



AUSTRALIAN  
LAWYERS  
FOR  
HUMAN RIGHTS

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5 May 2023

The Hon Mark Dreyfus KC, MP, Attorney General  
Senator The Hon Penny Wong, Minister for Foreign Affairs  
**Sent via email only:**

Dear Attorney-General,

**RE: Ratification of the Optional Protocol to the ICESCR**

The 5th of May 2023 will mark the tenth anniversary of the entry into force of the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights (**Optional Protocol**). At a time when many Australians are facing a cost of living crisis and in the face of global challenges such as exploding inequalities, cuts to public services, the cost of food and the climate crisis, the protection of economic, social and cultural rights has never been more important.

Australian Lawyers for Human Rights (**ALHR**) therefore calls on Australia to become a Party to the Optional Protocol, which was unanimously adopted by the General Assembly of the United Nations in September 2009, entered into force on 5 May 2013, and to date has 46 signatories and 27 State Parties.

A decade on from the Optional Protocol's entry into force, it's time for the Australian government to show leadership on this issue. By becoming a Party to the Optional Protocol, the federal government can demonstrate a powerful commitment to its own policies such as "Closing the Gap," protecting marginalised and vulnerable communities, and eradicating poverty at home and internationally.

Ratification would also send an important signal to other States in our region that it is now time to ensure access to remedies for victims of all forms of human rights violations. Australia should show that it will maintain the highest standards of protection and promotion of the human rights it has agreed to uphold within the rules-based international legal system. The tenth anniversary

of the Optional Protocol's entry into force offers a compelling opportunity to tangibly demonstrate this.

The Optional Protocol establishes a mechanism through which individual groups, whose rights – e.g, the rights to adequate housing, food, water, health, work, social security and education – have been violated and who have not been able to achieve justice in their own countries, can apply to the United Nations for assistance in finding a resolution. As with the other treaty complaints mechanisms that Australia already accepts, domestic remedies must first have been exhausted.

All States parties to the ICESCR have the obligation to respect, protect and fulfill their obligations through both immediate steps and progressive implementation, to the maximum of their available resources. The Optional Protocol reinforces that all rights violations must have a remedy, foremost in their own country, but at the international level if necessary.

Nations that take their ICESCR obligations seriously, should embrace, rather than fear, the complaints mechanism established by the Optional Protocol as a powerful tool to support improvements in laws and policies that secure and advance economic, social and cultural rights.

The Optional Protocol is a much needed and concrete step towards rectifying the gaps in international protections for victims of violations of economic, social and cultural rights.

We urge Australia to strengthen the recognition and implementation of these rights and access to justice for all human rights victims by:

1. becoming a State Party to the Optional Protocol and taking all necessary steps to fully implement it without delay; and
2. making a declaration at the time of ratification or accession recognising the competence of the United Nations Committee on Economic, Social and Cultural Rights to undertake inquiry and inter-State procedures under the Optional Protocol.

We look forward to receipt of your reply and advise that we would welcome an opportunity to meet with you or a member of your department to discuss these matters further.

Yours faithfully,

**Kerry Weste**



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## **About ALHR**

ALHR was established in 1993 and is a national association of more than 800 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 National 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.

Australian Lawyers for Human Rights (ALHR) acknowledges the traditional owners and custodians of the lands on which we work across Australia as the first people of this country. We recognise that the land belonging to these peoples was never ceded, given up, bought, or sold. We pay our deep respect to Elders past, present and emerging and express our strong support for the Uluru Statement from the Heart and Voice, Treaty and Truth-Telling. ALHR calls on all levels of government across Australia to comprehensively adopt the United Nations Declaration on Rights of Indigenous People (UNDRIP) in order to protect the human rights of all First Nations Peoples.