



# A Human Rights Act for Western Australia

## BRIEFING PAPER

### WHAT ARE HUMAN RIGHTS?

Human rights are the tools we use to fight for the basic rights and freedoms that should be protected in relation to every person in the world, from birth until death, no matter our race, gender, religion, abilities, political belief, sexuality, age or any other characteristic. Protecting our human rights ensures that everyone is treated fairly, equally, and with respect.

### WHY DO WE NEED A HUMAN RIGHTS ACT?

It is important to have laws that allow all people to live in safety, in freedom, and with dignity.

Although Australia is a party to the seven core international human rights treaties, this does not mean those rights are enforceable in our domestic legal system. Australia is the only western democratic nation without a federal Human Rights Act or bill of rights to protect our human rights in a single document.

States like Victoria, the ACT and most recently Queensland have passed their own Human Rights Acts. Western Australia has no such Act and many basic rights that Western Australians take for granted, such as the right to equality before the law, the right to vote and the right to be free from torture, are not adequately protected by existing legislation.

#### **The objects of a Human Rights Act are to:**

- Protect and promote human rights and help to create a fair, just and equal society for everyone in Western Australia.
- Require parliament and the public sector to consider how laws and policies impact on human rights.
- Provide people whose human rights have been breached with access to remedies.



## HOW DOES A HUMAN RIGHTS ACT WORK?

The model of human rights legislation adopted in other states and territories requires governments and public agencies to act compatibly with human rights and to consider human rights when developing policies, making laws, delivering services and making decisions.

### Common features of this model include:

- Legal protection of a broad range of fundamental human rights, ranging from the right to protection from cruel and inhumane treatment to rights to freedom of expression and cultural rights.
- A requirement that new laws be checked against the Human Rights Act before being passed, with inconsistencies noted and considered.
- A requirement that public authorities must not unlawfully limit a person's human rights.
- A requirement that state courts must interpret legislation consistently with human rights.
- An ability of state courts to issue declarations of incompatibility or inconsistency with the Human Rights Act (but not to strike down laws).

The Victorian and Queensland Acts do not create a new right to begin legal action in court solely for a breach of human rights but do allow a person to raise breaches of the legislation within existing legal proceedings. The Queensland Act also establishes a Human Rights Commission with the power to receive and conciliate complaints under the Act. The Australian Capital Territory's Act provides for a standalone cause of action in court against a public authority for breach of human rights.

## HOW WILL A HUMAN RIGHTS ACT IMPROVE THE LIVES OF WESTERN AUSTRALIANS?

People living in jurisdictions where human rights legislation already exists have used it to improve their lives in many different contexts. For example, a woman with a disability referred to her rights when asking for a shower curtain to be installed in her place of care. LGBTI people used human rights legislation to ensure they had equitable access to superannuation death benefits. Young people, people with disability and Aboriginal people have also relied on human rights legislation to challenge unfair evictions.



## WHY IS ESTABLISHING A COALITION IMPORTANT?

A coalition will give a voice to the many diverse individuals and organisations, including minority voices, in Western Australia who support a Human Rights Act.

Coalitions have recently been instrumental in introducing legislation in other jurisdictions such as **Queensland** and there are currently coalitions advocating for the introduction of a Human Rights Act in **New South Wales, Tasmania** and at the **Federal level**.

## WHAT ARE THE COALITION'S KEY OBJECTIVES?

**The coalition's campaign activities will include:**

- Engaging in strategic political advocacy with elected representatives about the need for and benefits of a Western Australian Human Rights Act.
- Raising community awareness of human rights and fostering community dialogue about the benefits of a Human Rights Act for Western Australians.
- Engaging in public debate (including through media) about the need for and benefits of a Human Rights Act.

## HOW WILL THE COALITION OPERATE?

The coalition will be comprised of a large network of member organisations and individuals. It will be led by a steering committee.

The coalition's activities will include setting the campaign's agenda, promoting and publicly supporting the campaign and building its membership base.

The steering committee, which will be comprised of representatives of members of the broader coalition, will be responsible for leading much of the substantive and administrative work associated with the campaign.

Working groups may also be established to progress work in areas such as community engagement and strategic political advocacy.

## HUMAN RIGHTS ACT FOR WESTERN AUSTRALIA

**For enquiries about the coalition please contact: ALSWA and ALHR**

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