

From: [REDACTED]
To: [Legal Affairs and Community Safety Committee](#)
Subject: Public Submission: Queensland Human Rights Bill 2018
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Phil Browne
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Committee Secretary
Legal Affairs and Community Safety Committee
Parliament House
Brisbane Qld 4000

Dear Committee,

I write in support of the Human Rights Bill 2018 being passed.

However - as discussed in more detail at the conclusion of my submission - the Human Rights Bill 2018 should be improved by allowing:

1. People to make a human rights complaint to a court or tribunal
2. The tribunal or court considering the complaint to award damages where appropriate.

Why the Human Rights Bill 2018 is needed.

Australia is a signatory to well over a dozen human rights treaties and/or conventions. Key treaties Australia has signed that demonstrate in-principle support for protection of human rights include the International Covenant on Civil and Political Rights and the International Covenant on Economic Social and Cultural Rights. The desire to protect certain rights is honourable, however this needs to be ensured by more than just suggested principles in treaties. Human rights need to have guaranteed protections, and only legislation, such as the Human Rights Bill 2018, can do this. The rights contained in these treaties are not enforceable until they are fully protected and guaranteed by legislation.

The passing of the Human Rights Bill 2018 will:

- Guide the formation of government policy and legislation to ensure human rights are always considered and protected, in areas including creation of laws, spending funds and service delivery.
- Guide the formation of corporate policy to assist the business sector to comply with human rights principles.
- Help Australia to fulfill our obligations in accordance with the human rights treaties and conventions we have signed.
- Be in accordance with the United Nations Declaration of Human Rights.
- Protect the dignity and worth of all Queenslanders including the vulnerable minorities on the fringe of society.
- Ensure all Queenslanders, including our relatives, friends, work-mates and neighbours, live in a fairer and a more equitable state.

As Queensland is the only state without an Upper House to scrutinise legislation, it's even more important that we have proper checks in place to ensure human rights are complied with in legislation. The Human Rights Bill

2018 will help to provide these checks.

If human rights are not guaranteed by legislation, they are at risk of potentially being taken away. It's regrettable that there is no federal legislation in Australia to guarantee human rights, as there is in other countries. In the absence of rights being guaranteed by federal legislation, the Queensland Parliament should pass the Human Rights Bill 2018, to allow state-based human rights legislation to protect Queenslanders, as has been done in Victoria and the ACT.

Current Human Rights protections in Queensland are inadequate.

Protecting and enforcing human rights in Queensland currently relies on the application of many individual pieces of legislation, with no one specific all-encompassing piece of legislation. Some legislation guarantees some rights, however this may apply only under certain specific circumstances, leaving gaps which do not apply in all circumstances. For example, the Queensland Anti-Discrimination Act 1991 (the Act) does not provide protections in all circumstances, plus the Act contains considerable broad exemptions, rendering it non-applicable in some circumstances.

A comprehensive all-encompassing Queensland Human Rights Act - such as the Human Rights Bill 2018 - will go a long way to preventing future human rights breaches.

Suggested improvements to the Human Rights Bill 2018:

The Human Rights Bill 2018, does not allow the Human Rights Commission to:

- Make a legally binding verdict about whether a piece of legislation, or a government agency or body, breaches human rights, or to
- Award remedies to address the harm caused by a breach of human rights.

The Human Rights Bill 2018, only allows claims of breaches of human rights to be raised in legal proceedings if there is another ground on which to challenge the decision or action. The Human Rights Bill 2018 needs a standalone cause of action so people can legally enforce their human rights.

RECOMMENDATION ONE:

- Amend the Human Rights Bill 2018, to allow citizens to make a human rights complaint to a tribunal or court (QCAT or the Supreme Court).

The Human Rights Bill 2018 should ensure that citizens whose human rights are violated, are provided with legally-enforceable redress. This should include payment of financial compensation in appropriate circumstances.

RECOMMENDATION TWO:

- Amend the Human Rights Bill 2018, to allow the tribunal or court considering the complaint to award damages where appropriate, to address the harm caused by a breach of human rights.

Sincerely

Phil Browne

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"I always wondered why somebody doesn't do something about that. Then I realised I was somebody": Lily Tomlin