



27 October 2010

Committee Secretary
Standing Committee on Legal and Constitutional Affairs
Department of the Senate
via email

**KINGSFORD
LEGAL CENTRE**

Dear Madam/Sir,

**Submission to the Inquiry into Human Rights (Parliamentary Scrutiny) Bill 2010 and
Human (Rights Parliamentary Scrutiny) (Consequential Provisions) Bill 2010**

Kingsford Legal Centre (KLC) welcomes the opportunity to make the following submission to the Senate Legal and Constitutional Affairs Committee inquiry into the Human Rights (Parliamentary Scrutiny) Bill 2010 and the Human Rights (Parliamentary Scrutiny)(Consequential Provisions) Bill 2010.

About Kingsford Legal Centre

Kingsford Legal Centre (KLC) is one of over 38 community legal centres in New South Wales. The Centre provides advice and assistance to people who live, work or study in the municipalities of Randwick and Botany on selected legal problems, and a state wide service on matters of discrimination law.

Human Rights In Australia

Kingsford Legal Centre has a particular interest in the protection of human rights in Australia and undertook significant community consultations on the issue of human rights protection as part of the National Human Rights Consultation. Our submission to the Consultation Committee outlined the views of our community and clients that adequate human rights protection was incredibly important and that human rights in Australia should be protected by a Human Rights Act. We remain disappointed that the Government has not made a

commitment to such an Act but welcome the introduction of these Bills in ensuring greater consideration is given at a legislative level to the protection of human rights in Australia.

Comment on Bills

- **Definition of human rights**

For the purposes of the Bills, human rights means those human rights and fundamental freedoms contained in the seven core international human rights treaties to which Australia is a party . As the rights and freedoms recognised in this definition will be the reference point for the Committee and be it is important that the definition encompasses the greatest possible scope of human rights to enable comprehensive protection for individuals. The Bills should further provide that human rights include customary international law as it relates to human rights.

- **Ensuring fundamental human rights are sufficiently protected**

The Human Rights (Parliamentary Scrutiny) Bill establishes the Parliamentary Joint Committee on Human Rights which will have the function of examining Acts, Bills and legislative instruments for compatibility with Australia's human rights obligations and reporting on these matters to both Houses of Parliament. KLC supports such a measure, as it would assist the protection and promotion of human rights in Australia, which the conclusions of the National Human Rights Consultation show Australians are overwhelmingly in support of.

- **Improved Parliamentary scrutiny**

This scrutiny function of the Committee will ensure there is greater consideration of human rights issues. The Committee will also inquire into and report to Parliament on matters relating to human rights referred to it by the Attorney General. In this regard, the Committee's operation will contribute to a broader acceptance and understanding of human rights in Australia. Kingsford Legal Centre hopes that this reporting function will increase awareness within the Parliament on the impact proposed legislation may have on human rights and a commitment to respecting and promoting human rights in new Bills.

KLC recommends the Committee's powers should be expanded to include the ability to initiate and conduct inquiries regarding the issues raised in the findings of UN Human Rights

Treaty Committees as well as any human rights concerns which are referred to it by either House of Parliament.

We also believe that the Committee should be able to convene public hearings, seek evidence and submissions on human rights issues. The Committee should have wide scope to initiate inquiries on human rights issues and should exercise this function to examine any matter it considers relevant to the protection of human rights in Australia.

- **Statements of compatibility**

The Bills outline a requirement for statements of compatibility to be prepared for all Bills and legislative instruments subject to disallowance under the Legislative Instruments Act. It should be an explicit aim of the Bills that proposed legislation should be compatible with Australia's international human rights law obligations.

Kingsford Legal Centre hopes that the requirement of a compatibility statement will ensure that human rights are an active and important consideration in all legislative drafting. We also believe the incompatibility requirement is important in informing public debate on the protection of human rights.

Where legislation is not compliant with Australia's international human rights obligations or where legislation impinges on human rights the tabling Member of Parliament should be required to provide a detailed statement outlining reasons the law is incompatible or impinges on human rights. This incompatibility statement should be tabled in Parliament, to allow for public scrutiny and debate on the reasons provided for incompatibility.

Yours Sincerely,

KINGSFORD LEGAL CENTRE

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