

# Missing and murdered First Nations women and children

Submission to Senate Legal and Constitutional Affairs  
References Committee

**10 November 2022**



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## Who we are

The Australian Lawyers Alliance (ALA) is a national association of lawyers, academics and other professionals dedicated to protecting and promoting justice, freedom and the rights of the individual.

We estimate that our 1,500 members represent up to 200,000 people each year in Australia. We promote access to justice and equality before the law for all individuals regardless of their wealth, position, gender, age, race or religious belief.

The ALA is represented in every state and territory in Australia. More information about us is available on our website.<sup>1</sup>

The ALA office is located on the land of the Gadigal of the Eora Nation.

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<sup>1</sup> [www.lawyersalliance.com.au](http://www.lawyersalliance.com.au)

## Introduction

1. The ALA welcomes the opportunity to have input to the Senate’s Legal and Constitutional Affairs References Committee (‘the Committee’) inquiry into missing and murdered First Nations women and children.
2. This is a landmark inquiry to address a crisis which has unfolded across Australia concerning First Nations women and children who are missing or who have been murdered – those whose disappearance or murder is recorded, and those whose disappearance or murder goes unreported or not accepted by authorities.<sup>2</sup>
3. The ALA notes the experiences, statistics and resources shared regarding missing and murdered First Nations women and children in the joint submission from Australians for Native Title and Reconciliation (ANTAR) and the ALA. In particular, we acknowledge and honour the devastating and alarming experiences of First Nations women and children shared in that submission.
4. The ALA is grateful to have had the opportunity to partner with ANTAR, especially in relation to this inquiry’s Terms of Reference (d).
5. This standalone ALA submission will focus on the following Terms of Reference (e) and (f):
  - (e) the policies, practices and support services that have been effective in reducing violence and increasing safety of First Nations women and children, including self-determined strategies and initiatives;
  - (f) the identification of concrete and effective actions that can be taken to remove systemic causes of violence and to increase the safety of First Nations women and children
6. First, this submission will address the importance of access to justice and legal services for First Nations women and children, especially those experiencing domestic and family violence.
7. The remainder of this submission will focus on avenues for reform at a national level which will contribute to essential systemic, or structural, change. Policies, legislation, services and other effective actions are needed to effect systemic change in order to reduce violence

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<sup>2</sup> See Bridget Brennan et al, ‘How many more?’, *ABC News* (online, 24 October 2022) <<https://www.abc.net.au/news/2022-10-24/murdered-and-missing-indigenous-women-four-corners/101546186>>.

toward and increase the safety of First Nations women and children, as the Committee has identified in this inquiry's Terms of Reference.

8. The ALA contends there are many avenues for promoting this structural change, three of which are:

- fulfilling the *Uluru Statement from the Heart*;
- enacting the *United Nations Declaration on the Rights of Indigenous Peoples*; and
- taking further legislative action in the form of a federal Human Rights Charter.

## Access to justice and legal services

9. The ALA submits that timely access to justice and legal representation is essential for all women and children experiencing domestic and family violence, including Aboriginal and Torres Strait Islander women and children, as the following statistics emphasise:

- Aboriginal and Torres Strait Islander women report experiencing violence at around three times the rate of non-Indigenous women,<sup>3</sup> and are significantly over-represented as victims of domestic homicide.<sup>4</sup>
- Aboriginal and Torres Strait Islander children are at greater risk of exposure to family violence than non-Indigenous children.<sup>5</sup>
- While First Nations women are at greater risk of experiencing violence than non-Indigenous women, they are less likely than non-Indigenous women to access support.<sup>6,7</sup>

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<sup>3</sup> Steering Committee for the Review of Government Service Provision, Productivity Commission, *Overcoming Indigenous Disadvantage: Key Indicators 2020* (Report, December 2020) 4.12.1, 4.124; Our Watch, *Changing the picture: A national resource to support the prevention of violence against Aboriginal and Torres Strait Islander women and their children* (Report, 2018) 6.

<sup>4</sup> See, eg, Ombudsman Western Australia, *Ombudsman Western Australia Annual Report 2013-14*, (Report, September 2014) 95.

<sup>5</sup> Our Watch, *Changing the picture: A national resource to support the prevention of violence against Aboriginal and Torres Strait Islander women and their children* (Report, 2018) 6.

<sup>6</sup> Steering Committee for the Review of Government Service Provision, Productivity Commission, *Overcoming Indigenous Disadvantage: Key Indicators 2020* (Report, December 2020) 4.12.1, 4.124.

<sup>7</sup> Ibid 4.128, citing Renee Fiolet et al, 'Indigenous perspectives on help-seeking for family violence: Voices from an Australian community' (2019) 36(21-22) *Journal of Interpersonal Violence* 10128.

10. The ALA considers it essential, therefore, that there is adequate and sustainable funding for women's legal services, including Aboriginal and Torres Strait Islander women's legal services.
11. Women's legal services focus on empowering and supporting women through the pursuance of their legal rights. They have a specialist and thorough understanding of the nature and dynamics of domestic and family violence and why such violence is primarily perpetrated against women and children.
12. Aboriginal and Torres Strait Islander women's legal services offer this support in culturally safe and accessible ways. Adequate and sustainable funding is essential for these services in particular, so that the staff are not burnt out and are still able to provide culturally safe services. Providing that extra layer of service takes additional staff capacity, time and resources. For example, there should always be a gender balance in client conferences, such that if the only solicitor available is male-identifying, then a female-identifying staff member must also be in the room as well to ensure the client feels comfortable.
13. The ALA submits that it is essential that First Nations women have a choice of legal assistance services from which to access support when experiencing domestic and family violence, including the aforementioned Aboriginal and Torres Strait Islander legal services and also Legal Aid.
14. In most circumstances but especially when allegations of family and domestic violence are involved, it is very difficult for litigants to represent themselves in court. Self-represented litigants who have been victims of violence are at a significant disadvantage as they face the difficult task of presenting a case, including the possibility in some jurisdictions of having to cross-examine the perpetrator. Many women who cannot access legal services abandon their case,<sup>8</sup> which puts those women and their children at continued and serious risk.
15. The ALA welcomes the Federal Government's commitment to \$99 million for First Nations justice initiatives in its October 2022-2023 Budget, including \$3 million over three years from the next financial year for the National Family Violence Prevention Legal Services Forum and

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<sup>8</sup> Nino Bucci, "Saying no has an enormous impact': overwhelmed community legal centres forced to turn away clients", *The Guardian* (online, 6 November 2022) <<https://www.theguardian.com/law/2022/nov/06/saying-no-has-an-enormous-impact-overwhelmed-community-legal-centres-forced-to-turn-away-clients>>.

\$1 million over three years from the next financial year the National Aboriginal and Torres Strait Islander Legal Services, the representative peak body for Aboriginal and Torres Strait Islander Legal Services.<sup>9</sup>

16. The ALA also considers that adequate and sustainable funding for Legal Aid is essential, as many women who are victims of domestic violence are unable to access legal advice without Legal Aid.
17. The ALA strongly recommends that the Federal Government continues to work toward and ensure adequate and sustainable funding for all legal assistance services across Australia, including specialist women's legal services. This will ensure Aboriginal and Torres Strait Islander women and children have timely, culturally safe and financially viable access to justice and legal services.

## Promoting structural change

18. The ALA strongly believes that certain policy and legislative reform options will promote important and necessary shifts within the structures and processes that underpin Australia's political system to address violence towards First Nations women and children, as well as ensuring their safety.
19. The ALA endorses the following three proposals:
  - fulfilling the *Uluru Statement from the Heart*, including through a constitutionally-enshrined Voice to Parliament and through truth-telling;
  - enacting the *United Nations Declaration on the Rights of Indigenous Peoples*; and
  - taking further legislative action in the form of a federal Human Rights Charter.
20. These three proposed policy and legislative changes – on their own, alongside each other, as well as collectively with other reform opportunities beyond the scope of this submission – require the acknowledgement and consideration of Aboriginal and Torres Strait Islander peoples' rights, experiences and preferences in policy development and law reform.

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<sup>9</sup> Parliament of Australia, *Budget Measures: Budget Paper No. 2* (Parliamentary Paper, 25 October 2022) 49.

21. These three proposals place Aboriginal and Torres Strait Islander peoples at the centre of consultation on policies and pieces of legislation, as well as the implementation of those policy commitments and laws. Consideration of what will work for Aboriginal and Torres Strait Islander communities and what will best protect the human rights of First Nations peoples will be brought squarely into the structures of federal decision-making. This will strengthen the impact of policy and legislation, including and especially laws designed to reduce violence towards and increase the safety of First Nations women and children.
22. Importantly, these first two initiatives specifically integrate self-determination for Aboriginal and Torres Strait Islander peoples and communities in government systems and processes.

### **Fulfilling the *Uluru Statement from the Heart***

23. The *Uluru Statement from the Heart* powerfully expresses how the Australian legal system has served to disempower and marginalise Aboriginal and Torres Strait Islander peoples. It was in this context that the Aboriginal and Torres Strait Islander peoples who gathered at the 2017 National Constitutional Convention called for a First Nations Voice to Parliament to be enshrined in the *Australian Constitution*, as well as the establishment of the Makarrata Commission to supervise a process of truth-telling and treaty development.<sup>10</sup>
24. The ALA strongly believes that fulfilling the *Uluru Statement from the Heart* will provide Aboriginal and Torres Strait Islander peoples with culturally safe spaces for sharing their perspectives and experiences, especially through truth-telling processes, and also with a representative body (the First Nations Voice to Parliament) tasked with ensuring that Aboriginal and Torres Strait Islander perspectives and experiences are considered at all stages of legislative development. This will empower Aboriginal and Torres Strait Islander peoples to work with the Federal Government through consultation and meaningful engagement, ensuring that the best possible policies and legislation will emerge for First Nations communities.
25. The ALA welcomes the Federal Government's commitment to a referendum on the proposed First Nations Voice to Parliament, to be held during the 2023–2024 financial year.

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<sup>10</sup> The Uluru Dialogue, *The Uluru Statement from the Heart* (Web Page) <<https://ulurustatement.org/the-statement/view-the-statement>>.

26. If implemented, a constitutionally-enshrined First Nations Voice to Parliament represents a tremendous first step towards embracing the unique sovereignty of First Nations peoples through a collaborative endeavour between First Nations leaders and the Australian Government by recognising First Nations' right to participation in decision-making on matters that concern all aspects of their future.
27. Importantly, constitutional recognition of a First Nations Voice to Parliament will, unlike many past initiatives, signal legal recognition that goes beyond mere symbolism, and allows for pragmatic change to take place through the structure of policymaking and consultations between the Federal Government and First Nations leaders. Only then will systemic injustices be understood holistically, and the Government can truly sit 'side by side' with Aboriginal and Torres Strait Islander leaders and communities to address these injustices and matters important to First Nations communities.
28. The ALA thus contends that fulfilling the *Uluru Statement from the Heart* will contribute to improved outcomes in reducing violence against and increasing safety for First Nations women and children specifically because of the centrality of Aboriginal and Torres Strait Islander experiences, perspectives and needs in decision-making processes.
29. In this respect, the ALA directs the Committee to determinations made by the delegates at the Wiyi Yani U Thangani Women's Safety Policy Forum on 13 September 2022, who emphasised how essential it is to include First Nations' perspectives in decision-making processes.<sup>11</sup> The delegates urged the Federal Government to ensure that "First Nations women and children are front and centre of the design and delivery of the proposed separate First Nations National Plan to end family violence and violence against women."<sup>12</sup>

Additionally:

Forum delegates stressed that First Nations women have always been central to providing care and doing remarkable, and often unrecognised work, to keep family and kin safe. Women are at the forefront of social change, establishing and running holistic organisations grounded in culture and community, to respond to immediate harms whilst enabling healing and implementing violence prevention measures. When

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<sup>11</sup> Australian Human Rights Commission, 'First Nations women to take leading role in addressing family and community violence' (Media Release, 13 September 2022) <<https://humanrights.gov.au/about/news/media-releases/first-nations-women-take-leading-role-addressing-family-and-community>>.

<sup>12</sup> Australian Human Rights Commission, *2022 Wiyi Yani U Thangani First Nations Women's Safety Policy Forum Delegate Statement* (Web Page, 12 September 2022) 2 <<https://humanrights.gov.au/2022-wiyi-yani-u-thangani-first-nations-womens-safety-policy-forum-delegate-statement>>.

First Nations women are invested in, children thrive, economies grow, communities are cohesive, and harms and violence are minimised.<sup>13</sup>

30. The process of truth-telling has also been recognised as important for bringing First Nations experiences to the fore, with positive outcomes:

Aboriginal and Torres Strait Islander people have identified truth telling about the history of colonisation and the experiences and consequences of intergenerational trauma that Aboriginal and Torres Strait Islander people have experienced, as key to improving their wellbeing.<sup>14</sup>

31. The proposals contained in the *Uluru Statement from the Heart* bring Aboriginal and Torres Strait Islander experiences and voices into a prominent position in national decision-making processes, especially regarding policies and laws that affect them. This will improve the efficacy of policies and legislative instruments generally and also in relation to reducing violence against and increasing safety for Aboriginal and Torres Strait Islander women and children.

## **Enactment of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP)**

32. The ALA strongly endorses and recognises the UNDRIP in full and supports implementation of it in Australian federal, state and territory legislation.

33. Apropos of this, the ALA made a detailed submission regarding enactment of the UNDRIP in June 2022 to the Joint Standing Committee on Aboriginal and Torres Strait Islander Affairs' inquiry into the application of the United Nations Declaration on the Rights of Indigenous Peoples in Australia.<sup>15</sup> This submission will focus on the enactment of UNDRIP at a national level.

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<sup>13</sup> Ibid.

<sup>14</sup> Steering Committee for the Review of Government Service Provision, Productivity Commission, *Overcoming Indigenous Disadvantage: Key Indicators 2020* (Report, December 2020) 5.1, 5.3.

<sup>15</sup> Now known as the Inquiry into the UN Declaration on the Rights of Indigenous People, as the previous inquiry lapsed at the end of the 46<sup>th</sup> Parliament.

34. The UNDRIP provides U.N. Member States with a framework of “minimum standards for the survival, dignity and well-being” of First Nations peoples globally,<sup>16</sup> and it elaborates on existing human rights standards and fundamental freedoms as they apply to First Nations peoples. The UNDRIP is particularly significant because the rights holders – First Nations peoples, including members of Aboriginal and Torres Strait Islander communities – were involved in drafting this instrument.<sup>17</sup>
35. The UNDRIP effectively provides the Federal Government with a duty to consult First Nations peoples and their representatives.<sup>18</sup> It is important to note here, however, that adherence to the UNDRIP does not impede the parliamentary sovereignty and supremacy outlined in the *Australian Constitution*.<sup>19</sup>
36. The following are examples of articles contained in the UNDRIP which would directly encourage actions by, attitudinal shifts among and a prioritising of First Nations’ rights by both policy and legislative decision-makers *and* those who enforce those policies and legislation, especially in order to increase safety for First Nations women and children:

Article 2: Indigenous peoples and individuals are free and equal to all other peoples and individuals and have the right to be free from any kind of discrimination, in the exercise of their rights, in particular that based on their indigenous origin or identity.

Article 7:

1. Indigenous individuals have the rights to life, physical and mental integrity, liberty and security of person.
2. Indigenous peoples have the collective right to live in freedom, peace and security as distinct peoples and shall not be subjected to any act of genocide or any other act of violence, including forcibly removing children of the group to another group.

Article 22:

1. Particular attention shall be paid to the rights and special needs of indigenous elders, women, youth, children and persons with disabilities in the implementation of this Declaration.

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<sup>16</sup> *United Nations Declaration on the Rights of Indigenous Peoples*, GA Res 61/295, UN Doc A/RES/61/295 (2 October 2007, adopted 13 September 2007) art 43.

<sup>17</sup> Megan Davis, ‘Indigenous Struggles in Standard-Setting: The United Nations Declaration on the Rights of Indigenous Peoples’ (2008) 9(2) *Melbourne Journal of International Law* 439, 440.

<sup>18</sup> *United Nations Declaration on the Rights of Indigenous Peoples*, GA Res 61/295, UN Doc A/RES/61/295 (2 October 2007, adopted 13 September 2007) art 19.

<sup>19</sup> *Ibid* art 46.

2. States shall take measures, in conjunction with indigenous peoples, to ensure that indigenous women and children enjoy the full protection and guarantees against all forms of violence and discrimination.

Article 40: Indigenous peoples have the right to access to and prompt decision through just and fair procedures for the resolution of conflicts and disputes with States or other parties, as well as to effective remedies for all infringements of their individual and collective rights. Such a decision shall give due consideration to the customs, traditions, rules and legal systems of the indigenous peoples concerned and international human rights.

Article 44: All the rights and freedoms recognized herein are equally guaranteed to male and female indigenous individuals.

37. The UNDRIP also offers Australia a mechanism for recognising the self-determination of Aboriginal and Torres Strait Islander peoples and the importance of consulting those communities on policy and laws that will affect them.<sup>20</sup>
38. In this respect, fulfilling the *Uluru Statement from the Heart* would give effect to Australia's duties under the UNDRIP.<sup>21</sup> The ALA contends that endorsement of the UNDRIP provides the Federal Government with a framework that can guide the legal recognition of First Nations people, truth-telling and the treaty formation envisaged within the *Uluru Statement from the Heart*.
39. The ALA strongly recommends that the Federal Government adopt domestic measures to comply with Australia's obligations under the UNDRIP moving forward, including in relation to policies and legislation that affect the safety of First Nations women and children and their access to justice and safe refuge.
40. The ALA contends that UNDRIP can also serve as a blueprint for evaluating past initiatives by the Federal Government that may need reform.
41. Enactment of the UNDRIP will ensure that the structures and processes within Australia's legislative and policy landscape consider the duties and principles enshrined in the UNDRIP when developing or reforming laws and policies. This will extend to laws and policies that

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<sup>20</sup> See, e.g.: *United Nations Declaration on the Rights of Indigenous Peoples*, GA Res 61/295, UN Doc A/RES/61/295 (2 October 2007, adopted 13 September 2007) art 3.

<sup>21</sup> *United Nations Declaration on the Rights of Indigenous Peoples*, GA Res 61/295, UN Doc A/RES/61/295 (2 October 2007, adopted 13 September 2007) art 18 and art 19.

contribute to a systemic reduction in the causes of violence against First Nations women and children, and that contribute to an increase in initiatives that protect First Nations women and children's safety.

## **A Federal Human Rights Charter**

42. The ALA contends that the Australian legal system currently provides an inadequate level of protection for human rights, including the rights of Aboriginal and Torres Strait Islander peoples.
43. While the Australian legal system provides some protections for particular individual rights and a limited range of remedies where those rights are infringed, the ALA submits that these protections are piecemeal and located in a range of different pieces of legislation, regulations, the *Australian Constitution* and the common law. As result, there are significant gaps in human rights protections within the legal framework which make it difficult to give effect to Australia's international human rights obligations.
44. The ALA submits that these defects would be largely addressed through the development of a federal legislative human rights charter. Such a charter would provide additional protection to human rights in Australia, enhance our democracy by building a stronger human rights culture in Australia and give expression to important Australian values such as equality, diversity, respect and inclusion.
45. The following demonstrates how human rights charters work:

They require public authorities, including government departments, public servants, local councils, police and other agencies, to:

- properly consider human rights when making laws, developing policies, delivering services and making decisions; and
- act compatibly with human rights.<sup>22</sup>

46. The ALA considers that a charter of human rights would ensure that those who wield power within Australia's federal institutions are subjected to a code of conduct in accordance with the rule of law which operates to prevent them from exercising power in such a way as to

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<sup>22</sup> Human Rights Law Centre, *Charters of Human Rights Make Our Lives Better* (Report, 2022) 6 <<https://www.hrlc.org.au/reports/2022/6/2/charters-of-human-rights-make-our-lives-better>>.

infringe upon the rights of people domiciled in Australia or under Australian jurisdiction. A charter of human rights is a powerful tool not only in keeping society diverse, fair, respectful and inclusive, but is also an essential adjunct to the institutions of parliamentary democracy and the common law.<sup>23</sup>

47. A federal human rights charter would require the courts to interpret all existing legislation and regulations in a manner that is compatible with the protected human rights, including Aboriginal and Torres Strait Islander peoples' rights.
48. A federal human rights charter would require that when new legislation is introduced into Parliament, it is to be accompanied by a Statement of Compatibility in which the relevant Member of Parliament is required to certify that the proposed legislation is compatible with human rights. Again, this would include compatibility with Aboriginal and Torres Strait Islander peoples' rights – that is, a consideration of the effect of that legislation on Aboriginal and Torres Strait Islander peoples, including concerning legislation, policies or programs designed to reduce violence toward and increase the safety of First Nations women and children.
49. The ALA submits that a federal legislative human rights charter would also give domestic effect to Australia's international human rights obligations, including the aforementioned UNDRIP (if enacted, as discussed in the previous section of this submission).
50. The ALA notes that Australia is the only western democracy without a national Charter of Rights (or equivalent, such as a Human Rights Act).
51. However, the ALA also notes that three State and Territory jurisdictions in Australia do have legislative human rights instruments: the ACT,<sup>24</sup> Victoria,<sup>25</sup> and Queensland.<sup>26</sup> There is much to observe and learn from those jurisdictions.
52. For example, what has transpired in Victoria since the Victorian Government passed the *Charter of Human Rights and Responsibilities Act 2006* (Vic) ('the Victorian Charter') offers a

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<sup>23</sup> For more detail on how a federal Charter of Human Rights would work: Australian Lawyers Alliance, Submission to Australian Human Rights Commission, *Free and Equal: An Australian conversation on human Rights* (23 August 2019) <<https://www.lawyersalliance.com.au/documents/item/1618>>.

<sup>24</sup> *Human Rights Act 2004* (ACT).

<sup>25</sup> *Charter of Human Rights and Responsibilities Act 2006* (Vic).

<sup>26</sup> *Human Rights Act 2019* (Qld).

clear demonstration of the important role a legislative human rights instrument can play in both:

- a. responding to violence against women, especially the underlying causes of violence; and
- b. ensuring the rights of Aboriginal and Torres Strait Islander peoples.

53. First, legislative protection of human rights through the Victorian Charter directly prompted the Victorian Government to frame its 10-year plan to address violence against woman, entitled *A Right to Respect: Victoria's Plan to Prevent Violence against Women 2010–2020* ('*A Right to Respect*'), through the lens of protecting and promoting human rights.<sup>27</sup> The Victorian Charter and the rights enshrined therein were very influential on the plan's development,<sup>28</sup> implementation strategies,<sup>29</sup> and required reporting mechanisms.<sup>30</sup> As expressed in *A Right to Respect*:

The *Victorian Charter of Human Rights and Responsibilities Act 2006* is one simple but important law that sets out our freedoms, rights and responsibilities. It imposes a positive duty on government to ensure that our work in preventing and reducing violence against women is consistent with the human rights that are contained in the Charter. It commits government to addressing violence against women not only through a criminal justice and service system response but also through fostering an 'inclusive human rights culture' of non-violence and gender equity.<sup>31</sup>

54. The Victorian Government's legislated duty to protect and promote human rights, as part of the Victorian Charter,<sup>32</sup> also formed the basis for the First Peoples' Assembly of Victoria and

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<sup>27</sup> Victorian Equal Opportunity and Human Rights Commission, cited in: Human Rights Law Centre, *Charters of Human Rights Make Our Lives Better* (Report, 2022) 40 <<https://www.hrlc.org.au/reports/2022/6/2/charters-of-human-rights-make-our-lives-better>>.

<sup>28</sup> Government of Victoria, *A Right to Respect: Victoria's Plan to Prevent Violence against Women 2010–2020* (2009) 10 <<http://www.daru.org.au/wp/wp-content/uploads/2013/06/a-right-to-respect-victorias-plan-to-prevent-violence-against-women-2010-2020.pdf>>.

<sup>29</sup> *Ibid* 33.

<sup>30</sup> *Ibid* 27.

<sup>31</sup> *Ibid* 22.

<sup>32</sup> *Charter of Human Rights and Responsibilities Act 2006* (Vic) s 1(2).

the Victorian Government establishing the Yoorrook Justice Commission ('Yoorrook') in May 2021.<sup>33</sup>

55. Yoorrook is the first formal truth-telling body for First Nations peoples in Australia,<sup>34</sup> which has the powers of a Royal Commission but "is led by First Peoples and is conducted in line with First Peoples' ways of knowing, being and doing".<sup>35</sup> Yoorrook continues to explore past and ongoing injustices experienced by First Nations peoples since colonisation, and will ultimately make recommendations "for healing, system reform and practical changes to laws, policy and education, as well as matters to be included in future treaties".<sup>36</sup> With its strong connection to the Victorian Charter, Yoorrook employs a "rights-based analytical framework to assess systemic injustices",<sup>37</sup> and seeks to promote human rights, two of which are freedom from violence (including sexual violence) and access to justice.<sup>38</sup>

56. The ALA submits that the above case study of Victoria demonstrates that legislative protection of human rights provides a crucial framework for responding to violence against women, including Aboriginal and Torres Strait Islander women; ensuring the rights of Aboriginal and Torres Strait Islander women and children; as well as empowering First Nations communities to heal through truth-telling and seek justice.

57. As such, the ALA strongly submits that a Federal Human Rights Charter, if utilised to its full extent, would greatly assist the Federal Government in responding appropriately to address violence toward First Nations women and children, as well as to ensure their safety.

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<sup>33</sup> See Governor of Victoria, *Letters Patent: Yoorrook Justice Commission* (12 May 2021) 1 <<https://yoorrookjusticecommission.org.au/key-documents>>.

<sup>34</sup> Yoorrook Justice Commission, *Yoorrook with Purpose* (Interim Report, June 2022) 2 <<https://yoorrookjusticecommission.org.au/wp-content/uploads/2022/07/Yoorrook-Justice-Commission-Interim-Report.pdf>>.

<sup>35</sup> *Ibid* 5.

<sup>36</sup> Yoorrook Justice Commission, *What is Yoorrook?* (Information Sheet 1, March 2022) 1 <<https://yoorrookjusticecommission.org.au/key-documents>>.

<sup>37</sup> Yoorrook Justice Commission, *Yoorrook with Purpose* (Interim Report, June 2022) 22 <<https://yoorrookjusticecommission.org.au/wp-content/uploads/2022/07/Yoorrook-Justice-Commission-Interim-Report.pdf>>

<sup>38</sup> *Ibid* 26.

## Conclusion

58. The Australian Lawyers Alliance (ALA) welcomes the opportunity to have input into the Legal and Constitutional Affairs References Committee's inquiry into missing and murdered First Nations women and children.

59. The ALA is available to provide further assistance to the Committee on the issues raised in this submission.



**Melia Benn**

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