



## **Submission from the Brisbane City group of Amnesty International to Queensland Parliament's Legal Affairs and Community Safety Committee.**

### **Yes to a Human Rights Act for Queensland**

The Brisbane City group of Amnesty International are active campaigners on human rights in Brisbane. Amnesty International has 2729 supporters in the Brisbane Central electorate.

As campaigners on human rights related issues we would argue that it is 'appropriate and desirable to legislate for a Human Rights Act (HR Act) in Queensland, other than through a constitutionally entrenched model'.

We are not reassured that the State Government has the ability, as it now stands, to provide safeguards in relation to human rights. There are some safeguards but for vulnerable members of society these safeguards are not sufficient. For example, there is great concern that human rights safeguards are not fully in place in regard to young Aboriginal and Torres Strait Islander people. In the report published in 2015, *A Brighter Tomorrow*, Amnesty International presented data which shows very clearly that laws and mechanisms for protecting human rights in Queensland have not been effective.

The report states that between June 2013 and June 2014 Indigenous young people were 23 times more likely than their non-Indigenous counterparts to be in unsentenced detention. However, International human rights standards require that detention for persons awaiting trial must be the exception rather than the rule. Other aspects of youth justice that are very concerning include the provision which Queensland follows to treat 17-year-olds as adults and detaining children alongside adults in adult jails.

These are practices which are ongoing in Queensland and the practices breach the International Convention on the Rights of the Child. It is clear therefore that constitutionally entrenched models are not working in regards to human rights for young people, and particularly for young Indigenous people in Queensland.

We also note cultural rights, freedom of religion, and the rights of vulnerable people in lower socio-economic positions as important Human Rights which would be covered by a Human Rights Act.

Our perspective on the effectiveness of human rights legislation in other jurisdictions is that having a provision which requires parliament to consider human rights compliance for all laws that are passed, as is the case in ACT and Victoria, would be a large step towards broadening and deepening human rights provision in Queensland.

The benefits of a human rights act for Queensland would be the protection of fundamental human rights which would allow us to challenge authorities if they violate those rights. Another benefit

would be the improvement in awareness about human rights. At an Amnesty International organised event exploring a human rights act for Queensland in 2010 Dr Angus Francis, formerly a member of the Law faculty at the Queensland University of Technology, stated that ‘a human rights charter would create dialogue between people on human rights. This dialogue between people is crucial’ <http://www.amnesty.org.au/qld/comments/23748/>.

The rights that should be protected under international law are those key rights protected by the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights.

We would suggest that those who should comply with a Human Rights Act for Queensland are the three arms of government plus organisations and businesses which carry out the functions of government. We also suggest that all new laws should be reviewed to check if they are compatible with the Act.

The cost of providing this would be minimised because mechanisms are already in place in Queensland through the Anti-Discrimination Commission. The workings of the Anti-Discrimination Commission could be broadened to facilitate the increased cost of administering the Act but we would not need to set up a new institution to facilitate provision of the Act.

We suggest that complaints about breaches of human rights should be resolved by:

1. A separate cause of action for breaches of the human rights enshrined in the Act;
2. The ability to make a complaint to the Anti-Discrimination Commission and for the complaint to be conciliated by the Commission;
3. Power for the Anti-Discrimination Commission to investigate and report on systemic human rights issues that it identifies;
4. Provision for the Queensland Civil and Administrative Tribunal to receive applications alleging breaches of the Act;
5. The full range of judicial remedies, including declarations, injunctions, orders to cease the offending conduct and damages.

In relation to outcomes for people whose rights have been breached we advocate for remedy to restore if possible but it may be in some circumstances that financial compensation is appropriate.

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**18 April 2016**

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