



THE LAW SOCIETY
OF NEW SOUTH WALES

Our ref: HumanRightsREvk:841150

5 May 2014

Committee Secretary
Senate Legal and Constitutional Affairs Committee
PO Box 6100
Parliament House
Canberra ACT 2600

By email: legcon.sen@aph.gov.au

Dear Committee Secretary,

Inquiry into Independent National Security Legislation Monitor Repeal Bill 2014

I am writing on behalf of the Human Rights Committee of the Law Society of NSW ('Committee') which is responsible for considering and monitoring Australia's obligations under international law in respect of human rights; considering reform proposals and draft legislation with respect to issues of human rights; and advising the Law Society accordingly.

The Committee is writing to oppose the proposed Independent National Security Legislation Monitor Repeal Bill 2014, and to support the ongoing existence of the Office of the Independent National Security Legislation Monitor ("Monitor's Office").

The Committee acknowledges that the "Government is working to remove, as far as possible, duplication of responsibilities across Commonwealth agencies and between different levels of Government." (Explanatory Memorandum). However, the Committee submits that the Monitor's Office exercises functions and has responsibilities that are not in fact comprehensively carried out by another role or function in Government. The Committee notes that this need is what precipitated creation of the Monitor's Office at first instance.

While the Committee agrees that the Monitor's Office has carried out a thorough review, the Committee submits that the work of the Monitor's Office is not complete. The Committee notes that significant encroachments on established common law principles and the human rights of individuals resulted from the enactment of counter-terrorism and other national security legislation and that so far most, if not all, the Monitor's recommended changes have yet to be implemented. The Committee notes that changes to national security legislation are made quite frequently and submits that further specific and independent oversight is required in this regard. Notwithstanding the existence of other oversight and accountability mechanisms, it is submitted that the Monitor's Office continues to be a necessary and appropriate form of oversight for those reasons.

The Committee notes that the Statement of Compatibility with Human Rights accompanying the Bill states that the Bill does not raise any human rights issues, and that "the Monitor's Office does not create or modify any legal rights, duties or liberties which impact on Australia's compliance with its international human rights obligations." As noted above, there are ongoing and significant human rights concerns raised by various aspects of national security legislation, so while the maintenance of the Monitor's Office may not be directly mandated by Australia's human rights obligations, the Committee submits that there is likely to be at least indirect human rights impacts if the Bill is passed.

Thank you for the opportunity to provide comments. Any questions can be directed to Vicky Kuek, policy lawyer for the Committee,

Yours sincerely,

Ros Everett
President