



IMMIGRANT WOMEN'S SUPPORT SERVICE

**Submission**  
**Human Rights Bill 2018**

**26 November 2018**

**On behalf of the Immigrant Women's Support Service**

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Committee Secretary

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Dear Committee Secretary

**Re: Human Rights Bill 2018**

The Immigrant Women's Support Service (IWSS) provides a specialist domestic violence and sexual assault service response for women from culturally and linguistically diverse backgrounds and their children in the Greater Brisbane area. The service also provides specialist sexual assault counselling and community education as part of a collaborative project with three other key agencies at Richlands. These services are funded by the Department of Child Safety, Youth and Women. The Consulate-General of Japan in Brisbane provides funding for a dedicated caseworker position for Japanese women in Australia. In addition, the service also co-facilitates multicultural domestic violence awareness training with Lifeline in Queensland and the Northern Territory. IWSS is also funded to provide an emergency relief service for people in financial distress, funded by the Department of Social Services.

IWSS welcomes the opportunity to provide feedback on the proposed Human Rights Bill 2018 (the Bill). We also congratulate the Palaszczuk government and those involved in the community for their advocacy efforts in promoting the development of a Human Rights Bill to afford improved protections to vulnerable Queenslanders involved with the justice system.

The views and feedback provided in this submission are informed by our experience of delivering domestic violence and sexual assault service responses to women and their children, and our extensive experience in individual and systems advocacy. IWSS is committed to ensuring women and children affected by violence have timely access to justice and that their particular needs are recognized and addressed.

We commend and support the intent of the proposed Bill to safeguard the rights of criminal defendants in criminal trials. However, we consider the Bill does not afford the same level of rights to victims of crime. Therefore, we seek that the rights of victims are considered and upheld at all stages of reporting and criminal proceedings.

As part of our role in providing services to women affected by domestic violence and sexual assault, we have observed a range of practices that hinder access to legal protection to women from culturally and linguistically diverse backgrounds, particularly those women who are not fluent in the English language, women on temporary visas, and/or women who have limited knowledge of the justice system in Australia.

**Barriers to reporting sexual assault**

We support women affected by sexual assault who face barriers to reporting this type of violence. We request that consideration be given to the impact of system barriers affecting victims. For instance:

- Victims are unable to make an appointment to report a sexual assault incident to police in a private and confidential setting. Victims often have to discuss the reason for attending a police station at the front counter, sometimes in the presence of unrelated third parties. We frequently advocate for appointments to safeguard the person's right to privacy.
- Furthermore, interpreters are rarely engaged by police at time of reporting sexual assault. Our clients are often advised to bring a friend or relative to assist with communication, which infringes in the person's right to communicate in her own language at a time of distress.
- These barriers to reporting sexual assault hinders a person's ability to report in a timely manner, as not being able to make an appointment and not having access to a credentialed interpreter usually results in reporting delays or not reporting at all.
- These practices show a lack of understanding of the impact of the assault on the victim, which is compounded by systemic barriers that are even challenging for service providers/advocates.
- Victims of sexual assault also face challenges proceeding through the court system, due to a police assessment of lack of or not enough evidence. This results in lack of access to justice by victims of violence, and also highlights the need to implement a system that deals with cases that are deemed unfounded to proceed (e.g. Philadelphia Model in Canada).

**Barriers to reporting breaches of Domestic Violence Orders**

- Women victims of domestic and family violence find it difficult to report breaches of Domestic Violence Orders due to language difficulties and inconsistent practices regarding the engagement of interpreters.
- Not reporting breaches or delayed responses to reports place women at further risk of abuse and violence, undermines their right to a fair hearing and their trust in the justice system.

**Suggested amendments to the proposed Bill****Section 27**

We support the overall statement in S27 that *'All persons with a particular cultural, religious, racial or linguistic background must not be denied the right, in community with other persons of that background, to enjoy their culture, to declare and practice their religion and to use their language'*.

- We suggest this section be broadened to include persons' right to full and meaningful participation in all aspects of society, including fair access to the justice system as a defendant or as a victim.

**Section 31 (1)** establishes that *'a person who has been charged with a criminal offence has a right to a fair hearing'*.

- We suggest this section be amended to the extent it also recognizes and upholds the rights of victims to participate in a fair hearing.

**Section 32 (2) (i)** *'to have free assistance of an interpreter if the person can not understand or speak English'*

- We suggest to include that victims and defendants have a right to language support through a credentialed interpreter to ensure adherence to the interpreters' Code of Ethics.
- Credentialed interpreters should be made available throughout all relevant proceedings.
- We discourage and do not recommend using family or unqualified community members for language support.

**Section 32 (3)** *'A child charged with a criminal offence has the right to a procedure that takes account of the child's age and the desirability of promoting the child's rehabilitation.'*

- We suggest that this section be expanded to include:
  - o Consideration of experience of trauma for children of refugee backgrounds.
  - o Consideration of diagnosed/undiagnosed disability of any type as well behavioral difficulties and/or learning impairment of the child.

**Section 84** *'A person may be helped at a conciliation conference by –*

*(a) an interpreter; or*

*(b) another person necessary or desirable to make the conciliation conference intelligible to the person, including for example, a person with appropriate cultural or social knowledge and experience'.*

- We suggest to amend this section to clearly stipulate that a person who has limited or no proficiency in the English language **must** be helped at a conciliation conference by a
  - (a) **credentialed** interpreter.
  - (b) We do not support having anyone who is not a credentialed interpreter to assist communication in a conciliation conference due to potential conflict of interest, unequal power dynamics, and lack of knowledge of the required legal terminology.