

Truth and Justice Commission Bill 2024 (Cth)

Submission to Joint Standing Committee on Aboriginal
and Torres Strait Islander Affairs, Parliament of Australia

6 September 2024

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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.¹

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

¹ www.lawyersalliance.com.au.

Introduction

1. The ALA welcomes the opportunity to have input to the Parliament of Australia's Joint Standing Committee on Aboriginal and Torres Strait Islander Affairs regarding the Truth and Justice Commission Bill 2024 (Cth) ('Bill').
2. The ALA's submission will outline our support for the establishment of a Truth and Justice Commission ('Commission').

A national Truth and Justice Commission

3. The creation of a national Truth and Justice Commission is an important step toward ensuring that the Federal Government's commitment to truth-telling is not broken.
4. Truth-telling is a shared, active and very worthwhile process in which Aboriginal and Torres Strait Islander peoples as well as non-indigenous Australians can all engage, with a view towards ultimately achieving substantive and meaningful change.
5. A national truth-telling process would complement ongoing and future truth-telling processes in the states and territories, as well as local community-led truth-telling.

Terms of reference

6. Clause 8 in this Bill, the ALA notes, "provides for the terms of reference that define the matters that the Commission must inquire into".² Many of the historic injustices against Aboriginal and Torres Strait Islander peoples listed in clause 8 of the Bill pertain to events and tragedies which took place before 1967.
7. Since the Commonwealth Government did not have the constitutional right to make laws regarding Aboriginal and Torres Strait Islander peoples until after the 1967 Referendum, the ALA is seeking further clarification about the extent to which the Commission will be able to inquire and make recommendations on injustices which took place (or are still taking place) at the direction of state and territory governments, agencies and institutions.

² Explanatory Memorandum, Truth and Justice Commission Bill 2024 (Cth) 3.

Reporting to the Parliament

8. The ALA notes that clause 10 of the Bill “requires the Commission to submit a final report within 4 years of commencement and allows the Commission to submit interim reports if it sees fit”.³
9. The ALA submits that one interim report should be required from the Commission, as it was for the Yoorrook Justice Commission in Victoria,⁴ and a due date for that interim report should be prescribed in this Bill.
10. An interim report would provide an opportunity for the Commission to highlight its progress, to emphasise what further resources it needs to fulfil the Commission’s terms of reference, as well as to bring both the Parliament and the general public along the truth-telling journey with the Commission.

Accessibility for witnesses

11. The Bill envisages that the Commission can hold hearings across Australia.⁵ The ALA supports this, especially for hearings to be held on Country which will allow the maximum number of people to attend and to give evidence, especially Elders.
12. Further, the ALA supports the provisions in this Bill which ensure that people appearing before the Commission can be represented by a legal practitioner, and that those people may be able to access legal or financial assistance through the Commission to assist their appearance/s at the Commission’s hearings.⁶
13. The Federal Government must ensure that the Commission is well-resourced so that financial assistance can readily be provided to witnesses, especially in recognition of those who need to travel for hearings, miss out on work/education for the duration of their time at a hearing for the Commission, as well as for those who need to arrange care for children, relatives or others in their care for the duration of their time at a hearing.

³ Ibid.

⁴ *Letters of Patent*, Yoorrook Justice Commission (No. S 217, 14 May 2021) 6 [7].

⁵ Truth and Justice Commission Bill 2024 (Cth) cl 11(1).

⁶ Ibid cl 11(5), 11(6), 32 and 33.

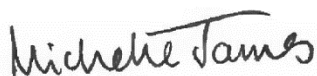
14. Additionally, the ALA recommends that more details should be included in the Bill on how the Commission will conduct hearings and accept evidence from witnesses in cultural safe and accessible ways. This could include that:

- submissions to the Commission or appearances at a hearing can be made through various media, such as a written submissions, audio/video recording, artwork or artefact;⁷
- all Aboriginal and Torres Strait Islander languages will be welcome at the Commission's consultations and hearings, with resources offered to provide interpreters when requested; and
- the Commission is committed to ensuring that physical spaces for the Commission's hearings are accessible for those living with a disability.

Conclusion

15. The Australian Lawyers Alliance (ALA) welcomes the opportunity to have input to the Joint Standing Committee on Aboriginal and Torres Strait Islander Affairs regarding the Truth and Justice Commission Bill 2024 (Cth).

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



Michelle James

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⁷ See options offered by the Yoorrook Justice Commission: 'How can I tell my truth?', *FAQs* (Web Page, 2024) <<https://yoorrookjusticecommission.org.au/faqs/#truth>>.