

# law reform issues

By members of the Law Reform Committee

## Feeding the homeless

Most people will agree with the following propositions:

1. Everybody loves the lunch provided at work functions;
2. The left over food is a most unfortunate waste.

The second proposition prompted the Community Issues Committee and the Law Reform Committee to join forces. Our mission: to ensure that all this delicious left over food finds its way to the needy, and in particular, the homeless.

The project is still in its infancy, with much background work to be done. The joint committees will conduct legal research, liaise with interested parties and develop a feasibility plan, ensuring that the next few months will be both busy and rewarding.

## Racial and Religious Intolerance

Racial and religious intolerance is an ever present issue in both global and local affairs. In Australia, and Victoria in particular, we are a community of diverse ethnic, indigenous and religious backgrounds. Many people embrace the benefits provided by this cultural diversity and feel pride in living and working together. Unfortunately, many people continue to find that they are the subject of vilification on the basis of their ethnicity or religious beliefs.

The Law Reform Committee has participated in consultations and made submissions to the State government leading up to the passing of the *Racial and Religious Intolerance Act 2001 (Vic)*.

The Act aims to ensure that all members of the community have the ability to contribute to, or fully participate in, all social, political, economic and cultural aspects of society as equals. It seeks to do this by widely prohibiting racial and religious vilification and victimisation, defining vilification as

any activity "that incites hatred against, serious contempt for, or revulsion or severe ridicule of, [an] other person or class of persons". Following an act of racial or religious vilification or victimisation, individuals can now take initial complaints to the Equal Opportunity Commission. In cases of serious vilification a maximum penalty of six months imprisonment may follow.

## Drugs

The drugs debate in our communities (both local and global) continues to wax and wane, at times innovative, at times apathetic.

Legally, the use and possession of certain drugs is prohibited, other drugs are regulated and still others are widely available. The technical lines on which regulatory distinctions are drawn remain complex, as are the moral boundaries placed around drugs and the way drugs are used.

Central to the debate about use of recreational drugs like alcohol, tobacco, cannabis, amphetamines, ecstasy, cocaine or heroin, is whether it is appropriate, or even possible to prohibit the use and existence of any substance.

Has prohibition solved "the drug problem"? What responsibility does the State have to educate and inform people about drugs and their effects? Should some drugs be legalised and others not? Should some drugs be legally regulated for specified purposes? Are our drug laws founded in modern science or outdated morality? Is drug use a personal choice and does this personal choice affect the entire community? To what degree can the legislature regulate personal choice in the interests of the community? And should it so regulate?

These are some of the questions that the Law Reform Committee is asking itself and the Victorian community with a view to reopening informed debate and occasioning regulatory change.

## Voting Rights for Homeless People

The number of homeless people in Australia is easily the equivalent of a federal electorate yet homeless people generally can't or don't vote. Would allowing or encouraging the homeless to vote create the prospect of gerrymandering by itinerant groups into marginal electorates or is it a vital part of the democratic process that is fundamental to the rule of law?

In Britain, the *Representation of People Act* allows for people of no fixed abode, who were previously not able to enroll on the electoral roll, to register to vote by declaring a "local connection".

In Australia, an Australian citizen without a permanent place of residence may apply under section 96 of the *Electoral Act* to be treated as an "itinerant elector". According to the Australian Electoral Commission the majority of these voters are not homeless, but instead are people like seasonal workers, or travelling retirees.

There is no program to educate homeless people about enrolling on the electoral roll or voting. Why is the government actively disinterested in these issues?

The UN Human Rights and Elections guidelines emphasise that governments are under a duty to actively promote voter registration.

*The Big Issue Magazine* has recently launched a campaign to raise awareness about this substantial group ignored by our political system. The Law Reform Committee will be doing all it can to assist *The Big Issue* in its campaign.

**If you are interested in these or any other law reform projects you can contact Jacqui Boymal at the Law Institute on 9607 9379.**