*Submissions are due 7 April 2022 via the email below. Submissions can be short and to the point. It is vitally important we show the Committee that there is sufficient community and stakeholder engagement with the issue to make it ‘worth their while’ to go through the process of legislative reform and appropriate resourcing.*

*Please join us in calling for the inclusion of an accessible complaints mechanism in our ACT Human Rights Act so we can take affordable action if our rights are breached. [delete this text]*

Dear Justice and Social Affairs Committee,

*Via email:* [*LACommitteeJCS@parliament.act.gov.au*](mailto:LACommitteeJCS@parliament.act.gov.au)

***RE: Inquiry into Petition 32-21 (No Rights Without Remedy)***

Thank you for the opportunity to provide this submission in support of Petition 32-21 (No Rights Without Remedy.) We urge the ACT Government to amend the ACT Human Rights Act to provide an accessible complaints mechanism for people who believe their human rights have been breached.

[Insert paragraph about yourself or your organisation and why you have an interest or concern in the issue of an accessible and affordable complaints mechanism.]

As per the ‘No Rights Without Remedy’ petition we ask the ACT Government introduce an amendment to the ACT Human Rights Act which:

* enables a complaint about any breach of the Human Rights Act to be made to the ACT Human Rights Commission for confidential conciliation, and
* if conciliation is unsuccessful, enables a complaint about a breach of the Human Rights Act to be made to the ACT Civil and Administrative Tribunal for resolution.

**We are calling for a ‘human rights jurisdiction’ in more than name alone**

We are strong supporters of the Human Rights Act in the ACT, and are proud of the role the ACT plays in leading the country on human rights compliance. However, we are concerned that there are key deficiencies in the Act that make the ACT a human rights jurisdiction in name alone.

As the Committee is aware, currently an individual is able to make a complaint if they believe that their rights have been breached by bringing a legal action to the Supreme Court.

Such actions are very expensive and complex, making them difficult to access for everyday people in the ACT. There are significant cost barriers associated with this type of legal action, and - for most people - bringing a legal complaint to the Supreme Court - can be an extremely intimidating, complex and inaccessible process.

Further, there is currently no way for an individual to seek any compensation for harm they have suffered due to the breach of their human rights.

The people of the ACT need easier, cheaper and simpler pathways to make a complaint if our Human Rights Act is to realise its true potential to protect and promote our human rights.

[If relevant to you or your organisation you can insert a paragraph here about what types of barriers your clients or the people you represent or you personally might face in trying to bring this kind of complaint and why we need easier, cheaper and simpler pathways to make a complaint.]

It would not be difficult to overcome these barriers by creating a simple, low-cost pathway for individuals to make complaints. We already have the institutions and infrastructure in place to do this through our ACT Human Rights Commission (HRC). We just need it to be enabled in legislation and adequately resourced.

We know that the right to a remedy for victims of violations of international human rights law is an essential component of international law and a fundamental principle found in numerous international instruments, in particular article 8 of the Universal Declaration of Human Rights, article 2 of the International Covenant of Civil and Political Rights, article 6 of the Convention on the Elimination of all Forms of Racial Discrimination, article 14 of the Convention Against Torture, and article 39 of the Convention on the Rights of the Child. This is because the ability to do something when human rights are breached is an inherent part of meaningfully protecting and upholding them.

**The human stories behind the petition**

Too often we talk about ‘human rights’ in the abstract, but these are the inherent dignities that are essential to all of us for living a good life with fairness, freedom, equality and dignity. While gross breaches of human rights *do* occur in the ACT - in particular in our prison, youth detention and public housing systems - more minor breaches occur much more frequently. These may not make news headlines, but nonetheless they erode the dignity and quality of life of Canberrans.

[If relevant to you or your organisation you can insert examples of human rights breaches your clients or the people you work with have, or may, face. These could be real case studies or made up examples based on your work and expertise.]

**What a complaints mechanism should look like**

​​We support the petition’s call for the establishment, and resourcing, of a two-tiered complaints mechanism. This proposed model uses the existing infrastructure of the Human Rights Commission and the ACT Civil and Administrative Tribunal to provide a no-cost, simple pathway for individuals to make complaints.

This would allow individuals to make an initial written or oral complaint to the Human Rights Commission about a breach of their rights. The HRC would then facilitate a conciliation where possible to resolve the issue. If this is not successful, the HRC is then able to refer the complaint to the ACT Civil and Administrative Tribunal (ACAT) where it can be heard before a Tribunal Member. The ACAT is designed to be a simple, no-cost process that does not require legal representation and can be navigated by members of the community to have their matters resolved.

We already know these pathways work for the community, as they are currently in utilisation for other complaints.

[If relevant, iInsert any further details about work your organisation does facilitating / supporting complaints to the HRC or ACAT.]

We also know that a complaints process similar to this is contained within the Queensland Human Rights Act, enabling people whose rights are breached to access conciliation through the Queensland Human Rights Commission. Since it commenced this process has been utilised to achieve accessible, cost-effective and meaningful outcomes for the people of that state.

**Resourcing Complaints**

We take this opportunity to stress that while these mechanisms at our ACT Human Rights Commission already exist, for them to effectively respond to the additional workload that creating a new complaints mechanism would produce, they must be adequately resourced. We refer to the expertise of those bodies to provide guidance to the ACT Government as to what that would require.

It is our sincere hope that the above changes would transform the Human Rights Act from being a largely theoretical document, to one which members of our community can use to ensure their human rights are protected.

We strongly urge the Committee to recommend that the Government ACT address the petition demands in full, by amending our ACT Human Rights Act to include an accessible complaints mechanism with adequate resourcing.

[Indicate here if you would be happy to appear before the Committee’s public hearing on 28th April to give evidence in person should it assist the inquiry by retaining or deleting the following:

I/We would be happy to appear before the Committee’s to give evidence in person at its public hearing on the 28th April]

Yours sincerely,

[Your name / organisation & contact details]