

15 June 2009

National Human Rights Consultation Secretariat  
Attorney-General's Department  
Central Office  
Robert Garran Offices  
National Circuit  
BARTON ACT 2600

Dear Consultation Committee

### **NATIONAL HUMAN RIGHTS CONSULTATION**

1. Women's Legal Services Australia (WLSA) welcomes the opportunity to make a submission to the National Human Rights Consultation.
2. WLSA is a network of the National Association of Community Legal Centres (NACLC) and is made up of community legal centres specialising in women's legal issues. We represent women in every state and territory in Australia – in cities, regional centres, rural and remote areas. WLSA members regularly provide advice, information, casework and legal education to women on a wide range of legal issues. A large proportion of our work is in the area of family law. We have a particular interest in ensuring that disadvantaged women, such as those from culturally and linguistically diverse backgrounds, Indigenous women, women with disabilities and rural women are not further disadvantaged in the process of negotiating the legal system.
3. WLSA's response to the Consultation questions is set out below. We also refer the Committee to the more detailed submissions made by WLSA members, including Women's Legal Services NSW, Women's Legal Service Victoria, Women's Law Centre of WA, Top End Women's Legal Service and Wurringa Baiya Aboriginal Women's Legal Centre. WLSA also endorses the submissions made by WomenSpeak and the National Association of Community Legal Centres.

### **Which human rights (including corresponding responsibilities) should be protected and promoted?**

4. All human rights – civil, political, economic, cultural and social – should be protected and promoted, especially:
  - right to be free of gender-based violence;
  - right to equality;
  - right to live free from discrimination;
  - right to family
  - right to housing; and
  - right to health.

### **Are these human rights currently sufficiently protected and promoted?**

5. No, human rights are not currently sufficiently protected and promoted in Australia. Nearly all women's legal services clients have had their human rights breached in some way. This will often be in relation to their right to live free from gender-based violence.

### **How could Australia better protect and promote human rights?**

6. Australia should introduce a national Human Rights Act. Such an Act should:
  - protect *all* human rights, especially:
    - right to be free of gender-based violence;
    - right to equality;
    - right to live free from discrimination;
    - right to family;
    - right to housing; and
    - right to health;
  - include a separate free-standing statement on gender equality, similar to that in the Canadian Charter of Rights and Freedoms, ICESCR and ICCPR;
  - protect all individuals subject to Australia's jurisdiction against human rights violations, regardless of their citizenship, residency or immigration status;
  - require compliance from public authorities, including government departments and statutory authorities, and parties that perform functions of a public nature on behalf of government;
  - require Parliament to consider the human rights impact of any draft law, and require the responsible Minister to state whether or not the law is believed to comply with the Human Rights Act and provide a justification for any incompatibility;
  - require courts to interpret all Commonwealth legislation in a manner compatible with human rights and empower courts to issue a declaration of incompatibility where it is not possible for a law to be interpreted with human rights; and
  - include a cause of action for breaches of human rights and a range of remedies for human rights breaches, including monetary compensation.
7. Other changes should be made to improve human rights protection in Australia, including:
  - constitutional recognition of the Aboriginal and Torres Strait Islander peoples as traditional custodians of our land;
  - constitutional affirmation of the principles of equality and non-discrimination;
  - increased power and resources for the Australian Human Rights Commission;
  - adequate funding of services that assist in the protection of human rights, including community legal centres;
  - strengthening women's policy mechanisms; and
  - strengthening the Sex Discrimination Act, in line with the recommendations of the Senate Standing Committee on Legal and Constitutional Affairs.

8. If you would like to discuss any aspect of this submission, please me on (02) 9749 7700 or [Edwina\\_MacDonald@clc.net.au](mailto:Edwina_MacDonald@clc.net.au).

Yours sincerely,

Edwina MacDonald  
Law Reform Coordinator