



**Submission to the Inquiry  
of the Standing Committee on Procedure  
into the effectiveness of  
Commonwealth House Standing Committees**

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## **CONTENTS**

<b>Part A - Executive summary &amp; recommendations</b>	<b>1</b>
1. Executive Summary	1
2. Recommendations	1
<b>Part B – About this submission</b>	<b>1</b>
3. About PILCH	1
4. Scope of this submission	1
<b>Part C – The need for a Human Rights Committee</b>	<b>1</b>
5. Australia's obligations at international law	1
6. Current parliamentary committees advising on human rights issues	1
7. The role of a human rights parliamentary committee in the context of a national charter of rights	1
8. Parliamentary Committees promoting human rights in other jurisdictions	1
9. Conclusion – Human Rights	1
<b>Part D – Procedural Changes</b>	<b>1</b>
10. Duplication	1
11. Improving implementation	1

## Part A - Executive summary & recommendations

### 1. Executive Summary

- 1.1 The Standing Committee on Parliamentary Procedure (**Committee**) has announced its Inquiry into the effectiveness of House Committees (**Inquiry**).
- 1.2 The Inquiry's terms of reference are to investigate and report on the effectiveness of House of Representatives domestic and general purpose standing committees including:
  - (1) the number, subject coverage, membership and means of appointment of committees;
  - (2) the type of work being undertaken by committees;
  - (3) the appropriateness of current Standing and Sessional Orders;
  - (4) the powers and operations of committees; and
  - (5) factors influencing the effectiveness of House committees, including resources and structural issues.
- 1.3 In this submission, the Public Interest Law Clearing House (**PILCH**) addresses the Inquiry's second, fourth and fifth terms of reference.

### 2. Recommendations

- 2.1 PILCH submits that the Committee should consider making the following recommendations:

**Substantive human rights recommendation** (with acknowledgement of the contribution of the Human Rights Legal Resource Centre)

#### **Recommendation 1**

PILCH recommends the Government establish a Joint Parliamentary Committee on Human Rights (**Human Rights Committee**) to lead parliamentary engagement with human rights issues, by:

- (i) scrutinising all proposed legislation and subordinate legislation to ensure compatibility with those human rights that Australia is obliged to protect under international law;
- (ii) initiating and conducting inquiries into human rights issues, including thematic inquiries;
- (iii) monitoring and reporting on the implementation of the Concluding Observations and views of UN treaty bodies and the recommendations of the Special Procedures of the UN Human Rights Council; and

- (iv) monitoring and assisting in government responses to any Declarations of Incompatibility (under any federal Human Rights Act) as well as court and tribunal decisions and judgments.

#### **Procedural recommendations**

##### **Recommendation 2**

PILCH recommends the Standing Orders be amended to require committees to identify and consider earlier reviews on a similar topic (by the same or by other governmental or expert bodies) when commencing reviews and to require consultation with other groups where it would avoid duplication.

##### **Recommendation 3**

PILCH recommends creation of an additional committee, comprising the Speaker and a quorum of chairpersons of other existing parliamentary committees, that has the discretionary power to meet and hold discussions with a view to securing the more efficient functioning of parliamentary committees, in particular in order to avoid the duplication by one committee of the work of another committee (or of other governmental or expert bodies).

##### **Recommendation 4**

PILCH recommends enactment of an explicit reporting requirement on Parliament to detail Parliament's consideration and implementation of recommendations (or create some other follow-up mechanism to track governmental responses).

##### **Recommendation 5**

PILCH recommends amending the Standing Orders to give discretionary power to committees to reconvene hearings where government has not responded to its recommendations after a reasonable period of time.

## **Part B – About this submission**

### **3. About PILCH**

- 3.1 PILCH is a leading Victorian, not-for-profit organisation committed to furthering the public interest and protecting human rights. In carrying out its mission, PILCH specifically seeks to effect structural change to address injustice.

3.2 PILCH's objectives are to:

- (1) improve access to justice and the legal system for those who are disadvantaged or marginalised;
- (2) identify matters of public interest requiring legal assistance;
- (3) seek redress in matters of public interest for those who are disadvantaged or marginalised;
- (4) refer individuals, community groups and not for profit organisations to lawyers in private practice, and to others in ancillary or related fields, who are willing to provide their services without charge;
- (5) support community organisations to pursue the interests of the communities they seek to represent; and
- (6) encourage, foster and support the work and expertise of the legal profession in pro bono and/or public interest law.

**4. Scope of this submission**

4.1 PILCH's focus in this submission is to examine what changes could be made to the Commonwealth House Committees system to improve Parliament's engagement with and understanding of human rights and how the House Committees could most effectively assist Australia to meet its national and international human rights obligations.

4.2 The submission is structured as follows:

- (1) Part C considers the need for a Human Rights Committee. It:
  - (i) examines what advice Commonwealth parliamentary committees currently provide on human rights issues, specifically as contained in proposed legislation;
  - (ii) outlines Australia's international law obligations to adopt measures to give effect to those human rights contained in treaties ratified by Australia and to act on recommendations made by UN human rights bodies;
  - (iii) considers how other jurisdictions have fulfilled this requirement by the use of parliamentary committees;
  - (iv) considers how an Australian joint parliamentary committee on human rights would fit with the other potential enforcement machinery under a federal Human Rights Act instrument; and
  - (v) concludes by outlining the benefits of making a human rights committee a joint standing committee.

- (2) Part D considers some procedural reforms. It suggests some specific measures to improve government responses to committee recommendations, increase efficiency and accountability, and decrease duplication of inquiries.

## Part C – The need for a Human Rights Committee

### 5. Australia's obligations at international law

- 5.1 Australia is obliged at international law to ensure that human rights are protected. These obligations arise through Australia's ratification of a number of international human rights instruments under which Australia has agreed to respect, protect, promote and fulfil the rights contained therein. These instruments include:
  - (1) the International Covenant on Civil and Political Rights (**ICCPR**);
  - (2) the International Covenant on Economic, Social and Cultural Rights;
  - (3) the Convention on the Rights of the Child;
  - (4) the Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment;
  - (5) Convention on the Elimination of all Forms of Racial Discrimination;
  - (6) Convention on the Elimination of all Forms of Discrimination Against Women; and
  - (7) the Convention on the Rights of Persons with Disabilities.
- 5.2 By way of example, Australia is obliged under article 2(2) of the ICCPR to adopt such measures as may be necessary to give effect to the rights recognised in the ICCPR.
- 5.3 These obligations require signatory States to take positive action to facilitate the enjoyment of basic human rights. Australia, therefore, has a positive obligation to use those means within its disposal to uphold human rights enshrined in treaties to which it is a party.
- 5.4 Many of the human rights obligations contained in the international treaties listed above are also part of customary law. According to some authors, the entirety of the Universal Declaration of Human Rights forms part of customary international law.<sup>1</sup>
- 5.5 Further, and despite initial misgivings, Australia has now supported the Declaration on the Rights of Indigenous Peoples. On 3 April 2009, Jenny Macklin, Minister for Families, Housing, Community Services and Indigenous People, made a statement that the

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<sup>1</sup> For a discussion of the different views on the customary status of human rights norms see Simma and Alston, 'The Sources of Human Rights Law: Custom, Jus Cogens, General Principles' (1992) 12 Australia Year Book of International Law 82.

Declaration 'recognises the legitimate entitlement of Indigenous people to all human rights - based on principles of equality, partnership, good faith and mutual benefit'.<sup>2</sup>

- 5.6 Australia is subject to periodic review by UN treaty bodies established under each of the major human rights treaties it has ratified. In general, these reviews analyse the state of human rights in Australia and make recommendations as to how these rights can be best respected, protected, promoted and fulfilled.
- 5.7 In addition, the Special Procedures of the UN Human Rights Council may issue findings and recommendations on Australia.
- 5.8 The UN Human Rights Committee's recent Concluding Observations on Australia recommended that Australia establish a mechanism to consistently ensure the compatibility of domestic law with the ICCPR and establish appropriate procedures to implement the views and recommendations of the Human Rights Council in individual cases.<sup>3</sup>
- 5.9 There is currently no formal domestic mechanism ensuring compatibility of domestic law with Australia's human rights obligations at international law, nor any comprehensive parliamentary consideration of human rights issues in existing or proposed legislation, or monitoring of the implementation of other reviews conducted by UN human rights bodies.
- 5.10 Such a mechanism, however, could readily be conferred upon a singular joint standing human rights committee under, say, a federal Human Rights Act or, alternatively, by a clear statement in the relevant Standing Orders. Such a committee could be mandated to monitor and report on the implementation of these recommendations, as well as the human rights legislative scrutiny and inquiry functions already undertaken in a piecemeal fashion by various other committees described below.

## **6. Current parliamentary committees advising on human rights issues**

- 6.1 Currently, there is no single committee dedicated to ensuring parliamentary scrutiny of human rights.
- 6.2 Parliamentary committees consider the human rights impact of draft legislation in a largely ad hoc and piecemeal manner.
- 6.3 The following parliamentary bodies take steps to monitor laws for compatibility with human rights norms and/or report on human rights issues more generally:
  - (1) the Senate Standing Committee for the Scrutiny of Bills;
  - (2) the Senate Standing Committee on Legal and Constitutional Affairs;

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<sup>2</sup> The statement by the Minister for Families, Housing, Community Services and Indigenous Affairs, the Hon Jenny Macklin MP, made on 3 April 2009.

<sup>3</sup> Human Rights Committee, Concluding Observations of the Human Rights Committee: Australia, [8], UN Doc CCPR/C/AUS/CO/5 (2009)

- (3) the Senate Standing Committee on Regulations and Ordinances;
- (4) the Human Rights Subcommittee of the Joint Committee on Foreign Affairs, Defence and Trade; and
- (5) the Joint Standing Committee on Treaties.

6.4 We examine each of these committees in turn below.

6.5 Senate Standing Committee for the Scrutiny of Bills

- (1) This committee assesses legislative proposals against a set of accountability standards, focusing on the affect of proposed legislation on individual rights, liberties and obligations, and on parliamentary propriety.
- (2) As required by Senate Standing Order 24, the committee examines all bills which come before the Parliament and reports to the Senate whether such bills:
  - (i) trespass unduly on personal rights and liberties;
  - (ii) make rights, liberties or obligations unduly dependent upon insufficiently defined administrative powers;
  - (iii) make rights, liberties or obligations unduly dependent upon non-reviewable decisions;
  - (iv) inappropriately delegate legislative powers; or
  - (v) insufficiently subject the exercise of legislative power to parliamentary scrutiny.
- (3) PILCH agrees with the submissions of George Williams<sup>4</sup> and Edward Santow<sup>5</sup> that Standing Order 24 is inadequate.
- (4) PILCH submits that Standing Order 24 is inadequate for the following reasons:
  - (i) it fails to set out those 'personal rights and liberties' that proposed laws ought be assessed against;
  - (ii) it fails to address how the committee should apply human rights principles operating at international law when assessing a relevant bill, and fails to provide a test on how to balance competing human rights in order to achieve a legitimate objective; and

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<sup>4</sup> George Williams, Submission, Inquiry into the effectiveness of the House Committees, House Standing Committee on Procedure, 22 June 2009.

<sup>5</sup> Edward Santow, Submission, Inquiry into the effectiveness of the House Committees, House Standing Committee on Procedure, 3 July 2009.



- (iii) scrutiny of proposed laws against fundamental human rights of the Australian people should be a function of both houses of Parliament to ensure that debate in both chambers is informed by human rights issues. It is an imperative that Parliament engages knowledgeably with human rights issues. PILCH also considers joint committees are more effective than Senate committees when assessed against the government's acceptance of recommendations.<sup>6</sup>

#### 6.6 Senate Standing Committee on Legal and Constitutional Affairs

- (1) Since 13 May 2009, this committee, together with the Senate's seven other legislative and general purpose standing committees, is now comprised of a pair of committees:
  - (i) a Legislation committee whose purpose is to deal with bills referred by the Senate and oversee the performance of the Attorney-General's and Immigration and Citizenship departments including their annual reports; and
  - (ii) a References committee whose purpose is to deal with all other matters referred by the Senate.
- (2) The Legislation committee conducts public inquiries into and reports on draft bills as referred to it by the Senate.<sup>7</sup> The committee then produces a report of its recommendations.
- (3) PILCH acknowledges this committee conducts enquiries into some legislation affecting human rights norms. For example, it is currently conducting inquiries into the *Anti-Terrorism Laws Reform Bill* 2009 and the *Marriage Equality Amendment Bill* 2009. However, the committee is not specifically required to inquire into or address the human rights implications that these bills may raise nor to conduct its own analysis of the legislation within the human rights framework. Nor does the committee have the power to initiate inquiries about proposed bills of its own accord – it is dependant on a referral from the Senate.

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<sup>6</sup> David Monk, 'A Statistical Analysis of Govt Responses to Committee Reports', Parliamentary Studies Centre at 16. David Monk demonstrates that joint committees enjoy the highest proportion of reports where the government accepted at least one recommendation (82.4%) and the second highest acceptance rate of majority recommendations (52%). Whilst Senate legislation committees were the next most effective: enjoying the highest acceptance rate of majority recommendations (54.5%), Senate committees experienced the lowest acceptance rate of at least one recommendation (36.7%).

<sup>7</sup> Senate Standing Order 25(2)(a).

6.7 Senate Standing Committee on Regulations and Ordinances

- (1) The purpose of this committee is to scrutinise all disallowable instruments of delegated legislation to ensure their compliance with non-partisan principles of personal rights and parliamentary propriety.<sup>8</sup>
- (2) According to its website, this committee engages in technical legislative scrutiny. Relevantly, it does not examine the policy merits of delegated legislation,<sup>9</sup> including compliance with established human rights norms and principles.

6.8 Human Rights Sub-committee of the Joint Standing Committee on Foreign Affairs, Defence and Trade (JSCFADT)

- (1) This sub-committee was established in 1991 within the Joint Committee on Foreign Affairs, Defence and Trade (**JSCFADT**). The decision to place this sub-committee within the structure of the JSCFADT (as a result of pressure applied from Amnesty International) was in recognition of the links between human rights and foreign policy, defence and trade issues.<sup>10</sup>
- (2) The sub-committee has found the briefings that members of the JSCFADT receive on foreign policy issues to be valuable. However, its location within the JSCFADT has also hindered its ability to deal with domestic human rights issues such as the rights of indigenous Australians.<sup>11</sup>
- (3) The emphasis of the sub-committee's inquiries is to look at what the Australian Government, in its international activities, can do to promote and protect human rights. It does not examine individual cases nor the human rights records of other countries (as is done by the US State Department in its annual report to Congress).<sup>12</sup>
- (4) For example, in February this year, the sub-committee met with human rights groups in Sydney to discuss protecting human rights in Asia and the Pacific. It was concerned with examining what protections are in place to assist people whose human rights are being violated, and how Australia can better support its neighbours as they strive to address human rights situations.<sup>13</sup>

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<sup>8</sup> Senate Standing Order 23.

<sup>9</sup> See [http://www.aph.gov.au/SEnate/committee/regord\\_ctte/cominfo.htm](http://www.aph.gov.au/SEnate/committee/regord_ctte/cominfo.htm).

<sup>10</sup> Margaret Sweringa, 'The role of the Human Rights Sub-Committee of the Joint Standing Committee on Foreign Affairs, Defence and Trade' [1995] *Human Rights Defender* 5.

<sup>11</sup> *Ibid.*

<sup>12</sup> *Ibid.*

<sup>13</sup> Media release at [http://www.aph.gov.au/house/committee/jfad/asia\\_pacific\\_hr/media.htm](http://www.aph.gov.au/house/committee/jfad/asia_pacific_hr/media.htm).

- (5) Whilst PILCH recognises the value of this sub-committee's inquiries, PILCH submits that the scope of its inquiries are limited by its external affairs mandate and by virtue of the fact that it is not permitted to scrutinise the role of legislation in protecting and promoting human rights or instigate its own lines of enquiry.
- (6) PILCH recommends the valuable work this sub-committee undertakes should continue irrespective of whether a dedicated joint standing parliamentary committee is established to consider human rights domestically.

#### 6.9 Joint Standing Committee on Treaties

- (1) The Joint Standing Committee on Treaties (**Treaties Committee**) reviews and reports on all treaty actions proposed by the Government before it takes action to bind Australia to the terms of the treaty.<sup>14</sup> It was established in 1996 as part of a package of reforms improving the openness and transparency of Australia's treaty-making process.
- (2) Relevantly, once a treaty is entered into, the Treaties Committee does not have an explicit mandate to ensure the incorporating legislation appropriately captures or reflects Australia's obligations under the treaty. Moreover, this committee cannot instigate inquiries or scrutiny of its own accord. Rather, a House of Parliament or a Minister must refer questions to the Treaties Committee.<sup>15</sup>

### 7. **The role of a human rights parliamentary committee in the context of a national charter of rights**

- 7.1 As the Committee would be aware, on 10 December 2008, the Attorney-General the Hon Robert McClelland MP launched the National Human Rights Consultation (**Consultation**). The Consultation was designed to seek the views of the Australian community on how human rights and responsibilities should be protected in the future and whether or not Australia should adopt a national charter of rights.
- 7.2 PILCH advocates that, irrespective of whether Australia adopts a national charter of rights, a Joint Parliamentary Committee on Human Rights ought be established (for the reasons advanced in paragraph 5).
- 7.3 However, in view of a potentially imminent national charter of rights (in some form or another), PILCH submits it is valuable to consider whether a Joint Parliamentary Committee on Human Rights ought take on any additional roles or functions that may be conferred on it by virtue of the relevant enabling charter Act.
- 7.4 As PILCH has already submitted, at the very least a joint standing parliamentary Human Rights Committee ought be charged with the following powers and responsibilities:

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<sup>14</sup> <http://www.aph.gov.au/House/committee/jsct/ppgrole.htm>

- (1) initiate human rights inquiries of its own motion where a particular matter of human rights is raised. In doing so, the committee would have all the usual powers of a parliamentary committee including receiving written and oral submissions from relevant stakeholders and reporting back to Parliament with its findings and recommendations; and
- (2) scrutinise all existing and draft Commonwealth legislation (including Statements of Compatibility) ensuring compatibility with protected human rights, as well as key policy documents (such as the White and Green papers) and inform Parliament of its findings. This could be achieved by the Human Rights Committee's own motion, in response to a report from an independent body or following a referral from either House of Parliament.

7.5 PILCH submits that pre-enactment scrutiny of legislation forms a vital part of human rights protection envisaged by the Consultation and is an essential component securing the efficacy of any federal human rights legislation.

7.6 Under the Victorian *Charter of Human Rights and Responsibilities Act 2006* (**Charter**), all legislation passed by the Victorian Parliament is assessed for compatibility with the Charter. The Charter also enables the Scrutiny of Acts and Regulations Committee (**SARC**) to report on incompatibility. SARC reviews all statutory rules and reports to Parliament if it considers the statutory rule to be incompatible with the Charter rights. In 2007, SARC reviewed 87 bills. Of these, SARC raised Charter concerns of compatibility of 23 bills and amended one bill in response to those concerns.<sup>16</sup>

7.7 A joint standing parliamentary Human Rights Committee could also be charged with additional powers and responsibilities under an enabling new national charter of rights Act, including assisting government to review offending legislation and monitoring steps taken where the judiciary has declared legislation (or a administrative decision) incompatible with protected human rights.

## **8. Parliamentary Committees promoting human rights in other jurisdictions**

### **8.1 The United Kingdom**

- (1) The United Kingdom's Joint Committee on Human Rights includes members of the House of Commons and House of Lords. It scrutinises all proposed bills and selects those with significant human rights implications for further examination.

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<sup>15</sup> Treaties—Proposed Powers And Proceedings Of Joint Standing Committee, Resolution of Appointment, clause 1, available at: <http://www.aph.gov.au/House/committee/jsct/reports/resolution.pdf>.

<sup>16</sup> Victorian Equal Opportunity & Human Rights Commission, 'First Steps Forward: the 2007 Summary Report on the Operation of the Charter of Human Rights and Responsibilities' at 10-11.

- (2) It reports its findings on consistency between proposed laws and the Human Rights Act 1998 (UK) (**UK Human Rights Act**) to the House of Commons to inform and assist its deliberations.
- (3) The UK's committee also:
  - (i) conducts thematic inquiries on human rights issues;
  - (ii) assists government respond to declarations and judgments of the UK courts and the European Court of Human Rights where human rights violations have been found;
  - (iii) monitors implementation of Concluding Observations of UN treaty bodies;
  - (iv) scrutinises human rights treaties pre-ratification; and
  - (v) monitors the implementation of the UK Human Rights Act more generally.
- (4) The committee meets at least weekly during parliamentary session.
- (5) In its 2006 review of the UK Human Rights Act, the Department of Constitutional Affairs concluded that the formal procedures adopted to ensure compatibility of laws and policy with the UK Human Rights Act, together with the scrutiny by the Parliamentary Joint Committee on Human Rights, improved transparency and parliamentary accountability.<sup>17</sup>
- (6) This committee has been so successful to date in promoting and protecting human rights in the political process that the Council of Europe recommended it as a model for other member states.

## 8.2 Other foreign jurisdictions

- (1) PILCH refers to and adopts paragraphs 30 to 49 of the Human Rights Law Resource Centre's submission examining the use of human rights parliamentary committees (or similar mechanisms) in Canada, The Netherlands, New Zealand, South Africa, Belgium, Germany and Norway.

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<sup>17</sup> Cited in Byrnes, Charlesworth and McKinnon, *Bills of Rights in Australia* at 63.

### 8.3 Other Australian jurisdictions

- (1) In Victoria, the Scrutiny of Acts and Regulations Committee considers all new bills introduced into the Victorian Parliament as to whether the bill is compatible with protected human rights.<sup>18</sup>
- (2) In the Australian Capital Territory, the Standing Committee on Justice and Community Safety scrutinises all bills presented to the Legislative Assembly for human rights issues, and reports back to the Assembly.<sup>19</sup>

## 9. **Conclusion – Human Rights**

9.1 PILCH recognises from the above analysis that the House Committee system (including the committees of the Senate and joint committees) undertake some measures to engage Parliament with human rights issues.

9.2 However, in PILCH's submission there is:

- (1) no coordinating body to prevent duplication or, more importantly, ensure human rights issues are not overlooked;
- (2) no power for committees to initiate inquiries of their own accord nor any automated process ensuring all Commonwealth legislation is scrutinised for human rights issues;
- (3) no framework to analyse proposed bills nor any guidance as to the scope of human rights that the relevant committee ought address, or guidance on how competing human rights should be balanced;
- (4) no committee mandated to inquire into domestic human rights issues; and
- (5) no committee mandated to monitor and report on the implementation of the Concluding Observations and views of UN treaty bodies and the recommendations of the Special Procedures of the UN Human Rights Council.

9.3 In PILCH's submission, this is an unsatisfactory position given Australia's international legal obligation to take steps to give effect to the human rights contained in the treaties it has ratified.

9.4 Finally, it is not clear which committee would assume responsibility for monitoring and assisting the Government respond to Declarations of Incompatibility issued under any federal Human Rights Act. Undoubtedly this would be addressed in the body of any Commonwealth Charter that may be enacted. PILCH submits this role would be best undertaken by a specialist Human Rights Committee.

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<sup>18</sup> Section 30 of the *Charter of Human Rights and Responsibilities Act 2006*.

<sup>19</sup> Section 38 of the *Human Rights Act 2004*.

- 9.5 As such, PILCH endorses and adopts the Human Rights Legal Resource Centre recommendation as follows:

***Recommendation1***

**PILCH recommends the Government establish a Joint Parliamentary Committee on Human Rights to lead parliamentary engagement with human rights issues, by:**

- (i) scrutinising all proposed legislation and subordinate legislation to ensure compatibility with those human rights that Australia is obliged to protect under international law;**
- (ii) initiating and conducting inquiries into human rights issues, including thematic inquiries;**
- (iii) monitoring and reporting on the implementation of the Concluding Observations and views of UN treaty bodies and the recommendations of the Special Procedures of the UN Human Rights Council; and**
- (iv) monitoring and assisting in government responses to any Declarations of Incompatibility (under any federal Human Rights Act) as well as court and tribunal decisions and judgments.**

## **Part D – Procedural Changes**

### **10. Duplication**

- 10.1 PILCH is concerned about the unnecessary level of duplication of inquiries amongst parliamentary committees and the fact that previous inquiries or investigations by other bodies are not routinely acknowledged or considered in House committee reports.
- 10.2 For example, there have been numerous inquiries at Commonwealth and State level into access for justice. The work of the House Standing Committee on Procedure has conducted numerous repeat inquiries into similar subject matter.
- 10.3 In PILCH's submission, duplication should be avoided if possible. It is a waste of valuable resources, creates 'inquiry fatigue' and general cynicism in the process.
- 10.4 PILCH submits there is merit in amending the relevant Standing Orders, requiring all Commonwealth parliamentary committees to refer to earlier reviews on a similar topic (by the same or by other Governmental or expert bodies) when commencing similar reviews and to require consultation with other groups where it would avoid obvious duplication. Currently, chapter 16 of the Standing Orders are silent in this area.

- 10.5 In addition, PILCH recommends consideration of an additional committee, comprising the Speaker and a quorum of chairpersons of other existing parliamentary committees. Such a committee having discretionary power to meet and hold discussions with a view to securing the more efficient functioning of parliamentary committees, in particular in order to avoid the duplication by one committee of the work of another committee. PILCH suggests this committee could be modelled on the investigatory committee recommended by the Victorian Scrutiny of Acts and Regulations Committee,<sup>20</sup> forming the basis of section 45 of the Victorian *Parliamentary Committees Act 2003*.

## 11. Improving implementation

- 11.1 The ability for committees to make recommendations is only effective if the government responds to or engages with those recommendations.
- 11.2 In 2001, the House of Representatives Standing Committee on Procedure recommended that the government be asked to table, at regular intervals, an action report on committee reports, detailing progress on implementing recommendations contained in reports of parliamentary committees.
- 11.3 This suggestion was considered by the House of Representatives and not supported because:

*The Government agrees that serious consideration of committee recommendations is an important function of Government activity, and that Government responses will be of significant interest to those members of the community who have an interest in the particular inquiry. However, the proposed four-month time limit for responses is arbitrary. Tabling of a list of outstanding government responses is already the practice of the Government and the House and no amendment to the Standing Orders is necessary.*<sup>21</sup>

- 11.4 PILCH respectfully disagrees with the response to the House of Representatives Standing Committee on Procedure recommendation. PILCH submits the Government ought be explicitly required to report on its consideration and implementation of committee recommendations. In the alternative, PILCH submits that some other follow-up mechanism ought be required which tracks governmental responses, where relevant, to committee recommendations.

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<sup>20</sup> 'Improving Victoria's Parliamentary Committee System, Appendix A: Proposed draft Bill for a new Parliamentary Committees Act'.

<sup>21</sup> Government Response to the Report of the House of Representatives Standing Committee on Procedure: 'It's Your House: Community Involvement in the Procedures And Practices of the House of Representatives and its Committees', October 2000 at 8.



- 11.5 Finally, PILCH submits that the Standing Orders ought be amended to give discretionary power to committees to reconvene hearings where government has not responded to its recommendations after a reasonable period of time.<sup>22</sup>

**Recommendation 2**

**PILCH recommends the Standing Orders be amended to require committees to identify and consider earlier reviews on a similar topic (by the same or by other governmental or expert bodies) when commencing reviews and to require consultation with other groups where it would avoid duplication.**

**Recommendation 3**

**PILCH recommends creation of an additional committee, comprising the Speaker and a quorum of chairpersons of other existing parliamentary committees, that has the discretionary power to meet and hold discussions with a view to securing the more efficient functioning of parliamentary committees, in particular in order to avoid the duplication by one committee of the work of another committee (or of other governmental or expert bodies).**

**Recommendation 4**

**PILCH recommends enactment of an explicit reporting requirement on Parliament to detail Parliament's consideration and implementation of recommendations (or create some other follow-up mechanism to track governmental responses).**

**Recommendation 5**

**PILCH recommends amending the Standing Orders to give discretionary power to committees to reconvene hearings where government has not responded to its recommendations after a reasonable period of time.**

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<sup>22</sup> Rozzoli, 'Evolution of the Committee System in the House of Representatives – A Path Forward – Increasing Parliamentary Accountability', available at: [http://www.aph.gov.au/house/committee/20\\_anniversary/papers/rozzoli.pdf](http://www.aph.gov.au/house/committee/20_anniversary/papers/rozzoli.pdf) at 89.