

Submission into National Human Rights Consultation



BY WIRRINGA BAIYA ABORIGINAL WOMEN'S LEGAL CENTRE (NSW)

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1. Introduction

Wirringa Baiya is a state-wide community legal centre in New South Wales for Aboriginal and Torres Strait Islander women, children and youth. Our work includes providing legal advice and some limited casework as well as doing law reform and community legal education work.

Aboriginal women from diverse backgrounds manage Wirringa Baiya through a governing body. Staff includes an Aboriginal Coordinator, Community Legal Education Project worker and Administrative Assistant as well as three non -Aboriginal solicitors (one Full time and two Part-time).

The centre is funded by the NSW Attorney-General's Department through its Community Legal Centre Funding Program, as administered by the NSW Legal Aid Commission.

Wirringa Baiya is part of state and national networks for community legal centres and a network for women's legal services that operates at a national level. We are a member of the Community Legal Centres Network (NSW) Inc formerly known as Combined Community Legal Centres Group Inc (NSW) and we endorse its submission to the consultation.

Expertise/Experience

The centre has a focus and expertise in dealing with Aboriginal women, children and youth who are victims of violence, primarily domestic and sexual violence.

This submission will answer the following Terms of Reference

- 1. Which human rights (including corresponding responsibilities) should be protected and promoted?***
- 2. Are these human rights currently sufficiently protected and promoted?***
- 3. How could Australia better protect and promote human rights?***

In addressing the terms of reference, it is Wirringa Baiya's aim to communicate what we experience at the Centre as the voice of Aboriginal women, children and youth in NSW. It is not our intention to go over in detail the current legal inadequacies of human rights protection in Australia or NSW as compared to other States or Countries. Nor is it our intention to address misconceptions about the implementation of a National Human Rights Act or advocate other models of human rights protection, as this will no doubt be done expertly by various other non-government organisations. It is enough to say that all human rights should be protected and the fact that Australia is the only western democracy without a national scheme of some description to do this makes this consultation long overdue.

2. Which human rights (including corresponding responsibilities) should be protected and promoted?

Snapshot of human rights issues emerging from Wirringa Baiya's work

When looking at which human rights Wirringa Baiya thinks should be protected and promoted the Centre looks to the following declarations/laws which are most relevant to the work that we do.

<i>International Law</i>	<i>NSW and Cth government laws etc</i>	<i>Other state/territory laws</i>
Universal Declaration of Human Rights, 1948	Australian Constitution 1900 (Cth)	Human Rights Act 2004 (ACT)
International Convention on the Elimination of All Forms of Racial Discrimination, 1965	Racial Discrimination Act 1975 (Cth)	Charter of Human Rights and Responsibilities Act 2006 (VIC)
International Covenant on Civil and Political Rights, 1966	Anti-Discrimination Act 1977 (NSW)	
International Covenant on Economic, Social and Cultural Rights, 1966	Sex Discrimination Act 1984 (Cth)	
Convention on the Elimination of All Forms of Discrimination against Women, 1979	Victims Support and Rehabilitation Act 1996 (NSW) including Charter of Victims Rights	
Convention on the Rights of the Child, 1989		
Declaration of the Elimination of Violence against Women, 1993	Common Law	
Declaration on the rights of Indigenous Peoples, 2007		

Legal Advice & Casework analysis

An analysis of the legal advice and casework the Centre has undertaken for the past year and a half found that the main human rights issues that come up for our clients include the right to live free from domestic and sexual violence and the right to family life, and to look after your children.

Frequently attached to these issues are human rights issues about being treated fairly by NSW Government agencies mainly the police and the NSW Department of Community Services. Underlying this are human rights concerning the elimination of racial discrimination, the right to be treated fairly as well as the right to access culturally appropriate services.

An analysis of the casework (the vast majority of which is victims compensation claims) has found a consistent pattern of what could be described as a "domino effect". When a file is opened for a victims compensation matter it is our experience that more often than not we deal with multiple acts of violence and multiple offenders for each client. It is also our experience when we open a file for a client that deals with violence from one offender we also start acting for other victims of the same offender usually sisters, children or siblings of the first client. An example of this is the Centre acting for seven victims from one offender with other victims possibly still to come forward.

It should be noted that the violence that the Centre's clients experience is at the higher end of any scale in terms of severity. The stories we hear are frequently very horrific and include domestic violence that is best described as torture and sexual violence that is really depraved.

Advices up to 30 April 2009

During this period the main issues that came up on telephone advice line in order of frequency were, child care and protection issues, victims compensation, domestic violence and family law.

Advices for 2008

During this period the main issues that came up on telephone advice line in order of frequency victims compensation, family law, child care and protection issues, domestic violence and Apprehended Domestic Violence Orders (ADVO's).

Open casework files for 2009

The casework files are mostly compensation claims for women and children who are victims of sexual and domestic violence or family members of homicide victims. A small number of these clients are currently wards of the state. There are also number of files that deal with police complaints and other miscellaneous matters.

Unfortunately the Centre does not have the expertise or resources to take on casework in the area of Care and Protection.

Community Legal Education analysis

In line with Indigenous human rights to self determination, the Centre seeks to provide community legal education in a culturally appropriate way, in response to requests directly from communities. Community legal education sessions occur both in the Sydney metropolitan area and country areas. Sessions are directed mostly towards Aboriginal women and youth and on occasion to Aboriginal men at the request of a community.

A brief analysis of community legal education sessions conducted over the past year and a half show that most of the education sessions focus on domestic violence, victims compensation and child sexual assault. This is in line with the focus of the Centre and is important given the overrepresentation of Aboriginal women as victims of violence. This is illustrated by the National Aboriginal and Torres Strait Islander social survey or NATSISS report in 2002, which found 22% of Indigenous women aged 18 years and over had been a victim of physical or threatened violence in the last 12 months.

The main human rights issue that is raised from this work is the right to live free from violence. Wurringa Baiya's view is that the main way of reducing violence in the community is by tackling Indigenous disadvantage. Disadvantage which means on average much poorer health and living conditions as well as a life expectancy that is approximately 17 years shorter than non Indigenous Australians (see Australian Human Rights Commission, fact sheet Ten common questions about a Human Rights Act for Australia).

Promoting Indigenous human rights to self-determination to work in partnership with various government and non-government agencies to provide culturally appropriate services to their communities should do this. Strengthening economic, social, and cultural rights such as the right to an adequate standard of living, food, clothing and housing, ability to maintain culture and language, a basic education and your right to a family life and to look after your children would also help.

Law Reform work analysis

The human rights issues that arise from the Centre's law reform work are many and varied. However, issues around violence and Aboriginal women, children and youth obviously take priority. This is achieved by ongoing membership of various committees lobbying for legal change. It also involves responding to various inquires by writing standalone submissions or contributing to joint submissions with other community legal services.

In 2008, major submissions included input into a “*National Plan to reduce violence against women and children*”.

In 2009, major submissions included input into “*NSW domestic and family violence strategic framework*”.

Other submissions Wurringa Baiya has been involved in include the recent “*Wood inquiry into the NSW Department of Community Services 2008*”, and the inquiry into “*Closing the Gap, overcoming Indigenous disadvantage 2007*”.

One major human rights issue arising from this kind of work concerns putting the human right to live free from violence for women and children, on the public agenda. Once this issue is on the public agenda a coordinated approach to tackling and preventing it can occur. For example, the recent establishment of a domestic violence homicide review team in NSW was the result of consistent lobbying from a number of groups concerned with domestic violence. The next step for our Centre is making sure that Aboriginal women and children’s are consulted and their needs are taken into account with regard to accessing services particularly around domestic violence.

Summary

The “*UN Declaration on the Elimination of Violence against Women*” is the human rights base for the work that Wurringa Baiya does. This Declaration recognises that there is a long history of unequal power relations between men and women. That violence against women is one of the main ways that men exert power over women. This Declaration also recognises that certain groups of women are particularly vulnerable to violence including Indigenous women. According to the Australian Human Rights Commission fact sheet Human Rights and Aboriginal and Torres Strait Islander peoples in 2005 it was reported that 18.3% of Indigenous women experienced physical or threatened abuse in the past 12 months compared with 7% of non-Indigenous women.

This basis for our work is also supported legally (as opposed to morally) in Australia by ratification of Convention on the Elimination of All Forms of Discrimination against Women. Whilst stopping violence against women is not an article within the convention a recommendation has been made that all forms of violence against women should be seen as a form of discrimination.

The “*UN Declaration on the Rights of Indigenous People*” is important because it is “among the first human rights instruments to explicitly provide for the adoption of measures to ensure that Indigenous women and children enjoy protection and guarantees against all forms of violence” (page 10, Rights, Respect and Reconciliation a community education resource for reconciliation week 2009).

This Declaration is important because it promotes the Indigenous human right of self determination. This is fostered through the principles of partnership, consultation and cooperation between Indigenous peoples and States (page 10, Rights, Respect and Reconciliation a community education resource for reconciliation week 2009).

Central to tackling Aboriginal disadvantage is promoting the right to self determination. It is only through this process of Aboriginal communities taking control of their future and deciding for themselves how best to address the issues facing them, that change can occur. It is only through allowing this to happen that the historical impact of colonization can be fully appreciated and addressed.

Particularly relevant here are more historically recent issues such as Black deaths in custody and the Stolen Generations. These are issues, which have an impact on Aboriginal women and children reporting violence because of concerns for the safety of partners or ex partners incarcerated and

issues about children being removed from their families. Underlying such concerns is the perennial distrust of government institutions such as police and welfare authorities and issues about racial discrimination.

It is Wirringa Baiya's view that there is a significant link between Indigenous women and children living free from violence and the right to have a family and to be able to look after your children. Aboriginal children are overrepresented in out of home care and often this is a result of issues around domestic and sexual violence. It is Wirringa Baiya's view that the rights of all people to be free from violence, including children and the right to have a family have equal significance. Having the right to look after your family should not be at the expense of children being exposed to harm. There must be a balance between promoting both of these human rights. It is Wirringa Baiya's view that it is by tackling Aboriginal disadvantage through self determination that the rights of the child are best protected.

Major human rights that should therefore be protected and promoted in Wirringa Baiya's experience include the following;

- Right of Indigenous women and children to be free from violence
- Right to have a family life and to look after your children
- Right not to be racially discriminated against
- Right to be treated fairly
- Right to have access to culturally appropriate services
- Right to self determination

3. Are these human rights currently sufficiently protected and promoted?

These human rights for Aboriginal women and children are not currently sufficiently protected and promoted. This is illustrated by statistics, which show an overrepresentation of Aboriginal women and children as victims of violence and Aboriginal children living in out of home care settings.

The plight of these Aboriginal women and children is not reflected in the context of a National Human Rights Act or even a NSW Human Rights Act. Therefore there is no central focus on what the NSW government or the Commonwealth government says are human rights they aspire to protect and promote and by which failings can be measured. Such charters form a safety net, the absence of which increasingly defies explanation.

It is Wirringa Baiya's view that core human rights associated with economic, social and cultural rights should be protected and promoted equally in line with the promotion and protection of civil and political rights.

For example the economic, social and cultural right to an adequate standard of living, including adequate food, clothing and housing should be given equal weight to the core civil and political right to be treated equally by the courts. The economic, social and cultural right to family life and to look after your children should be given equal weight to the core civil and political right to be presumed innocent until proven guilty and not to be tried without delay.

It is the view of some Aboriginal people that the Indigenous human right to self determination is not sufficiently protected and promoted. It is submitted that lip service is paid to this notion and that consultations with the Aboriginal community are staged or insufficient. Particular criticism in this regard is targeted towards the NSW government's ten year (2003- 2012) plan to improve the lives of Aboriginal people and their communities called *Two ways Together* by tackling seven key

areas such as health, housing, education, culture and heritage, justice, economic development and families and young people.

Whilst Wirringa Baiya strongly supports tackling Aboriginal disadvantage and these seven key areas identified in the *Two ways Together* report. There is difficulty in understanding why there has been no additional funding by the NSW government to implement the recommendations in the NSW Aboriginal Child Sexual Assault Taskforce Report “*Breaking the Silence: Creating the Future*”, (ACSAT) report. When freedom from violence and specifically prevention of sexual violence, is such a pressing issue for Aboriginal children in NSW.

Case studies - Examples of human rights breaches that have come to Wirringa Baiya’s attention in the year 2008 to date

The main human rights breaches that have come to our attention fall into the following categories:

- Violence against women and children (the right to live free from violence)
- Police complaints (the right to be treated equally by the law)
- DoCS complaints (the right to family life and look after your children)
- Racial discrimination (the right to not to be discriminated against)

Violence against women and children

Examples of violence against Aboriginal children and women by male partners or ex partners and other persons reported to our Centre include the following:

- A client called about her partner hitting her with a golf stick cracking open her head
- A client reported that her ex partner would regularly threaten to kill her, keep her locked in her house, hold knives to her neck, beat her and tape her to a chair in front of her children so she could not move
- A client who was kicked in the face by her partner whilst sitting on the toilet
- A client reports being indecently assaulted by male client whilst staying in a rehabilitation facility
- A client reports that her ex partner bashed her, destroyed her property and threatened to kill her mother
- A client described the domestic violence that she experienced such as being dragged out of bed when her partner went into rages and contributed to her development of anorexia
- A client reported that she was kidnapped by her ex partner for several hours
- A client reported facial scarring from domestic violence assaults
- A client described being assaulted whilst pregnant and having a knife put to her body
- Numerous clients talk about receiving threatening and harassing text messages from their ex partners including threats to kill
- A client reported that she was tracked down by her ex partner and harassed when her contact details were inadvertently put on the internet without her permission
- A client reported that her daughter a young Aboriginal girl was kicked by several boys at her school which caused vaginal bleeding for which she sought medical treatment
- A client reported that her ex partner threatens to take their children from her in retaliation for charges of domestic violence that have been laid against him
- A number of clients who have been assaulted with objects such as cow prodders or pliers
- A number of clients who are children have been forced to watch pornography, exposed to the use of sex toys, frequently raped as well as being forced to perform sexual acts including oral sex on other people and on animals
- Numerous clients talk about being sexually assaulted

Police complaints

Most police complaints are broadly fall into the categories of police inaction, use of excessive force or discriminatory treatment.

- A client said that her ex male partner had breached the AVO on four occasions but the “police have not done anything about it”. The police were satisfied with explanation from the friends of her ex that he was with them when he is alleged to have breached the AVO even though the client has two witnesses to the contrary.
- A client said that she was involved in a motor vehicle accident, which the police attended. Both drivers were breathalyzed however she thinks that she was the only driver asked to take a blood test. The client complained that the police were not very friendly and kept on pressuring her about whether she had taken drugs or not which she believes did not happen to the other non Aboriginal driver involved.
- A client made a complaint about the police saying that she felt threatened and blackmailed by them. She said that they threatened that her children would be removed if she didn’t give evidence in court about a criminal matter. When the children were removed three police officers tackled her to the ground bruising the back of her neck. She said that the police had said to her on that occasion that “we don’t appreciate you making complaints about us” with respect to a written complaint that she had lodged previously.
- One client complained that the police won’t do anything about a neighbour that had assaulted her because his brother was a police officer.
- A client states that when her six children were being removed from her police assaulted them by holding them in headlock position.

DoCS complaints

Examples of issues that arise with clients and DoCS include the following:

- A client said that she has been involved with DoCS since there was a domestic violence incident with her ex partner. She feels that DoCS has been unresponsive to her by not returning her calls. She feels that “DoCS are making out that I’m a crackpot and violent” even though she pressed charges against her ex partner, got an AVO, was in the process of seeking custody of her children and participated in domestic violence counseling. She said that one of the fathers of her children was from the stolen generation and that she had always promised him that he would have contact with his child but DoCS see this as a failure of her to protect her child.
- One client complained about DoCS and their scheduling meetings at very short notice and without consideration of her other commitments including being the primary carer for her husband and her difficulty with getting transport. The client said that when she explained these to her caseworker she felt she was being labeled as “uncooperative”. The client also was surprised that final care orders had been made in this matter which place the children with a carer that was only several years older than the children and who abandoned them several months later due to drug and alcohol issues.
- A client who is a carer for some children removed from their parents said DoCS regularly scheduled meetings involving both the parents together when there had been a long history of domestic violence between them and current AVO in place. The mother of the removed children found attending these meetings terrifying.
- A client who cares for two children said she was very concerned about these children who are quite young being forced to have a two week stay with a half sibling in the country they had never met before. The client said the children would be terrified at staying with people they had never met before for such a long period. The client felt that the contact between the siblings should have been initiated with some visits first and shorter overnight stays. When the client raised her concerns for this trip that she had to fund she was told by a DoCS worker

“not to fight about this. Or I will pack the kids off to foster carers” meaning take them away from her.

The Centre is also dealing with victims compensation matters for a number of children who endured horrific sexual and physical violence from their father for a number of years. It was only after ten years (10) of notifications about the offender that DoCS eventually started removing children.

Racial discrimination

Aside from explicit racism there is a subset of discrimination matters where Aboriginal people are not being afforded procedural fairness in disputes in the same way that non Aboriginal people often are.

- A client reported that she had experienced a long history of derogatory and racist remarks from a former classmate. Whilst in a hotel the client said that this same classmate again made a racist remark to her and then pushed her and hit her over the head with a bottle.
- A client reported that she and her daughter are being racially abused by a young white youth who attends her daughter’s school. The youth incites racial vilification by making comments such as “I hate Aboriginal people”, “You fucking dead you Aboriginal cunt”, “fucking black bitch”, “black people have no right” etc. The client’s daughter has been so severely affected by the harassment that she attempted suicide.
- A client reported being pushed and called “black” and “dirty” whilst in a shop by a white woman.
- A client reported that a retailer refused to sell her alcohol because he said she was purchasing the alcohol for her daughter who was with her at the time. The client denied that allegation and concluded that it was unlikely a white person in a similar situation would have had such an allegation leveled at them and she could only conclude that she was treated in that way because she was Aboriginal.
- A client reports that her son who was suspended from school was the only Aboriginal boy out of a group of boys who were non Aboriginal to be suspended. The client reports that her son did not have the opportunity to answer the allegation made against him.

4. How could Australia better protect and promote human rights?

Australia could better protect and promote human rights by taking a number of legal and non- legal measures.

Legal measures

Firstly Australia could legislate for a national Human Rights Act as soon as possible. Such an Act should be based on international human rights standards. It should be comprehensive and include equal balance of both civil and political rights and cultural social and economic rights. With an acknowledgment that without protection of economic, social and cultural rights peoples’ rights to exercise civil and political rights are undermined.

A national Human Rights Act should also recognise Indigenous people in its preamble. It should also have a separate category dealing with Indigenous rights to land, language, culture and self-determination.

The benefit of such an Act is that prospective legislation is drafted with consideration of how it would comply with a National Human Rights Act. Which means less challenges to new law and less examples of laws dealing with the Northern Territory intervention that discriminate on the basis of race.

Primarily such an Act should impact on both the public and private sphere. That is it should make it unlawful for public authorities, private companies and organizations to act in a way that is incompatible with the rights contained within such an Act.

The Act should also contain remedies for breaches of rights. These rights would include judicial reviews, injunctions, stays of proceedings, declarations of incompatibility and damages.

The Act should also include an annual review of the implementation of the legislation so that how Australia is promoting and protecting human rights can be measured regularly. Part of this review would include a pro-active review of other Commonwealth legislation to make sure that it is compatible with the Human Rights Act.

It is Wirringa Baiya's view that the Commonwealth should regain leadership in this area by establishing a National Human Rights Act. A Human Rights Act that provides a level of consistency throughout Australia about human rights that is preferable to multiple pieces of state legislation.

Finally Australia should allow debate to continue around other models of human rights protection free from political interference, for example constitutional change. Although specifically excluded from the Terms of Reference for this submission the essence of human rights demands such a dialogue continues.

Non legal measures

Australia should foster a culture of human rights.

The development of a National Action Plan, can help with this especially if it commits to increased funding is of a variety of services.

Subscribing to the underlying principles of human rights protection, which is about protecting people's dignity and ability to participate in society, starts fostering this culture of human rights. Wirringa Baiya suggests Australia as a whole should adopt what the Victorian Human rights commission describes as FRED, the core rights of Freedom, Respect, Equality and Dignity of all human beings.

What are human rights, and the value of having them, should then be sold to the Australian public via a national public education campaign. Such an education program should be a permanent fixture and not a one off campaign. Ongoing multi media messages should aim to fix human rights issues into the public consciousness.

The establishment of a National Human Rights day and corresponding awards ceremonies could assist this.

The youth of Australia can be involved with the national human rights campaign by the appointment of young adults as national youth ambassadors similar to a program run in Victoria.

The national education campaign should have a particular focus on human rights education in schools so children are educated early in their lives about human rights. It should also have particular programs for recently arrived migrants.

A national training campaign should also be developed. Such a campaign would target training to people in government and non-government positions whose policies and practices have a direct impact on the human rights of others.

An enhanced role for the Human Rights and Equal Opportunity Commission is also warranted.

What Australia can do to better protect and promote the human rights of Indigenous women and children?

Australia can better protect and promote the human rights of women and children in general by developing national plans to protect women and children from violence.

This is suggested in suggested in Article 4 (e) of the “*Declaration on the Elimination of Violence against Women*” which recommends the development of “national plans of action to promote the protection of women against any forms of violence...taking into account, as appropriate, such cooperation as can be provided by non-government organizations, particularly those concerned with the issue of violence against women;”

To it’s credit the Commonwealth government has started to do this. Wirringa Baiya has contributed to this process with its submission to the National Plan to reduce violence against women and children, dated 31 July 2008, which included the following key recommendations which it hopes the Commonwealth government will follow through with to assist Indigenous women and children in particular.

- Funding to expand culturally appropriate community legal education sessions about what types of behaviour constitute domestic violence, sexual assault and child sexual assault.
- Funding to expand culturally appropriate services to Aboriginal and Torres Strait Islander women and children who are experiencing domestic and sexual violence. For example counseling and healing services.
- Funding to expand cultural awareness training for key service providers such as the police and welfare authorities including more Aboriginal case-workers placed in such services.

Wirringa Baiya also made similar recommendations on a NSW state level about dealing with violence against Aboriginal women and children in its submission to the NSW Domestic and Family Violence strategic framework dated 27 March 2009. These recommendations could also be applied in a commonwealth or national context.

- Funding to establish a central body for coordination, networking, research and policy development to end violence against Aboriginal women and children. It is preferable that this central body is a Commonwealth organisation, in lieu of that a NSW body that is managed and auspiced by an Aboriginal women’s organisation that provides a service to Aboriginal women and children who experience violence.
- Funding to establish an intensive support service for Aboriginal women and children who are victims of violence throughout criminal and AVO proceedings.
- Funding to expand culturally appropriate community legal education sessions about what types of behaviour constitute domestic violence, sexual assault and child sexual assault.

What Australia can do to better protect the human rights of Indigenous Children who are victims of child sexual abuse?

- Fund the NSW government so that they can implement the recommendations made in the NSW Aboriginal Child Sexual Assault Taskforce Report “Breaking the Silence: Creating the Future, (ACSAT) report.
- Fund other state and territory governments in the implementation of recommendations made in similar reports dealing with child sexual abuse in Aboriginal communities.

In line with Indigenous rights to self determination, Wurringa Baiya has stated in it’s submission to a National Plan to reduce violence previously referred to that “We do not support the intervention model being currently used in the Northern Territory to address the high rates of violence within its Aboriginal communities. We support a co-operative model where government and non-government Aboriginal agencies work collaboratively to address these issues on all fronts. While we accept that some work to reduce violence is the core business of government, such as policing, we submit much can be done to work with Aboriginal communities at a ground level to improve relationships, develop trust and ultimately improve the policing of these issues.”

What Australia can do to better protect the human rights of Indigenous Children who are removed from their families?

Australia can develop a national plan to prevent the removal of children from their homes with specific focus on preventing the removal of Indigenous children.

Australia can maintain and expand its commitment to supporting the healing Centres which the national government is establishing to help Aboriginal people deal with trauma, especially those from the stolen generations.

In NSW the government can seek to adhere more closely to Aboriginal Placement Principles contained within the *Children and Young Persons (Care and Protection) Act 1998*. So that legal Centres such as ours don’t have client’s saying Indigenous children were being placed with non-Indigenous families, despite the existence of suitable Indigenous family members being willing to be carers.

In NSW the government can seek to promote cultural connection and family contact by encouraging appropriate consideration of contact orders when Indigenous children are removed from their families. In Wurringa Baiya’s submission to the Wood inquiry into the NSW Department of Community Services, we stated that “It is the experience of our clients that frequently DoCS and the Children’s Court do not even consider contact orders to ensure that a child maintains a relationship with their family and community. Rather, it largely seems that responsibility is given to individual parents or family members to seek contact orders. But in some instances it is not physically possible for family members to attend court, for example; they may be in custody or don’t have the financial means to get there. This means that often no contact orders are being made and that the arrangement of contact is being left to the management and control of the DoCS caseworker or the foster carers. Sadly this results in minimal or non-existent contact”.

Summary

It is Wurringa Baiya’s view that the main action that needs to be taken to better protect and promote human rights in Australia is the establishment under Commonwealth legislation a National Human Rights Act. Such an Act needs to have a range of inbuilt remedies available to people should their human rights be breached.

This Act will become the focal point from which other non-legal measures to protect and promote human rights in Australia should flow.

5. Conclusion

Having a national Human Rights Act is about setting expectations. This simple truth came to me in the back of a taxi when I was returning from a workshop about writing submissions to this consultation. On the window of the taxi was the “*Taxi Users Charter of Rights*”, which listed the user’s rights and responsibilities as well as a customer feedback line for further assistance. This simple sticker left me in doubt about where I stood when doing such an ordinary thing like catching a cab. I thought it was a shame that fundamental human rights, which are so important to peoples’ lives in so many ways, cannot be afforded similar attention.

It is the most vulnerable people in Australian society that are most affected by the absence of adequate human rights protection in Australia. This includes in particular Indigenous women and children. It is Australia’s treatment of our most vulnerable that is the measure of how civilized a society we are.

Wiringa Baiya supports the position of the Law Council of Australia’s whose President, John Corcoran said “A Charter of Rights would increase rights protection for all Australians particularly the disadvantaged and vulnerable. It would also foster a respect for human rights in the community and form a proud part of Australia’s national and international identity”.

Madeleine Heath
On behalf of
Wiringa Baiya
Aboriginal Women’s Legal Centre