Exposure Draft National Human Rights Action Plan

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Submission by the NSW Young Lawyers Human Rights Committee

Australian Government, Attorney-General’s Department
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Introduction

1. The NSW Young Lawyers Human Rights Committee (YLHRC) has made several submissions in response to the implementation of Australia’s Universal Periodic Review (UPR) recommendations. Central to each response has been the repeated call for Australia’s National Human Rights Action Plan (NHRAP) to contain ‘specific, measurable and achievable goals with timeframes by which to achieve practical actions and outcomes.’1

2. While warmly welcoming the Exposure Draft of Australia’s National Human Rights Action Plan (Exposure Draft) and the opportunity to comment on the Exposure Draft, YLHRC is disappointed that it mainly focuses on existing policy commitments. It also largely lacks specific indicators, measures and timeframes; many indicators are described as ‘ongoing’. We view this as a missed opportunity to highlight the Government’s concrete commitment to improving the promotion and protection of human rights. We also note that there are gaps in implementing some UPR recommendations, as referred to below. All UPR recommendations accepted in full or in part must be incorporated into the final NHRAP.

3. YLHRC acknowledges that the Australian Government is reliant upon working with state and territory governments to implement the NHRAP. We note that while the Victorian Government is mentioned in the Exposure Draft, there are few specific references to other states and territory government actions. YLHRC expresses its disappointment at what appears to be a lack of commitment to human rights by the other states and territories and views their commitment as very important to the success of the NHRAP. We have therefore supported the letter written by the Public Interest Advocacy Centre to the NSW Attorney General calling on NSW to actively participate in the NHRAP process.

Background

4. On 21 April 2010, the Federal Government released Australia’s Human Rights Framework, which set out a number of practical initiatives to improve human rights protections in Australia. One of those initiatives included the development of the NHRAP, to outline further action for the promotion and protection of human rights.


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Government committed to incorporating the UPR recommendations into its NHRAP.²

6. In order to prepare the NHRAP, the Federal Government proposed to undertake a Baseline Study to examine the state of human rights in Australia. A Draft Baseline Study was released for comment on 8 July 2011, and YLHRC made a submission on the Draft.

7. YLHRC now welcomes the opportunity to make submissions in relation to the Exposure Draft. This submission sets out in brief key improvements that can be made to the Exposure Draft.

About NSW Young Lawyers and the Human Rights Committee

8. NSW Young Lawyers (NSWYL) is the largest body of young and newly practising lawyers, and law students in Australia. NSWYL supports practitioners in their early career development in numerous ways, including by encouraging involvement in its 15 separate committees, each dedicated to a particular area of practice. Membership is automatic for all NSW lawyers under the age of 36 and/or in their first five years of practice, as well as law students.

9. The NSWYL Human Rights Committee (YLHRC) comprises a group of approximately 500 lawyers and law students interested in Australian and international human rights issues. The objectives of the Committee are to raise awareness about human rights issues and provide education to the legal profession and wider community about human rights. Members of the Committee share a commitment to effectively promoting and protecting human rights.

Recommendations

10. As referred to above, while pleased by the development of a draft NHRAP the YLHRC is disappointed at the Exposure Draft’s lack of clear timeframes and processes for action. Specific, measurable timeframes and benchmarks must be clearly outlined if proposed actions are to be achieved.

11. Additionally, it is also of concern that some UPR recommendations that Australia accepted are not incorporated into the Exposure Draft. For example, the independent monitoring mechanism of the National Plan to Reduce Violence Against Women and Children is not included in the Exposure Draft.³ YLHRC strongly recommends that all UPR recommendations accepted in full or in part be incorporated into the final NHRAP alongside clear indicators and timeframes in which they are to be achieved.

12. In order to succeed it is important that actions beyond existing policies be included and that the NHRAP be adequately funded.

² Hon Robert McClelland MP, Address to the NGO Forum on Human Rights, Canberra, 22 June 2011
Clear Timeframes for Action

13. It is of particular concern to the YLHRC that the draft National Action Plan does not set out clear timeframes for a number of initiatives, such as:

- ratifying the Optional Protocol to the Convention against Torture;\(^4\);
- implementing oversight mechanisms to ensure scrutiny of police use of force, misconduct or police-related deaths in Australia (which the YLHRC believes must be independent);\(^5\)
- developing the National Aboriginal and Torres Strait Islander Health Plan;\(^6\) or
- establishing a new National Children’s Commissioner.\(^7\)

Accordingly, the YLHRC recommends that the NHRAP include clear timeframes for all proposed actions.

14. We also refer the Government to the NGO Coalition’s Consultation on UPR Recommendations submission\(^8\) for further suggestions of what should be included in the final NHRAP.

15. We also note that the CEDAW Action Plan was prepared on behalf of a broad coalition of Australian NGOs and sets out what the Commonwealth and State and Territory governments should do to implement the CEDAW Committee’s 2010 recommendations on women’s human rights in Australia.\(^9\) While the final Human Rights Baseline Study referred to several submissions supporting the actions set out in the CEDAW Action Plan\(^10\) these actions do not appear to be fully incorporated into the NHRAP. This must be rectified in the final NHRAP.

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\(^4\) Action 2
\(^6\) Action 72
\(^7\) Action 121
\(^10\) National Human Rights Action Plan – Baseline Study, 2011 at 60
\(^11\) Actions 1 and 220
Effective Implementation and Monitoring

14. YLHRC commends the Government on the inclusion of review mechanisms, including the establishment of an Advisory Group which includes NGOs11 and the commitment to preparing a progress report after three years and a final report after five years. YLHRC strongly believes that the constructive consultation the Government has undertaken with the wider NGO community and civil society should also inform the development of these reports and that this should be reflected in the final NHRAP.

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