




Speech By
Melissa McMahon

MEMBER FOR MACALISTER

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HUMAN RIGHTS BILL

 **Mrs McMAHON** (Macalister—ALP) (4.54 pm): I rise to speak in support of the Human Rights Bill 2018 and want to thank my fellow committee members, in particular the chair, the member for Toohey, who has been a passionate advocate for this bill for as long as I have known him. I also want to thank the secretariat for its support throughout this process. This bill represents the largest that the Legal Affairs and Community Safety Committee has considered in the 56th Parliament. I also want to thank those individuals and organisations—over 140 of them—who made submissions in relation to this bill, as well as those who attended and spoke before the public hearings.

To stand here in this House and speak in support of the introduction of a human rights bill is something that I have the utmost pride in doing. This is an historic moment and I stand here with a view to history. We only need to look back through dark periods in the world's history to understand why we have documents like the Universal Declaration of Human Rights—a document first adopted in the shadows of World War II. The mistreatment of women and children, unarmed combatants, those of differing races, ethnicities and religions and the mistreatment of those with mental and physical disabilities represented a stain on our humanity and the declaration by the newly formed United Nations General Assembly was a reaffirming statement on the rights of all humans. Australia is a signatory to this declaration and many other international covenants and conventions which seek to protect individuals and preserve their freedoms.

In passing this legislation, Queensland will join the ACT and Victoria as the only other state or territory to legislate for such protections and freedoms. In fact, the submissions spoke at length to the Victorian model which Queensland has not only drawn heavily on but also expanded further on. This is something that all Queenslanders should be proud of. This bill seeks to introduce the right to recognition and equality before the law; the right to life; protection from torture and cruel, inhuman or degrading treatment; freedom from forced work; freedom of movement; freedom of thought, conscience, religion and belief; freedom of expression; the right to peaceful assembly and freedom of association; the right and opportunity to take part in public life; the right to own property; the right to privacy and reputation; the protection of families and children; the right to enjoy culture; the recognition of the distinct cultural rights of Australia's first peoples; the right to liberty and security; the right to humane treatment when deprived of liberty; the right to a fair hearing; the right of the presumption of innocence; the protection of children throughout the criminal process; the right not to be tried or punished more than once; protection from retrospective criminal laws; and the right to an education and health services. The bill states that acts, decisions and statutory provisions made by legislators in government departments should be compatible with these human rights and that any act, decision or statutory provision that does limit a human right or any other ratified declaration should only be done to the extent that it is reasonable and justifiable in the circumstances.

The introduction of a human rights act does place some obligations on the Queensland parliament, and that is to consider each piece of legislation against the stated human rights provisions. It requires ministers to produce statements of compatibility when introducing a bill to parliament. It

places obligations on parliamentary committees to consider each bill's compatibility with human rights throughout the committee process and report on its considerations. These are not great impositions and, quite frankly, I am astounded that these considerations have not been part of explicit processes before now. Mature, compassionate and fair governments should consider these things—these human rights—as a matter of course, and now Queensland will.

There were concerns raised by some stakeholders around the impact that this legislation would have on the sovereignty of parliament and that non-judicial functions are now being conferred to the courts in a manner that is unconstitutional. However, several submitters saw no impact or differing in the role of the three branches of government.

Academics from the University of Queensland's TC Beirne School of Law saw the bill as 'tailored to our Commonwealth system of government' and that it 'maintains the role of the courts in interpreting the law, and preserves the sovereignty of parliament'. Likewise the Queensland Council for Civil Liberties assessed that the bill was an 'appropriate means of both protecting human rights and maintaining parliamentary sovereignty'. The Queensland Council for Civil Liberties went so far as to say that it was 'even more favourable to parliamentary sovereignty' than any other similar legislation from around the world.

There was a relatively consistent theme among submitters that a human rights act that stated a list of human rights should require an element of enforcement. That is to say that there is no point rattling off a list of human rights if there is no punitive measure for someone who breached or infringed those rights. Having come from a law enforcement background, I can understand the concerns raised, but I am more than happy with the proposed remedy for suspected breaches of human rights, this dialogue model. The intent of this legislation is not to be punitive. The main objects of the legislation are to protect and promote human rights, to help build a culture in the Queensland public sector that respects and promotes human rights and to help promote a dialogue about the nature, meaning and scope of human rights. I draw the analogy of being a mother of little children when they misbehave or break the rules. It is tempting to rush to corporal punishment, but the best practice is to engage with them, highlight their poor decisions and work with them to help make better choices. Frustrating as it can be, I know that this is a better approach and I am happy to see that this is the preferred approach of this bill.

The creation of the Human Rights Commission from the current Anti-Discrimination Commission Queensland will give life to the dialogue model. It will create and administer the processes by which those who appear to have had their human rights breached or infringed can take remedy to decisions or behaviours. The Queensland Human Rights Commission will be the face and the first line of defence for people in protecting human rights in Queensland.

The introduction of a human rights bill in Queensland is a massive step forward. I understand that, with a bill of such scope, not everyone is going to be happy. Although some believe that the bill goes too far and is too prescriptive, others feel that it does not go far enough. I am confident that, with the provisions for independent reviews of the legislation in 2023 and beyond, should any of these concerns materialise they will be addressed.

I am particularly proud of the inclusion of the provisions for the right to education and the right to health services. No other Australian or international jurisdiction encompasses both of those rights. Personally, I would like to acknowledge the submissions by the Queensland Teachers' Union; the Student Engagement, Learning and Behaviour Research Group at QUT; Queensland Advocacy Incorporated; Michelle O'Flynn; the Youth Advocacy Centre; Children and Young People with Disability Australia; Australian Lawyers for Human Rights; All Means All; the Queensland Collective for Inclusive Education; and Professor Tamara Walsh, Bridget Burton, Dr Rhonda Faragher and Dr Glenys Mann. I can assure them as I stand here that I will work for a better Queensland.

I refer to my first speech in this House. I stated then that I would use my time in this House to fight for the thousands of Queensland children with disabilities, that I would fight for every opportunity to be made available to them. I say to them to please rest assured that, to me, it is not enough that they will just have an education appropriate to their needs but that they will have the best education available regardless of their abilities. That is my commitment to them and that is my commitment to thousands of Queensland parents. We are on the cusp of something great here in Queensland. It is an exciting time and I am proud to be part of it. I commend this bill to the House.