

William and Lonsdale Lives in The Law

Ep 83. Hugh de Kretser

Voiceover: [00:00:05] This is William and Lonsdale, podcast about the legal ecosystem and the fascinating people who make it tick. Today, your host, Michael Green, speaks with Hugh Deprezza, president of the Australian Human Rights Commission. Hugh has spent much of his career working to advance human rights and social justice, but he never had a grand plan for where that work would take him. He simply knew the direction wanted to travel. His philosophy was point yourself the right way, work hard, and see where it leads. For Hugh, it led from Community Legal Centres to the Federation of Community Legal Centres Victoria, the Victorian Law Reform Commission and Sentencing Advisory Council. He went on to lead the Human Rights Law Centre and then Yaruk Justice Commission, before being appointed President of the Australian Human Rights Commission. Along the way, each role brought Hugh into different communities and gave him a deeper understanding of the people and the experiences that sit behind questions of law, justice, and human rights. But for someone whose career now seems so clearly defined by those values, Hugh actually began his working life somewhere quite different, in commercial law. He knew in his heart of hearts that he wanted to work in human rights. He just wasn't quite sure how he was going to get there.

Hugh de Kretser: [00:01:27] There was this new scheme that was set up to second lawyers from corporate firms to community legal centres. And it was Rob Hulls was Attorney General. He had a strong community legal centre connections and him or people in his team thought it would be a good idea to boost the resources of community legal centres by having the big law firms donate lawyers for free to those community legal centres. I put my hand up for it, the firm supported it, and then they called me and said, Oh, we've got a place for you at the Brimbank Community Legal Centre. You'll be working with Amanda George, and she's an expert in prisoner rights. And I thought to myself, what possibly can I do to help as a corporate lawyer who is expert in workplace and employee relations with prisoner rights work? And I learned.

Michael Green: [00:02:48] Our guest this morning in Lives in the Law is Hugh DeCretza. Hugh is the president of the Australian Human Rights Commission. Hugh, good morning.

Hugh de Kretser: [00:02:55] Good to be with you.

Michael Green: [00:02:56] Hugh, let's start by you fleshing out for us what the Human Rights Commission is, what it does, what powers it has, how it was set up. Mean who set it up and for what purpose?

Hugh de Kretser: [00:03:06] Yeah, so we officially turned 40 this year. So we're formed on 12/10/1986, International Human Rights Day, which was the day that the UN General Assembly adopted the Universal Declaration of Human Rights, one of the pinnacles of human achievement. And so the Human Rights Commission was first set up not in a permanent form by the Fraser government in '81 and then the Hawke government set us up permanently in 1986 under the Australian Human Rights Commission Act. And really we've got four key functions. One is around access to justice for people who've experienced discrimination or human rights breaches so people can complain to us and we will investigate and attempt to conciliate or mediate those complaints. If we can't resolve them then people with the discrimination complaints can choose to go on to the federal court system. We also do advocacy for fairer laws and policies and practices. We engage with parliamentary inquiries about bills, about how to improve human rights protections in draft laws or reviewing laws or we might do reports to identify problems with laws policies or practices and how to better protect human rights with them. We engage with different organisations around protecting human rights in their operations. We also do education around human rights which are promoting understanding and acceptance of human rights And there's a new role that we have which is as the regulator for the positive duty in the Sex Discrimination Act to address sexual harassment, sex discrimination and other unlawful conduct. So that's really around a shift from, in that legislation at least, we want it across all discrimination laws, but discrimination laws when they're brought into Australia really relied on individual people who had suffered harm, complaining about that harm and going through a process to try and seek a remedy. What the positive duty does is it shifts the onus onto prevention and says, in the case of the Sex Discrimination Act, employers, have an obligation to prevent as far as possible sexual harassment, sex discrimination in your workplace. So it's that prevention mindset rather than relying on individuals having to complain to address the harm.

Michael Green: [00:05:21] And Hugh, you can take the initiative to commence proceedings, commence actions you want to do? No. Or do you have to wait for the government to present things to you?

Hugh de Kretser: [00:05:30] Well, if you're talking about legal proceedings, we have a very limited role. So we're amicus, a friend of the court, providing expert advice to courts in a very limited number of cases. But in terms of the powers we have, so we have powers to conduct inquiries into issues. So the most famous inquiry that we've done is the Bringing Them Home report which looked at the injustice of the stolen generations. So building on generations of advocacy by stolen gen survivors, the Commission decided in the late 90s decided to do a national inquiry into that received

Michael Green: [00:06:03] Can I just break in there? Yeah. So the Commission decided?

Hugh de Kretser: [00:06:07] Yes.

Michael Green: [00:06:07] So you had the initiative.

Hugh de Kretser: [00:06:09] We've got powers to commence inquiries into different topics. So Jillian Triggs looked at children and immigration detention when she was president. Kathy Branson, who was the president before her looked at it was a small but important inquiry into boat crews from Indonesian fishing vessels and how they were treated in the criminal justice system because a lot of children were wrongly being identified through flawed technology as adults and being placed in adult prisons when they were intervened on people smuggling ventures and things like that. So in the late 90s the Commission and with the support of the Australian government at the time previously, but then the government changed, looked at this inquiry into the Stolen Generations, did the Bringing Them Home report, Mac Dodson, I think it was Sirong Wilson led that inquiry. And it's good to look at that report as sort of an example of the long arc of law and policy and social change. Because it was a report that was rejected by the Howard government, but the recommendations of that report had the spotlight it shone on that injustice led to the apology from Prime Minister Kevin Rudd. And then you can fast forward to the Morrison government implementing one of the report's recommendations around a redress scheme for compensation for survivors of the Stolen Generations.

Michael Green: [00:07:35] So as we sit here in 2026, what's the Commission doing now? Or the various, I guess, arms of the Commission? Are people investigating things? Are people putting reports together?

Hugh de Kretser: [00:07:46] Yes. So if you look at, so one of the things about the commission in our structure, we have a president and then we have seven commissioners. And six of those seven commissioners are focused on a thematic or population group area. So we have commissioners looking at children's rights, Aboriginal and Torres Strait Islander people's rights, and then age discrimination, sex discrimination, race discrimination and disability discrimination. And then we have a human rights commissioner, which is a sort of broader based role. Lorraine Finlay is currently doing that. And she does a lot of work on technology and human rights. And so she's initiated work around looking at neurotechnology, looking at AI and human rights, immigration detention, doing inspections of immigration detention facilities, work around how the immigration detention network, which is set up largely to deal with male detainees, how it responds to the needs of female detainees. In racism space, Giri Sivaraman has led work around racism in universities. So the Australian government, through the Department of Education, funded us to do a massive national survey of staff and students in universities looking at their experiences of racism and what to do about that. So that's a report that was made public I think in February this year and very topical around anti-Semitism, anti-Palestinian racism, racism against first peoples on university campuses. We've launched the National Anti Racism Framework which is a roadmap for addressing racism across Australia or in different sectors.

Hugh de Kretser: [00:09:21] My colleague Katie Kiss, who's the Aboriginal Torres Strait Islander Social Justice Commissioner, she's just released a social justice report based on massive national consultations with First Peoples across the country, looking at how we better achieve justice for First Peoples from everything from how we achieve Closing the Gap and implementation to what we do about next steps around implementation of the Uluru Statement following the failed voice referendum. And so each of those commissioners with support from the commission team will lead programs of work in their different areas. And then we'll have, if you like cross cutting work. We launched a report on climate change last year and human rights and looking at how climate change will have massive impacts on the human rights of people in Australia. They will be disproportionately felt by certain population groups, older people, children, First Nations

people, people in rural and regional communities. And so that's some of the policy work that we've been leading at the same time as we receive close to 3,000 complaints of discrimination, human rights breaches a year, receive around 15,000 inquiries a year. We've got education team and we've got that probably I'd describe them as modest regulatory powers around that positive duty to prevent sexual harassment and sex discrimination, sexist conduct in workplaces.

Michael Green: [00:10:44] And Hugh, what sort of staff have you got to do all these things?

Hugh de Kretser: [00:10:48] Yeah, not enough. But the so around, well, say not enough. So around 02:20 staff at the moment. But that varies depending on like if we get funded by government to do a particular project, for example, that might be a time based project. So the core staff is much less than that. Yeah, it's always a challenge. If you look at the complaints area, we've had a roughly 30% increase in the number of complaints we've had compared to pre COVID levels. There was a big spike.

Michael Green: [00:11:19] This is in general, not just racism.

Hugh de Kretser: [00:11:21] So this is disability discrimination that is the most commonly, the area that people complain about the most is about half of our complaints are around disability discrimination, particularly in education, workplaces and goods and services. Complaints around sex discrimination have gone up, complaints around race discrimination, particularly Kinella gave evidence to the Royal Commission into antisemitism social cohesion a couple of weeks ago, looking at the increase in complaints around antisemitism, for example, under the Racial Discrimination Act. So you'll see trends in complaints responding to external events, but the broad trend is upward. So a 30% increase from pre COVID levels. And yeah, we need more resources to be able to process those complaints in a timely way. That's one of the challenges we're facing at the moment.

Michael Green: [00:12:20] Hugh, that tells us where you are at the moment in no doubt a very truncated form. It sounds an enormous job really, but it had to start somewhere. So where did it start? Growing up here, I think in Suburban Melbourne. Yes. Typical upbringing. What was it like? Siblings, mum

Hugh de Kretser: [00:12:38] And dad? Well, yeah, I think everyone thinks their own upbringing is typical and it's only as you get older that you realise how your upbringing might be different to others. So I'll let others to judge how typical it was, but you know, really loving stable family. You know, grew up in Surry Hills. My dad is a professor of medicine. He's retired and so he worked at Monash University for nearly all his career. He was governor of Victoria for five or six years as well late in his career. My mum trained as an occupational therapist so there was a lot of science in our household. I've got three older brothers, I'm the youngest of four boys, dad's a migrant from Sri Lanka so on that side of family, the background is Dutch Burger Sri Lankan. So the Dutch Burgers are really a Eurasian race of mixed descent from the Dutch colonists of Sri Lanka. So it was Portuguese, then the Dutch, then the English, who colonized Sri Lanka. The English allowed the Dutch to stay. They quickly changed from Dutch to English as a language, retained Dutch Orthodox Church religion, and then had this really interesting and fascinating mix of European customs and Sri Lankan customs. So at Christmas every year we would have this Dutch bread called brede. I don't know if that's a Dutch word or not, but this is what I grew up eating at Christmas with edam cheese. And so it's bizarre to think about the first decreetta who went from Holland to Gaul in Sri Lanka in like the 1600s. And then this tradition of breda or Dutch cheese being handed down for close to four hundred years and then being imported to Australia in 1949 when my grandparents decided that the better future

Michael Green: [00:14:22] For What them are your kids now? What are you giving them for Christmas?

Hugh de Kretser: [00:14:26] Don't cook the burda any more, but I do try and maintain the decreetso curry tradition. And so yeah, there's this particular Dutch burger curries and dishes that are sort of unique to that community. And yeah, so I grew up in that household. Dad was a doctor. He was mainly academic, but he also had a practice as well. Went to Canterbury Primary School in the Eastern Suburbs, to Campbell Grammar. So it was a privileged upbringing in that sense. Went to a private school, then went to Melbourne University to study law and arts.

Michael Green: [00:14:58] Were you a good student, both at school and

Hugh de Kretser: [00:15:00] Uni? To find good. Did you get

Michael Green: [00:15:04] Good marks?

Hugh de Kretser: [00:15:04] I did get good marks. Yeah, I got a scholarship to go to Canwell Grammar. I liked school. I did well at school. I didn't find it particularly hard. School was a happy experience for me. Was involved in a lot of different things in music and debating and choir and basketball. I look back now and look at my own kids and I think how busy I was then, but that was absolutely normal for me. Talked about the science in our family. As I got older, as I went through school, realized I was less interested in science and more interested. I wanted to be a journalist when I left school. Loved English. I loved debating. I loved writing and reading. It's amusing in hindsight to think about this, it was a big change for me to want to study arts and law rather than study something in the scientific field. So I'm very glad I made that choice.

Michael Green: [00:15:51] Were the family rebel.

Hugh de Kretser: [00:15:53] Yes. And not rebelling very hard there.

Michael Green: [00:15:55] And what about Melbourne Uni Law School? Yep. Enjoyed? Good experience?

Hugh de Kretser: [00:15:59] Well, went in wanting to be a journalist and it was my English teacher at school is fascinating. Mr. Shaw, Jeff Shaw, who said, I said, want to go to RMIT and study journalism. He said, why don't you do arts at Melbourne Uni instead? And I thought, well, I'll do law and arts together. I had that option to do that combined degree. I didn't like arts at all in first year and I loved law. So I really liked the study of law, the concept of law and thinking about how laws regulate society and can hopefully improve society if you get it right or damage society if you get it wrong. And then in second and third year, really liked arts as well. That but I really liked the study of law and sort of looked more at the practice of law. But I was interested in human rights international law, employment law. The human rights lecturer, Tim McCormack, he had an arrangement with the Australian Mission to the United Nations in New York, and one student every year was able to do an internship. So I applied for that and was fortunate enough to be selected for that. So I did that. I took two years off my-

Michael Green: [00:17:03] That was during your degree or after your degree?

Hugh de Kretser: [00:17:05] I took a year off in between after three years and travelled around the world backpacking, worked in pubs and ski resorts and things like that. And then so I applied for and was accepted to get articles at Mallison's. And I did the internship in that second year off that I had. So I spent three months in New York.

Michael Green: [00:17:25] So tell us about, I mean, internship at the UN. Certainly your first on this programme, I can tell you who. Okay. Yeah. It sounds pretty high volutin'.

Hugh de Kretser: [00:17:33] Yeah, was, a dream come true for me. I was very naive about, you know, it was an unpaid internship and so you're in New York and I had no idea about the costs of living in New York and I was helped out by a lot of people who gave me let me sleep in their floor or their spare bedroom. Surely the bank of mum

Michael Green: [00:17:51] And dad came into play as well.

Hugh de Kretser: [00:17:53] No. I think I borrowed a bit of money at the end of that, but I'd saved so I was working all through uni. I've been working since, you know, worked in ice cream stores in Macca's in David Jones. So I'd saved up a lot of money for these trips. I think mom and dad helped out at the end. I borrowed some money, but yeah, that was unpaid internship. I'd saved the money for that. But the accommodation was the big thing and people like one of the diplomats ultimately just let me sleep in her spare room and I'm very grateful for that because that made it achievable that I could do it and live in a not too far from work. But that was a dream come true. It was with the Australian mission. So it wasn't with the United Nations, it was with the Australian Government Department of Foreign Affairs. And so we were representing the Australian Government's positions at the United Nations General Assembly. So this is around September every year when the world leaders converge on New York. It's like the world's parliament, if you like. That's the one place where people from every country in the world can have their say about world affairs. And it was incredible. So yeah, I was in the General Assembly Hall when Bill Clinton, you spoke when Nelson Mandela delivered his final address to the UN. For me interested in international law, in international politics and human rights, it was an incredible experience. I'm really grateful for the, you know, for Tim for supporting me to do that and for the staff at the mission who were so welcoming.

Hugh de Kretser: [00:19:18] But it taught me I didn't want to be a diplomat because that was one of the things that I was thinking about doing. And at that time, the Howard government was in power and they were retreating from multilateral policy. So Australia ran for a seat on the UN Security Council and was not elected. That was embarrassing for Australia, but it was also UN member states giving their response to Australia's retreat from collaborative multilateralism, if you like. And so Australia was seen a bit of increasingly as an outlier in sort of collaborative engagement in international affairs at that time. And it taught me I didn't want to be a spokesperson for foreign policy that I didn't agree with. And there was someone I spoke to in the New Zealand Foreign Service, it turns out who said to me, you know, you should be setting the policy rather than being a spokesperson. And that was fanciful at that stage. I'm still a student, right? But the idea of that stuck in my head and I remember that conversation and yeah, and I decided I didn't want to be a spokesperson for policy that I didn't agree with. And of course, it's important you have people on the inside who put frank and fearless advice, explain why we should take a different view on things like that. And that's a very important role. But you know, that was an early career lesson for me, if you like. And so I went back to Australia, did my articles at Mallison's

Michael Green: [00:20:47] Couldn't you just slow down there? Yeah. You've had a career in the not for profit space. Yep. Mallison's. Yeah. I don't seem a natural fit. I thought you would have been doing your articles at a legal aid firm.

Hugh de Kretser: [00:20:59] Yes. So, and this is one of my, know, we can talk about my work at the Federation of Community Legal Centres because my own experience in law school was that you at Melbourne University at the time has definitely changed now. I, looking back, felt like there was a trajectory that had put you on to, you did your law degree, and then you did your articles at a corporate firm, or some people did it maybe at plaintiff law firms or criminal law firms. And that was the career trajectory you're sort of encouraged to go on. And things like public interest law, things like working in government in policy and law reform and development of law and policy, they weren't things that, at least for my experience at Melbourne Uni Law School that were actively discussed or, and maybe I wasn't actively seeing them or not. But that was one of my criticisms of my time at law school. I'd probably say two things. One was that sort of pathway of career. The other one was not enough teaching around the law as it is now, or the theory of the law, but not around law reform and law development and all of the

factors that go into the reason why this is the law now and what the law might be. And so, you know, my career has increased, has really changed over time to be about law reform and policy development.

Michael Green: [00:22:30] And are you saying that your degree didn't prepare you for that? Or did it possibly help you with analytical thinking or a means of thinking clearly to develop?

Hugh de Kretser: [00:22:41] I don't just think that well, I'll answer that this way. I'll say, so I went into the job at Mallison's thinking, and I had done an internship at Blake and Wriggles, I think it was then now Ashurst. And I'd done an internship at Osama Clerk ship at Malison's and I loved that experience. So I knew that I would enjoy it. And I thought it'd be fantastic training. And I had lots of friends who'd worked in corporate law firms and still do have friends who were working corporate law firms. And so I was lucky at Malison's to work in the employment team for two fantastic partners, Bernie Shinnars and Bruce Moore, who were sort of outside of your typical Mallison's corporate law firm partner. Bernie lived in Craigieburn, had 10 kids. And he explained to me he was Catholic and he explained to me, you know, in the old days, he would never have got a job at a firm like Mallison. I'm like, what are you talking about? And he said, oh, there was a Protestant firm and they didn't give jobs to Catholic. And that was, I had no idea about issues like that. And that those days are gone now. But you know, obviously discrimination, prejudice operates in different ways. And so I probably went into that job thinking I'd do it for three years ended up being five years there. And I've stayed in touch with Mallison's with a very good relationship since leaving the firm in 2004. So I went to the Brimbank. So I did an internship to the Brimbank Community

Michael Green: [00:24:00] Legal Centre. So that internship at Brimbank, is this while you're at Mallison's or is this, yeah, so you're admitted? So

Hugh de Kretser: [00:24:09] I'm admitted, I do my rotations. I end up back in the, yes, I've done the summer clerkship in the workplace and employee relations group. I loved that work. Ended up back in that group working for those partners. Also did some commercial litigation in the broader dispute team. There's some really fantastic people there who I guess helped me with my career and said, it's good for you to be able to do the broader commercial litigation. So I did that for really about four and a half years. And

at about the I think it was about the four year mark, there was this new scheme that was set up to second lawyers from corporate firms to community legal centres. And it was Rob Hulls was Attorney General, he had a strong community legal centre connections. And him or people in his team thought it would be a good idea to boost the resources of community legal centres by having the big law firms donate lawyers for free to those community legal centres.

Michael Green: [00:25:08] So the big firms continue to pay you your salary while you worked for a community legal centre.

Hugh de Kretser: [00:25:12] Yeah. And most of the lawyers who were doing that at that time were first or second year lawyers. And here was me as a fourth year lawyer. You know, it's ridiculous again to think about you're still so junior, but you know, it's so stratified in corporate firms in those early years. So it was unusual for me as a fourth year lawyer to be seconded through this scheme. But I put my hand up for it, the firm supported it. And I'm grateful again for the firm for supporting that and my bosses for supporting it. And I was living in Kensington at the time, the coordinator of the scheme said, Where do you want to work? I said, Anywhere in the West. And then they called me and said, Oh, we've got a place for you at the Brimbank Community Legal Centre. You'll be working with Amanda George, who's a long term Community Legal Centre worker, who's the manager of the Community Legal Centre. And she's an expert in prisoner rights. And I thought to myself, what possibly can I do to help as a corporate lawyer who is expert in workplace and employee relations with prisoner rights work? And I learned.

Michael Green: [00:26:17] You learned a lot. So you go there and you do that internship six months.

Hugh de Kretser: [00:26:20] Yes, sorry. Secondment, I should have called it. Secondment,

Michael Green: [00:26:23] You have your six months to convert, come back to Mallissons and resign?

Hugh de Kretser: [00:26:28] Never came back.

Michael Green: [00:26:29] Didn't come back at all? So you mailed in your resignation. No, no, no. Bruce came out for lunch.

Hugh de Kretser: [00:26:35] Bruce Moore is the partner and came out for lunch. I think Bernie retired at that stage and Murray Kellick was the partner, another fantastic partner. And, you know, I said to him I was going to leave the firm. So, yeah, was at the firm for almost five years. The last six months of that was on secondment to the Brinbank Community Legal Centre. I then I was looking at living and working overseas, looked at Southeast Asia, applied for jobs in Bangkok.

Michael Green: [00:27:00] This was just because you thought it'd be interesting to work

Hugh de Kretser: [00:27:02] In Yeah, partner at the time, yeah, we were looking at living overseas and wanted that experience for a range of reasons. The work at Brimbank was calling me back. It was work that I absolutely loved. And so I was, you know, I liked the work at Mallison's. It was intellectually interesting. I did pro bono work. We helped set up the human rights law group. So it was Michael Kingston, who you've interviewed, who set that human rights law group up. And I was involved in some pro bono work, but over time it was less rewarding for me. And then at Brinbank, I was able to use my legal skills to help people. And I found that really rewarding. And so I absolutely threw myself into that work.

Michael Green: [00:27:47] You became manager of Brimbank?

Hugh de Kretser: [00:27:49] Well, that's it. So I got offered a job in at Baker and McKenzie in Hanoi, and I got offered a job as the manager and got the job of the center that I had been on secondment for six months.

Michael Green: [00:28:01] Was there any difference in the salary? Yeah. Yeah. Basically half. Yeah. Yeah.

Hugh de Kretser: [00:28:08] Starting salary as the manager was \$52.00 compared to corporate law salary, which is about 100 at the time. And with a very sharp trajectory going up, whereas in legal centres, I've done a lot of work when I was at the Federation of Community Legal Centres to improve salaries because they were too low. But yeah, it was it was I did it for the heart. Was and it was the best career decision I ever made.

Michael Green: [00:28:33] It's interesting about the financial aspect of it because I read in your background, Hugh, that you give advice to young lawyers maybe considering what you've done to beware the golden handcuffs.

Hugh de Kretser: [00:28:45] Yeah. And that was my experience of being at Brimbank Community Legal Centre on a salary of 52,000. You adjust your lifestyle and just to recognise the privilege in this, was able to work in it as a choice I had. I didn't have big financial responsibilities. I didn't have a family at that stage. So, you know, people will make their own decisions based on the resources available to them and the sort of relative privilege that they have. And I was able to make that decision to leave that salary behind and work in community legal centres, but I adjusted my lifestyle accordingly. But it was hard when you've got friends who have a different adjustment. So what I say to some of the young lawyers over time is you'd be aware of their golden handcuffs because you get used to a certain lifestyle and and you know, you've got to weigh up the pros and cons.

Michael Green: [00:29:37] But you started on a path of community legal centres and other not for profit organisations and you've been on that path ever since.

Hugh de Kretser: [00:29:44] Yeah, love the nonprofit world. I loved the people in it, the values alignment, the passion. I felt you could be yourself more in that environment. And I found it intensely rewarding to do work that aligned with my values. And I've talked previously about, I was lucky, so lucky to get the Brimbank Community Legal Centre is the choice for my secondment because the people who were working there were brilliant advocates and lawyers who very much understood the Community Legal Centre ideal of not just looking at a legal problem in isolation, but looking at it as a social problem and saying access to justice is more about mere access to legal advice. You can get legal advice that what happened to you is unfair, but legal. True justice is about changing laws and policies so that the law and justice are aligned and that you get true justice for people. And so I had great mentors in that respect in terms of people like Amanda George, Sharon Dev Singh, Belinda Lowe, Colleen Burke who had worked a long time in community legal centers. And Charan Dev, he said things which resonated with me about the responsibility of using your privilege to help others. And like I said, for me personally, that resonated with me. It was a great time because I was doing work that aligned with my values that I felt was rewarding and that I was interested in. But

increasingly over time, I got sick of doing what I felt like the individual clients were rewarding. I still remember them. I remember their stories. I remember the satisfaction of getting a good outcome for them in whatever the legal issue was. But I got sick of seeing laws and policies not working properly. And so why I moved to the Federation of Community Legal Centres to be able to, we did some law reform work and strategic litigation at the Brinbank Community Legal Centre. At the Federation of Community Legal Centres, was part of the, much bigger part of the work was on law reform.

Michael Green: [00:31:47] Can I just get the timeline right here please? So you're at Brimbank from about 2004 to 2007.

Hugh de Kretser: [00:31:55] Yeah, I was about 30 to 33 years old roughly.

Michael Green: [00:31:58] And then the Federation of Community Legal Centres.

Hugh de Kretser: [00:32:02] Yep, the peak body for Victoria's 250 Community Legal

Michael Green: [00:32:07] Thousand and seven to twenty thirteen.

Hugh de Kretser: [00:32:09] About six or seven years.

Michael Green: [00:32:10] So the Federation, obviously it's a big body for all of us. But what are you doing? I mean what are you, what role are you taking? How are you helping bring about what you call true justice?

Hugh de Kretser: [00:32:22] Yeah, yeah so

Michael Green: [00:32:23] At the Federation?

Hugh de Kretser: [00:32:24] Yes. I was the executive officer, if you like. For me as a former corporate lawyer, was nervous about going into leading that peak body and worked very hard to build the trust and understanding in that sector. Was really grateful to be chosen for that role and to be trusted with that role. Two big parts to the job. One is sector capability or sector development. So this is trying to get more funding and resources and

Michael Green: [00:32:55] Training. That sounded like jargon here.

Hugh de Kretser: [00:32:56] Yeah, that's why I was trying to talk. Yes, I hate jargon. The whole pull me up if I ever use jargon, Trying to get more funding resources, training for community lawyers and community legal centres. We did an accreditation scheme that we brought in.

Michael Green: [00:33:09] An accreditation scheme? Yeah. The Law Institute, you're working in conjunction No, with

Hugh de Kretser: [00:33:13] No, no. This was a self developed thing in community legal centres, working with the Attorney General's Department nationally. So the funding for community legal centres is a collaborative federalism thing where the states and territories work with the Commonwealth to provide funding for legal centres across the country. Yeah, so accreditation was about minimum standards to make sure that the quality is good and that people can trust when they go to a community legal centre that they're getting quality legal help. I like that sector development work. I'll come back to your question around the law school and practical legal training or article training. I was able to work with colleague Claudia Fittoni with support from the Legal Services Board of Victoria to get money to set up a community law graduate scheme. And this was to provide a pathway for law students into a career in public interest law in community legal centres. And I'm really proud of that scheme, but it was so small. We had one position and then we had two positions a year. And so Fitzroy Legal Service had its article clerk position. Basically there was nothing else in Victoria. And then we added a couple of positions and we worked really collaboratively with Victoria Legal Aid to develop a training program. So we sat down and said, What are the capabilities you need to be a really good community lawyer? And what are the things that law school isn't training people in to do that, and practical legal training isn't training people to do this in.

Hugh de Kretser: [00:34:37] And our scheme was to say, as a final year law student, you can apply for this scheme. We will pay for your practical legal training, we'll pay for your admission, and then you'll rotate through three legal centres, a specialist centre, like say Consumer Action Law Centre or a Disability Discrimination Law Centre a generalist centre like Fitzroy or Brimbank and a rural and regional centre like Bendigo or

Mildura or Gippsland. And they had really struggled to recruit consistently because the pool of lawyers are much stronger in the city than Bush. And so we had an extraordinary response to the those two, one or two positions. And it was so hard and sad to be able to have to and I saw one of the graduates yesterday, she's the head of legal at the Victorian Human Rights Commission. And so the graduate we were sort of like, how are they are these people going to take this training and then go into corporate law? Or are they going to go into and they've all gone into I think without I'm trying to think of any exceptions, I'm not aware of any, they've all gone into long term careers in public interest or related law.

Hugh de Kretser: [00:35:44] And the quality of those candidates was extraordinary. And this and we did work with the law institute at the time to look at the reason why people study law and there's a very strong social justice reason why people want to study law because they want to help people. And then we looked at where people ended up with their careers and that sort of pathway into commercial type world. The Law Institute was really helpful in doing this survey and supporting us to help to create those pathways and to train up those lawyers so they were properly equipped with things like understanding mental illness, understanding how to build trust and rapport with clients, understanding law reform and policy work. So yes, the law schools and practical legal training teaches you, my training at Mallison's taught me how to be a very good lawyer to advise someone about what the law was. At a community legal center, you need to understand so much more, so many social skills involved in that. The clients I had at Mallison's were pretty much all university educated, earning big money in the corporate world. The issues they were dealing with know mattered to them in a job sense but it wasn't

Michael Green: [00:37:03] Life or death? Life or death.

Hugh de Kretser: [00:37:05] Yeah I didn't want to exaggerate but I've had clients I've done deaths and custody inquests and worked with families who've lost loved ones in the criminal justice system. And so, you know, skills that I developed through the colleagues and the work that I did, we wanted to equip those graduates with better training to be able to be effective community lawyers in understanding those, the dynamics of disadvantage and how to work effectively with clients who are experiencing

deep distress or have deep disadvantage, migrant backgrounds, understanding cultural competency for Aboriginal and Torres Strait Islander people effectively

Michael Green: [00:37:44] See with those scheme still goes on?

Hugh de Kretser: [00:37:46] So this is the sad thing. So the scheme went on for a bit after I left the federation. I'm looking at your timeline about 2013 and the scheme continued for a while after that and then stopped. But Claudia is now the CEO of Women's Legal Service and she's brought it back in a form. So I'm really grateful for her for continuing

Michael Green: [00:38:05] Funding has she got? She got funding for more than two people?

Hugh de Kretser: [00:38:08] I think yes. Yeah, I think so. But the idea is there and I think we need those pathways and Victoria Legal Aid, I should give them a shout out because they're very supportive and they have their own graduate program as well. But what I didn't want to do was, you know, I talked about the golden handcuffs. There'd be so many people that would ask me, should I go down your pathway, which is get do the articles or the traineeship and then work in a corporate firm and then change over. I say, you can do that, but it's hard. But the other thing I'd say is the corporate firms have done a great job in building their pro bono programs. At I saw this internally at Mallison's, I saw it across so many of the firms are supported by organizations like Justice Connect, where the pro bono is much more sophisticated and targeted towards meeting legal need now than it used to be twenty or thirty years ago. And people can have a successful career in a corporate firm and do pro bono work, substantial pro bono work. And it's an amazing testament to the legal and as barristers as well, like the barrister support that we got at Brimbank and at the Human Rights Law Center was incredible. And so there's this ability, which is amazing for someone to have a successful commercial career, if you like, while giving back through pro bono work as well, which is something that's increasingly changed.

Michael Green: [00:39:35] In my experience Hugh, I don't know any lawyers who don't do pro bono work. Now whether it's in a structured fashion such as at a large firm, or whether it's through a phone call from somebody, everybody does it. And so they should in my opinion.

Hugh de Kretser: [00:39:51] It's something that is amazing about the legal profession.

Michael Green: [00:39:58] Hugh, just a brief change of direction. During this time, the time you were Executive Officer of the Federation of Community Legal Services, you have a part time role with the Victorian Law Reform Commission.

Hugh de Kretser: [00:40:11] Yep, so I was appointed as a part time time commissioner of the Law Reform Commission. Did inquiries into jury directions, guardianship and administration. I forget the other inquiries, but that was an amazing learning for me because I was passionate about law reform. And at the Federation, I've been advocating for the interests of the clients of community legal centres. At the Law Reform Commission, it was led by Professor Neil Rees at the time, someone who'd been a real pioneer in community community legal centres, but was a great academic and law reformer. You had a policy problem, if you like. And instead of the ease of advocating for one position, you had to understand you were receiving the advocacy from lots of different sectors, and you had to craft achievable reform recommendations for government. And you had to have a more sophisticated understanding of the political and law reform landscape to understand what was possible and what would help to address the problem that you were trying to address.

Michael Green: [00:41:17] So from a personal point of view, it had great value for you in your development.

Hugh de Kretser: [00:41:21] Absolutely. To

Michael Green: [00:41:22] Learn that far bigger picture.

Hugh de Kretser: [00:41:24] Yes. Yeah.

Michael Green: [00:41:26] And another part time role, actually went for twelve years. Yeah. 2010 to 2022, you're a director, the director of the Sentencing Advisory Group.

Hugh de Kretser: [00:41:36] Sentencing Advisory Council. So as a director, it's like a board member or yeah, so it's a bit like a commissioner, there was many more of us. So our sentencing advisory council was, I think, modelled on a UK model. So there's a few in Australia. Again, it was Rob Hull's reforming attorney general who implemented that

or created this body and really to bridge the gap between the courts, the community and the government around sentencing policy and research. Really fantastic organisation that brought together sort of statistical researchers around sentence length and sentence type, and law reform policy people around how to get effective criminal justice policies, you know, in their perspective from a sentencing point of view. I was asked to join that council because of work I'd done at the federation about Sorry, when you say the Federation? Of community legal centres. So I was doing work around this campaign, we called Smart Justice, which was trying to get governments to implement criminal justice policies that aligned with the best evidence around what would work to promote community safety and have strong and healthy communities because too often governments are pursuing law and order so called law and order policies that and there's plenty of research in The United States to show that in the abstract, people think that courts are imposing sentences that are out of touch with community expectations. They're too lenient. When you actually give people the more detailed information about particular crime or a particular case, they are far more likely to agree with the judge's sentence or the court sentence. And there's been fascinating jury studies where the jurors who determine guilt are then asked to sit and hear the submissions around sentencing.

Hugh de Kretser: [00:43:37] And then they ask the jurors to give a hypothetical sentence and they compare that sentence to the court's actual sentence. And there's very close alignment and often the jurors are more so called lenient than the court. So it completely debunks the myth that courts are out of touch with community opinion on sentencing, but the mass media sells newspapers by this narrative that the courts are out of touch and issuing so called soft sentences. And that means that disadvantaged groups, predominantly Aboriginal and Torres Strait Islander people bear the brunt of those law and order policies that are brought in to appease that mass media narrative because we end up locking more and more people in prison. And you absolutely need punishment, you need sentences, you need to denounce and punish serious crime, but you also need to tackle the causes of crime. And all the criminologists would point to the things like disadvantage, education, homelessness, substance abuse, mental illness, effective child policies to address child neglect. These are the things we should be investing in if we want to have safe communities. And too often the money is sucked into police and prisons responding at the wrong end. And so that's what that campaign was about. And that it's because of that work that I was invited to join the Sentencing

Advisory Council and was a director for twelve years sitting with researchers, with senior police, with journalists, with victims of crime, working together.

Michael Green: [00:45:06] And I think no judges, judges aren't allowed? No judges aren't allowed. Yeah. Interesting. And that you're a director there, so I'm assuming it's a board meeting once a month or something like that.

Hugh de Kretser: [00:45:14] Yes, yeah.

Michael Green: [00:45:15] And what about the part time position with the Victorian Law Reform Commission? I mean, just trying to think how you're fitting this all in to tell you the truth. Yeah. I was

Hugh de Kretser: [00:45:24] On the board of the National Association of Community Legal Centres as well and Did

Michael Green: [00:45:28] Your family see much of you?

Hugh de Kretser: [00:45:29] Well, yeah, it's interesting now in my current job. I worked very hard as I've got two kids. I had the first son in 2010. So, it's one of the challenges is that balance and the things that help that are very supportive partner and flexible workplace policies like COVID has been an absolute boon for that. And I had a lot of flexibility in the job at the Federation and particularly the Human Rights Law Centre where you can work anywhere, anytime. But that means that you can also try and create space in your schedule for proper opportunities to spend time with your kids and your family. And it's really nothing in the scheme of things. But when our son was born, I took one day off a week. I was fortunate to be able to access parental leave as a father and took one day off a week for six months and looked after my son. But you know, compared to what women do and the disproportionate burden that they bear in terms of child raising, it's nothing, but that was a really special time in my life.

Michael Green: [00:46:39] Hugh, you mentioned the Human Rights Law Centre, and after about six years with the Federation of Community Legal Services, or centres, sorry, you take a position with the Human Rights Law Centre.

Voiceover: [00:46:52] Changing from one role to the other, were you headhunted?

Michael Green: [00:46:55] Did you apply for a job? Were you looking for a change? How did it come about?

Hugh de Kretser: [00:46:59] You know, I've been at the Federation for a few years. I was looking at what was next. I'd applied or talked about applying for a couple of jobs with different people. I was on the board of the Human Rights Law Centre when it was set up. So the centre was set up by Phil Lynch, who's an amazing, he's a friend, he's an amazing champion for human rights and a real innovator. And he was someone who was really widely read around organisational management theory, and that's unusual for lawyers. So he really cared about how to be a good leader and manager. And he helped me to be a good leader and manager. Hopefully people think I'm a good leader and manager. He was on the board of the Federation and there's a bit of opposition to the Human Rights Law Centre where it was set up. Community Legal Centres thought it might take funding or pro bono away from them and thought it wasn't needed in terms of the model of strategic litigation and advocacy. I thought it was a really good idea and one of my colleagues said, Phil needs support for this idea. And so he wrote and I edited a letter to support Phil in setting it up and Phil asked me to join the board back in 2006. So I was there when it started with our sort of one staff member and \$100 in no ongoing funding. It's about to celebrate twenty years of operation.

Michael Green: [00:48:10] No golden handcuffs there.

Hugh de Kretser: [00:48:11] No golden handcuffs, no, you know, nonprofit salaries. But you know, we tried to increase them over time. So I knew that that centre very well. I stepped off the board once I took the role at the Federation of Community Legal Centres because of potential conflict there. But you know, Phil encouraged me to apply for that job when he left to go to Geneva to work at an international human rights NGO and I applied and got that job and was there for almost ten years.

Michael Green: [00:48:39] So what does the Human Rights Law Centre do you?

Hugh de Kretser: [00:48:42] So it's a specialist community legal centre, but it's different from your standard community legal centre because instead of doing a high volume of small cases, did a low volume of big cases and had a very strong focus on law reform and advocacy and campaigns. And so we did very, most of our litigation was in the high court or state supreme courts. It was a national legal centre.

Michael Green: [00:49:08] Can I just so you're going to be in the Supreme Court, might then go into the high court? How does it come about? I know how other litigation comes about. Someone walks into your office and says, I've had a crash in my car, we've had a commercial dispute, my husband and I have broken up or whatever. I know how those pieces of litigation start. How does it start when you are the Human Rights Law Centre?

Hugh de Kretser: [00:49:30] Yeah, depends. So different ways, but centre Phil realised and I continued this that networks with civil society across Australia was absolutely critical for the centre's success. So we had a small staff team, of I think six or seven staff when I started, one when Phil started, and then we were able to build it. And I think there was about 25 staff when I left. Hard work raising money for that fundraising was a big part of my job. Got Next to no government funding. So that independence was absolutely critical. So at the federation, we did strong advocacy, but I felt a relief when I moved to the Human Rights Law Center. And that relief was not worrying about government cutting your funding when they didn't like the advocacy you were doing. Or if you're a community legal center, the litigation you were bringing against government. Human Rights Law Center largely completely independently funded by individual donations or philanthropic grants, occasionally some small grants from government and that independence was vital to its success. And so networks were civil society so we worked really closely with Aboriginal Legal Services who might have a family, had a loved one die in custody, and they would come to us and say, can we work with you collaboratively with this? We'd typically bring in a pro bono law firm, team of barristers, and look at that coronial inquest as a means of supporting the family to get the truth.

Hugh de Kretser: [00:50:58] Typically families in those situations want the injustice or the loss that they've suffered to happen to no one else. So they wanted that prevention focus. In our refugee work, we worked really closely with refugee organisations who are doing the client work. And they would say, you know, can we work with you on this particular, we've got this family who's at risk of deportation. So one of the cases we did, which turned into the Let Them Stay campaign, Australian government was detaining people offshore on Nauru and Manus Island, men on Nauru, families on Nauru. The conditions were terrible, all sorts of harm that was well documented by international agencies and others. And if someone was having a baby, the government would typically allow them to give birth in an Australian hospital. So they'd fly them to Australia.

And then once that baby was three months old, their policy was they would be removed back to Nauru. And so those families did not want their children growing up in a tent and an old phosphate mine and all the conditions that they knew were harmful. And so working through organisations, we're connected with those families and brought cases with pro bono help to stop those removals.

Hugh de Kretser: [00:52:09] That went to the High Court and the government changed the law halfway through that case to try and stop us from bringing the case. We went ahead with the case. Ultimately, that case was unsuccessful, but it led to the Let Them Stay campaign that exceeded all expectations in terms of national reach and the people who got behind that campaign. Someone else did some survey research around public opinion around whether these babies and their families should be removed from Australia to Nauru to harm there. And it showed a massive shift in public opinion in about three weeks. And those families ultimately were not removed. And so that sort of speaks to the model of the Human Rights Law Centre, where you're looking at a legal case done in partnership with pro bono, in partnership with non government organisations working in that area. And then combining the advocacy with the strategic litigation needs to be done very carefully. There's lots of ethical considerations about how you do that. And that was the model that that centre was formed to do. And the centre has had a massive positive impact on human rights over its twenty year journey.

Voiceover: [00:53:26] William and Lonsdale is brought to you by Greenslist, one of the leading multidisciplinary barristers lists in Australia. Greenslist believe in promoting conversation around the ideas and issues that shape not only our legal system, but our wider community.

Michael Green: [00:53:46] Hear clearly from the conversation we've had, you are passionate about human rights and you are passionate about law reform. Yes. Which obviously is a good thing for our community. Do you get much personal satisfaction? Do you see much change or is it a slow incremental grind where hopefully we'll get a little improvement here, a little improvement there federally, state by state, whatever?

Hugh de Kretser: [00:54:10] Yes, I get a lot of personal satisfaction. I'm lucky to turn

Michael Green: [00:54:14] Up and to work every

Hugh de Kretser: [00:54:16] Be paid to do the thing that I love doing. And yes, so I get a lot of satisfaction and that's, but it's very important to define success in the human rights advocacy or legal action field because success sometimes is stopping a bad thing from happening. And so some people don't know that that thing might be happening and you've stopped it from happening or you've mitigated the worst aspects of it. And in the refugee space, that was the environment we're working in sort of 2012, 2013, where things were going bad and the conditions are getting harsh, the policies are getting harsher, It was Kevin Wright and then the Abbott government brought in increasingly harsh policies. And we looked at our job to mitigate the worst aspects of those policies, provide a voice for the people who were suffering under those policies.

Michael Green: [00:55:07] Are these the people on

Hugh de Kretser: [00:55:08] The boat in the Indian Ocean? Yes. So this is, you know, people arriving by boat. Historically around 80 to 90% of those people found by a refugee determination system to be refugees fleeing persecution and harm. And the Australian government policy shifted to removing them to offshore islands to conditions we knew were harmful and saying you can never resettle in Australia. And so we worked on addressing the worst aspects of those policies, improving the conditions, trying to get people pathways out through resettlement to New Zealand to offshore.

Michael Green: [00:55:44] Is this done by advocacy, by public relations, by trying to get public opinion, opinion behind it?

Hugh de Kretser: [00:55:51] It's about, in my job then, challenging the laws that support it, or bringing cases that challenge the law. We're lucky to work with brilliant barristers like Ron Merkel and others who helped to devise strategies around that to look at campaigning and public opinion so people understand what's happening, working with journalists to get access to Manus Island. One of my colleagues was one of the first independent people to go into the Manus Island Detention Centre, looking at Papua New Guinean law to understand how can you detain people indefinitely under Papua New Guinean law when they actually have decent human rights protections in their constitution unlike Australia. And so you get sometimes the satisfaction is stopping bad things from happening or mitigating the worst aspects of it. When you meet with those clients and you understand the impact on their lives, it makes a difference to you.

Sometimes it's shining the truth on what has happened. So working with families who've had loved ones, typically Aboriginal families who've had loved ones die in custody. And then sometimes it's getting really positive advances like marriage equality. And so in the LGBTIQA plus space, was, you know, off the back of just generations of advocacy by that community, we were achieving a lot in terms of reforms to get rid of leftover convictions from when homosexuality was criminalized. I was in the Victorian Parliament when Dan Andrews apologized to people for the criminalization of homosexuality, fantastic moment. Then get ultimately, you know, it's a long battle, but to get marriage equality and to be able to play a role in that through a legal action we brought and being part of the campaign for marriage equality.

Michael Green: [00:57:39] So you would say in your career, which is thirty odd years?

Hugh de Kretser: [00:57:44] Yeah, did articles in '99, so '20 So

Michael Green: [00:57:49] Let's say twenty years though, we've missed in the human rights space. You have seen some significant change.

Hugh de Kretser: [00:57:55] Absolutely. And then but you can't be complacent. And there's huge threats to human rights in Australia at the moment. We're seeing racism rising, we're seeing anti migrant sentiment rising, climate change is a massive threat to people's human rights and new technology and the impact of particularly artificial intelligence, think will have a significant impact on people's human rights. That's the Human Rights Law Centre. So I finished there in 2022, and then I moved to the Yuruk Justice Commission.

Michael Green: [00:58:32] So, Nam, tell us about Yuruk. What is Yuruk?

Hugh de Kretser: [00:58:35] Yuruk Justice Commission was people remember the Uluru Statement and it's called for VOICE Treaty Truth. VOICE was the representative body, treaty is the agreement to remedy injustice and truth is truth telling about the history of injustice against Aboriginal Torres Strait Islander people in Australia and the connection between past injustice and ongoing injustice. And so Victoria in I think it was 2020 agreed, well let's go back, Victoria agreed to set up a process to have a representative body. It was called the First Peoples Assembly of Victoria when it was first set up. They had a process to establish a treaty. And then in 2020, they agreed to

do the truth telling inquiry. So the state of Victoria and the First Peoples Assembly drafted the terms of reference, agreed that it would be a Royal Commission that would be the vehicle to conduct this inquiry. And so that was set up, I think in 2021. And I joined as sort of the second permanent CEO in 2022 and did that job for two years.

Michael Green: [00:59:43] Was it appropriate that you as a not a First Nations person be CEO of that body?

Hugh de Kretser: [00:59:50] Yeah, good question. And I had to think long and hard. So I actually applied for the job when it first came up and sent my CV in and said, this job should be performed by a Aboriginal Torres Strait Islander person. If you don't have a suitable candidate, please get in touch. And I didn't hear anything about it. And then a year later, I got a call from the commission saying, we need a CEO. Many people have recommended you. Are you interested? I said, Oh, did you know I applied a year ago? And they said, No. And so I said, Yes, I am interested. But explain to me your thinking around why you think a non Aboriginal person is the right person to do this. And I consulted with Aboriginal friends and with the Aboriginal commissioners. And basically they said, Get over it. You've got a job to do. The Aboriginal commissioners want you to do it. You've got a skill set that can help. And I spoke to the interim CEO who was Aboriginal before me, and she just gave me a much better insight into some of the pressures that I didn't have in that role as a non Aboriginal person that anyone who is Aboriginal in that role would have had and that I saw that the commissioners had. So you know again I was going home at night worrying about the operations or funding or how we how we're going to deliver on the ambitious terms of reference. Aboriginal commissioners are going home and getting messages saying, you've got to ask about this, you've got to look into this, don't stuff that up, don't risk treaty, make sure you ask the Premier about these things.

Hugh de Kretser: [01:01:14] And so it in some respects was a disadvantage for me being a non Aboriginal person in that world because I had so much learning to do. And it was a fantastic experience for me being the outsider going to Aboriginal communities and Aboriginal settings, having to learn about language and culture and custom and politics and history. Only sixty thousand years Hugh? Yeah, not much to get across and still got a long way to go. But what a gift, what a privilege for me to be able to work in an environment that was about 40% of our staff were Aboriginal, 60% of our exec, half of

our barrister team, four out of five commissioners Aboriginal, amazing experience for me. I hope I'm able to, I'm trying to take that experience and talk about it nationally in my current role, to be able to promote the importance of truth telling as absolutely critical for Australia to really build a much better shared understanding of our history. And the reason there is such disadvantage in Aboriginal communities, and how we can work together to address that disadvantage. So two years, incredible experience, hardest job I've ever done harder than my current job. But yeah, what a privilege. I've talked a lot about how it changed me and makes me has made me look at the world differently because of that experience.

Michael Green: [01:02:37] And therefore digital, were you comfortable in leaving it to go to the Human Rights Commission? No.

Hugh de Kretser: [01:02:43] And so I applied to, I hadn't even seen the job as the president of the Australian Human Rights Commission and a friend who's Aboriginal sent it to me and said, you'd be good at this job. And I knew it was based in Sydney. There's only one office based in Sydney. I was living in Melbourne at the time, very passionate about delivering on. So Uruk was a four year commission. I joined after one year, I left, I did two years and I left with a year to go. And so I loved working for the chair Auntie Eleanor Burke, who is a very well respected, brilliant Aboriginal leader, Aboriginal elder, and felt like I was betraying her to apply for this job. I felt like I was betraying my parents who elderly, my dad's in aged care and you know, my mom was supporting him and then you know, I had you know, one kid who was in high school and one who was in grade six and you know, moving the family and so those were the conversations we had as a family. And, you know, I talked to my mom before I accepted the job and she's like, you know, of course, you're crazy, go for this job. And, you know, the family was up for the move. And, you know, when I told Auntie Eleanor, she burst into tears, I burst into tears and she said, You can't leave me. And I said that she was fine. And, you know, Trev Lovitt was someone who I have, yeah, just an enormous admiration for. He was one of the deputy chairs and he was very encouraging and supportive and said the ancestors have put a path for you and you should go on this path. And so getting his support was good and this role that I'm in currently is the chance on a national scale to improve people's human rights in this country. So for someone who's deeply passionate about human rights, this is the pinnacle of the job in terms of what we can try and achieve.

Michael Green: [01:04:42] So as President of the Australian Human Rights Commission, I understand you passionately or strongly believe we should have a Human Rights Act? Yes. Enacting human rights even, would you think, as a part of the constitution maybe, a bit like the Americans?

Hugh de Kretser: [01:04:56] Well that's realistically not going to happen, at least anywhere in the immediate future. History of referenda in Australia is a long and sorry one and most of them are unsuccessful and there's been attempts to put some better human rights guarantees in the constitution that have failed. For those who don't know, constitution is a minimalist document. There's very few human rights guarantees in it. The people who drafted it explicitly considered whether or not to provide non discrimination equality protections and they rejected that because they didn't want to give it to people who weren't white, Aboriginal and Torres Strait Islander people, Chinese migrants, also forced laborers who they brought from the South Pacific and other places. And so while Australia has been good on the international stage, we were a supporter, we helped to draft the Universal Declaration of Human Rights, said it's one of the greatest things humanity's ever done. This document that after the horrors of World War II, these drafters and the international communities came together and said never again, what are the things that we need to guarantee that every single person should have regardless of who they are or where they are or what they look like or what they believe that entitles us to have a decent dignified life. Drafted this document adopted by the UN General Assembly 12/10/1948, and Australia hasn't implemented that properly in Australian law. And so we, are the outlier. There's no comparable democracy who doesn't have a National Human Rights Act or constitutional human rights protections that take those international obligations. We've signed up to treaties that say we'll protect these rights in our law. We haven't done that comprehensively. That's what a Human Rights Act would do at the national level. We've got one in Victoria, a Human Rights Charter in Victoria. ACT's had a Human Rights Act since 2004. Queensland brought one in in 2019. And so the Australian Human Rights Commission led by my predecessor, Ross Croucher, developed a model for a Human Rights Act.

Michael Green: [01:07:01] A federal model or a model that can be adopted by each state and territory?

Hugh de Kretser: [01:07:04] Federal model. So, you know, there's different inquiries. New South Wales is looking at having a Human Rights Act at the moment. There's an inquiry on foot there. South Australia had an inquiry last year. So there's different stages of development in those jurisdictions that don't have them. The model that we've recommended for a federal or national Human Rights Act is one that just applies to the federal government so it won't override, it won't apply to state governments or state and territory governments. It lists Australians human rights in one place and it would do two key things. It would say to government agencies and public servants, you have to properly consider human rights and you have to act compatibly with human rights when you're doing your job. And what that does is it makes governments think about people before they act. And the experience from comparable democracies New Zealand, Canada, UK, and from Victoria, Queensland, ACT is that that changes the mindset of government and gets much better human focused decisions and policies and services. It's not a guarantee. There's many examples where governments get it wrong, but then you have for governments to take it seriously, you have to give people the power to take action to protect their rights. And so that's where the cases come involved and at the Human Rights Law Centre, you know, we ran those cases, but the big shift is not in the courtroom, it's in the internal decision making and operations and thinking of governments to put people at the centre of government thinking and action.

Michael Green: [01:08:40] It's a very noble project. I hope it's successful, you. Although, I mean, that sounds cynical, but when you consider that Victoria, Queensland, the ACT have done these things, other places are looking at them, we can possibly be optimistic.

Hugh de Kretser: [01:08:55] You look at something like Robodebt. If we'd had a Human Rights Act at the federal level, when the minister says to the public servants, want you to design a system that better recovers debts from people, then those public servants have a legal obligation to properly consider and act compatibly with the rights to equality and the rights to a fair hearing. And if they're doing their job on that, they design a very different system than one that automates debts and unfairly charges people for debts that they don't owe and creates brick walls for people when they try and challenge it. And it gives people powers to challenge those in ways that they didn't have previously. So that's just one example. There's so many from Human Rights Law

Centre has got a great publication called 101 Cases, where human rights acts or charters have made a difference. I encourage people to look at that.

Voiceover: [01:09:50] Lives in the Law is proudly sponsored by City Maps Illustrated. Their recent publication, The Melbourne Map, is a celebration of our wonderful city. This stunning, hand drawn illustration, which took more than three years to create, is available as an art print, jigsaw puzzle, and calendar. The perfect acquisition for your home, office or corporate gifting.

Michael Green: [01:10:17] Hugh, it's come to our attention that tomorrow is the second anniversary of your appointment as the President of the Human Rights Commission. Just a brief review of those two years. What's dominated the work of the Commission and your own role and your own thinking? Every night when you go to bed I'm assuming it's a job you can't go to bed overnight and forget about. When you've been going to bed overnight over the last two years, what's dominated your thinking?

Hugh de Kretser: [01:10:41] Yeah, we talked about Human Rights Act and discrimination laws and that positive duty. That's the reform agenda that we're pushing and that my predecessor set up and that I firmly believe in. There are advocacy goals to get a better framework for protecting people's human rights in Australia. When it comes to some of the issues that have dominated the last two years, racism is one of those key issues. So racism affecting First Peoples after the VOICE referendum, and racism affecting communities in Australia who are impacted by the Israel Hamas war. And so that is playing out in Australian workplaces, in creative industries, in universities, in goods and services. We're receiving complaints about those issues. And we are doing work to try to better support those communities who are affected by that racism. And some of those projects are like Racism at University Studies. So this is a huge national study looking at the impact of racism on staff and students in universities. That's across lots of different population groups, but with a strong focus on Aboriginal Torres Strait Islander staff and students, and on Jewish and Israeli staff and students, and staff and students from Muslim and Palestinian, who are Muslim and Palestinian backgrounds. And one of the projects that we did was a project called Seen and Heard, where we did national consultations with those working with community groups, with those communities who are affected by that conflict overseas.

Hugh de Kretser: [01:12:21] And that has given us a really unique insight into how the pressures and distress those communities are experiencing in terms of the loss and the trauma that they've suffered, the discrimination they face, the challenge to their sense of belonging in Australia, the pressure they feel to shed aspects of their identity and culture when they go out in public life in Australia, and their feelings of being let down by the Australian institutions meant to protect them. And that racism has manifested in a horrific form in the Bondi terror attack in December last year. And we've also seen a terror attack, alleged terror attack against Aboriginal Torres Strait Islander people in Perth, apparently an alleged foiled plot against mosques in Perth. We've seen a wave of attacks and anti LGBTIQ plus sentiment. And so those issues around prejudice and hate have really been a huge focus for us over the last two years. And now we've got the Royal Commission I mentioned at the start when we're talking around looking into antisemitism, but also more broadly social cohesion in Australia. And we need to be very clear about what we mean about social cohesion, feelings of belonging and inclusion and trust in institutions and equality and non discrimination. So these are the issue. These are some of the issues that have really been at the forefront of our work over the past couple of years.

Michael Green: [01:13:56] You're a mediator? You're an organisation in the middle? You haven't got powers to punish people or convict people or

Hugh de Kretser: [01:14:05] Anything No. Like We've got regulatory powers in that limited space and under the Sex Discrimination Act. But yeah, how we receive complaints of discrimination, we don't determine them. And some of them are around racial vilification under section 18C of the Racial Discrimination Act. But yeah, we don't determine them. We don't prosecute people for racism or anything like that. We receive those complaints. We investigate them where feasible. We attempt to mediate or conciliate them and we get good results. Sometimes it's not always possible. And then some people choose to go on to the court system, but we also do that education work. So we've got training to equip organisations to respond to discrimination. We've got projects around helping workplaces to employ people with disabilities so that they have meaningful, properly paid work and are retained and have access to meaningful and good careers in the Australian workforce. We're doing that with racism as well, equipping employers. These are often difficult and contentious issues and the impact of that conflict, the Israel Hamas war in Australia has really shown how ill equipped we are

in many respects to have that dialogue in a respectful and constructive way and respond to those issues. So those communities feel part of our Australian community, feel that they belong, feel safe and supported. And of course there's the physical safety aspect that we absolutely have to ensure for everyone, for all population groups. So that's been a huge focus of our work.

Michael Green: [01:15:40] Huw, it's been a fascinating discussion and a discussion which I think we as a community need to have and continue to have to know more about ourselves and to try and make us a better community, a better society. And I applaud you for the work you do towards trying to bring that about. Let's go into fantasy land a bit. You've a magic wand which you can wave to make one change to our society. What would that change be? I'm going

Hugh de Kretser: [01:16:05] To pick three changes, but I'll be brief. Human Rights Act, we've talked about that. Human rights education, better understanding. People need to read the Universal Declaration of Human Rights. It's a very short document and it is brilliant. And I think during COVID, we got some real insight into what people, people's misunderstandings of what human rights are. And so there was a big consultation led by Frank Brennan in 2010 under the Rudd government around how to better improve human rights in Australia. Then they recommended a Human Rights Act. We need it. Their number one recommendation was better human rights education. And so we're going to be doing a whole lot more work over the next three years of my term around improving human rights education. Part of this is civics education around understanding our democracy, But more importantly, it's about that broader understanding of human rights, what they mean, why they're important, why they matter, not just to ourselves individually, but why respecting human rights makes our community stronger, healthier, more prosperous. And just my experience working at and the Seen and Heard project and listening to people over the past two years experiencing racism and the truth telling work we did at Uruk, it's just trying to get those constructive spaces, those safe spaces, where we can have dialogue about really difficult contentious issues. And that's playing out around issues like trans rights, trans and gender diverse people played out in issues around racism. And we need to have a better dial. Social media isn't helping here. New technologies aren't helping here. So that's my magic wand. Three wishes. I've changed it to a

Michael Green: [01:17:44] Magic wand. Fairies have three wishes or if you are a genie coming out of the bottle, I give you three wishes. Yeah.

Hugh de Kretser: [01:17:50] Thank you.

Michael Green: [01:17:51] Thank you for a most interesting and illuminating conversation this morning. It's been wonderful. Thank you.

Hugh de Kretser: [01:17:57] Thanks for having me on.

Voiceover: [01:18:04] Show notes from today's episode can be found at greenslist.com.au/podcast. There you'll find links to things we've talked about in this episode, a transcript of the show, and some wonderful photos of our guests. If you're enjoying lives in the law, please tell your networks, subscribe, rate, and review the show. Your host is former lawyer and Greens list clerk, Michael Green. Our show is produced and edited by me, Catherine Green, mixed and mastered by Windmill Audio, and recorded by Alex McFarlane, who also wrote and performed all the music for the series. We're coming to you from the iconic Owen Dixon Chambers on the corner of William And Lonsdale Streets in our beautiful city of Melbourne. We acknowledge the Wurundjeri people of the Kulin nation as the traditional custodians of this land and pay our respect to their elders past and present. There is no doubt that conversations about justice have been taking place on this land for thousands of years, and we are privileged to continue that discussion here today.