



6 April 2010

Committee Secretary
Senate Standing Committee for the Scrutiny of Bills
P.O. Box 6100
Parliament House
Canberra ACT 2600

KINGSFORD
LEGAL CENTRE

Dear Sir/Madam

**Submission to the inquiry into the future direction and role of the Scrutiny of Bills
Committee**

Kingsford Legal Centre is one of over 38 community legal centres in New South Wales. The Centre provides advice and assistance to people who live, work or study in the municipalities of Randwick and Botany on selected legal problems, and a state wide service on matters of Discrimination Law. All advice is free, with services jointly funded by the University of New South Wales Faculty of Law and the Legal Services Program administered through Legal Aid NSW.

The Kingsford Legal Centre has a long history of contributing to human rights debate and policy development. We advise and assist indigenous people, prisoners, women, people with disabilities, the elderly and people with mental illness – groups identified as frequently suffering discrimination within the community.¹ We specialise in employment and discrimination law, areas that rely on human rights standards to get justice. We have contributed and coordinated reports to United Nations treaty monitoring bodies for the last 10 years. From our contact with the community and our dedication to social justice we are aware that human rights protection in Australia is in need of reform.

KLC clients are generally economically and socially disadvantaged and often face significant legal problems. It has been apparent through the work undertaken by KLC that Australia lacks sufficient human rights protection and that as a result many individuals experience breaches of their human rights without effective legal redress. KLC welcomes the Senate Scrutiny of Bills Committee inquiry into the future direction and role of the Scrutiny of Bills Committee as an important opportunity to discuss Australia's current commitment to human rights and the ways in which Australia can meet its international human rights obligations.

We submit it would be in the public interest for the Scrutiny of Bills Committee (**'the Committee'**) to have enhanced scrutiny functions. Higher human rights standard for Australian legislation would be achieved by such a change. In response to the National Human Rights Consultation KLC undertook extensive consultations within our local community to educate on the issue of human rights and to encourage as many people as possible to contribute to the Consultation. The theme of the feedback from our community was that human rights are important to people and were a value they believed Australia should protect and recognise. This confirms that KLC's view that the true extent of human

¹ Brennan report, p265.

rights breaches are in fact a part of their life which has a significant impact on their wellbeing and their participation in the community. We argue however, that such a move would not work as an alternative to a human rights Act but rather work in conjunction with it to improve the protections available in Australia.

Enhancing the scrutiny functions of the Committee would have significant impacts in relation to the international human rights commitments of the Commonwealth. In examining each bill the Committee would be required to take into account the Commonwealth's responsibility in terms of its national and international human rights obligations. This would mean giving regard to each of Australia's obligations under international human rights treaties to which it is party. It provides another mechanism to ensure their human rights are being upheld and demonstrates that the Australian Government is keen to be a responsible international citizen abiding by its human rights obligations.

This would give a clear signal to both the Australian and international community of the importance that Australia places on the protection of human rights. This is particularly important at this time when Australia is seeking to recognise the significance of international human rights mechanisms. It would also demonstrate Australia's leadership in our region.

In our view, parliamentary scrutiny of human rights should be enhanced in several ways. First, the Committee should be mandated to give proper consideration to the Commonwealth's human rights obligations. Second the Committee should be mandated to conduct thematic inquiries into human rights issues.

There are many problems with the current system, identified in the Brennan report that it would not be remedied through changes in the role of the Committee. These include ad hoc nature of human rights protection in Australia, the inadequacy of checks on executive power, the need for a comprehensive statement of the fundamental rights and freedoms of all Australians, and for a framework for ensuring compliance with those rights and freedoms.² We do not feel that such a change to the powers of the Committee would be a suitable substitute for the development and implementation of an Australian human rights Act.

If you have any questions regarding this submission please do not hesitate to contact the writer on (02) 9385 9566.

Yours sincerely,
KINGSFORD LEGAL CENTRE

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² Brennan report.