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Media release

For immediate release Tuesday 3 March 2015

Bill of Rights Protect Against Draconian Laws

The proposed laws to increase mandatory minimum sentences, currently before the Western Australian parliament and set to be passed unopposed by the opposition, show why Western Australia and Australia need a Bill of Rights, say the Australian Lawyers for Human Rights (ALHR). The *Criminal Law (Home Burglary and Other Offences) Bill 2014* alters the current “three strike” policy by allowing first-time offenders to be imprisoned after their first court appearance.

“The proposed legislation may breach Australia’s obligations under the International Covenant on Civil and Political Rights, the Convention on the Elimination of Racial Discrimination and the *Racial Discrimination Act 1975* (Cth)” said Nathan Kennedy, President of ALHR. “These laws are inconsistent with the right against arbitrary detention and are discriminatory in that they are likely to disproportionately affect Aboriginal and Torres Strait Islander Peoples.”

“Indigenous Australians in Western Australia are already 18 times more likely to be imprisoned than non-indigenous Australians. This is one of the highest imprisonment rates in the developed world. Issues surrounding the incarceration of Aboriginal people are not simply a matter of offending behaviour and relate to discrimination, poverty and disadvantage. The proposed legislation does nothing to address the underlying causes of indigenous overrepresentation in the Western Australian prison population. In fact, these offences are likely to significantly increase both the number of indigenous prisoners and the length of their sentences”.

“Laws that take away the discretion of a sentencing judicial officer bring our system of justice into disrepute,” said Mr Kennedy. “It is essential for the judiciary to take into account all the circumstances of the offender when handing down a sentence.”

“The proposed legislation will increase the strain on the already overcrowded Western Australian prison population which is already at its highest since 2004 as well as increasing costs,” said Mr Kennedy. “These laws are said to be justified on the basis of deterrence but there is no evidence to show that mandatory sentencing deters offenders or even decreases crime rates. In fact, crime increased with the introduction of mandatory sentencing in the Northern Territory. “

In Mr Kennedy's words, "these laws present a timely reminder that a Bill of Rights would provide a means of challenging laws that are inconsistent with human rights norms and bring Australia in line with advanced Western nations."

ALHR urges both sides of politics in Western Australia to reconsider their support for these populist and draconian laws.

ALHR adds its voice to that of the Aboriginal Legal Service of WA, the Law Society of WA, Amnesty International and the Mental Health Association of WA in condemnation of the *Bill*, which is currently before Parliament.

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ALHR was established in 1993 and is a national network of over 2600 Australian solicitors, barristers, academics, judicial officers and law students who practise and promote international human rights law in Australia. ALHR has active and engaged National, State and Territory committees and a secretariat at La Trobe University Law School in Melbourne. Through advocacy, media engagement, education, networking, research and training, ALHR promotes, practices and protects universally accepted standards of human rights throughout Australia and overseas.

