18 February 2011

Dear Secretariat

Equality Rights Alliance (ERA) thanks the Attorney-General’s Department for the opportunity to comment on the development of Australia’s next National Human Rights Action Plan.

ERA (formerly known as WomenSpeak) is Australia’s largest organisational network advocating for women’s equality, women’s leadership and recognition of women’s diversity. We bring together over 50 non-government organisations and social enterprises with an interest in advancing women’s equality. ERA is one of six National Women’s Alliances, managed by the YWCA Australia with funding from the Australian Government Office for Women. Members of ERA endorse all or part of this submission.

Support for Comments of January Gathering on National Human Rights Action Plan

We appreciate the opportunity provided by the Australian Human Rights Commission on Monday 31 January 2011 to meet and discuss process points for the development of a National Human Rights Action Plan. We note and support the points raised at this gathering in response to the Government’s background paper:

- We support the general view of this Sydney gathering that the energy and efforts put into the Brennan Human Rights Consultation should not be overlooked or expected to be further repeated.
- We urge the use of prominent online resources to share information as the Action Plan is drafted and considered.

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• We support the call from the Sydney gathering that a Human Rights Action Plan must add value to what we are already doing, as NGOs and government agencies.

• We support a time bound National Human Rights Action Plan of three to five years.

• We agree that any Human Rights Action Plan should be attached to all legislative instruments to outline what policy actions are required to make the legislation effective. The existence of human rights legislation does not in itself guarantee conformity with UN principles. Governments can suspend aspects of legislation, for example the recent suspension of the Racial Discrimination Act in 2007, or fail to address inequities that deny rights such as access to law or education by population groups subject to discrimination.

Steering Committee

We support suggestions from a number of non government stakeholders that the Steering Committee be comprised of a range of stakeholders from government, community and other relevant sectors. We urge that representatives with knowledge and expertise in gender analysis and human rights be included on the Steering Committee.

Baseline Study

The proposed timing of the baseline study is of concern. We support the suggestion that the study be completed before the drafting of the plan, so that there could be agreement on what the problems and priorities are before proposing measures for dealing with them.

We welcome the commitment of the Australian Government to use the recommendations made during the Universal Periodic Review (UPR) to inform the development of Australia’s new National Human Rights Action Plan. We recommend that the UPR recommendations be incorporated in the baseline study.

The initial paper on Baseline Data will need to set up some measurable objectives. These should be relatively simple and hopefully relate to more than one population group (for example housing security or access to education). Such measures can then be used for the annual reporting to Parliament. We suggest the model of the National Disability Strategy, and the Australian Bureau of Statistics (ABS) Australian Gender Indicators project could provide useful models and input.
Right to Equality: Pursuing Formal and Substantive Equality

As women’s advocates, we call for enhanced protection of the right to equality to be central to the Government’s human rights agenda, and therefore Australia’s next National Human Rights Action Plan. The rights to non-discrimination and substantive equality are fundamental components of human rights law that are entrenched in a wide range of human rights treaties. Goals to adequately protect these rights in Australian law must be a cornerstone of national Human Rights Action Plan.

We recommend the development of the National Human Rights Action Plan include targets to achieve both formal and substantial gender equality in Australia. The Committee on the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) has articulated an obligation of states parties to ensure that legislative protections pursue a substantive equality agenda¹. In essence this is an agenda which takes into account:

- Biological differences between women and men;
- The ongoing impact of historical inequalities between women and men;
- The transformation of harmful social, political, economic and cultural practices, based on stereotypical assumptions about women and men; and
- The importance of non-identical treatment of women and men in certain circumstance to address such differences and inequalities

A National Human Rights Action Plan which pursues a formal and substantial gender equality framework would deliver gender based targets guided by these points.

In terms of outstanding gender issues in Australia, ERA recommends the Human Rights Action Plan include a focus on:

- Strengthening anti-discrimination laws by recognising new prohibited grounds of discrimination, providing effective remedies against systemic and intersectional discrimination, and implementing the remaining recommendations of the 2008 Senate Committee inquiry into the Sex Discrimination Act;
- Introducing measures to address the gender pay gap with implementation of the recommendations of the House of Representatives Standing Committee on Employment and Workplace Relations' 2009 Pay Equity report²;

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• Increasing representation of women on public and private sector boards to a minimum of 40%;
• Increasing the funding, access and availability of affordable housing and accommodation with a focus on the unique housing insecurity issues older women and female headed households face; and
• Implementing, fully funding and monitoring the National Plan to Reduce Violence Against Women.

Thank you for the opportunity to provide comments on the development of Australia’s next National Human Rights Action Plan. We look forward to further opportunities to discuss the drafting of the Action Plan. If you would like to discuss any issues we have raised, please contact me on 02 6230 5152 or era@ywca.org.au.

Yours sincerely,

Kathy Richards
Manager, Equality Rights Alliance