We also advise on discrimination, complaints about police and other civil law matters such as consumer debt and guardianship orders.

Nearly all the large casework done at the Centre is in the area of victim's compensation for clients who have experienced domestic violence, sexual abuse and child sexual abuse. Working with clients who have experienced or moved on from violence and abuse can be challenging and demanding work for solicitors and requires a high degree of professionalism, sensitivity, empathy, commitment and strength. However, it is our clients who have often endured violence and abuse for many years, who show us what true strength and courage really is by speaking out about their experiences.

Whilst not having the resources, capacity or expertise to represent clients in other tribunals and courts, Wirringa Baiya seeks to keep in touch with what is happening in the courts by volunteering as seconded workers at the Family Court and the Women's Domestic Violence Court Assistance Services.

Wirringa Baiya seeks to assist the most disadvantaged of our target group, reflected in our involvement with providing legal outreach to Aboriginal women in prison through the *Legal Education and Advice in Prison for Women* program. This unique legal program was created in July 2009 by Wirringa Baiya in conjunction with the Women's Legal Service NSW and Hawkesbury Nepean Community Legal Centre.

The program was established in direct response to the 2008 Law and Justice Foundation report *Taking Justice into Custody: Assessing the Legal Needs of Prisoners*.³ That report highlighted many long-known facts about our prisons, and reignited much interest in the profile of women in prison by providing a review of their legal needs.

An earlier report, *Speak Out Speak Strong*,⁴ found that many women in prison had been victims of violence and sexual assault prior to entering prison. *Speak Out Speak Strong*, the result of face-to-face, culturally appropriate surveys conducted with Aboriginal women, brought some troubling statistics into the public. This included the fact that over 50% of Aboriginal women had a member of their family that was 'Stolen Generation', some 70% of women had been sexually assaulted as children and over 80% had been in a domestic violence relationship. Many women surveyed stated that they had not disclosed their experiences of violence prior to answering the survey questions.

In the face of such grave evidence for the need of appropriate, properly tailored and planned legal services, particularly focused on the needs of victims of violence,

Wirringa Baiya responded. One of the key features of this program is that it attempts to engage with women in a culturally appropriate and provide a safe environment for them to ask questions and get legal information and many women have remained in contact with our legal centres after being released into the community.

WIRRINGA BAIYA'S COMMUNITY LEGAL EDUCATION

LEGAL INFORMATION SESSIONS

Underpinning the community legal education program is a belief that we take our lead from the Aboriginal community itself, rather than impose on them what we think they should know. We try to be responsive to community needs by allowing communities to self-identify gaps in accessing legal information. We can then offer information sessions to fill these gaps in a respectful way, mindful of community protocols, to ensure that the community takes ownership of the issues. We meet the community on their terms and in a safe space that is culturally sensitive, with an Aboriginal and a non-Aboriginal worker attending the information sessions.

EHLA DIARY AND LITTLE BLACK BOOK FOR STRONG BLACK WOMEN

Wirringa Baiya developed the *EhLa Diary*⁵ with young Aboriginal women in mind, to raise awareness about domestic violence and sexual assault. The EhLa Diary inspired the Eleanor Duncan Aboriginal Health Centre to work in conjunction with us and the Marawarpina Women's Group on the Central Coast to imagine a larger, more comprehensive diary that could use artwork and storytelling to connect women around the state through shared experiences and struggles. The result was the *Little Black Book for Strong Black Women*.⁶

ABORIGINAL WOMEN'S CORROBOREE

Wirringa Baiya continues to host the Aboriginal Women's Corroboree event in different communities around the state. The day long event focuses on issues such as child protection, keeping kids safe, domestic violence and sexual assault. For example, in 2008 Wirringa Baiya highlighted the issue of child sexual assault at the Wyong Aboriginal Women's Corroboree, which was attended by hundreds of community members and women from across the state.

A DECADE OF WIRRINGA BAIYA'S LAW REFORM

In the past ten years Wirringa Baiya has worked on law reform issues in both broad and specific contexts and at a state or Federal level. There have been some major reforms in the way the community, police, judiciary and criminal

justice system respond to domestic violence and sexual assault. Wirringa Baiya plays an active role in law reform processes and constantly campaigns around how various changes to laws will affect our clients.

We advocate for change by writing letters to Government, meeting with ministers, participating in various interagency committees, holding special forums/events and alerting the media to concerns we have about laws impacting our clients. As the only independent specialist legal centre for Aboriginal women in NSW, Wirringa Baiya holds a unique role and responsibility to advocate and represent the views and rights of our clients.

DOMESTIC VIOLENCE LAW REFORM

Consistent lobbying of the NSW Government resulted in a review of the domestic violence legislation. This has led to the introduction of the *Crimes (Domestic and Personal Violence) Act (2007)* and accompanying police operating procedures which introduce proactive policing practices and recognise the seriousness of crimes such as stalking and intimidation. These reforms provide greater protection for women and children who are victims of domestic violence, as well as providing greater cultural recognition of kinship groups. Initiatives such as the *Aboriginal Strategic Direction 2007-2011*⁷ additionally aim to foster better relationships between police and Aboriginal people.

Other areas of law reform of particular interest to Wirringa Baiya are the areas of family law, child protection and welfare matters. The former is a perennial area of interest, especially given the intersection with domestic violence, and law reform whilst the latter plays a significant role for our clients given the overrepresentation of Aboriginal children in care in NSW. In these areas we have seen both good and bad legislative change.

CHILD PROTECTION LAW REFORM

In 2007, Wirringa Baiya wrote submissions for the *'Overcoming Indigenous Disadvantage in NSW'*⁸ or the *'Closing the Gap'* inquiry which highlighted the high levels of violence within the Aboriginal community and its negative impacts on health and wellbeing, including physical and mental health and parenting. In these submissions we noted that it was particularly troubling that the NSW Government had not allocated any additional funding to addressing child sexual assault in Aboriginal communities in NSW, as highlighted in the 2006 report *Breaking the Silence: Creating the Future*.⁹

Wirringa Baiya wrote submissions and attended community consultations and towards the development

of a *National Plan to Reduce Violence Against Women and Children*.¹⁰ Wirringa Baiya was one of the few Aboriginal organisation that participated in these consultations from NSW and offered valuable contributions from the perspective of Aboriginal women and children who are significantly overrepresented as victims of violence.

VICTIM'S RIGHTS LAW REFORM

Wirringa Baiya also contributed to the Community Legal Centres NSW joint submission to the 2008 NSW *Wood Special Commission of Inquiry into Child Protection Services*¹¹ and made submissions into the joint NSW and Australian Law Reform Commissions Inquiry into Family Violence.¹² This review considered a national legal response to family and domestic violence. One of our concerns is that there is a different definition of domestic violence in the family law system compared to the definition contained in the 2007 NSW legislation.

In 2009 Wirringa Baiya made lengthy submissions in relation to the review¹³ of the NSW *Charter of Victims Rights*. Two important recent amendments to the Charter were to provide victims with information about complaint handling procedures and to make the Charter binding on non-Government organisations where previously only Government agencies were bound.

HUMAN RIGHTS LAW REFORM

Later in 2009, Wirringa Baiya wrote a lengthy submission for the National Human Rights Consultation on introducing national Human Rights legislation. Our perspective was that the main human rights issue for our clients, amongst many other issues, was the right to live free from violence. If the Commonwealth enshrined this right in legislation there would be more accountability surrounding issues of violence and our clients, who are over represented as victims of violence, would benefit. Unfortunately it may be some time before the Commonwealth implements such legislation.

Recently the Centre has been actively lobbying the NSW Government regarding recent changes to the *Victims Support and Rehabilitation Act (1996)* which restricts victims from making applications for previous acts of violence if they have already received compensation for later violence. This will pose an additional hurdle for survivors of child sexual abuse, many of whom will go onto experience violence in adult relationships as well.

When we're not traversing the state, giving advice or writing submissions, all staff from Wirringa Baiya participate in a number of local, state and national

networks and committees. Our law reform work plays no small part in changing the legal landscape of our clients for the better. Likewise, the legal advice we provide and commitment to community legal education give Aboriginal women a variety of avenues to information and support which didn't exist ten years ago.

We also engage with the wider community by attending key Aboriginal events, including Yabun, NAIDOC week activities, and the Aboriginal Knockout. We also attend key mainstream events such as the 16 Days of Activism Against Violence, using these opportunities to distribute promotional items with anti-violence messages.

The aim in setting up Wirringa Baiya was to establish a service that is solely managed by Aboriginal women for Aboriginal women. A service that engages with community about local issues, and a service focused on achieving equality for women and children in all walks of life, particularly supporting victims of domestic violence and sexual assault. Today the Centre continues to uphold those early ideals, exemplifies strong female leadership and is an example of a community organisation fiercely committed to principles of Aboriginal self-determination. Whilst acknowledging the contributions of elders past and present, and the hard work of countless Aboriginal women in NSW towards the struggle for equality, we believe that that the work of Wirringa Baiya has made an important contribution to achieving social justice for Aboriginal women. Although the Centre can boast its many small achievements, there is still a great deal of work that needs to be done by us all.

Paper prepared by Wirringa Baiya. Lead authors include Madeleine Heath and Thea Deakin-Greenwood. With contributions from Christine Robinson, Rachael Martin, Leonie Mason, Josie Smith and Jenna Dunwoodie.

- 1 Maryanne Sam, *Through black eyes : a handbook of family violence in Aboriginal and Torres Strait Islander communities*, (Secretariat of National Aboriginal and Islander Child Care 1992).
- 2 See <http://www.lawfoundation.net.au/justice_awards>.
- 3 Anne Grunseit, Sozie Forell, and Emily McCarron, *Taking justice into custody: the legal needs of prisoners* (Law and Justice Foundation of NSW, Sydney 2008).
- 4 Rowena Lawrie, "Speak Out Speak Strong - Researching the Needs of Aboriginal Women in Custody" (New South Wales Aboriginal Justice Advisory Council 2002).
- 5 Jennifer Sandford, Rachael Martin and Bellinda Russon and the Working Group "Eh La 2001 Diary" funded by Department of Aboriginal Affairs, NSW Crime Prevention Division and NSW Attorney General's Department, published by Wirringa Baiya Aboriginal Women's Legal Centre (2000).

- 6 Marlene Lauw and Chris Smith and the Working Group *"The Little Black Book for Strong Black Women"*, NSW Department of Aboriginal Affairs and NSW Aboriginal Child, Youth and Family Strategy (2007).
- 7 Aboriginal Strategic Direction 2007 – 2010, NSW Police Force (2007). Copies of this document can be found at <www.police.nsw.gov.au>.
- 8 "Overcoming Indigenous Disadvantage in NSW Report", Legislative Council Standing Committee on Social Issues (2008) See <<http://www.parliament.nsw.gov.au/Prod/parlment/committee.nsf/0/5E06CB564943B260CA25750E0002D05D>>.
- 9 NSW Aboriginal Sexual Assault Taskforce members Marcia Ella-Duncan, Melva Kennedy, Joan Dickson and the Taskforce "Breaking the Silence: Creating the Future. Addressing child sexual assault in Aboriginal communities in NSW" NSW Attorney General's Department (2006).
- 10 See http://www.fahcsia.gov.au/sa/women/pubs/violence/np_time_for_action/immediate_government_actions/Pages/national_plan.aspx.
- 11 Hon James Wood AO QC. State of NSW through the Special Commission of Inquiry into Child Protection Services in NSW (2008).
- 12 *"Family Violence —A National Legal Response"* Australian Law Reform Commission Final Report (2011).
- 13 A review of the *NSW Charter of Victims Rights* was undertaken by the NSW Attorney General's Department in September 2009. In December 2010 the *NSW Charter of Victims Rights* was amended and a copy of the updated Charter of Victim's Rights can be obtained by contacting the NSW Department of Justice and Attorney General or by visiting: <http://www.lawlink.nsw.gov.au/lawlink/victimsservices/ll_vs.nsf/pages/VS_victimsrightscharter2>.

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Teena McCarthy

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