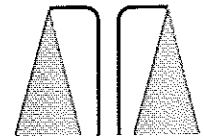


Our Ref: QM:humanrights.feb2012

Reply to:

- Head Office
 Bentleigh Branch
 Cranbourne Branch
 Rosebud Branch

Your Ref:



Peninsula Community
Legal Centre ^{Inc}

28 February 2012

The Secretariat
National Human Rights Action Plan
Attorney-General's Department
3-5 National Circuit
BARTON ACT 2600

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- Commonwealth Attorney-General's Department
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- Frankston City Council
- Mornington Peninsula Shire

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Dear Sir or Madam,

RE: Australia's National Human Rights Action Plan 2012
Exposure Draft

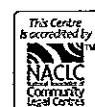
Human rights provide the foundation for a fair, just and inclusive community. As such, the protection, promotion and fulfillment of human rights should be a key priority for the Australian Government.

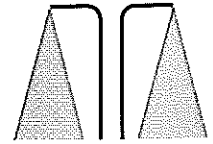
Peninsula Community Legal Centre (PCLC) welcomes the opportunity to make a submission with respect to the Exposure Draft, Australia's National Human Rights Action Plan 2012 (hereinafter referred to as the "Action Plan"). PCLC broadly endorses the Action Plan in promoting human rights in Australia, however PCLC also believes that the most appropriate way to ensure the protection of human rights is through legislation, which may take the form of a Charter, such as that in Victoria or a more comprehensive Bill of Rights.

PCLC is a not-for-profit organisation that has been providing free legal services to Melbourne's outer south east communities for over 30 years. Its mission is "To empower and support disadvantaged community members of the South East and Westernport Region to use the law and legal system to protect and advance their rights and broaden their awareness of their rights and responsibilities."

PCLC's staff and volunteers provide clients with free and accessible legal services, particularly the most disadvantaged and marginalised in our community who may otherwise 'fall through the gaps'. Our clients' life circumstances can be severely affected by their legal problems and they are often not able to access other legal services. Being able to obtain free legal assistance can often help our clients move on with their lives and become active participants in their local communities.

Underpinning all service delivery is a philosophy of client empowerment and recognition of the inherent dignity of all people. In casework services, this translates to a focus on informed decision-making by clients and supported self-help wherever appropriate, so that clients achieve the confidence and skills to navigate the legal system. Most of the





Centre's clients could not afford a private lawyer and would not qualify for legal aid. Their right to equality before the law might be meaningless if not for the work of the Centre in resourcing and directly assisting them to uphold their rights.

The Centre also has a strong commitment to empowering the broader community through community development and community legal education activities, viewed as core functions of the Centre. The Centre is regarded by the local community as its key legal resource, organising and participating in forums about legal issues, providing customised workshops and reporting on policy issues that affect the community through local media. Across the community, the Centre endeavours to improve understanding of legal issues through its education activities, as well as supporting community groups and participating in relevant law reform activities.

Over the years, PCLC has campaigned for the protection and promotion of human rights both in Victoria and federally. As PCLC provides legal assistance to some of the most marginalised and vulnerable members of our community, PCLC is well placed to provide comment and input to 'Australia's National Human Rights Action Plan 2012', Exposure Draft.

PCLC submissions relate to the broadly identified headings within the Action Plan as follows:

Protection and promotion of human rights in Australia

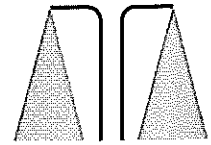
PCLC welcomes the prioritisation of the ratification of the Optional Protocol to the Convention against Torture (OPCAT). This international treaty aims to prevent ill-treatment by establishing systems for independent monitoring and inspection of all places of detention.

Despite signing OPCAT in May 2009, progress on ratification and implementation has been slow as a result of differences between the states and the Commonwealth about the bill for detention, monitoring and oversight. Evidence shows that there are high social and economic costs for failure to prevent and redress ill-treatment. PCLC believes that it is not only in the interests of persons deprived of liberty, but also the broader community, that detainees are treated with dignity and respect and that all places of detention – including prisons, psychiatric hospitals, police cells, immigration detention centres or disability facilities – promote reintegration and rehabilitation.

The passage of legislation to establish a Parliamentary Joint Committee on Human Rights, is an example of a complementary measure to assist in the better protection and promotion of human rights. For the effective implementation of the *Human Rights (Parliamentary Scrutiny) Act 2011*, the Statements of Compatibility will need to be prepared early and these Statements must be reasoned, evidence based and rigorous. A consideration of the expansion of the Committee to include monitoring and reporting on Australia's implementation of international human rights obligations and the recommendations of United Nations human rights bodies could be included in the Action Plan.

The human rights concerns of the general community

As human rights provide the foundation for what may be described as the social progress of a nation, it is imperative that the Action Plan consider the concerns identified by the general community. Enabling access to justice is certainly a priority area for PCLC and it is heartening that this area is identified in the Action Plan. Other areas identified by the community such as assisting the disadvantaged and ensuring decent working conditions have also been included within the Action Plan.



Peninsula Community
Legal Centre Inc

PCLC believes the overall benefit of the Action Plan complete with review mechanisms, is that there is scope for review and to revise priorities, which may include the incorporation of previously unidentified or under identified areas of human rights concern within the general community. In particular, during the 2014 review of the Action Plan, PCLC considers it appropriate to re-examine the possible introduction of statutory based human rights protection.

The human rights experience of specific groups in Australia

PCLC believes that the Action Plan rightly identifies many of the specific groups in Australia who are particularly vulnerable to human rights abuses and disadvantage – Aboriginal and Torres Strait Islander peoples, women, children and young people, older people, gay, lesbian, bisexual and sex and/or gender diverse people, those experiencing homelessness or who are at risk of homelessness, people with disabilities, carers, those in prison and people with diverse backgrounds.

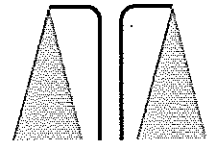
With respect to enhancement of the rights of Aboriginal and Torres Strait Islander peoples, PCLC considers that priority within the Action Plan be given to ensuring that all laws, policies and institutions are compatible with the United Nations Declaration on the Rights of Indigenous Peoples. In particular, PCLC would like to see some revisions in the 'Closing the Gap' scheme, such as the inclusion of 'Justice' as a 'Closing the Gap building block' and the development of new 'Closing the Gap' targets in relation to the reduction of Aboriginal and Torres Strait Islander imprisonment and re-offending.

In addition, PCLC believes it necessary to develop compensation schemes to provide reparations for past racially discriminatory policies and practices, particularly in relation to the Stolen Generations and Stolen Wages. The Action Plan would, in the opinion of PCLC, benefit from the inclusion of an action which considers at least the possibility of the development of such a scheme.

PCLC commends the inclusion of actions aimed at the prevention of violence towards women and children. Family violence is a key area of practice for PCLC, given the high numbers of clients presenting who have experienced or are experiencing family violence. Responses to family violence need always to be holistic, encompassing education, health and social policy. Changes to processes within the criminal justice system alone will not necessarily bring about just outcomes. In conjunction with a range of approaches, strategies applied in the criminalisation of family violence must continue to be developed and implemented in order to work towards the elimination of violence experienced by women, including in the context of the prosecution of domestic violence.¹ There is a need for a cultural shift about how violence against women (and children) is perceived and dealt with.

With regard to limiting discrimination, PCLC believes that strengthened equality laws would contribute to social cohesion, higher productivity and participation, and improved outcomes in many areas including education and health. PCLC views the current Consolidation Project as an opportunity to strengthen and modernise the existing anti-discrimination regime. While it may be desirable to streamline laws, remove inconsistencies and reduce any regulatory burden, the key measure of success will be the effectiveness of the revised laws in preventing and remedying discrimination and promoting substantive equality.

¹ Nicola Lacey, 'Violence, Ethics and Law: Feminist Reflections on a Familiar Dilemma' in Susan James & Stephanie Power (eds), *Visible Women: Essays on Feminist Legal Theory and Political Philosophy* (2002) at 117–135, 128



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PCLC strongly supports the protection and enhancement of human rights for all Australians. PCLC would welcome the opportunity to provide further comment and input into the further development of the Action Plan and to other initiatives to improve legal responses to fully realize human rights protections in Australia.

Yours faithfully,

HELEN CONSTAS
CHIEF EXECUTIVE OFFICER
PENINSULA COMMUNITY LEGAL CENTRE INC.

Enc.0