



28 March 2018

Senator the Hon Ian Macdonald
Chair, Legislation Committee
Senate Standing Committee on Legal and Constitutional Affairs
Parliament House
Canberra ACT 2600

Dear Senator Macdonald,

I am writing to follow up on a few matters that arose in the course of the Commission's appearance during the Senate Estimates hearing on 27 February 2018. I have included some information in this letter, but I would be very happy to arrange a briefing for you and the Committee on matters of interest in relation to the Commission and Australia's international human rights engagement and commitments.

a) The UN Human Rights Council

During questioning you asked me about the United Nations Human Rights Council and the relationship of the Commission to it.

The Human Rights Council is the pre-eminent inter-governmental forum in the United Nations system, with responsibility for the protection and promotion of human rights in member states. It is comprised of 47 members which are governments elected for terms of 3 years. Australia was recently elected to the Council for the first time since the creation of the Human Rights Council in 2006. The person who sits on the Council on Australia's behalf is the permanent representative of Australia to the United Nations in Geneva.

b) The Commission's role in relation to the UN Human Rights Council

The Australian Human Rights Commission is an 'A status' national human rights institution (NHRI). This means that we are established and operate in accordance with the UN Principles relating to the Status of National Institutions, otherwise known as the 'Paris Principles', which were defined at a workshop on 'national institutions for the promotion and protection of human rights' in Paris in October 1991. These principles were adopted by the UN General Assembly in Resolution 48/134 of 20 December 1993, and set out minimum standards for national human rights institutions to meet in order to be seen as robust, credible and genuinely independent institutions for the promotion of human rights.

There is a process for accreditation of NHRIs to establish their ongoing compliance with the Paris Principles. NHRIs that are fully compliant are designated 'A status' in a range of UN fora, including the UN Human Rights Council and other human rights mechanisms. The impact of this is that the Commission has a designated role in the processes of the Council, independent of the government and separate and distinct from the role of non-government organisations (collectively known as 'civil society').

In particular, as an 'A status' institution, the Commission may participate in debates on any agenda item of the Council, as well as lodge reports and information with the Council. As an example, at the most recent session of the Council, from 26 February to 23 March, the Commission contributed video statements in discussion of agenda items on racial discrimination, access to justice for people with a disability, and human rights defenders. Information about what 'A status' NHRIs can do is set out at <http://www.ohchr.org/EN/HRBodies/HRC/Pages/NgoNhrInfo.aspx>.

The Australian Government has been one of the champions of NHRIs internationally and it has been a longstanding part of Australia's foreign policy to support the establishment of 'A status' NHRIs across the Asia-Pacific and the world. Most recently, this was confirmed in the election process for the UN Human Rights Council, where the Foreign Minister, the Hon Julie Bishop MP, identified support for the establishment and operation of strong human rights institutions as one of five priority areas for Australia. Information about the 'pillars and priorities' is found at <http://dfat.gov.au/international-relations/international-organisations/un/unhrc-2018-2020/pillars-and-priorities/Pages/pillars-and-priorities.aspx>.

The Commission's engagement in the UN Human Rights Council enables us to fulfil our role as a 'bridge' between the international standards in human rights treaties that Australia has pledged to uphold and our domestic legal system.

c) Briefings on the Commission's complaint-handling processes

I was also pleased to hear the interest of various committee members about the operation of the Commission's complaint-handling processes. Senators asked questions mainly in relation to sexual harassment complaints, confidentiality and the impact of changes made to the complaints process in 2017 (stemming from debates about s18C of the Racial Discrimination Act 1975).

I would be very pleased to provide the Committee with briefings about the complaint-handling processes and how they operate.

By way of example, we will be hosting a site visit to the Commission's premises from the Joint Parliamentary Committee on Human Rights for it to learn more about the Commission's work and complaints-handling role. We would also welcome a visit from the Senate Legal and Constitutional Affairs Committee at a time of your convenience or provide briefings to the Committee in Canberra at a suitable time.

I am currently also in discussion with the new Attorney-General about the Commission conducting a series of briefings for politicians and their staff (especially electorate officers) on the complaint-handling processes, to build awareness of the type of matters that might appropriately be referred to the Commission from the numerous public inquiries that are received by politicians.

Please do not hesitate to contact me if you would like to discuss any of the above issues.

Yours sincerely,  Regards

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