



## Council of Social Service of New South Wales

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Committee Secretary  
Senate Legal and Constitutional Committee  
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Dear Sir or Madam,

The Council of Social Service of NSW (NCOSS) welcomes the opportunity to make a submission to the Human Rights (Parliamentary Scrutiny) Bill 2010 and the Human Rights (Parliamentary Scrutiny)(Consequential Provisions) Bill 2010 Inquiry.

NCOSS has focused our responses on key issues that we believe need to be considered in order to have an effective Parliamentary Joint Committee on Human Rights. We have also limited our comments to the Human Rights (Parliamentary Scrutiny) Bill 2010 (the Bill).

### About NCOSS

The Council of Social Service of NSW (NCOSS) provides independent and informed policy development, advice and review and plays a key coordination and leadership role for the non government social and community services sector in New South Wales. NCOSS works with our members, the sector, the NSW Government and its departments and other relevant agencies on current and emerging (and ongoing) social, systemic and operational issues.

NCOSS has a vision for a society where there is social and economic equity, based on co-operation, participation, sustainability and respect.

NCOSS membership is composed of community organisations and interested individuals

### Introduction

The Attorney-General re-introduced the Human Rights (Parliamentary Scrutiny) Bill 2010 and the Human Rights (Parliamentary Scrutiny) (Consequential Provisions) Bill 2010 on the 30 September 2010. These two bills are a part of the Australian Government's 'Human Rights Framework' developed in response to the key findings of the 2009 National Human Rights Consultation.

Unfortunately this Framework does not give a commitment to the enactment of a Human Rights Act, even though this was a key recommendation arising from the National Consultation process.

However, despite this lack of an actual Human Rights Act, NCOSS welcomes the two Bills and supports their enactment.

### **Section 3 - Definitions**

NCOSS supports the description of human rights within the Bill as those rights included within the seven core international human rights conventions that Australia is a party to. By becoming a party to these treaties Australia has committed to enacting these treaties and ensuring that domestic laws are not inconsistent with Australia's human rights obligations. It also recognises that human rights are indivisible and interdependent – that is the enjoyment of many rights requires the implementation of other rights.

### **Section 6 – Powers and Proceedings of the Committee**

The Bill is very vague in regards to the powers and proceedings of the committee leaving these to be decided by 'resolution of both Houses of Parliament'.

NCOSS believes that there are some powers and proceedings that should be standard practice and legislated as such. These are:

- The Committee must be able to hold Inquiries, call for submissions and hold public meetings and hearings.
- There is sufficient time for the Committee to review Bills, including holding inquiries, and the production of reports. This is essential if the Government believes in the importance of human rights and in ensuring that these are being upheld as well as providing a level of transparency to the process.
- That the Committee has a properly funded secretariat to provide support and conduct the work on behalf of the Committee as required.

### **Section 7 – Functions of the Committee**

NCOSS supports the expansion of the functions of the committee as stated in the *Human Rights Law Resource Centre Submission* (5 October 2010), Sections 22 and 23, that functions are expended to include the power to:

- 'inquire into any matter relating to human rights which is referred to it by resolution of either House of Parliament'
- 'monitor and report on the implementation of the Concluding Observations, Recommendations and Views of UN treaty bodies and the Recommendations of the Special Procedures and the Universal Periodic Review of the UN Human Rights Council'.

This would enhance the Government's commitments under the Human Rights Framework.

### **Part 3 – Statements of Compatibility**

To ensure the effectiveness of the 'Statements of Compatibility' NCROSS believes that these should be developed as early as possible within the policy development process. If they are developed too late in the process they have the potential to become simple 'tick the box' processes rather than a true reflection of the compatibility of the bill to human rights and whether or not these have been limited (and if this is justified).

NCOSS also questions Part 3(8)(5) and (9)(4) – ‘the failure to comply with this section in relation to a Bill that becomes an Act does not affect the validity, operation or enforcement of the Act or any other provision of a law of the Commonwealth’. In a sense this means that there is no penalty for not having the bill scrutinised through the Joint Committee. This has the potential to allow Bills to be passed through Parliament that restrict human rights without any possibility of scrutiny or broader comment.

## **Conclusion**

NCOSS welcomes the implementation of the Human Rights (Parliamentary Scrutiny) Bill 2010 and believes that the amendments as described above will go some way to ensuring an effective Committee.

If you require any further information please do not hesitate to contact Samantha Edmonds, Deputy Director Policy and Communications, on either \_\_\_\_\_ or \_\_\_\_\_

Yours sincerely

Alison Peters  
Director

21<sup>st</sup> October 2010