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19 April 2016

The Research Director
Legal Affairs and Community Safety Committee
Parliament House
George Street
Brisbane QLD 4000

By email: lacsc@parliament.qld.gov.au

Dear Research Director,

Human Rights Inquiry

I appreciate the opportunity to contribute to the Human Rights Inquiry, specifically, without considering a constitutionally entrenched model, 'whether it is appropriate and desirable to legislate for a Human Rights Act (HR Act) in Queensland.' My ultimate submission is that:

Queensland should legislate for a HR Act as the current laws and mechanisms in Queensland, specifically the current Parliamentary Committee System and the *Legislative Standards Act 1992 (Qld)*, are not adequate to effectively protect many human rights of Queenslanders.

In drafting this submission, I have read other submissions. Rather than repeating the arguments made in those submissions I endorse the following submissions as noted:

1. *Submission by my Bond University Faculty of Law colleagues, Assistant Professor Narelle Bedford and Associate Professor Danielle Ireland-Piper*

I agree that a HR Act would improve accountability in government decision-making, as it would enhance the rule of law. I agree that vulnerable persons in Queensland are in need of enhanced human rights protection. I also agree that the enactment of a HR Act has educative potential.

2. *Submissions by Professor George Williams and Daniel Reynolds and by the Human Rights Law Centre*

I encourage the Committee to consider the various benefits, referred to in these submissions, which have accrued in Victoria, the ACT, New Zealand and the United Kingdom, following the implementation of their respective models of human rights' protection. However, I agree that this inquiry provides the

opportunity for Queensland to learn from the deficiencies evident in those models.

Those submissions provide support for a HR Act, by way of the benefits that can ensue from such an Act. No doubt, by way of response, opponents of a HR Act will contend that Queenslanders' rights are already adequately protected under the current law and available mechanisms. This submission therefore outlines why the current laws and mechanisms in Queensland are not adequate to protect the rights of Queenslanders, focusing on the *Legislative Standards Act 1992 (Qld)* (LSA) and the Queensland parliamentary system.

Introduction

Without a national bill of rights, Australia is an anomaly among comparable common law countries.¹

However, Australia asserts that it has 'a strong tradition of respect for the rights and freedoms of every individual.'² For human rights protection, Australians rely on:

- some rights expressed in or implied by the *Australian Constitution*,³ and some rights protected in legislation, such as privacy legislation or anti-discrimination legislation;⁴
- a 'vigorous Parliamentary System,'⁵ including, at a Commonwealth level, Parliamentary Committees (notably now the Human Rights Committee that considers all Bills and legislative instruments, coming before either House of Commonwealth Parliament, for compatibility with the seven core international human rights instruments to which Australia is a party,⁶ amounting to "well over 100" rights and freedoms'⁷) that scrutinize legislation prior to its passage;

¹ Professor Brian Galligan and Emma Larking, 'Rights Protection: The Bill of Rights Debate and Rights Protection in Australia's States and Territories' (2007) 28 *Adelaide Law Review* 177, 177.

² 'National Report of Australia, Universal Periodic Review Second Cycle' (2015) [1].

³ Australian Law Reform Commission, *Traditional Rights and Freedoms – Encroachments by Commonwealth Laws: Final Report* (December 2015) ALRC Report 129, [2.11] - [2.21].

⁴ 'National Report of Australia, Universal Periodic Review Second Cycle' (2015) [19].

⁵ Professor Brian Galligan and Emma Larking, 'Rights Protection: The Bill of Rights Debate and Rights Protection in Australia's States and Territories' (2007) 28 *Adelaide Law Review* 177, 181, citing John Howard, Address at Ceremonial Sitting to Mark the Centenary of the High Court of Australia, Supreme Court of Victoria, Melbourne, 6 October 2003.

⁶ *Human Rights (Parliamentary Scrutiny) Act 2011* (Cth) s 7. Human Rights are defined in s 3 as the rights and freedoms recognized or declared by: *International Covenant on Civil and Political Rights* [1980] ATS 23; *International Covenant on Economic, Social and Cultural Rights* [1976] ATS 5; *Convention on the Elimination of All Forms of Racial Discrimination* [1975] ATS 40; *Convention on the Elimination of All Forms of Discrimination against Women* [1983] ATS 9; *Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* [1989] ATS 21; *Convention on the Rights of the Child* [1991] ATS 4; *Convention on the Rights of Persons with Disabilities* [2008] ATS 12.

⁷ Shawn Rajanayagam, 'Does Parliament Do Enough? Evaluating Statements of Compatibility under the *Human Rights (Parliamentary Scrutiny) Act*' (2015) 38(3) *UNSW Law Journal* 1046,

- external oversight subsequent to enactment, by bodies such as the Australian Law Reform Commission and the Australian Human Rights Commission; and
- a 'strong, independent and incorruptible judiciary',⁸ that applies rights and freedoms enshrined in the common law to interpret statutes in accordance with the presumption that: Parliament did not intend to interfere with fundamental human rights, and, in cases of ambiguity, intended consistency with established rules of international law, including Australia's international human rights obligations.⁹

Regardless of these protections, Australia continues to face criticism of its human rights record,¹⁰ and, in the recent 'Report of the Working Group on the Universal Periodic Review: Australia' 290 recommendations were made, by various states, including that Australia introduce a federal human rights act.¹¹

The Queensland Context

Given the division of powers in Australia, and given the absence of any federal bill or charter of rights, human rights protections are required at the State level. That is, human rights need to be protected in Queensland. Indeed many of the arguments as to how Australians' human rights are protected in the Commonwealth can be made equally regarding the protection of Queenslanders' rights in this State. However, particularly in recent times, these protections have been ineffective at preventing legal reform that has eroded rights.¹² As an example, this submission will follow the transition of the Youth Justice and Other Legislation Amendment Bill 2014 (YJ Bill) into legislation.

Legislative Protections

An important element in the protection of human rights in Queensland is the LSA. Opponents to a HR Act may argue that statements of compatibility, which may be required under a HR Act, are already required under the LSA s 23(f).

1049 citing David Kinley and Christine Ernst, 'Exile on Main Street: Australia's Legislative Agenda for Human Rights' (2012) 1 *European Human Rights Law Review* 58, 61.

⁸ Professor Brian Galligan and Emma Larking, 'Rights Protection: The Bill of Rights Debate and Rights Protection in Australia's States and Territories' (2007) 28 *Adelaide Law Review* 177, 181, citing John Howard, Address at Ceremonial Sitting to Mark the Centenary of the High Court of Australia, Supreme Court of Victoria, Melbourne, 6 October 2003.

⁹ 'National Report of Australia, Universal Periodic Review Second Cycle' (2015) [17]. See also, Australian Law Reform Commission, *Traditional Rights and Freedoms – Encroachments by Commonwealth Laws: Final Report* (December 2015) ALRC Report 129, [1.7]; [1.9]; [2.27]-[2.34].

¹⁰ See eg, 'Summary prepared by the Office of the United Nations High Commissioner for Human Rights in accordance with paragraph 15(c) of the annex to Human Rights Council resolution 5/1 and paragraph 5 of the annex to Council resolution 16/21' (10 August 2015) A/HRC/WG.6/23/AUS/3.

¹¹ 'Report of the Working Group on the Universal Periodic Review: Australia' (13 January 2016) A/HRC/31/14, [136.70]-[136.73].

¹² See eg, Harry Hobbs and Andrew Trotter, 'How Far have we Really Come? Civil and Political Rights in Queensland' [2013] 25(2) *Bond Law Review* 166; and Andrew Trotter and Harry Hobbs, 'The Great Leap Backward: Criminal Law Reform with the Hon Jarrod Bleijie' [2014] 36(1) *Sydney Law Review* 1.

Section 23(f) requires that explanatory notes contain ‘a brief assessment of the consistency of the Bill with fundamental legislative principles [(FLP)] and, if it is inconsistent with [FLP], the reasons for the inconsistency.’ Assessing the FLP requires consideration of whether the ‘legislation has sufficient regard to (a) rights and liberties of individuals ...’¹³ Examples of the rights and liberties to which legislation must have sufficient regard are provided in s 4(3). These include, that the legislation:

- a) makes rights and liberties, or obligations, dependent on administrative power only if the power is sufficiently defined and subject to appropriate review; and
- b) is consistent with principles of natural justice; and
- c) allows the delegation of administrative power only in appropriate cases and to appropriate persons; and
- d) does not reverse the onus of proof in criminal proceedings without adequate justification; and
- e) confers power to enter premises, and search for or seize documents or other property, only with a warrant issued by a judge or other judicial officer; and
- f) provides appropriate protection against self-incrimination; and
- g) does not adversely affect rights and liberties, or impose obligations, retrospectively; and
- h) does not confer immunity from proceeding or prosecution without adequate justification; and
- i) provides for the compulsory acquisition of property only with fair compensation; and
- j) has sufficient regard to Aboriginal tradition and Island custom; and
- k) is unambiguous and drafted in a sufficiently clear and precise way.

As these are only ‘examples, the categories are not closed.’¹⁴ Indeed looking at the Explanatory Memorandum to the YJ Bill, the statement of consistency with the fundamental legislative principles included not only consideration of s 4(3)(a) and 4(3)(g) of the LSA, but also whether the legislation expanded the scope of matters included in an offender’s criminal history without sufficient justification, and principles arising from the general and international law.¹⁵ These principles included: the common law principle that a sentence of imprisonment should only be imposed as a last resort; the international law principle (outlined in the *Convention on the Rights of the Child* article 40.2(b)(vii)) that every accused child should have their privacy fully respected at all stages of a proceeding against them, and; that according to the *Beijing Rules*, children should be kept in separate institutions from adults or in separate parts

¹³ *Legislative Standards Act 1992* (Qld) s 4(2)(a).

¹⁴ *Bell v Beattie* [2003] QSC 333, [23].

¹⁵ Youth Justice and Other Legislation Amendment Bill 2014: Explanatory Notes, 9-14.

of those institutions.¹⁶ The explanatory notes recognised, for example, that the principle that imprisonment is a last resort was abrogated by the Bill but stated that it was 'justified on the basis that it otherwise unduly inhibits courts in making sentencing orders ...'¹⁷ and; that the privacy rights of juvenile offenders were arguably jeopardised but that the amendments were 'justified on the basis that they strike an appropriate balance between protecting children appearing before the youth justice system while holding young offenders ... more properly to account.'¹⁸ However, not all explanatory notes go as far as considering human rights under international law. For example, neither the explanatory notes for the Criminal Organisation Bill 2009 nor the Vicious Lawless Association Disestablishment Bill 2013 make reference to the potential for the respective acts to infringe on the right to freedom of association.

It would appear then that the statements required in the explanatory memorandum, although framed in civil liberties language, do largely equate to the statements of compatibility that may be required under any HR Act. However, reference to human rights in the explanatory notes is inconsistent. An obligation to specifically consider human rights would 'sharpen Parliament's focus on human rights,'¹⁹ and further assist Queenslanders to recognise the rights they hold. Further, a reference to incompatibility with a human right may have a different connotation than inconsistency with a FLP. 'Rarely will the proponents of a Bill want to concede that it is incompatible with human rights.'²⁰ This sharper focus and education will also arguably arise from the ability under a HR Act (which currently does not exist in the Queensland law) for a Court to make a declaration of incompatibility with human rights. This level of independent oversight and further publication of reasons by Courts is absent in the current system.

However, the rights considered under the LSA are much broader than those in the Victorian and ACT Human Rights Acts. The FLP considerations are more akin to the expansive list of rights articulated in the *Human Rights (Parliamentary Scrutiny) Act 2011* (Cth). As such, I would caution against importing any list of rights to the exclusion of those that already exist. Rather, a more nuanced approach may be required, potentially differentiating those rights that require legislative and judicial consideration of compatibility and those rights that permit a cause of action.

¹⁶ Youth Justice and Other Legislation Amendment Bill 2014: Explanatory Notes, 12-14.

¹⁷ Youth Justice and Other Legislation Amendment Bill 2014: Explanatory Notes, 12.

¹⁸ Youth Justice and Other Legislation Amendment Bill 2014: Explanatory Notes, 14.

¹⁹ David Kinley and Christine Ernst, 'Exile on Main Street: Australia's Legislative Agenda for Human Rights' (2012) 1 *European Human Rights Law Review* 58, 64.

²⁰ David Kinley and Christine Ernst, 'Exile on Main Street: Australia's Legislative Agenda for Human Rights' (2012) 1 *European Human Rights Law Review* 58, 68.

I will not further address the other legislative protections in Queensland, such as the *Anti-Discrimination Act 1991* (Qld), apart from to say that such legislation is confined to protecting persons 'from unfair discrimination in certain areas of activity, including work, education and accommodation.'²¹ This legislation then does not extend to protect all the necessary human rights.

The Queensland Parliamentary System

A further question arises in Queensland as to whether Queensland's parliamentary system can be said to be as vigorous as that at Commonwealth level. Potentially, a unicameral parliament, such as Queensland's, can be more easily co-opted to allow for the passage of legislation that is inconsistent with human rights as there is no upper house to review legislation.²² The Fitzgerald report in 1989 certainly raised concerns about Queensland's ability to legally protect individual liberties from abuses of executive power compared to other states.²³ Prasser and Aroney too have noted the deficit caused by the unicameral parliament in Queensland.²⁴ More recently, in 2013, Hobbs and Trotter described the absence of a Bill of Rights and the abolition of the Legislative Council as 'twin failures [that] have had important negative consequences on the hard won rights of minority and unpopular groups, particularly in the last two years.'²⁵ On 14 April 2016, a writ for the 2016 State Referendum was returned to the Governor, providing official notice that Queenslanders voted to approve a Bill to move to fixed four-year parliamentary terms. The likely introduction of lengthier terms provides a greater need for human rights' protection. An extension of the term means that voters will be less frequently able to effect change in government legislation by ousting those in whom they have lost confidence. As Professor Graeme Orr inferred, the fixed four-year term waters down the protection of the ballot.²⁶

Fitzgerald 'identified a paucity of Queensland law relating to human rights and the capacity of individuals to challenge government decisions or actions that

²¹ *Anti-Discrimination Act 1991* (Qld) s 6(1).

²² See eg, Mary Westcott, 'Scrutiny of Legislation in Queensland: An Examination of the Queensland Parliament's Lawmaking in the First Six Months of the 53rd Parliament' (2009) 16 who states, 'with its majority in the lower house and without a second chamber, the Government does not need to negotiate or compromise on its legislation.'

²³ Professor Brian Galligan and Emma Larking, 'Rights Protection: The Bill of Rights Debate and Rights Protection in Australia's States and Territories' (2007) 28 *Adelaide Law Review* 177, 192.

²⁴ See eg, Scott Prasser and Nicholas Aroney, 'Real Constitutional Reform after Fitzgerald: Still Waiting for Godot' (2009) 18(3) *Griffith Law Review* 596.

²⁵ Harry Hobbs and Andrew Trotter, 'How Far have we Really Come? Civil and Political Rights in Queensland' [2013] 25(2) *Bond Law Review* 166, 169.

²⁶ Professor Graeme Orr, 'Four Year Terms in Queensland: Why You Should Vote No' (15 March 2016) *Brisbane Times* at <http://www.brisbanetimes.com.au/queensland/four-year-terms-in-queensland-why-you-should-vote-no-20160315-gnjvt6.html>

affected them.’²⁷ As such, the Report recommended ‘a comprehensive system of Parliamentary Committees’.²⁸ In response to this report, in 1993 the Electoral and Administrative Review Commission recommended, in its *Report on Review of the Preservation and Enhancement of Individuals’ Rights and Freedoms*, that Queensland adopt a bill of rights. Instead, the *Parliamentary Committees Act 1995* (Qld) was passed, establishing the Scrutiny of Legislation Committee and the Legal, Constitutional and Administrative Review Committee. In 1995 the Scrutiny of Legislation Committee was tasked with generally considering the application of the FLP to Bills and subordinate legislation introduced into Parliament.²⁹ In a paper in 2011, the Former Chair of Queensland’s Scrutiny of Legislation Committee explained that as a general guide that Committee referred to the *Queenslander’s Basic Rights* handbook.³⁰ That handbook outlines various civil and political rights; economic, social and cultural rights; and some collective rights;³¹ it is much broader than the examples of rights and liberties outlined in s 4(3). Submissions to the Scrutiny of Legislation Committee’s review of the meaning of the FLPs in 2011 also recognised that as a matter of practice, the Committee contemplated compatibility with Australia’s international human rights obligations pursuant to treaty.³² In 2011 the *Parliament of Queensland (Reform and Modernisation) Amendment Act 2011* removed the Scrutiny of Legislation Committee and instead that responsibility shifted to each of the portfolio committees for the Bills in their respective portfolio areas.³³ Of note recently, Report No. 17 of the Committee of the Legislative Assembly (CLA) on the *Review of the Parliamentary Committee System* was tabled. In that Report the CLA recommended statutory recognition of the parliamentary committee system and the core principles of that system, but did not, at the time, support entrenchment by any special mechanism.³⁴ Further, the CLA recommended legislative amendment to permit the portfolio committees to initiate inquiries on their own motion, but refused, at the time, any recommendation to amend the structure or composition of the portfolio committee system.³⁵

²⁷ Legal, Constitutional and Administrative Review Committee, *The Preservation and Enhancement of Individuals’ Rights and Freedoms in Queensland: Should Queensland Adopt a Bill of Rights?* Report No. 12 (November 1998) 1.

²⁸ G.E. Fitzgerald, *Commission of Inquiry into Possible Illegal Activities and Associated Police Misconduct*, (July 1989) 124.

²⁹ *Parliamentary Committees Act 1995* (Qld) s 22(1)(a).

³⁰ Jo-Ann Miller, ‘The Queensland Approach: Fundamental Legislative Principles’ Conference Paper, Australia – New Zealand Scrutiny of Legislation Conference 26-28 July 2011, 6.

³¹ Legal, Constitutional and Administrative Review Committee of the Queensland Legislative Assembly, ‘Queenslanders’ Basic Rights’ Tabled 18 November 1998.

³² Scrutiny of Legislation Committee, *Our Principles: Review of the Meaning of ‘Fundamental Legislative Principles’*, Report No. 47 (June 2011) 10-11.

³³ See now *Parliament of Queensland Act 2001* (Qld) s 93(1)(b).

³⁴ Committee of the Legislative Assembly, *Review of the Parliamentary Committee System*, Report No. 17 (February 2016) 57-58.

³⁵ Committee of the Legislative Assembly, *Review of the Parliamentary Committee System*, Report No. 17 (February 2016) viii.

The YJ Bill was introduced into parliament on 11 February 2014. It was then referred to the Legal Affairs and Community Safety Committee (LACSC) for consideration, and on 13 February 2014 stakeholders were invited to provide written submissions. These were due 13 days later and the LACSC was required to report to parliament by 12 March 2014, a turnaround time of one month. ‘The submissions overwhelmingly opposed the majority of the Bill’,³⁶ many of them referring to the breaches of human rights under the *Convention of the Rights of the Child* and *Beijing Rules*. In its report, the LACSC did articulate these rights but ultimately the majority of the committee, in recommending passage of the legislation, agreed with the justification offered for departure from those rights in the explanatory notes.³⁷ Of note, however, is that of the eight-member committee the two non-government members dissented. The legislation, which was clearly inconsistent with human rights (and FLP), then passed. Legislation may be passed regardless of any inconsistency with the FLP and, as mentioned previously, there can be no independent review, such as by a court, of that decision. In *Bell v Beattie* [2003] QSC 333, [24] Justice Mackenzie noted that, as the LSA was not entrenched, such an interpretation was: first, based on a matter of ordinary principle; and secondly: ‘that s 23(1)(f) of the Act clearly implies that Parliament is not prohibited from considering a bill inconsistent with fundamental legislative principles.’

Of concern, the passage of the YJ Act though can be considered less problematic than other legislation, as Hobbs and Trotter articulate:

Bills have frequently been declared “urgent” and rushed through Parliament ... The bipartisan committee system ... has frequently been bypassed. When they are consulted, committees are often required to review and report within an impracticably short timeframe, and only 51 per cent of recommended legislative amendments have been adopted.³⁸

These examples highlight the limitations of the current committee system in protecting human rights.³⁹ Particularly worrying, in Queensland, with its unicameral parliament, is the finding that ‘many parliamentarians cited party discipline as an obstacle to the effectiveness of scrutiny committees. Parliamentarians felt constrained by partisan loyalties...’⁴⁰ Further, spreading

³⁶ Jodie O’Leary, ‘Out of Step and Out of Touch: Queensland’s 2014 Youth Justice Amendments’ (2014) 26(2) *Current Issues in Criminal Justice* 159, 160

³⁷ Legal Affairs and Community Safety Committee, ‘Youth Justice and Other Legislation Amendment Bill 2014’, Report No. 58 (March 2014).

³⁸ Harry Hobbs and Andrew Trotter, ‘How Far have we Really Come? Civil and Political Rights in Queensland’ [2013] 25(2) *Bond Law Review* 166, 172-173.

³⁹ See similar concerns as to limited time expressed in David Kinley and Christine Ernst, ‘Exile on Main Street: Australia’s Legislative Agenda for Human Rights’ (2012) 1 *European Human Rights Law Review* 58, 65.

⁴⁰ David Kinley and Christine Ernst, ‘Exile on Main Street: Australia’s Legislative Agenda for Human Rights’ (2012) 1 *European Human Rights Law Review* 58, 65, citing Carolyn Evans and Simon Evans, ‘Messages from the Front Line: Parliamentarians’ Perspectives on Rights

the scrutiny role over numerous committees would seem problematic as: expertise is not necessarily harnessed, and; it could potentially lead to inconsistency and incoherence.⁴¹

While there remains a role for a parliamentary committee to consider legislative compatibility with human rights, I stress:

- like the submissions of Professor George Williams and Daniel Reynolds, and the Human Rights Law Centre, the committee should be empowered to review all types of legislation (i.e. Bills and subordinate legislation);
- consistent with recommendations made by the Australian Law Reform Commission as to Commonwealth Committees,⁴² that the Committee be given adequate time and resources to conduct a proper inquiry as to compatibility;
- that, in line with the CLA's recommendations, the Committee be given power to conduct its own inquiries and continue to have the power to request briefings, call for written submissions, hold public hearings and call witnesses;
- that one Committee be designated to conduct this role, that Committee should be entrenched, and its members should be chosen for their expertise in relation to human rights;
- that the structure of the Committee be considered carefully so that it does not become a mere rubber stamp dictated by party loyalty, but rather acts as an effective oversight mechanism;
- that the Committee not be the final avenue of recourse for any statement of incompatibility, but that power be given to a Court to make a declaration of incompatibility.

External Oversight

While not the focus of this submission, I note that the limits of the current law and parliamentary structure in Queensland in protecting human rights is not adequately countered by external oversight bodies in that State. Particularly, the current system does not provide adequately for individual remedy against legislative or executive action. While those in positions such as the Anti-Discrimination Commissioner and the Queensland Ombudsman can provide some external oversight, they are limited by their specific mandates. Unlike the Commonwealth, Queensland does not have a Human Rights and Equal

Protection' in Tom Campbell, KD Ewing and Adam Tomkins (eds), *The Legal Protection of Human Rights: Sceptical Essays* (Oxford University Press, 2010) 329, 340.

⁴¹ See, Carolyn Evans and Simon Evans, 'Legislative Scrutiny Committees and Parliamentary Conceptions of Human Rights' (2006) *Public Law* 785, 806; and David Kinley and Christine Ernst, 'Exile on Main Street: Australia's Legislative Agenda for Human Rights' (2012) 1 *European Human Rights Law Review* 58, 65.

⁴² Australian Law Reform Commission, *Traditional Rights and Freedoms – Encroachments by Commonwealth Laws: Final Report* (December 2015) ALRC Report 129, [3.90].

Opportunity Commission and the Queensland Law Reform Commission is under-resourced and not as active as some other law reform commissions. In addition, unlike the Australian Law Reform Commission, the Queensland Law Reform Commission is not directed specifically to consider whether laws '(a) trespass unduly on personal rights and liberties ...; and (b) are ... consistent with Australia's international obligations ...'⁴³

The Judiciary

Finally, while also not the focus of this submission, under the current laws and systems, the judiciary cannot adequately protect human rights of Queenslanders. In instances such as that occasioned by virtue of the amendments to Youth Justice in 2014, courts can be hamstrung by clear assertions of parliament to intentionally infringe upon human rights. The *Youth Justice Act 1992* included the provision in s 150(5) that:

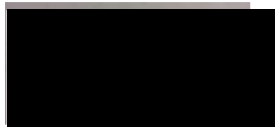
This section overrides any other Act or law to the extent that, in sentencing a child for an offence, the court must not have regard to any principle that a detention order should be imposed only as a last resort.

This added to the predicament that 17 year olds continued to be dealt with in the adult criminal justice system, despite adverse judicial comment as to the contrary position under the *Convention of the Rights of the Child*.⁴⁴

A HR Act in the form available in Victoria or the ACT would likewise not permit the court to interfere with the legislature's intention in such cases. However, a declaration of incompatibility would go some way to recognising the anomaly and require a response, initiating further dialogue.

In conclusion, I support the introduction of a Human Rights Act in Queensland as the current laws and mechanisms do not adequately protect human rights.

Yours faithfully,



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⁴³ *Australian Law Reform Commission Act 1996* (Cth) s 24.

⁴⁴ See eg, *R v GAM* [2011] QCA 288 (18 October 2011)[50]; *R v Loveridge* (2011) 220 A Crim R 82, 83-4.