



15 November 2012

Attorney-General's Department
Human Rights Engagement Section
Robert Garran Offices BARTON ACT 2600
By email: CATreport@ag.gov.au

Dear Mr Symonds,

Australia's Draft Fifth Report under the UN Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

1. Women's Legal Services NSW (WLS NSW) thanks the Attorney-General's Department for the opportunity to comment on Australia's *Draft Fifth Report under the UN Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Draft Report)*.
2. This submission focuses primarily on domestic violence affecting women and gaps with regards to this issue in the *Draft Report*. We note that several of the issues we suggested in our earlier submission dated 3 November 2011 be included in Australia's Report have not been included. We refer you again to this submission and recommend these issues be included. A copy of the submission is attached.
3. We are concerned that the Government does not recognise domestic violence as falling within the scope of the *Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*. We refer to our earlier submission which addressed this issue. We further endorse the comments made by the Human Rights Law Centre on this issue in their submission dated 14 November 2012.
4. We commend the introduction of the *Family Law Legislation Amendment (Family Violence and Other Measures) Act 2011 (Cth)*. However, we submit more needs to be done to protect the safety of women and children. Each family is unique and has different needs. There should be no single starting position for working out the best interests of each child. This should be determined on a case-by-case basis. We therefore recommend further amendments to the *Family Law Act 1975* to remove remaining presumptions about equal shared parental responsibility.
5. We further commend the Government's proposed amendments to the Australian Numbering Plan that will make calls to 1800 numbers free to call from mobile phones. We understand these amendments will also ensure that calls from mobiles to 13/1300, including Centrelink and other important services that victims/survivors of domestic violence need to contact, will be the cost of a local call.¹ We suggest the latter should also be acknowledged in the Government's Report.
6. We note the *Draft Report* includes some brief comments on the *National Plan to Reduce Violence*

¹ ACMA, Update—mobile calls to freephone and local rate numbers, 24 April 2012 accessed on 14 November 2012 at:

<http://engage.acma.gov.au/update-mobile-calls-to-freephone-and-local-rate-numbers/>



WOMEN'S LEGAL SERVICES NSW

against Women and their Children 2010-2022 (the *National Plan*). We refer to our earlier submission and repeat our calls for the Government to provide details in its *Final Report* regarding the implementation and funding of the *National Plan*. This should include:

- a. How the *National Plan* takes into account the specific situation of Aboriginal and Torres Strait Islander women, women with disabilities and women from culturally and linguistically diverse backgrounds; and
 - b. The steps taken to implement an independent supervision mechanism that involves civil society;²
7. We note that on 25 September 2012 the first of four National Plan Implementation Plans was released. We are concerned that to our knowledge this Implementation Plan was developed with little, if any, civil society participation, even by key NGOs. It would be pleasing to see the Government in its *Final Report* commit to ensuring active participation of civil society in the development, implementation, monitoring and evaluation of future Implementation Plans.
8. We refer to your acknowledgment of domestic and family violence being a major cause of homelessness for women and children. However there is no acknowledgment of the existing pressure on refuge and accommodation services. We repeat our request for:
- a. The availability of, and turn away rates at, appropriate supported emergency and subsequent accommodation for women escaping domestic violence and the number of exclusion orders being made as part of a protection order to assist women escaping domestic violence to remain in their homes.³
9. We also note that the Homelessness Bill 2012 removes any explicit reference to the link between domestic violence and homelessness and recommend this be rectified. The Homelessness Bill should also provide a legally enforceable right to adequate housing as consistent with Article 2 of the *International Covenant on Economic, Social and Cultural Rights*. We attach a copy of our submission in response to the Homelessness Bill.
10. The *Final Report* should also recognise and address the links between homelessness, child protection and juvenile justice.⁴
11. We recommend that the Government takes further action with respect to assisting victims/survivors of domestic violence with housing by including status of being a victim/survivor of domestic violence as a protected ground of discrimination in the new Equality Act. This protection should extend to all areas of public life, including accommodation.⁵
12. If you would like to discuss any aspect of this submission, please contact Liz Snell, Law Reform and Policy Coordinator on 02 8745 6900.

Yours sincerely,
Women's Legal Services NSW

Liz Snell,
Law Reform and Policy Coordinator

² See Committee on the Elimination of All Forms of Discrimination against Women, Concluding Observations on Australia, (2010) paras 40-45; United Nations General Assembly, *Report of the Working Group on the UPR - Australia* (A/HRC/17/10), UPR 86.80

³ See CEDAW Committee, Concluding Observations on Australia, (2010) paras 29, 41 and 45;

⁴ See, for example, Australian Institute of Health and Welfare, *Children and young people at risk of social exclusion: links between homelessness, child protection and juvenile justice*, AIHW, November 2012.

⁵ See: NACLC, *Response to the Consolidation of Commonwealth Anti-Discrimination Laws Discussion Paper*, 1 February 2012 at 38-39 accessed on 4 July 2012 at: http://www.womenslegalnsw.asn.au/downloads/lawreform/2012NACLC_AGD_DiscriminatonConsolidation.pdf