



THE LAW SOCIETY  
OF NEW SOUTH WALES

Our ref: HumanRights:SW:vk:575982

24 October 2011

The Hon. Greg Smith SC MP  
Attorney General of NSW and Minister for Justice  
Department of Attorney General and Justice  
DX 1227 SYDNEY

Dear Attorney General,

**Indigenous Imprisonment – Adoption of Indigenous “Closing the Gap” Targets**

The Law Society’s Human Rights Committee (the “Committee”) has responsibility to consider and monitor Australia’s obligations under international law in respect of human rights; to consider reform proposals and draft legislation with respect to issues of human rights; and to advise the Law Society of NSW on any proposed changes. The Committee is a long-established committee of the Society, comprised of experienced and specialist practitioners drawn from the ranks of the Society’s members who act for the various stakeholders in all areas of human rights law in this State.

The Committee notes that the Standing Committee of Attorneys-General (SCAG) advised in a Communiqué after its last meeting in July 2011 that it had agreed to “significantly reduce the gap in Indigenous offending and victimisation...” and further agreed to ask the Premiers and Chief Ministers to refer to COAG “the possible adoption of justice specific Indigenous Closing the Gap targets...”.

The Committee also notes that SCAG discussed the Report of the House of Representatives Standing Committee on Aboriginal and Torres Strait Islander Affairs entitled “Doing Time – Time for Doing” (“the Report”) published in June 2011, at that meeting.

As you may be aware, the Report noted (at para. 2.12) that between the year 2000 and 2009 there was a 57% increase in the numbers of Indigenous prisoners in New South Wales jails and detention centres, and (at para. 2.11) that New South Wales has the highest number of Indigenous prisoners of any State or Territory (2,139 people).

The Report (at para. 2.5) also referred to the rate of imprisonment of Indigenous juveniles as 28 times greater than the non-Indigenous juvenile imprisonment rate across Australia. The Report noted (at para. 2.6) that Indigenous Australians comprise approximately 2.5% of the national population but 25% of prisoners. The proportion of Indigenous Australians in the prison population has risen to 25% from 14% in 1991 (Report of the Royal Commission into Aboriginal Deaths in Custody – Vol. 1, para. 9.3.1).

In view of the above-referred SCAG agreements and these extraordinary statistics, the Committee has asked me to write to you to ask whether the Premier has referred

to COAG the possible adoption of justice specific Indigenous Closing the Gap targets. If not, I respectfully urge you to take steps to ensure that this matter is on the agenda for the next COAG meeting.

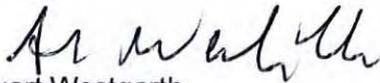
The Committee respectfully supports these SCAG decisions and commends their implementation to you and the Government. It appreciates that the high Indigenous rates of incarceration in New South Wales result in part from many factors outside the control of you, your department and the Government.

A related issue is that the NSW prison population has increased to approximately 10,000 prisoners over the last 10 years, more than double that of Victoria, as you advised the Legislative Assembly on 21 June 2011. This reflects in part, harsher sentencing policy and restrictions on bail rights, policies which are affected by NSW Government policy.

Your advice of any proposals the Government may have to address the astonishingly high rates of Indigenous incarceration would be greatly appreciated.

I thank you for your time and in anticipation of your response in due course.

Yours sincerely,



Stuart Westgarth  
**President**

CC. Ms Jacqueline Phillips, ANTaR