



GRATA FUND

IMPACT REPORT.

2019-2020

PEOPLE POWERED JUSTICE



EORA NATION



We acknowledge the Bedegal people who are traditional owners of the land on which we work. We pay our respect to the tens of thousands of years of stories and community life that has thrived in the Eora Nation and to the Elders past, present and emerging.

This always was, is and will always be Aboriginal land.

Grata Fund is grateful to be supported by UNSW Law



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ABOUT GRATA FUND



Grata Fund supports people and communities to advocate for their legal rights. We do this by removing the financial barriers that prevent test cases in the public interest from getting to court. Our areas of focus are democracy, human rights and climate change.

For further information about Grata Fund visit www.gratafund.org.au

NOTE FROM EXECUTIVE DIRECTOR



This year we had the great honour of working to support communities facing injustice and civil society to bring the sort of circuit-breaking litigation that is made possible when the eye-watering financial barriers to court are removed. With the support of you - the Grata Community - we have been able to develop and/or fund ambitious, strategic cases and integrated campaigns that have the potential to create significant systemic change; have been identified by affected communities, community legal services, advocacy groups and civil society as the areas of greatest need; and complement the work undertaken by our partner organisations or fills gaps in their gaps.

This year we backed in remote First Nations communities, refugees, and people living with disability to build the power of their communities and successfully challenge injustice in court. During Covid-19, we also began to fulfil Grata's promise to fill a gap in the legal advocacy structures in Australian democracy. We launched the Covid-19 Law Monitor website to track pandemic measures introduced by Australian governments that impact civil liberties and freedoms.

We released two key reports: [***In democracy we trust: accountability in the time of Covid-19***](#) and [***Australian Courts: How a pandemic built our launchpad to the future.***](#)

We led and collaborated with the sector on the establishment of a Senate Select Committee, the reinstatement of Federal

Parliament, tracking discriminatory policing practices and over-policing of protests.

This has been an unusual year to say the least.

We have lurched collectively from catastrophic climate change induced summer bushfires, to a global pandemic, and an associated social and economic crisis. All the while watching the seams fray on many of our democratic institutions. It can, at times, feel hard to see the path forward through so much suffering and through such great challenges.

We are so grateful for the support of the Grata Community, supporting communities to use the power of the court to stop systemic injustice, hold government and corporate leaders accountable to the law, and make Australia a fairer, kinder place.

Thank you to our supporters and every individual and organisation who has worked with us to make this possible.

We are so excited to share this report with you, and for what lies ahead.

Sincerely,
Isabelle Reinecke
Executive Director & Founder

REFUGEE RIGHTS AND COVID



Legally challenging the detention of refugees at risk of Covid-19

Grata worked with the Human Rights Law Centre on behalf of some of the 1,400 women, men and children that are in detention who described themselves as "sitting ducks" for Covid-19. Asylum seekers and refugees have escaped conflict, persecution, war or terror. Many are survivors of torture and trauma. Some also have underlying health issues including diabetes, hypertension or other respiratory issues that put them at serious risk of contracting Covid-19.

The Government knew that people trapped in close confinement to others, sharing rooms, eating in food halls and having lots of interaction with staff are at serious risk of contracting and spreading Covid-19, let alone those with serious pre-existing physical and mental health conditions.

The Government's own Department of Health advice said that people locked in refugee detention are at the highest level of risk for contracting Covid-19. The Grata community enabled a legal challenge against Peter Dutton and the Department of Home Affairs on the basis that they breached their duty of care by not providing conditions where individual refugees could physically distance.

One plaintiff had fled danger in 2013 to seek safety in Australia. He was placed on Manus Island and had recently been medically transferred to Australia because of multiple health conditions. His health issues meant he was in danger of death in confinement. Grata will continue to use the power of the courts to protect and advance the rights of Asylum Seekers and Refugees.

DISABILITY AND THE RIGHT TO EDUCATION

Upholding the right to education for children on the Autism Spectrum and with disability

Discrimination in education is an all too common experience for children with disabilities in Australia. The consequences can be dire and put kids back in their educational development, distance them from their peers and important social development opportunities and have devastating effects on their mental health and sense of belonging. School should be a happy and

nurturing environment for all children. That's why Grata Fund worked with Hannah, the mother of an 8-year-old girl, Catherine, who had suffered from discrimination at her primary school and the expert lawyers at the Public Interest Advocacy Centre (PIAC).

When a school becomes aware that a child has a disability they are required to develop an Individual Education Plan (IEP) in consultation with the child's parents and specialists.

Image: Hannah and Catherine

"Thank you Grata supporters, because we couldn't have done this without you."

Autism advocate and human rights defender Hannah with her daughter Catherine.





Plans should have strategies and extra support measures that can be implemented at school and at home so that the child has the support they need to thrive.

This did not happen for Hannah's daughter Catherine. The school had failed to engage meaningfully with Hannah's parents and specialists about her autism and the types of support necessary for her to thrive. In 2019, Catherine was suspended and later expelled from her school for being 'disruptive' to other students. After launching a complaint with the Australian Human Rights Commission the matter was unresolved because the school refused to attend the conciliation.

Hannah and Catherine's experience is not unique. It is widely recognised that schools simply ignore enrolment applications from such students or attempt to suspend or expel them rather than provide additional care and support. There are 106,600 young people on the spectrum attending school or another educational institution in Australia.

Many children on the autism spectrum require additional support throughout their education, yet 96.7% have some form of educational restriction. Hannah said that she wants to prevent what happened to her daughter from happening to other kids so she took her case to the Federal Court with the support of the Grata's community.

The case reached a settlement in July 2020, with the School agreeing to measures to better support children on the Spectrum. This includes disability awareness training for staff, and a comprehensive review of the behaviour management policy that reflects best practices in educating students with disability.

The settlement is significant as it highlights the needs for all schools to provide accessible and equitable access to education for all students, including students with disabilities. It also demonstrates the power of litigation as a tool to catalyse change.

DIGNIFIED RENTAL HOMES FOR FIRST NATIONS PEOPLE

Defending Indigenous Housing Rights in the Northern Territory

Jasmine Cavanagh, an Eastern Arrente woman and young mother living in the remote community of Santa Teresa, NT, and 69 other households have been fighting for 400 urgent repairs to their rental properties since 2015. With the support of the Grata Community and expert lawyers from Australian Lawyers for Remote Aboriginal Rights (ALRAR) they took on the NT government and won. They've now established a legal precedent that could protect communities across the NT. Many houses posed serious health risks to residents, with some structurally unsound, without running water, sewerage and ventilation, despite the temperatures regularly hovering above 40 degrees in summer and below zero degrees in winter.

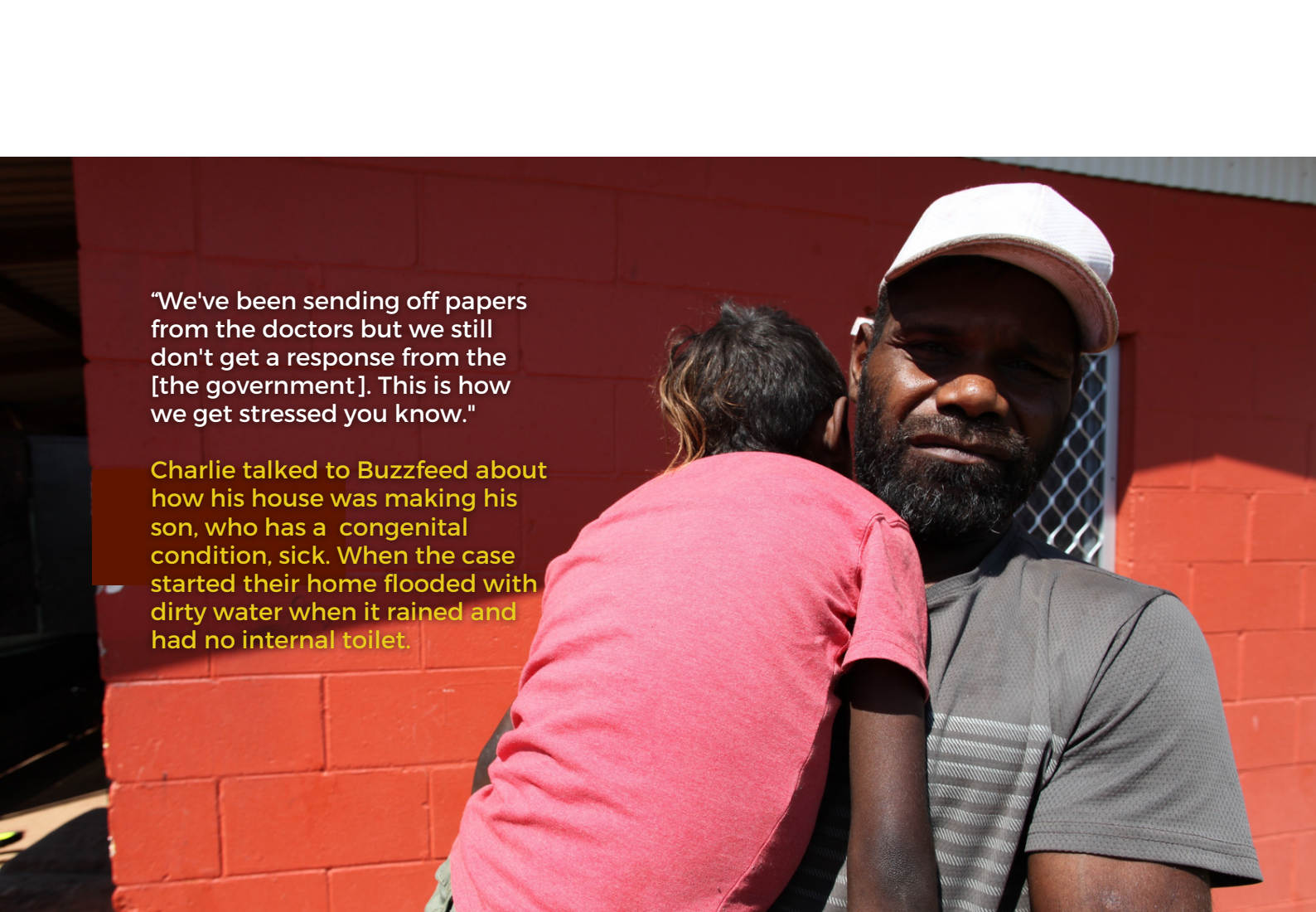
Northern Territory Civil and Administrative Tribunal (NTCAT) case

After pushing for urgent repairs for years the residents of Santa Teresa, supported by ALRAR, were forced to take the matter to the Tribunal. Their landlord, the NT Government, ignored their pleas for repairs and safe housing for years and then counter-sued the community for millions in dodgy rental debts.

"We have had a long fight for better housing in our community... Housing is a human right and we all deserve a better place to live. I would like to thank Grata Fund for all their help."

Jasmine Cavanagh outside her home in Ltyente Apurte (Santa Teresa), NT.





"We've been sending off papers from the doctors but we still don't get a response from the [the government]. This is how we get stressed you know."

Charlie talked to BuzzFeed about how his house was making his son, who has a congenital condition, sick. When the case started their home flooded with dirty water when it rained and had no internal toilet.

Running out of the funds needed to fight the NT Government, the community and their lawyers were close to being forced to give up. But because of the financial support of the Grata Community, the Santa Teresa community was able to continue their fight. In February 2020, Jasmine and the Santa Teresa community finally won their fight and established the Santa Teresa community's right to 'habitable housing.'

The Tribunal found that the Eastern Arrernte people of Santa Teresa had been forced to live in uninhabitable housing, dismissed the Government's claim for dodgy rental debts, and ordered the Government to pay compensation and fix the housing conditions.

The decision set the legal standard for housing to be 'habitable' and not pose any immediate safety risks, a step towards dismantling the systemic racial discrimination inherent in remote housing policy. This is a huge win for the Santa Teresa community and their pro bono legal team Australian Lawyers for Remote Aboriginal Rights that have been stuck in legal proceedings since 2016. This result has broader implications outside of the Santa Teresa community, which could mean that the NT Government is forced to fix housing in all remote Aboriginal communities potentially benefiting up to 65,000 people amplifying the impact of this case.

NT Supreme Court Appeal

Grata continued to support members of Santa Teresa for an appeal, to push the decision even further. Grandmother Enid Young, who is in her late 70s and speaks little English, asked the court to find that the rental agreement she was signed up to by the Government is unethical and unjust.

and to push the standard of housing to “habitable” meaning reasonable comfort and humaneness. When talking about her rental agreement, Enid says: “A while ago, a whitefella I had never seen before came to my door. He spoke to me only in English. He didn’t have a local person with him. I spoke to him as best I could. He then got me to sign paper. He didn’t explain what I was signing. He just said “sign here”. He seemed in a hurry.”

On 8 September 2020, the NT Supreme Court upheld three grounds of appeal, two of which will be sent back to the Tribunal to decide.

In a huge win for housing conditions for First Nations People across the NT, the Supreme Court found that the NTCAT definition of ‘habitable’ housing was too narrow, and that that ‘habitable’ housing should cover not only the health and safety of tenants, but required an overall assessment of the humaneness, suitability and reasonable comfort of the premises, even if only basic amenities are provided, judged against contemporary standards.

The Court also found that NTCAT had failed to engage with arguments that NT Housing had engaged in unconscionable conduct when entering into tenancy agreements with residents of Santa Teresa, and that it is in the interests of justice that this issue be tried.

For Enid, the victory means that she will receive compensation at 102 times the amount originally awarded by NTCAT for the 68 months her landlord failed to provide a back door for her home. The historic win has implications for the renters in up to 75 other remote communities across the Territory who are entitled to the same legal protection which could be the circuit breaker needed for housing policy that has been intractable for years.

Image: Santa Teresa, NT



URANIUM FREE DRINKING WATER



Challenging uranium-contaminated drinking water in First Nations communities

First Nations families living in the remote community of Laramba have been forced to drink uranium-contaminated drinking water for at least the last decade. According to NT Government-owned company Power and Water, the level of uranium in Laramba is 2.5 times the maximum safe level.

The NT Government has known about the unsafe levels of uranium for almost a decade and not taken action. Everyone, including families, children, parents, young people, the elderly and those with poor health conditions have a basic human right to safe drinking water.

Image: Hand under running water

High levels of uranium in drinking water can have significant health impacts including inflammation and chronic kidney damage as has been documented by the World Health Organisation. Uranium is naturally occurring throughout large parts of the NT and can end up in water supplies through bores, but this water can be treated easily with a simple reverse osmosis system. Renters are asking that this system be installed for at least one tap in the kitchens of the 22 rental properties so they can have safe water to drink and cook with. The NT Government has chosen not to address the uranium or install these life saving taps.

The Grata Community, along with Australian Lawyers for Remote Aboriginal Rights (ALRAR) are backing the members of Laramba in their legal bid to force the NT government, their landlord to provide safe drinking water to their homes. While the case was unfortunately unsuccessful at first instance, on 5 August 2020, ALRAR lodged an internal review application at the Tribunal to continue fighting for Laramba residents' access to safe drinking water. If successful, their case could provide greater protection for standards of drinking water for the other 75 remote communities across the NT.

Image: Laramba signage



THE PALACE LETTERS

On 14 July 2020, the Nationals Archive finally released the 'Palace Letters' consisting of 212 letters of more than 1,000 pages and newspaper clippings, reports and copies of letters and events attended by Sir John Kerr during his time as Governor General. The Grata community stood alongside Emeritus Professor Jenny Hocking in her six year long legal battle to access historical materials that cover one of the most controversial periods of our political history against a formidable institution and, in the final stage, the Attorney-General's Department.

Professor Hocking's earlier win in the High Court in May 2020, in an historic 6-1 decision, is a win for transparency and scrutiny of government, essential principles for a healthy democracy. In a victory for common sense, the majority found that "with respect to the majority in the Full Court, we cannot see how the correspondence could appropriately be described, however 'loosely', as 'private or personal records of the Governor-General' even allowing for the ambiguity of the



Image: Gough Whitlam at Press Conference

description of 'private or personal'. Professor Hocking has achieved two important victories. She has paved the way for secret letters, embargoed by the Queen, to be released. The letters revealed what happened in the lead up to the Whitlam dismissal, a subject that was shrouded in secrecy and intrigue for 45 years. But more than this,

Professor Hocking has also achieved an outcome with potentially wide-ranging implications that should put all Commonwealth officials on notice about their responsibility to be transparent about Australian political and democratic history. Professor Hocking fought all the way to the High Court because she believes "Australians have a right to know what happened in 1975... [and] It's a wonderful outcome for our history, it's a wonderful decision for transparency and for accountability of government."

Without Professor Hocking's tireless pursuit of our history, all the way to the High Court of Australia, these letters likely would have remained secret for decades to come. At this particular time in our history, more than ever we need to protect the right to know, the right to information, and the right to ensure accountability.

Image: Professor Jenny Hocking and Isabelle Reinecke at the High Court of Australia



COVID AND DEMOCRACY

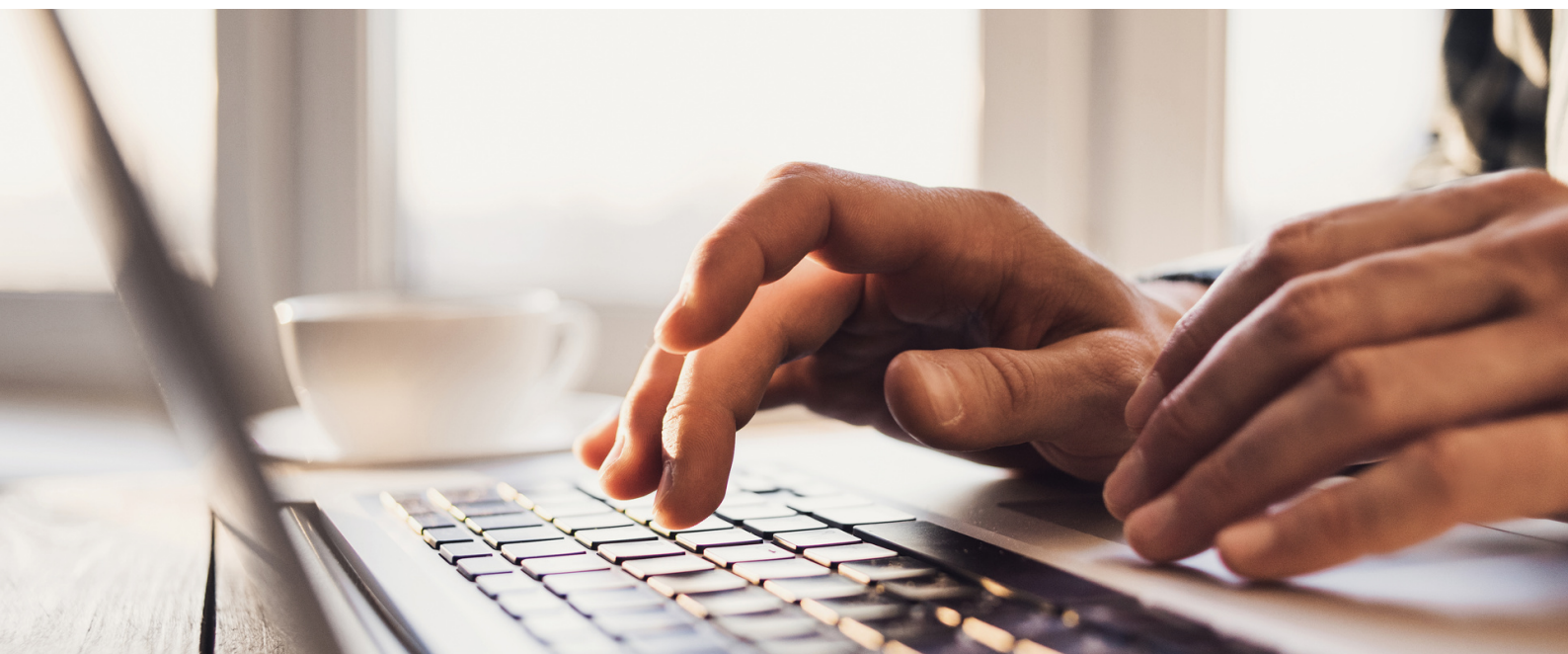


Responding to Covid-19

The Covid-19 pandemic saw Grata work behind the scenes to ensure critical parts of our democracy continue to operate while the Government took necessary and extraordinary measures to manage the outbreak. Some of this democracy work included:

Demanding a Select Senate Committee on Covid-19 measures

In March 2020, Federal Parliament was adjourned indefinitely by the Federal Government with agreement by the ALP Opposition, removing parliamentary scrutiny at a time where powers of the government had expanded enormously. Grata worked alongside partner organisations to raise issues of accountability. Together, we coordinated stakeholders to sign onto a [joint statement](#) for a Select Senate Committee to scrutinise Covid-19 measures and lobby politicians to support the calls. We won the support of both major parties and since its establishment the Committee has scrutinised the Government's public health, social security, and economic response and the Covid-19 Commission.



Developing Covid-19 Law Monitor

Grata Fund in partnership with Hall & Wilcox launched the [Covid-19 Law Monitor website](#) as a resource for journalists and civil society to track Covid-19 measures introduced by governments that impact on civil liberties and freedoms. Covid-19 measures were introduced, amended and rolled back rapidly across Australia making it difficult to keep track. As such, the project was designed to give civil society, journalists and Community Legal Centres the tools they need to scrutinise government responses and any overreach or delays in winding back Covid-19 measures.

The website tracks:

- Commonwealth, state and territory measures that impact civil liberties including:
- New or amended legislation;
- Determinations and orders; and
- Use of emergency powers.

The Covid-19 Law Monitor website has been utilised by journalists, NGOs, CLCs with over 4,000 unique page views.

Report: In democracy we trust: Accountability in the time of Covid-19

Grata published a report on the [impact of Covid-19 measures on our democracy](#) across Australia. The report discussed the separation of powers and the impact of the shut-down on the two in-built accountability measures of our democracy: parliaments and the courts. The report also outlined the impact of Covid-19 on the three arms of our democracy and our civil liberties and lists new laws and public health measures introduced in each jurisdiction. Our main call was for the Federal Parliament to reconvene in a safe manner.

Image: Fingers typing on keyboard

Report: Australian Courts: How a Global pandemic built our launchpad to the future

Grata published a report which outlined the dramatic and transformational changes to Australian courts in response to COVID. Grata Fund's report, [Australian Courts: How a pandemic built our launchpad to the future](#), found that the adoption of new technologies like virtual hearings and electronic filing can enrich the democratic role of the courts by providing for open justice, allowing more people to access court services and reducing the prohibitive costs of litigation, particularly for cases in the public interest. The report cautioned on the impact will operations could have on the cornerstones of our justice system, including access to justice, open justice, avoidance of undue delay, procedural fairness and the right to trial by jury

Calling for integrity measures for the National Covid-19 Coordination Commission

The National Covid-19 Coordination Commission was established by the Prime Minister on 25 March 2020. The Commission has very broad powers and many commissioners are tied to the gas industry. Grata coordinated aligned civil society's response by organising a joint statement calling for integrity measures.. The spotlight is now on the Commission and we expect proper ongoing scrutiny.

Monitoring the Policing of Covid-19 measures

Grata joined a coalition of organisations led by the Police Accountability Project to monitor and publicise problematic policing of Covid-19 measures and to call for greater accountability.

Grata's comments calling for public release of the Covid-19 policing guidelines and collection of data were picked up by ABC, 7 News, The New Daily and others. Comments about problematic policing were picked by SBS News and The Guardian.

All of the above projects were designed to ensure that while extraordinary measures are necessary they must be proportionate, time-limited and for the legitimate purpose of public health to protect public trust.



Image: Police Officer

IN HONOUR

A POWERFUL LEGACY FOR REMOTE COMMUNITIES



In honour of the late Mr Conway, his wife and their legacy. Enid Young and the late Mr Conway took on the powerful NT Government to try and improve the homes in remote communities, and they won.

However, sadly - during the 4.5-year legal battle - both Mr Conway and his wife passed away. They both leave an enormously significant legacy of advocating for housing rights that could improve the lives of remote communities across the Territory.

Image: Ltyentye Apurte community, or Santa Teresa.

THANK YOU

All of this work and impact would not have been possible without the plaintiffs, beneficiaries, community legal centres, advocacy partners, solicitors, barristers and pro bono firms that have worked alongside us to make these landmark cases possible.

We also thank our thousands of supporters, donors, trusts and foundations as well as the Executive Director Leadership Council for their ongoing commitment and contribution.

Plaintiffs

Asylum Seekers and Refugees in detention

Catherine and Hannah

Emeritus Professor Jenny Hocking

Jasmine Cavanagh, Enid Young, the late Mr Conway and his late wife Mrs Conway and the community of Santa Teresa

The Community of Laramba

Community Legal Centres

Aboriginal Legal Service, NSW

Canberra Community Law, ACT

Caxton Legal Centre, QLD

EDO Lawyers (National)

Fitzroy Legal Service, VIC

Flemington Kensington CLC

Human Rights Law Centre, VIC

Inner City Legal Centre, NSW

Justice Connect, NSW/VIC

Kingsford Legal Centre, NSW

Mid North Coast CLC, NSW

National Aboriginal and Torres Strait Islander Legal Service (National peak)

Northern Australian Aboriginal Justice Agency, NT

Public Interest Advocacy Centre, NSW

Redfern Legal Centre, NSW

Refugee Advice and Casework Service, NSW

Taylor Street CLC, QLD

Tenants Union, NSW

Victorian Aboriginal Legal Service, VIC

Welfare Rights Centre, NSW

Western NSW CLC, NSW

Women's Legal Service, NSW

Women's Legal Services, VIC

Youth Law Australia, NSW.

Advocacy Partners

350.org

Aboriginal Housing NT

Aboriginal Legal Service

NSW/ACT Aboriginal Peak Organisation NT

Amnesty International

Australian Conservation Fund

Australian Democracy Network

BLM protest groups

National Aboriginal and Torres Strait Islander Legal Service

CANA Central Land Council

Danila Dilba

Flemington Kensington Legal Centre

GetUp!

THANK YOU

Greenpeace

Human Rights Law Centre

Law Council Australia

Melbourne Activist Legal Network

North Australian Aboriginal Justice Agency

Northern Land Council

NSW Civil Liberties Council

People with Disability Australia (PWDA)

Public Interest Advocacy Centre

Redfern Legal Centre

Sunrise Project

The Australia Institute

The Centre for Public Integrity

The Police Accountability Project

Transparency International

Victorian Aboriginal Legal Service

Pro Bono firms

Allens

Colin Biggers & Paisley

Corrs Chambers

Westgarth

DLA Piper

Gilbert + Tobin

Hall & Wilcox

Johnson, Winter and Slattery King

Wood Mallesons Norton Rose Fulbright

Barristers

Alexander Flecknoe-Brown, NSW Bar

Bret Walker SC, NSW Bar

Christopher Tran, Vic Bar

Daniel Reyonlds, NSW Bar

Fiona McLeod SC, Vic Bar

Greg O'Mahoney, NSW Bar

Julia Watson, Vic Bar

Justin Gleeson SC, NSW Bar

Matt Albert, Vic Bar

Melanie Szydzik, Vic Bar

Michael Seck, NSW Bar

Michelle Yu, NSW Bar

Nic Owens SC, NSW Bar

Rachel Amamoo, Vic Bar

Ron Merkel QC, Vic Bar

Ruth Higgins SC, NSW Bar

Stephen McDonald, SA Bar

THANK YOU

Thank you to our wonderful team and board, who make Grata Fund and the work we do possible.

Our Patron

The Honourable tony Fitzgerald AC QC

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Scientia Professor George Williams, AO,
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