

The Hon. Robert McClelland MP  
Attorney-General's Department  
Central Office, Robert Garran Offices  
National Circuit  
Barton ACT 2600

**BY EMAIL**

16 April 2010

Dear Attorney-General

**Re: Universal Periodic Review of Australia – Issues for Inclusion in Government Report**

The Public Interest Law Clearing House (Vic) Inc welcomes the opportunity to make a submission to the Attorney-General on the Universal Periodic Review process. The purpose of this submission is to outline eight of the major human rights issues that, in PILCH's view, should be included in the Australian Government's report to the United Nations Human Rights Council.

In making this submission, PILCH acknowledges the significant steps that the Government has taken to respect, protect, and fulfil the human rights and fundamental freedoms of people in Australia, including issuing a formal apology to members of the Stolen Generations and ratifying the *Declaration on the Rights of Indigenous Peoples*, the *Convention on the Rights of Persons with Disabilities* and the *Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women*. However, PILCH notes that there are a number of gaps and weaknesses in the current system that undermine the exercise and enjoyment of those rights and freedoms and which require attention in the Government's Report.

**1. Robust Commitment to Human Rights**

PILCH encourages the Australian Government to outline its plans to incorporate fully its international human rights obligations into domestic law. It further encourages the Government to outline its timeline for ratification of the *Optional Protocol to the International Covenant on Economic, Social and Cultural Rights* and the *International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families*.

**2. National Human Rights Consultation**

PILCH urges the Australian Government to implement fully the recommendations of the *National Human Rights Consultation Report (2009)*, including, in particular, the recommendation to enact a national *Human Rights Act*.

**3. Access to Justice**

PILCH strongly recommends inclusion in the Government's Report of information on the steps it plans to take to address widespread under-funding of Legal Aid and community legal centres, which has negatively impacted access to justice and the right to a fair hearing for marginalised and disadvantaged individuals.

**4. Indigenous Australians**

PILCH encourages the Government to outline measures adopted to respect, protect, and fulfil the

human rights of Australia's Indigenous people. In particular, it should address the steps it has taken to ensure that laws, policies, and practices that impact Indigenous Australians are compatible with its human rights obligations. PILCH encourages the Government to clarify the steps (if any) it has taken to establish a national scheme for reparations for Stolen Generations members. As well, PILCH urges the Government to respond to the concerns expressed by the UN Special Rapporteur on the Situation of Human Rights and Fundamental Freedoms of Indigenous People regarding the Northern Territory Intervention and the reinstatement of the *Racial Discrimination Act 1975*.

**5. Equality**

PILCH calls on the Government to clarify its commitment to enacting a national *Equality Act* that requires the elimination of *all* forms of discrimination (including on the grounds of homelessness, irrelevant criminal record, sexual orientation, and gender identity) and the achievement of substantive equality. It also calls on the Government to outline its plan to implement the Senate Legal and Constitutional Affairs Committee's recommendations in the report: *Effectiveness of the Sex Discrimination Act 1984 in Eliminating Discrimination and Promoting Gender Equality*.

**6. Human Rights Education**

PILCH urges the Australian Government to outline the steps it has taken, and plans to take, to ensure comprehensive (and adequately funded) human rights education at all levels of general education and across all sectors of the Australian community.

**7. Human Rights Safeguards in Extradition and Mutual Assistance Arrangements**

PILCH urges the Government to explain why the revised *AFP Practical Guide on International Police to Police Assistance in Potential Death Penalty Situations* does not incorporate human rights as a relevant consideration in determinations of whether or not to provide assistance to foreign law enforcement agencies in potential death penalty situations. PILCH also urges the Government to outline its plan to implement the recommendation of the Joint Standing Committee on Treaties that Australia's extradition arrangements include human rights safeguards.

**8. Refugees**

PILCH encourages the Government to explain its recent decision to stop accepting refugees from Afghanistan and Sri Lanka, including how that decision is not in direct violation of its international human rights obligations, particularly the *Convention Relating to the Status of Refugees*.

PILCH would welcome the opportunity to discuss these issues further.

Yours faithfully



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