



AUSTRALIAN  
LAWYERS  
FOR  
HUMAN RIGHTS

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Committee Secretary  
Legal Affairs and Community Safety Committee Parliament House  
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Dear Committee Secretary

### **Human Rights Bill 2018**

Australian Lawyers for Human Rights (**ALHR**) is grateful for the opportunity to provide this submission in relation to the Committee's examination of the *Human Rights Bill 2018* (**'the Bill'**). ALHR welcomes the timely introduction of the Bill and strongly supports this landmark reform. A Queensland Human Rights Act will not only ensure that fundamental human rights of Queenslanders are protected and valued, but it will also assist in building a human rights culture and increasing dialogue on human rights issues and their intersection with the law, policy, and pressing social, cultural and economic issues.

ALHR commends the Queensland Government for introducing a Human Rights Bill which contains many of the important aspects of the Victorian *Charter of Human Rights and Responsibilities Act 2006*, but that also builds upon that model by including select economic, cultural and social rights and an effective dispute resolution mechanism. ALHR considers that the Queensland Bill proposes the strongest model of human rights protection in Australia to date, however it urges the Government to strengthen the Bill in line with the proposed amendments set out in this submission.

#### **1. ALHR's recommendations**

ALHR makes the following recommendations:

1. That the Committee recommend that the Human Rights Bill 2018 be passed, subject to the following amendments:

- a. the Bill should be amended to provide complainants with the **right to commence proceedings in a court or tribunal** in cases where the Human Rights Commission is unable to adequately resolve the complaint or dispute;
  - b. the Bill should include a **standalone cause of action**;
  - c. **judicial remedies**, including declarations, injunctions, damages and orders to cease the offending conduct must be available for a breach of the Act; and
  - d. the inclusion of the **right to education** is strongly supported, but amendment is required to ensure this right is provided **without discrimination** and in a way that requires inclusive education;
  - e. **clause 15 of the Bill should be extended** to include the right to equal and effective access and adjustments, which incorporates the provision of reasonable adjustments, to ensure equitable **access to justice**;
  - f. **clause 33 of the Bill should be amended** to comply with Article 37(c) of the Convention on the Rights of the Child and require that convicted children are segregated from adult prisoners;
  - g. **clause 126 of the Bill should be omitted** as it is neither appropriate nor necessary;
  - h. the **right to freedom of expression** should be amended to clarify that this right involves responsibilities;
  - i. amendment of Clauses 95 and 96 to require that **reviews of the Act** are carried out at three-yearly cycles.
2. The Queensland Government must ensure adequate resources are committed to implementation and realisation of the Queensland Human Rights Act.

## 2. The importance of a Human Rights Act in Queensland

ALHR strongly welcomes the introduction of a Queensland Human Rights Act which will lay the foundation for a legislative human rights framework in Queensland and provide protection of the fundamental rights of individuals. The introduction of a Human Rights Act demonstrates the government's commitment to the recognition, promotion and protection of human rights and ALHR applauds the Government for taking this initiative. Australia is the only western, liberal democracy without legislative protection of human rights at a federal level. In the absence of a federal Human Rights Act, the Queensland Human Rights Act will offer significant protection for all Queenslanders, but particularly the most vulnerable and disempowered members of society.

Formal review of the Victorian *Charter of Human Rights and Responsibilities Act 2006* has demonstrated that a human rights legislative framework can strongly assist to promote and protect human rights by shaping law and policy, generating greater awareness and respect for human rights in law-making and decision-making, and can encourage the courts to interpret legislation in a manner that will be consistent and compatible with human rights.<sup>1</sup>

The introduction of a Human Rights Act in Queensland is also consistent with accepted community values and will provide a framework for interaction between the government, authorities, businesses and communities in respect of pressing human rights issues. It can

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<sup>1</sup> Law Institute of Victoria, Submission No 79 to the Independent Reviewer, *Review of the Charter of Human Rights and Responsibilities Act 2006 (Vic)* 2–3.

provide for dialogue between parliament, courts, and the executive in order to assist facilitation of a human rights culture and its interplay with the creation, interpretation and application of the law.<sup>2</sup>

Human rights legislation also promotes a culture of respect for fundamental human rights by the legislature, the public service, public entities, and in the broader community. Human rights frameworks assist to promote a society that is inclusive, respectful and committed to equality. Similarly providing individuals with a framework through which they can bring a complaint to an independent commission will have the effect of increasing the confidence of the people of Queensland in government and public policy. The lives of marginalised, vulnerable and disadvantaged Queenslanders stand to be improved by the recognition and formal protection of their human rights.

The protection and promotion of human rights under a Human Rights Act is likely to contribute to the growth and development of Queensland. This can occur through the improvement of public service delivery with human rights compliant policies and operational practices. A Human Rights Act can result in better education of members of the public about their rights, and will lead to a better understanding and acceptance of human rights principles by the community. As a result public debate and engagement with democracy will be enhanced.

A Human Rights Act will also improve the quality of legislation passed by Government, requiring parliamentarians to consider whether proposed legislation is consistent with human rights. This is particularly important in Queensland with the operation of a unicameral parliament reducing the level of review of laws passed. Therefore legislative scrutiny is necessary in Queensland to ensure that there is a framework that requires consideration of the effects of new laws on human rights.

Enacting a legislative framework for the protection of human rights is also consistent with Australia's obligations under international law, which are contained in many important international human rights treaties and conventions that Australia has signed and ratified.<sup>3</sup> Enactment of human rights legislation is of both symbolic and practical importance as it will ensure that public entities act and make decisions in a way that is compatible with human rights. Some of the matters that fall within the jurisdiction of the state are those that can have the most important impact on a person's life, including education, criminal justice and health. The protection of fundamental human rights at a state level is therefore of critical importance.

In passing the Bill, Queensland will join Victoria and the ACT in providing legislative protection of human rights. The introduction and passage of this Bill demonstrates the Queensland

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<sup>2</sup> George Williams and Daniel Reynolds, "A Human Rights Act for Queensland? Lessons from recent Australian experience" (2016) *Alternative Law Journal* 41(2), 42 available at: <https://www.austlii.edu.au/au/journals/UNSWLRS/2016/42.pdf>

<sup>3</sup> *International Covenant on Civil and Political Rights (ICCPR)*; *International Covenant on Economic, Social and Cultural Rights (ICESCR)*; *International Convention on the Elimination of All Forms of Racial Discrimination (CERD)*; *Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)*; *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT)*; *Convention on the Rights of the Child (CRC)*; *Convention on the Rights of Persons with Disabilities (CRPD)*.

Government's commitment to the promotion of dialogue and respect for human rights for all Queenslanders.

### 3. Welcomed aspects of the Bill in its current form

Although ALHR urges the Queensland Government to consider amending the Bill as set out below, we consider that the Bill as it stands is a strong model for a Human Rights Act. The Bill effectively incorporates many important aspects of the Victorian *Charter of Human Rights and Responsibilities Act 2006* ('the Victorian Charter') and draws on improvements in the ACT *Human Rights Act 2004* ('the ACT Act') by protecting a broad range of human rights, as well as requiring the Queensland Government and other public entities to act consistently with and consider human rights issues when developing law, policy or service delivery.

The Bill also incorporates a number of improvements upon the Victorian Charter which ALHR urges the Committee to recommend remain in the Bill put before Parliament. Firstly, ALHR strongly supports the inclusion of the protection of the economic, social and cultural rights in part 2, division 3 of the Bill. The importance of such rights is reflected in international instruments, specifically the *International Covenant on Economic, Social and Cultural Rights*, which was ratified by Australia in 1975 and entered into force in 1976. Such rights include the right to education, the right to health, the right to work and the right to an adequate standard of living.<sup>4</sup>

The recognition of the right to education and the right to health services in part 2, division 3 of the Bill accordingly reflects contemporary human rights standards and is commended. The number of submissions to both the four-year and eight-year reviews of the Victorian Charter expressing support for the inclusion of economic and social rights in the Charter attests to widespread public support for the recognition of such rights in domestic human rights instruments. Moreover, the inclusion of economic, social and cultural rights is to be welcomed as reflecting the broad acceptance in international human rights discourse of the indivisibility and interdependence of rights.

#### Right to education

Turning specifically to the right to education, the inclusion of the right to education is, as noted, consistent with Australia's international legal obligations under various human rights treaties including the *International Covenant on Economic, Social and Cultural Rights* (Article 13), and the *Convention on the Rights of the Child* (Article 28). Education is a fundamental human right, with access to education recognised as offering important protection against other vulnerabilities and human rights violations.<sup>5</sup> Many vulnerable Queenslanders, including children with disability, are denied access to an appropriate, inclusive education, which has a fundamental, negative effect on their life trajectory. ALHR congratulates the Queensland Government for including the right to education in the Bill.

That said, the Bill omits an important protection found in section 29A(3)(a) of the ACT Act, namely that every person is entitled to enjoy the right to education 'without discrimination'.

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<sup>4</sup> Articles 13, 12, 6 and 11 of the *International Covenant on Economic, Social and Cultural Rights*.

<sup>5</sup> Joel Spring. (2000). *The Universal Right to Education*. New York: Routledge.

Protection from discrimination is of vital importance for students with disability, as it is the basis for the right to inclusive education.<sup>6</sup> ALHR holds concerns that the language of Clause 36 of the Bill may be interpreted to support a segregated approach to education, and the exclusion from mainstream schooling of students with disability, by creating the right to access education ‘appropriate to the child’s needs’ (in the context of primary and secondary education) and linked to the person’s ‘abilities’ (in the context of further vocational education and training).

Protection from discrimination also assumes added urgency in light of the recent leak of recommendations in the Ruddock Religious Freedoms Review, which should be of deep concern to anyone who values inclusivity and respect as guiding principles in the way we live together. It appears that the recommendations urged amendment of the federal *Sex Discrimination Act 1984* (Cth) to provide that ‘religious schools may discriminate in relation to students on the basis of sexual orientation, gender identity or relationship status’, subject to the school publishing a public policy statement declaring their position (presumably in line with statements in *Christian Youth Camps Ltd v Cobaw Community Health Services Ltd*<sup>7</sup>).

### **Right to access health services**

Similarly ALHR commends the recognition and protection of the right to access health services without discrimination which is again consistent with Australia’s international legal obligations,<sup>8</sup> and which is particularly important for potentially vulnerable and marginalised people in Queensland, including older people, people with disability and Aboriginal and Torres Strait Islander people.<sup>9</sup> For example lack of health services enabling access to registration of Indigenous births is a significant issue in remote Queensland, with lack of birth registration often considered “instrumental in setting the stage for Indigenous inequity, discrimination, marginalisation and poor health across the life course”.<sup>10</sup> The significant health gap between Aboriginal and Torres Strait Islander people and non-Indigenous Australians is well recognised.<sup>11</sup> ALHR considers the inclusion of the right to health and the cultural rights of Aboriginal and Torres Strait Islander people will lead to important progress in this area as efforts are made to consolidate and build on recent gains in bridging the divide.

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<sup>6</sup> The *Convention on the Rights of Persons with Disabilities*, Article 24; the *Disability Discrimination Act 1992* (Cth), s 22; the *Disability Standards for Education* (2005); the *UN Standards on Equalization of Opportunities for Persons with Disabilities*; *Salamanca Declaration and Framework for Action*; *National Disability Strategy 2011* (CoAG); *Australian Curriculum*; *Australian Professional Standards for Teachers*; *National Quality Framework*; and *Early Years Learning Framework for Australia* all support inclusive education.

<sup>7</sup> (2014) 50 VR 256.

<sup>8</sup> Article 12 of the *International Covenant on Economic, Social and Cultural Rights* 1966; Article 25 of the *Convention on the Rights of Persons With Disabilities* 2007.

<sup>9</sup> Claire E. Brolan, Lisa Herron, Anna Carney, Eva M. Fritz, Judy James, and Miranda Margetts, “A potential Human Rights Act in Queensland and inclusion of the right to health” (2018) *Australian and New Zealand Journal of Public Health* 42(2) 120, 121.

<sup>10</sup> J.Todres, “Birth registration: An essential first step toward ensuring the rights of all children” (2003) *Human Rights Brief* 10(3) 32.

<sup>11</sup> Theo Vos, Bridget Barker, Stephen Begg, Lucy Stanley, Alan D Lopez, “Burden of disease and injury in Aboriginal and Torres Strait Islander Peoples: the Indigenous health gap” (2009) *International Journal of Epidemiology*, Volume 38, Issue 2, 1 April 2009, Pages 470–477, <https://doi.org/10.1093/ije/dyn240>.

ALHR also supports the expansion on the Victorian Charter's protection of distinct cultural rights specific to Aboriginal and Torres Strait Islander people by protecting not only the right to maintain, but to also enjoy, control, protect, and develop identity and culture, language, and kinship ties. The inclusion of a right to control and develop culture is consistent with self-determination and a Human Rights Act which provides this protection will reinforce the right of Aboriginal and Torres Strait Islander people to exercise meaningful control over their affairs. It should also be noted that violations of economic and social rights have a disproportionate impact on women, as observed in The Montreal Principles on Women's Economic, Social and Cultural Rights.<sup>12</sup>

### **Complaint mechanisms**

ALHR strongly commends the inclusion of a complaints mechanism in the Bill. A complaints mechanism is essential in ensuring that individuals are provided with the opportunity to enforce their rights under a human rights legislative framework as well as necessary in providing substance and weight to a Human Rights Act as a meaningful and operative law. The establishment of the Queensland Human Rights Commission as the body to receive and conciliate complaints offers an accessible and inexpensive way for a person who has experienced a human rights violation to have this issue heard and responded to.

ALHR also supports the role of the Human Rights Commissioner under the Bill including their power to examine and report on human rights issues and their authority to request or direct a public entity to provide the Commissioner with information about a complaint. The Bill will effectively allow the Human Rights Commission to call into question government or public entity actions or decisions which have potentially breached human rights. These powers, coupled with the educative functions of the Commissioner, will be instrumental in the creation of a human rights culture in Queensland.

ALHR strongly recommends that the aspects of the Bill discussed above remain in the Human Rights Act which is passed by parliament. These inclusions are necessary and essential for an effective, strong and operative Queensland Human Rights Act.

## **4. Required amendments**

### **A standalone cause of action**

Despite the Bill being a strong model for a Queensland Human Rights Act, ALHR urges the Committee to recommend amendments to the Bill to strengthen the effectiveness of the Act. Most importantly the Bill should be amended to provide complainants with the right to commence proceedings in a court or tribunal in cases where the Human Rights Commission is unable to adequately resolve the complaint or dispute. As Professor George Williams has emphasised, community consultation has consistently demonstrated that individuals have

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<sup>12</sup> December 2002.

advocated that there be consequences for public entities that breach human rights in order for the legislation to have “legal force”.<sup>13</sup>

Currently the Bill allows complainants to “piggy-back” a cause of action by adding a claim of unlawfulness under the Bill to an existing claim. The Victorian Charter similarly allows a “piggy-back” cause of action, the stated intention of which was to reduce recourse to the courts. However, the practical effect of this clause has been to make litigation lengthier and more complex, requiring resources to be spent resolving preliminary jurisdictional questions, by bringing judicial review proceedings in courts rather than in more accessible forums such as the Victorian Civil and Administrative Tribunal, and by individuals raising what may be weak claims even though stronger claims exist due to a clear breach of the Charter.<sup>14</sup> ALHR urges the Committee to recommend that the Queensland Government avoids this problem by ensuring that a Queensland Human Rights Act contains a stand-alone cause of action.

### **Effective remedies**

In order to give legal force to a complainant’s right to commence proceedings in a court or tribunal, judicial remedies including declarations, injunctions, damages and orders to cease the offending conduct must be available. Individuals must have a legal remedy where there has been a contravention of their human rights. Enabling the court to order remedies such as injunctions or orders to cease the offending conduct will have significant symbolic and practical impact, including in deterring future contraventions of the legislation.

Further, damages should be accessible where appropriate. Monetary remedies may be necessary where violations of rights have caused ongoing damage, and where financial compensation will have a real impact on an individual’s life. For example, where breaches of human rights have resulted in serious loss of quality of life due to factors such as lack of access to appropriate health services or safe accommodation, violation of rights to security or liberty, or discrimination based on religious beliefs or cultural practices, financial compensation will be a remedy that is fair and necessary to support that individual to overcome the loss of quality of life that a breach of their human rights has directly caused.

Whilst the Bill effectively provides the Human Rights Commission with the power to require compulsory attendance at conciliation conferences, it should be recognised that this form of dispute resolution may not be an effective or appropriate remedy for all complainants and all types of complaints. Further, conciliation will not always resolve the issue or dispute, and individuals should have the right to commence proceedings if it is justified for them to do so.

### **Access to justice**

ALHR supports the inclusion of the civil and political rights to recognition and equality before the law in Clause 15 of the Bill but considers that Clause 15 should be extended to include the

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<sup>13</sup> George Williams and Daniel Reynolds, “A Human Rights Act for Queensland? Lessons from recent Australian experience” (2016) *Alternative Law Journal* 41(2) available at: <https://www.austlii.edu.au/au/journals/UNSWLRS/2016/42.pdf>

<sup>14</sup> Law Institute of Victoria, Submission No 79 to the Independent Reviewer, *Review of the Charter of Human Rights and Responsibilities Act 2006 (Vic)* 6.

right to equal and effective access and adjustments, which incorporates the provision of reasonable adjustments, to ensure equitable access to justice. We note that in Victoria, s 45 of the *Equal Opportunity Act 2010* (Vic) requires a service provider to make reasonable adjustments for a person with disability and provides an independent basis for a finding of unlawful discrimination. There is no equivalent provision found in Queensland laws and the inclusion of ‘unjustifiable hardship’ as a defence to a claim of unlawful discrimination in the *Anti-Discrimination Act 1991* (Qld) has been successfully utilised to undermine the right to reasonable adjustments recognised in Article 14 of the Convention on the Rights of Persons with Disabilities.

### **Youth justice**

Clause 33 of the Bill (‘Humane treatment when deprived of liberty’) requires that an accused child or a child detained without charge must be segregated from all detained adults. However, the same requirements with respect to segregation are not imposed with respect to convicted children, which makes it permissible for a convicted child to be imprisoned alongside adults.

The consequential amendments made to the *Youth Justice Act 1992* (Qld) permit departure from the human rights obligations created by the Bill only insofar as they relate to the failure to segregate children detained on remand with children detained on sentence, but do not otherwise address this issue.

Permitting the detention of children alongside adults is a contravention of Australia’s international legal obligations, a danger to the safety of children and contrary to what research tells us we should be doing to reduce rates of recidivism and rehabilitate young people.

The detention of children under 18 years of age in an adult jails in is in breach of Australia’s legal obligations under: the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;<sup>15</sup> the Convention on the Rights of the Child (CRC); the UN Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules);<sup>16</sup> and the UN Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules).<sup>17</sup> In particular, Article 37(c) of CRC requires that “...every child deprived of liberty shall be separated from adults unless it is considered in the child’s best interest not to do so...”, and Article 26.3 of the Beijing Rules requires that juveniles in institutions be kept separate from adults and be detained in a separate institution or in a separate part of an institution also holding adults.

We note that the previous failures of Queensland governments to extend protection to 17-year-olds in detention did not escape the attention of the United Nations Committee on the

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<sup>15</sup> UN General Assembly, *Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*, 10 December 1984, United Nations, Treaty Series, vol. 1465, p. 85

<sup>16</sup> United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules) Adopted by the United Nations General Assembly on 29 Nov 1985

<sup>17</sup> UN Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules) Adopted by the United Nations General Assembly on 17 December 2015



Rights of the Child.<sup>18</sup> Further, In March 2015, the United Nations Special Rapporteur on Torture, Juan Mendez, tabled a report outlining the current international benchmarks that are expected of countries when it comes to detaining children.<sup>19</sup>

Available data irrefutably evidences that imprisoning children alongside adults results in increased risks of: irreversible emotional and psychological harm; physical abuse; sexual abuse; recidivism when released back into the community; entrenchment in a life of crime; and suicide.<sup>20</sup>

Even where children are kept separate from the adult prison population, the fact is that they are being detained in a facility designed for adults not children and cared for by staff without specialist training in dealing with children.

ALHR is concerned that clause 33(3) uses vague terminology and what may be deemed to be treatment “appropriate for the child’s age” is not adequately defined.

We recommend that :

- (i) the Bill be amended to remove clause 33(3); and
- (ii) clause 33(1) of the Bill be amended to comply with Article 37(c) of the CRC and include children who have been convicted off an offence.

### **Consequential amendments**

ALHR does not support the proposed consequential amendments to the *Corrective Services Act 2006* (Qld) provided for in clause 126 of the Bill, particularly insofar as it permits a breach of the human rights of a prisoner detained on remand or without charge in circumstances where this is justified on the basis of consideration of the security and good management of the corrective services facility. We do not consider that this consequential amendment is appropriate, nor is it necessary in light of the recognition, in clause 13 of the Bill, that human rights can be limited (and, in accordance with the standards established by international law, must be balanced against each other and against other rights and considerations).

### **Reviews of the Act**

ALHR also encourages the Committee to amend Clauses 95 and 96 of the Bill, to require review of the legislation in three-yearly cycles. Regular reviews would allow for the

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<sup>18</sup> UN Committee on the Rights of the Child: Concluding Observations, Australia, 20 October 2005, CRC/C/15Add.268. See also submission by the Anti-Discrimination Commission Queensland to the Legal Affairs and Community Safety Commission (Qld), Inquiry into the Youth Justice and Other Legislation Amendment Bill 2014, submitted February 2014.

<sup>19</sup> Rights Law Centre, Australian Youth Justice Practices are Failing (17 April 2015) <[hlrc.org.au/ausyouthjusticepracticesarefailing/](http://hlrc.org.au/ausyouthjusticepracticesarefailing/)>

<sup>20</sup> The Risks Juveniles Face When They Are Incarcerated With Adults, Youth Justice Policy Institute [http://www.justicepolicy.org/images/upload/97-02\\_rep\\_riskjuvenilesface\\_jj.pdf](http://www.justicepolicy.org/images/upload/97-02_rep_riskjuvenilesface_jj.pdf); 5 Sullivan, James M., "From Monkey Bars to Behind Bars: Problems Associated with Placing Youth's in Adult Prisons" (2014). Law School Student Scholarship. Paper 587. [http://scholarship.shu.edu/student\\_scholarship/587](http://scholarship.shu.edu/student_scholarship/587)

recognition and inclusion of further human rights.<sup>21</sup> Such reviews will allow government, civil society and other feedback regarding the effectiveness of the legislation and identify any hurdles to compliance, and importantly, will allow for adaptation to international human rights best practice.

### **Freedom of expression**

As to other matters, the recognition of freedom of expression in section 21 of the Bill (which broadly follows section 15 of the Victorian Charter) does not address the intended relationship between the protected right and elements in the external legal order, specifically, the rights and reputation of others and the protection of national security, public order, public health and public morality.

Section 15(3) of the Victorian Charter, which does not find a counterpart in the Bill, explicitly limits the right to freedom of expression by attaching special duties and responsibilities to the right.

Again, we suggest that the principles of international human rights law in relation to the interrelated, interdependent and indivisible nature of human rights should be the guiding force here.

It may be thought that the expansive manner in which section 13 of the Bill is drafted, and the central role played in the section by the idea of 'proportionality', obviates the need for an additional limitation of like kind or effect to section 15(3) of the Victorian Charter. That view is not new.<sup>22</sup> Our strong recommendation is that the Bill should be amended to incorporate a section equivalent to section 15(3) of the Victorian Charter, identifying particular considerations relevant to the inquiry under section 13 of the Bill by making it clear that the right to freedom of expression involves responsibilities.

### **Adequate resourcing**

Whilst not a recommendation for amendment of the Bill, ALHR urges the Queensland Government to ensure that the Human Rights Commission is adequately resourced to be able to properly undertake its functions. We note that the resourcing allocated to the Anti-Discrimination Commission in the 2018/2019 state budget, while an important starting point, will require supplementation to ensure proper dissemination of information about the Queensland Human Rights Act. Similarly, we submit that it is vital that each Government Department is adequately resourced to conduct a comprehensive review of its legislation, policy and practices to ensure compliance with the new legislation.

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<sup>21</sup> Such as the protection of the right to a clean and healthy environment, a human right which is already recognised in a number of jurisdictions: David R. Boyd, *The Environmental Rights Revolution: A Global Study of Constitutions, Human Rights, and the Environment* (UBC Press, 2012).

<sup>22</sup> See, for instance, M Brett Young, *From Commitment to Culture: The 2015 Review of the Charter of Human Rights and Responsibilities Act 2006* (2015), 158 and J Debeljak, 'Balancing Rights in a Democracy: The Problems with Limitations and Overrides of Rights under the Victorian Charter of Human Rights and Responsibilities Act 2006' (2008) 32 *Melbourne University Law Review* 422, 426.

## 5. Conclusion

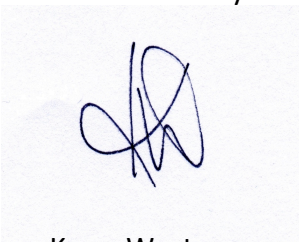
In conclusion, ALHR applauds the Queensland Government's introduction of a Queensland Human Rights Bill. This is a landmark reform which will provide important and necessary protection of the fundamental human rights of Queenslanders, and particularly of vulnerable and marginalised groups. The Bill contains a complaints mechanism which enables individuals to bring complaints to the Human Rights Commission which ALHR advocates is an essential aspect of a Human Rights Act.

However, ALHR urges the Committee to advise the Government that the Bill be amended in line with our recommendations above, particularly to include an independent cause of action permitting individuals to commence proceedings in a court or tribunal and enabling individuals to have access to legal remedies where appropriate. This will ensure the Queensland Human Rights Act can be utilised to access tangible outcomes and better protection of the fundamental rights of Queenslanders.

ALHR is committed to working towards legislative protection of fundamental human rights in all Australian jurisdictions, including at a federal level. We are hopeful that passage of the Bill in Queensland will be a further step towards this goal.

If you would like to discuss any aspect of this submission, please email me at: [president@alhr.org.au](mailto:president@alhr.org.au)

Yours faithfully

A handwritten signature in blue ink, appearing to be 'Kerry Weste', is centered within a light blue rectangular box.

Kerry Weste  
President  
Australian Lawyers for Human Rights

## ALHR

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 specialist thematic committees. Through advocacy, media engagement, education, networking, research and training, ALHR promotes, practices and protects universally accepted standards of human rights throughout Australia and overseas.

Any information provided in this submission is not intended to constitute legal advice, to be a comprehensive review of all developments in the law and practice, or to cover all aspects of the matters referred to. Readers should take their own legal advice before applying any information provided in this document to specific issues or situations.

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