



# A young, vibrant organisation with a bold plan



**Grata Fund empowers people and communities to use litigation as a powerful tool to protect and advance their rights and freedoms.**

Founded by Isabelle Reinecke, Grata aims to reinvigorate the judicial arm of Australia's democracy by supporting affected communities to access the courts and reinvigorating Australians' understanding of the role of the courts as a check on the power of government and corporate leaders.

*"At Grata, we're really working to renew some of the first principles of democracy. As Chief Justice Bathurst reminded us at the 2019 Opening of Law Term Address, "The judiciary is not simply a publicly-funded provider of dispute resolution services; it is the third branch of government. It performs the governmental function of enforcing legal rights and obligations to the benefit of society as a whole,"" said Isabelle Reinecke, Executive Director and Founder of Grata Fund.*

## Adverse costs and barriers to justice

Unique to Grata's approach is removing the adverse cost barriers to public interest litigation, by bringing together a movement of people who can chip in to ensure that affected communities have the opportunity for their matters to be heard in courts, free from the fear of crippling debt.

Adverse costs have a significant impact on access to justice according to Justice Connect (formerly the Public Interest Litigation Clearing House). They have estimated that 9 out of 10 meritorious cases don't reach the courts due to the financial barriers caused by the risk of adverse costs orders.

Australia's adverse cost system is uniquely punitive for public interest litigants compared with democracies around the world, including the UK.

Isabelle Reinecke says that it is absolutely vital that we address this financial imbalance in access to the third arm of democracy if we want to our democratic system renewed.

## The recipe for success

Isabelle was awarded the Churchill Fellowship to investigate the most effective approaches to strategic litigation for social change around the world in 2017.

After meeting with global heavy hitters in the strategic litigation space including the American Civil Liberties Union (ACLU), US Centre for Constitutional Rights, National Association for the Advancement of Coloured People Legal Defence Fund (NAACP) of *Brown v. Board of Education* and Bertha Institute and Open Society Foundation in Europe she's been able to bring those lessons home and apply them to an Australian context.

For Grata it's about merging traditional legal advocacy strategies with new power strategies like social movements and digital engagement to ensure affected individuals and their communities can create lasting structural changes to make the world a more just and equitable place.

Grata team L-R Ella Bickley, Sonia Sofat, Lou Dargan, Isabelle Reinecke and Belinda Lowe.





Daniel Kelly (ALRAR lawyer) / Photo Grata Fund

## Movement lawyering and community engagement

Movement lawyering builds the power of marginalised communities through integrated litigation and advocacy strategies that are designed to maximise the potential for sustained social reform.

*“That approach has been really influential in shaping how we see our role as lawyers at Grata. We prioritise support for cases where lawyers are working together with social movements. We work with lawyers who adopt a community-centred approach and who assist communities to use the law in a politically sophisticated way to advocate for change,” said Isabelle.*

*“Movement lawyering also represents a narrative shift around the role of the public interest lawyer. It helps us as a profession to move away from the story of the lawyer as the saviour of marginalised communities, to one where we focus on the work being done by communities and social movements to address social challenges every day.*

*For Grata that means empowering communities to apply a legal lens to their work and to support them to achieve their goals by amplifying their voices both inside and outside of the courtroom.*

*“We think this represents the most accountable and effective way for lawyers to approach systemic change,” said Isabelle.*

The other side of this work is people driven campaigns that can leverage court cases to support the affected communities outside the court to influence change in other areas like policy or legislative reform.

Belinda Lowe, Head of Strategic Communication says that principles consistent with ‘movement lawyering’ are applied in this area of work, through a rights based framework.

*“For Grata this means self determination and community control are foundational to our work, and we take this*

*expectation into our partnership agreements with other organisations.”*

Grata accepts case proposals from affected communities and organisations which are assessed based on their prospects and likelihood of achieving significant structural change for the affected communities.

## First Nations housing in remote Northern Territory

This approach has already yielded significant success and systemic change for remote First Nations communities living in the Northern Territory.

In 2018 Grata provided the financial backing, alongside the pro bono support of a top tier firm, to enable Eastern Arrernte residents of Santa Teresa, a remote First Nations community outside of Alice Springs, and Australian Lawyers for Remote Aboriginal Rights (ALRAR) to pursue a class action lawsuit against the NT Government for failure to fix 600 urgent repairs. Many houses posed serious health and safety risks to residents, with some buildings structurally unsound, without running water, sewerage and ventilation despite the desert temperatures in the area regularly hovering above 40 degrees in summer and below zero in winter - with some families waiting up to 5 years for repairs.

In February the Northern Territory Civil and Administrative Tribunal (NTCAT) found that the NT Government is legally obliged to provide habitable housing in remote communities compensated for the NT Government’s failure to maintain housing to a safe and healthy level.

Grata Fund’s head of strategic litigation, Lou Dargan, hails the decision as “a victory for the residents of Santa Teresa and all remote Aboriginal communities that

have been systematically ignored by a Government that continues to fail to meet its basic responsibilities as a landlord.”

ALRAR lawyer, Dan Kelly said, “Aboriginal communities, including the people of Santa Teresa, have fought long and hard to protect their rights while the Government has continued to fail to meet its basic responsibilities as a landlord in the community.

“The NTCAT decision has cemented the rights of the Eastern Arrernte people of Santa Teresa under residential tenancy law - just like anyone else who rents from a landlord - despite the Government’s attempts to shirk its obligations,” he said.

Lou explained that the class action was a crucial piece of strategic litigation which provides an important precedent for all remote communities seeking to protect their right to housing that meets basic legal standards of health and safety.

Enid Young and Robert Conway, members of the Santa Teresa community, are hoping to take their community’s win even further later this year in the NT Supreme Court. With the support of ALRAR, Grata Fund, and a commercial firm working on a pro bono basis, Enid and Robert will argue that the remote rental agreements they were signed up to are unconscionable and that remote housing must provide ‘habitable’ housing, which means that it meets contemporary standards of humaneness and reasonable comfort.

### Pro bono support is essential

The important work Grata Fund does, including supporting communities like Santa Teresa, would not be possible without pro bono expertise. Grata could not operate without the generous pro bono support from a range of top tier, mid tier and boutique firms, both on and off the record.

“We receive pro bono support for everything from transactional work, funding agreements, cases assessments, legal and fact based research to the pointy end of prospects advice and running litigation. Without this support and a robust pro bono culture much of the work we do would not be possible” said Lou Dargan.

“We are deeply grateful for the support and partnership of UNSW Law School who have provided us with a home in their Centres Precinct and helped us build the foundations to make this work possible,” said Isabelle Reinecke. ■

*Grata was created to empower communities to create extraordinary change by removing the enormous financial barriers to court and by integrating litigation with strategic, movement-driven campaigns for human rights, democracy and climate change.*

