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30 March 2017

The Hon. Mark McGowan MLA
Premier of Western Australia
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Via email only: mark.mcgowan@mp.wa.gov.au

CC:
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Shadow Minister for National Security
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House of Representatives
Parliament House
Canberra ACT 2600
Via email only: mark.dreyfus.mp@aph.gov.au

Dear Premier,

A Human Rights Act for Western Australia

On behalf of Australian Lawyers for Human Rights (**ALHR**) we write to congratulate you on your very successful election result.

As you may be aware, Australia remains alone amongst western liberal democracies and common law legal systems as bereft of a constitutional bill of rights or a federal legislated Human Rights Act. A Constitutional bill of rights was debated at the Constitutional conventions in the 1890s and received significant support but ultimately the majority voted against adopting a bill of rights for Australia on racist grounds: that is, our founding fathers did not want to afford migrants and Chinese workers on the goldfields due process at law.

Although times have changed, unfortunately we are still facing a raft of significant and systemic unsolved human rights violations throughout Australia. Whilst not a panacea, ALHR strongly believes that legislating for the legal protection of basic universally-recognised standard of human rights, which form the backbone of our way of life in this country, via a Human Rights Act, will be a strong step to progress the protection of the Australian peoples' basic rights and fundamental liberties.

You would no doubt be aware that the Australian Capital Territory was the first Australian jurisdiction to implement a *Human Rights Act 2004* (ACT) and Victoria soon followed in 2006 with the *Victorian Charter of Human Rights and Responsibilities Act 2006*. ALHR has been involved in a strong successful civil society campaign over the past two years to secure a Queensland Human Rights Act. Excitingly, in late 2016, we secured a promise from Queensland Premier Anastasia Palaszczuk and Qld Attorney General Yvette D'Ath that a Qld Human Rights Act will be implemented in the coming months and that the QLD ALP Policy Platform has been amended to support the adoption of a Qld Human Rights Act based upon the Victorian Charter Model. ALHR is now launching campaigns in Tasmania, New South Wales and Western Australia for each of those states to pass a Human Rights Act legislation before focussing on a federal Human Rights Act. We note that from our recent conversations with federal Shadow Attorney General Mark Dreyfus, he is a strong supporter for the passage of a federal Human Rights Act.

In 2008-2009, the Rudd government had the vision to institute a national human rights inquiry under the leadership of Father Frank Brennan AO. This became one of the largest public consultations in Australian history with over 35,000 submissions received (over 85% of them in favour of a federal Human Rights Act) and over 62 public consultation roundtables held in urban and regional locations around the country. However, whilst the final Brennan Report recommended the passage of a federal Human Rights Act, Prime Minister Rudd declined to implement the Committee's recommendations. Instead the very weak and impotent "National Human Rights Framework" was established, including the Parliamentary Joint Committee on

Human Rights, which in its six years of existence has achieved very little in the way of securing human rights protections for the Australian people.

ALHR notes that in 2007 the former Western Australian government held a public inquiry chaired by Fred Chaney AO, into whether the Western Australian government should legislate a Human Rights Act. The Consultation Committee received 377 submissions and has recommended that additions be made to the original draft *Human Rights Bill 2007* to include the right to an education and adequate housing. The Consultation Committee's final report entitled "A WA Human Rights Act" (**enclosed** and marked '**Annexure 1**') was published on 16 November 2007¹ and recommended, inter alia, as follows:

*The Committee concluded that a WA Human Rights Act which was an ordinary Act of Parliament would contribute to an increased awareness of, and concern for, human rights in Western Australia. If a WA Human Rights Act was binding on Government and the way it treated people it could meet many of the concerns raised with the Committee. **We therefore recommend that a Human Rights Act be enacted in Western Australia.***

(Emphasis added).

We commend to you the following article in support of a Human Rights Act for Western Australia by Professor George Williams AO (now Dean of the UNSW Law School), "A Charter of Rights for Western Australia", *The University of Western Australia News*, (1 October 2007) (**enclosed** and marked '**Annexure 2**'). Available:

<http://www.news.uwa.edu.au/oct-2007/charter-rights-western-australia?page=show>

We also commend to you the following article by former WA Attorney General the Hon. Jim McGinty in support of a Human Rights Act for Australia: The Hon. McGinty J, "A Human Rights Act for Australia" (2010) 12 UNDA LR, 1-32 (**enclosed** and marked '**Annexure 3**').

Available: <http://www.austlii.edu.au/au/journals/UNDAULawRw/2010/2.pdf>

ALHR has a dedicated, active and engaged national Human Rights Act Subcommittee and a Western Australian Committee who will be engaged in leading the campaign for a WA Human Rights Act.

We thank you for your consideration and we would like to meet with you shortly to discuss progressing this important matter.

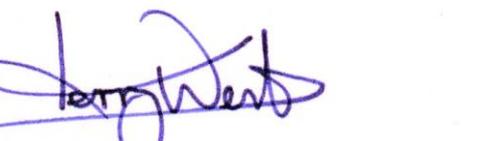
¹ Consultation Committee for a Proposed WA Human Rights Act, Final Report, "A WA Human Rights Act" (16 November 2007). Available: http://apo.org.au/files/Resource/human_rights_final_report.pdf

We look forward to your response.

Yours faithfully,



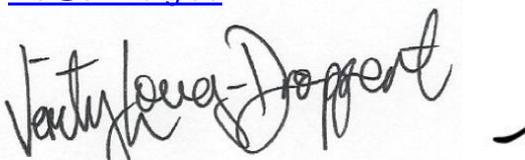
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Australian Lawyers for Human Rights: ALHR was established in 1993 and is a national association of Australian solicitors, barristers, academics, judicial officers and law students who practise and promote international human rights law in Australia. 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.