



ABN 89 772 933 621
PO Box 12543 BRISBANE QLD 4000
indigenouslawyersqueensland@gmail.com
<http://www.indigenouslawyersqueensland.com.au/>

4 August 2016

Premier of Queensland
The Honourable Anastacia Palaszczuk
and relevant Ministers

Sent by email:

thepremier@premiers.qld.gov.au
attorney@ministerial.qld.gov.au

Limitations of Actions and Other Legislation (Child Abuse Civil Proceedings) Amendment Bill 2016.

The Indigenous Lawyers Association of Queensland (ILAQ) was incorporated in 2007. We are a professional representative body designed to advance the profile and interests of Aboriginal and Torres Strait Islander legal professionals within the wider legal profession in Queensland and elsewhere. Through our professional undertakings and extensive Aboriginal and Torres Strait Islander community connections, our members encounter recurring examples of the long term damage inflicted upon individuals, families and communities as a result of child and sexual abuse.

ILAQ wish to clearly emphasize the contribution child sexual abuse and abuse generally have on the unacceptable levels of Indigenous incarceration in this country, which have been noted to have increased exponentially over the past 25 years.

All forms of child abuse are intolerable but it is simply unacceptable when the abuse is perpetrated by an institution with a duty of care to vulnerable children. For generations of Indigenous children this includes being placed in institutional care (including incarceration) as a result of flawed and ill-informed government policy. Our Aboriginal and Torres Strait Islander

communities, and our Culture, bear the scars of neglect, physical violence and sexual assault perpetrated upon the children as a result of the 'care' whilst in state or church run institutions. The Royal Commission into Institutional Responses to Child Sexual Abuse (The Royal Commission) has received many submissions evidencing these assertions.

The denial of rights, dignity and cultural connection continue to be perpetuated as these young people have now become adults. The contemporary denial extends to limits on appropriate and equitable access to the legal system as a result of the statute of limitations for civil actions for personal injury. Injury arising from child abuse at the hands of those who were trusted to know better. Without a right of action, these survivors have been forced to participate in redress schemes that inadequately compensate for their true damages.

Every child and adult has the right to access the justice system including the courts. The rules of evidence within the court are maintained and justice is best served by allowing evidence to be tested, not to presumptively deny a person and their evidence from access to the court on grounds such as an artificial and arbitrary 'time limit'.

The Redress and Civil Litigation Report 2015 was published as a result of the Royal Commissions investigations and recommends inter alia the immediate and retrospective abolition of statutory time limits for civil actions for personal injury arising from child abuse.

The Royal Commission recommendations have clearly intended not to just remove time limits, but to remove all barriers which confront abuse survivors as they attempt to access justice through the Queensland Courts system.

ILAQ rely on the commitment the Department of Justice and Attorney-General give to their strategic objectives, inclusive of being fair, safe and just, whilst getting on with the job. ILAQ further acknowledge the contribution that Department has to the whole of government objectives for the community, in particular building safe, caring and connected communities.

The support and endorsement by the ILAQ for any law reform or Amendment Bill and ultimate Legislation on this issue, remains contingent upon the appropriate attention being given to the removal of all barriers which restrict access to justice for (but not limited to) Aboriginal and Torres Strait Islander peoples.

ILAQ provide support and endorsement on the unequivocal understanding that **the Four Pillars** collectively remain clear as the key objectives of the resulting legislation. ILAQ maintains that a failure to retain those necessary objectives, renders the legislation incomplete. The legitimacy and applicability of access to justice for Aboriginal and Torres Strait Islander claimants is clearly couched in the appropriate and legitimate adoption and operation of these four pillars.

ILAQ supports law reform that:

- retrospectively removes statutory time limits for civil actions arising from child abuse;
- allows past settlements to be re-actioned;
- limits the grounds on which applications for stay of proceedings may be heard; and,

- Reinstates the right to a jury trial for civil actions for child abuse.

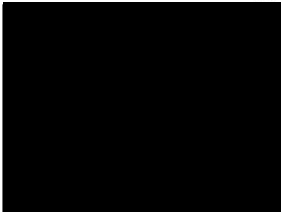
In particular we draw your attention to the urgency expressly legislating to revoke past Deeds of Release as until that is the case you will not have removed Time Limits for any of these victims – you will not have complied with the Recommendations of the *Royal Commission into Institutional Responses to Child Sexual Abuse*.

The proposed reforms underpinned by **the Four Pillars** are balanced, are necessary, are appropriately limited to only apply to civil actions arising from child abuse and so offer due protection from wider unforeseen consequence.

A failure to retain those necessary objectives renders any Bill (and resulting Legislation) incomplete. The legitimacy and applicability of access to justice for Aboriginal and Torres Strait Islander claimants is clearly couched in the appropriate adoption and operation of these four pillars.

ILAQ urges all Members of Parliament to embrace this opportunity for comprehensive and effective reform and offer support and endorsement as indicated herein.

Yours sincerely,



Linda Ryle
President
The Indigenous Lawyers Association of Queensland