

Julie Dennett
Committee Secretary
Senate Legal and Constitutional Affairs Committee
PO BOX 6100
Parliament House
Canberra ACT 2600

BY EMAIL

30 June 2010

Dear Ms Dennett

Human Rights (Parliamentary Scrutiny) Bill 2010 and the Human Rights (Parliamentary Scrutiny) (Consequential Provisions) Bill 2010

Thank you for your email of 8 June 2010 inviting the Public Interest Law Clearing House (Vic) Inc (**PILCH**) to make a submission to the parliamentary inquiry into the *Human Rights (Parliamentary Scrutiny) Bill 2010* (Cth) and the *Human Rights (Parliamentary Scrutiny) (Consequential Provisions) Bill 2010* (Cth).

As you note in your email, the Bills 'seek to implement the legislative elements of Australia's Human Rights Framework announced by the Government in April 2010'.

PILCH welcomes the introduction of the Bills, which:

- ▶ establish a Parliamentary Joint Committee on Human Rights that is responsible for:
 - ▶ scrutinising Bills, Acts, and legislative instruments for compatibility with human rights; and
 - ▶ inquiring into human rights matters that are referred to it by the Attorney-General.
- ▶ require Bills and certain legislative instruments to be accompanied by a Statement of Compatibility when introduced into Parliament.

PILCH is pleased that the Bills, if enacted into law, will enhance parliamentary scrutiny of proposed laws for compatibility with human rights. Enhanced parliamentary scrutiny will help to ensure that the human rights of all persons, including the most vulnerable and disadvantaged members of society, are respected, protected and fulfilled. In this regard, the Bills represent an important step forward in the domestic protection and promotion of human rights and fundamental freedoms.

However, the Bills are not without their weaknesses. In this regard, PILCH refers to and endorses the submission of the Human Rights Law Resource Centre (**HRLRC**), entitled *Parliamentary Scrutiny and the Promotion and Protection of Human Rights* (June 2010). In particular, PILCH reinforces the concerns expressed by the HRLRC regarding:

- ▶ the definition of 'human rights' in section 3 of the *Human Rights (Parliamentary Scrutiny) Bill 2010*;
- ▶ the powers and functions conferred in sections 6-7 on the Parliamentary Joint Committee on Human Rights; and

- ▶ the Bill's silence on the nature, scope and detail of assessment to be contained in Statements of Compatibility.

In endorsing the submission of the HRLRC, PILCH stresses that the effects of these weaknesses are not merely theoretically but, rather, will have real effects for the Australian community, including PILCH's clients. Close and directed scrutiny of proposed legislation for compatibility with human rights can, for instance, shine light on the daily struggle that people experiencing, or at risk of, homelessness face when seeking to assert fundamental rights to access food, adequate housing, employment, and to live a life free of violence and harassment.

In addition, PILCH notes its disappointment regarding the Australian Government's decision not to enact a national *Human Rights Act*. In refusing to introduce such an Act, the Government has turned its back on ordinary Australians. Ignoring the views expressed in over 87% of submissions to the National Human Rights Consultation Committee (in the country's most widely participated in public consultation process) calling for the enactment of a national Human Rights Act, is an affront to democracy. If the Federal Government is committed to the democratic principles that underpin Australian society, it must – in addition to passing the Bills – enact a national Human Rights Act.

About PILCH

PILCH is a leading Victorian, not-for-profit organisation. It is committed to furthering the public interest, improving access to justice and protecting human rights by facilitating the provision of pro bono legal services and undertaking law reform, policy work and legal education. In carrying out its mission, PILCH seeks to:

- ▶ address disadvantage and marginalisation in the community;
- ▶ effect structural change to address injustice; and
- ▶ foster a strong pro bono culture in Victoria; and, increase the pro bono capacity of the legal profession.

Should you have any questions regarding PILCH's endorsement, please feel free to contact Simone Cusack, PILCH's Strategic Policy Coordinator,

Yours faithfully

Fiona McLeay
Executive Director