18 February 2011

The Secretariat
National Human Rights Action Plan
Attorney General’s Department
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Barton ACT 2600

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To the Secretariat,

Feedback on the National Human Rights Action Plan background paper

On behalf of Amnesty International Australia’s 125,000 supporters, I welcome the opportunity to provide feedback on the National Human Rights Action Plan background paper.

I urge the Attorney General’s Department to exercise caution and ensure this latest round of consultation does not simply replicate the 2009 National Human Rights Consultation – where the recommendation for a Human Rights Act was disregarded. It would also be disappointing if this latest consultation resulted in further statements of commitment without significant legislative and policy reform that address the gross human rights violations currently taking place in Australia.

It is not solely what is contained within an action plan document that demonstrates the country’s commitment to human rights; rather the legislative and policy measures introduced which can be held up to international scrutiny and found to abide with Australia’s obligations. As a signatory to seven of the major international human rights conventions, Australia has committed to upholding the rights enshrined within these instruments. It is the Federal Government’s primary responsibility to ensure these rights are adequately promoted and protected.

The focus of any proposed National Human Rights Action Plan needs to be these treaty obligations, the Concluding Observations from the relevant UN committees and the recent Universal Periodic Review recommendations.

Amnesty International believes these reviews offer a systematic and independent consideration of Australia’s strengths and address it’s shortcomings in human rights observance. The proposed baseline study referred to in the Australian Government’s background paper should primarily be based on these reviews, the 2009 Brennan Report, the further studies it commissioned and the expert feedback contained within the submissions gathered as part of the 2009 consultation. I have
enclosed a copy of Amnesty International’s submission to this process. Our position contained within the submission on strengthening human rights protection and meeting Australia’s international obligations still holds.

The background paper lists some of the specific purposes that can be achieved by an action plan, for example providing guidance to government officials, promoting the ratification of international human rights treaties and promoting wider awareness of human rights. While these are legitimate benefits, a plan should not detract from the onus of responsibility being on the Federal Government to ensure that rights within Australia are upheld and enshrined in legislation.

**Accountability**

As mentioned above, the Federal Government – regardless of which party is in power at the time – has the ultimate responsibility for Australia’s human rights record. While Amnesty International welcomes the background paper incorporating all relevant departments into the plan, accountability for Australia’s human rights must lie at the most senior ministerial level and not only at the bureaucratic level. The Prime Minister and Cabinet are ultimately accountable for ensuring the implementation of the national human rights action plan. The public service has an important role in protecting human rights and its responsibilities to do so need to be better entrenched within its operating procedures. Amnesty International would welcome any initiative which communicated more effectively the outcomes of various UN reviews to all levels of the public service as well as to parliamentarians and the broader community.

**The need for legislative reform**

While the government’s background paper does not mention it, it is necessary to raise the broad consensus for a Human Rights Act that came out of the 2009 National Human Rights Consultation as well as the recommendations from the Brennan report. Of the 35,014 people who made submissions to the National Human Rights Consultation Committee, an overwhelming 29,153 were in favour of a Human Rights Act.

The Government’s establishment of a new Parliamentary Joint Committee on Human Rights is a welcome development to improve human rights scrutiny and debate within Parliament, but is not in itself adequate to best protect Australia’s human rights.

Maintaining the status quo in relation to human rights legislation essentially leaves Australia in breach of its international treaty obligations.

**The role of states and territories**

Amnesty International is concerned that there is no formal mechanism built into the action plan to acquire the necessary endorsement from states and territories. While we appreciate that the Council of Australian Governments process is extremely time and resource intensive a similar process is
needed to ensure state and territory governments also commit to upholding their responsibilities towards human rights. This is especially important as many of the areas that are susceptible to human rights infringements fall within their jurisdictions.

Indicators

Using the Government's proposed baseline study as a guide, it is important for the action plan to also have practical implementation strategies with built-in indicators to enable periodic assessment of Australia’s progress in rectifying and improving its human rights record.

The National Human Rights Action Plan should also ensure that the rights of all people are better protected – particularly those most vulnerable to human rights violations, including Aboriginal and Torres Strait Islander people, women, people with disability and mental illness, the elderly, the young, the socially and economically disadvantaged, and those from culturally and linguistically diverse communities.

We urge the Attorney General’s Department to consider the recommendations from consultation as well as those gathered from the 2009 consultation and include them into the draft national action plan. Amnesty International believes that now is the time for real leadership on human rights. We hope that on this occasion the National Human Rights Action Plan leads to concrete measures specifically aimed at improving the promotion and protection of human rights in Australia. We look forward to reading the draft plan and will continue to provide feedback as part of the process.

Yours sincerely,

Claire Mallinson
National Director