

NATIONAL HUMAN RIGHTS CONSULTATION

REPORT

September 2009

National Human Rights Consultation

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ISBN 978-1-921241-89-5

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The National Human Rights Consultation was supported by a Secretariat in the Attorney-General's Department.

The views expressed herein are those of the National Human Rights Consultation Committee and do not necessarily represent the views of the Australian Government.

WARNING: The National Human Rights Consultation seeks to treat Indigenous cultures and beliefs with respect. Indigenous readers are warned that the following document may contain images of and/or references to deceased persons.



30 September 2009

The Hon Robert McClelland MP
Attorney-General
Parliament House
CANBERRA ACT 2600

Dear Attorney-General

We are pleased to present to you the Report on the Consultation into Human Rights in Australia.

The Consultation was conducted in accordance with the Terms of Reference issued on 10 December 2008.

Yours sincerely

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Chair

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Member

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Foreword

Mary Kostakidis, Tammy Williams, Mick Palmer and I spent four months traversing this land, from Christmas Island to Palm Island, from Yirrkala to Devonport. Neither did we miss the Centre, attending community roundtables in Coober Pedy, Mintabie, Kalgoorlie, Charleville, Alice Springs and Santa Teresa. Thousands of concerned citizens came and spent time with us, sharing their views on how we might better protect human rights in Australia.

People with wildly divergent opinions about social, moral, political and legal questions came and had their say. Only once did a participant harangue the audience. The respect and tolerance we show each other in the public domain is one of the great things about Australia. I doubt there are many other countries where these community roundtables could have been conducted so peacefully.

Our three days of public hearings in the Great Hall of Parliament House in Canberra featured a diverse range of Australians agitating the big questions of this National Human Rights Consultation—including whether we need an Australian Human Rights Act. Never before has a public consultation generated so much interest: the Committee received more than 35 000 submissions.

Mary, Tammy, Mick and I had obviously been chosen because we are Australians with very different backgrounds and perspectives. We started with our differences, and we still have some. The government entrusted us to feed back what we heard from the Australian community. This we have tried to do. We came to the task confident that Australia is a nation that prides itself on ‘the fair go’ but knowing that much could be done to improve human rights—especially the human rights of people who ‘fall between the cracks’ in our egalitarian society.

We also knew our task was politically charged because many citizens wanted to focus on the question of whether we should have an Australian Human Rights Act. The Coalition parties were opposed. The Labor Party was divided. In this regard we were attentive to those who sought us out—at a community roundtable, on the online forum, on Facebook, at the public hearings or through submissions. We also commissioned detailed research with focus groups, a national telephone survey, and devolved consultations with some of Australia’s most vulnerable people.

The clearest finding from our work is that Australians know little about their human rights—what they are, where they come from and how they are protected. They need and want education. They need and want to create a better culture of human rights in those organisations that deliver public services to the community.

We hope that this detailed report, which is available at <www.ag.gov.au> and <www.humanrightsconsultation.gov.au>, the consultation website <www.humanrightsconsultation.gov.au>, the commissioned research, the thousands of submissions received and published (available on the consultation website) and the online forum will be useful educational resources for years to come.

Many Australians would like to see our national government and parliament take more notice of human rights as they draft laws and make policies. Ultimately, it is for our elected politicians to decide whether they will voluntarily restrict their powers or impose criteria for law making so as to guarantee fairness for all Australians, including those with the least power and the greatest need.

Our elected leaders could adopt many of the recommendations in this report without deciding to grant judges any additional power to scrutinise the actions of public servants or to interpret laws in a manner consistent with human rights. Alternatively, they could decide to take the extra step, engaging the courts as a guarantee that our politicians and the public service will be kept accountable in respecting, protecting and promoting the human rights of all Australians.

If they do choose to take that extra step, we have set out the way we think this can best be done—faithful to what we heard, respectful of the sovereignty of parliament, and true to the Australian ideals of dignity and a fair go for all. Our suggestions are confined to the Federal Government and the Federal Parliament. The states and territories will continue to make their own decisions about these matters. But we hope they will follow any good new leads given by the Federal Government and the Federal Parliament.

The Committee was privileged to make this journey. Along the way, we were joined by many dedicated helpers, among them Philip Flood, who assisted with community consultations, a hard-working Secretariat, and a wonderful team of writers led by Gaby Carney. The Committee, of course, accepts responsibility for any shortcomings in our procedures or findings.

Even if all our recommendations were implemented tomorrow, there would still be vulnerable Australians missing out, especially on the essential economic and social rights of greatest concern to the community—health, housing and education. Responsibility for meeting these needs cannot rest solely with government and the vulnerable themselves. We need to take responsibility for each other.

A free and confident Australia has always been on the path to better human rights protection. At times our leaders—such as HV Evatt and Jessie Street—have taken great strides on this path, showing the world a way forward. The Australian community's fabulous response to this Consultation suggests that the time is right for our elected leaders to take new steps to protect and promote human rights. Each step for human rights can take us further on the path to dignity and fairness.

Frank Brennan

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Acknowledgments

The National Human Rights Consultation was made possible by the thousands of people who participated. We acknowledge the 6000 people who participated in our community roundtables and the more than 35 000 who made submissions. We thank them and the national and local media for their interest.

The Committee particularly thanks the following people for their contributions:

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Philip Flood

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Kim Farrant

Diana Rahman

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Fiona Hamilton

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Colmar Brunton Social Research

The Allen Consulting Group

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We are also grateful to the many officers from the Attorney-General's Department (including the 2009 graduates) who assisted throughout the course of the Consultation—especially Bernadette Mikita, who managed to get us to every destination and back again.