

30 June 2023

The Secretariat
Parliamentary Joint Committee on Human Rights
PO Box 6100
Parliament House
Canberra ACT 2600

By email: human.rights@aph.gov.au

Dear Sir/Madam

RE: INQUIRY INTO AUSTRALIA'S HUMAN RIGHTS FRAMEWORK

We are writing to provide in principle support for the introduction of a Human Rights Act in Australia, but to raise concerns about the proposed model in the draft *Human Rights Act*, which was published by the Australian Human Rights Commission on 7 March 2023.

About Full Stop Australia

Full Stop Australia (FSA) is an accredited, nationally focused, not-for-profit organisation which has been working in the field of sexual, domestic, and family violence since 1971. We perform the following functions:

- Provide expert and confidential telephone, online and face-to-face counselling to people of all genders who have experienced sexual, domestic, or family violence, and specialist help for their supporters and those experiencing vicarious trauma;
- Conduct best practice training and professional services to support frontline workers, government, the corporate and not-for-profit sector; and
- Advocate with governments, the media, and the community to prevent and put a full stop to sexual, domestic and family violence.

FSA, as a national service, draws upon the experiences of our trauma-specialist counsellors to support people impacted by sexual, domestic and family violence across jurisdictions, as well as our clients and other survivor advocates who are part of our [National Survivor Advocate Program](#), to advocate for victim focussed laws and consistent approaches to family, domestic and sexual violence nationally.

Our concerns with the draft *Human Rights Act*

FSA has had the benefit of reviewing the submission of Women's Legal Service NSW, and fully endorses all the recommendations therein.

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We acknowledge the traditional owners of country throughout Australia, and their continuing connection to land, sea and community. We pay our respects to them and their cultures, and to elders both past and present.

We are especially concerned that the draft *Human Rights Act* fails to specifically address the rights of victim-survivors of gender-based crimes. We have detailed these concerns below.

Concerns that the draft *Human Rights Act* fails to provide specific protections for the rights of victims of gender-based crimes

Unfortunately, the proposed model Act fails to provide a specific protection for the rights of victims of gendered based crimes in the criminal justice proceedings, including the rights of child victims, whilst the rights of the accused are specifically protected in the model.

This omission will have far reaching implications, including entrenching existing gender-based discrimination against women and child complainants in the federal criminal justice system.

Such an approach is inconsistent with the intention and activities associated with *National Plan to Reduce Violence against Women and Their Children 2022-2032*, a key government initiative. It is also inconsistent with the plethora of work being undertaken by the Attorney-General's Department to improve the criminal justice system's response to sexual violence and to make it more trauma-informed and victim-centric.

Specifically, this omission seems to be in direct contradiction to a range of federal government initiatives set out below:

- The Meetings of Attorney-General's workplan to strengthen criminal justice system responses to sexual violence 2022-2027;
- The delivery of a trauma-informed sexual violence legal service pilot program;
- Accredited training for frontline workers, legal practitioners, the judiciary and the criminal justice sector on working with victim-survivors of gender-based violence;
- Enhancing national training for law enforcement on family, domestic and sexual violence.
- Establishing an Australian Law Reform Commission (ALRC) inquiry into justice responses to sexual violence, with a focus on law reform proposals to strengthen sexual assault laws and improving the outcomes and experiences of victims and survivors in the justice system;
- Hosting a ministerial-level roundtable on addressing sexual violence, bringing together victims and survivors, the service and advocacy sectors, other experts and state and territory ministers to drive nationwide, cross-sector collaboration and inform the terms of the ALRC inquiry; and
- Convening an Expert Advisory Group to support the ALRC inquiry and advise Government on implementation of its recommendations, ensuring the voices of victims and survivors are centred in justice responses to sexual violence.

The impact of the omission of victim-survivors of gender-based violence from the draft *Human Rights Act*

We are unsure how extensively the Commission consulted with the domestic and family violence, and sexual violence, sectors in the development of its proposed model.

We are aware that the rights of victims in the criminal process *may* be recognised to a limited extent by other provisions in the proposed model, however, the lack of specific reference to the protection of victim's rights is concerning because:

- It reinforces the historical focus in the criminal justice system on the accused's rights to the exclusion of victim-survivors' rights;
- The accused generally has a lawyer in the process who can focus exclusively on their human rights, but victims do not have their own lawyer who is able to provide a similar focus. This can mean that opportunities and arguments for a victim's human rights protections may be missed by the Office of the Director of Public Prosecutions, especially if these rights are not specifically identified;
- Specific clauses tend to be given precedence in interpretation over generalised protections – therefore, an accused's rights that are specifically recognised are likely to be given precedence over general rights;
- The specific focus on the rights of the accused has a systemic impact. For example, in Queensland, which introduced a state Human Rights Act in 2019 that similarly only protects the rights of the defendant and not of victims, discussions about human rights in the criminal justice system in Queensland focus on the protection of defendants' rights. Please see the Queensland Sentencing Council's Issues Paper on Serious Violence Offenders,¹ whose human rights section only references concerns about the human rights of offenders, and is silent on victims' rights; and
- We note that Recommendation 20 of the Women's Safety and Justice Taskforce Report, *Hear Her Voice: Volume 2*, suggested that recognition of the rights of victims in the criminal justice system should be specifically considered in the next statutory review of the Queensland Human Rights Act. This recommendation has been accepted by the Queensland Government.

Our experience over decades working in this area shows that, for the rights of victim-survivors of gender-based violence to be meaningfully protected, these rights need to be explicit and clear.

Thank you for providing the opportunity to provide feedback and if you require anything further, please do not hesitate to contact our Head of Advocacy, Emily Dale at emilyd@fullstop.org.au.

Kind Regards,



Tara Hunter

Acting CEO

Full Stop Australia.

¹ [The '80 per cent rule': The serious violent offences scheme in the Penalties and Sentences Act 1992 \(Qld\)](https://www.sentencingcouncil.qld.gov.au) ([sentencingcouncil.qld.gov.au](https://www.sentencingcouncil.qld.gov.au)) (p. 48 – Human Rights)