



# **HUMAN RIGHTS ACT**

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## **FOR NEW SOUTH WALES**

### **HUMAN RIGHTS ACT FOR NEW SOUTH WALES: CAMPAIGN BRIEFING PAPER**

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#### **What are human rights?**

Every person in New South Wales has human rights. They are universal, meaning they are for everyone, everywhere, all of the time. Human rights legally articulate the values that we hold most dear, like freedom, equality, dignity. They protect our safety and quality of life and belong to all of us from birth until death, no matter our race, gender, religion, abilities, political beliefs, sexuality, age or any other characteristic.

They include well known rights such as:

- protection from torture, cruel, inhuman, degrading treatment or punishment
- the right to a fair trial
- the right to vote
- freedom of speech, movement and assembly
- protection from arbitrary imprisonment
- the right to an education
- the right to health
- the right to privacy

Human rights are necessary to ensure we all live lives of dignity, equality and value. Respecting, protecting and promoting our human rights improves the welfare of the whole community.

#### **Why do we need a NSW Human Rights Act?**

It is important to have laws that allow all people to live in safety, in freedom, with equality, dignity and access to justice. Although Australia is a party to the seven core international human rights treaties, most of our human rights are not able to be enforced here in New South Wales because our state government has not passed legislation that recognises and protects them.

#### **What are we campaigning for?**

The Human Rights Act for NSW (HRA4NSW) Alliance has been formed to advocate for the introduction of a NSW Human Rights Act. The objects of the Act will be to:

1. Protect and promote human rights and help to create a fair, just and equal society for everyone in NSW.
2. Require the NSW Government and other public authorities to consider how laws, policies, decisions and the delivery of services impact on our human rights.
3. Provide people whose human rights have been breached with accessible remedies.
4. Build a culture of respect for human rights across our public sector and encourage dialogue about the nature, meaning and scope of human rights in NSW.



## **Victoria, the ACT and Queensland have already passed their own Human Rights Acts.**

Human rights legislation has already been passed in other Australian states including the Australian Capital Territory (2004)<sup>1</sup>, Victoria (2006)<sup>2</sup> and Queensland (2019).<sup>3</sup> These Acts provide protection for most civil and political rights and cultural rights, and some protection of economic and social rights.<sup>4</sup> Most of these rights are based on rights protected by international treaties to which Australia is party, such as the *International Covenant on Civil and Political Rights* and the *International Covenant on Economic, Social and Cultural Rights*.

NSW has fallen behind these more progressive states in its approach to human rights protection. This means that many of the basic rights that people in NSW take for granted, such as the right to equality before the law, the right to freedom of association, the right to access healthcare without discrimination or the right to an education are not adequately protected by existing legislation.

### **How will a NSW Human Rights Act work?**

By articulating and protecting human rights for everyone a NSW Human Rights Act would provide meaningful and tangible benefits to us all. It would significantly improve the way our parliament, government and public entities develop laws and policies and make decisions about us. It would also create pathways that everyone in NSW can use to take action for a solution if our human rights are breached.

HRA4NSW has a vision for a NSW Human Rights Act that is similar to the legislation already in place in the ACT, Victoria and Queensland. This means that it would:

1. Articulate and protect in law the fundamental human rights that Australia has agreed to uphold under core international human rights treaties This would include civil and political rights, like freedom of association and freedom from torture, as well as economic, social and cultural rights such as rights to education and healthcare without discrimination.
2. Require Parliament to consider our human rights when passing and amending legislation;
3. Require public entities, such as state government departments, local councils, state schools, the police and all organisations performing a public function in NSW to act compatibly with our human rights.
4. Enable NSW courts and tribunals to interpret legislation consistently with our human rights and empower them to issue a declaration for parliament to consider if they find that a law breaches human rights;
5. Provide accessible pathways that we can all use to make a complaint and seek a solution if our human rights are breached.

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<sup>1</sup> *Human Rights Act 2004 (ACT)*.

<sup>2</sup> *Victorian Charter of Rights and Responsibilities 2006 (VIC)*.

<sup>3</sup> *Human Rights Act 2019 (QLD)*.

<sup>4</sup> Australian Human Rights Commission, *Discussion paper: A model for positive human rights reform in Australia*, 2019, p 23.



## **How will a Human Rights Act improve the lives of people in NSW?**

A Human Rights Act will make NSW a more modern, fair and responsive State, a place where everyone's human rights are respected, protected and promoted. Respecting, protecting and promoting the rights of individuals improves the welfare of our whole community. People living in jurisdictions where human rights legislation already exists are using it to improve their lives everyday in many different contexts. Parents have been able to protect their children's right to attend day care and school. People with disability have been able to ensure that public transport is more accessible. People have been able to challenge unfair evictions from social housing or to ensure that the housing they are offered meets their needs.

## **Why is the HRA4NSW Alliance important?**

HRA4NSW is a campaign for everyone in NSW. We give a voice to the many diverse individuals, cultural groups and organisations in NSW who support a Human Rights Act.

Such alliances have been instrumental in introducing legislation in other jurisdictions. The HR4QLD campaign was a driving force, integral to every stage in the successful introduction and passage of the 2019 Human Rights Act QLD. There are currently coalitions advocating for the introduction of a Human Rights Act in [Western Australia, Tasmania](#) and at the [federal level](#).

## **What are the key objectives of HRA4NSW?**

The overarching objective of the HRA4NSW Alliance is to work collaboratively on policy and advocacy strategies to obtain a commitment from the NSW Government to introduce a Human Rights Bill modelled on the human rights legislation in the ACT, Victoria and QLD.

We believe that the NSW Parliament should hear from a diverse range of community voices when considering a NSW Human Rights Act. HRA4NSW is seeking to obtain a commitment from all New South Wales political parties and members of parliament to support the establishment of a comprehensive inquiry into the introduction of a Human Rights Act in NSW. A key aspect of this inquiry would be community consultation.

In advocating for these outcomes the Alliance's campaign activities include:

1. Engaging in strategic political advocacy with elected representatives about the need for, and benefits of, a NSW Human Rights Act and advocating for the establishment of an inquiry into the introduction of a Bill.
2. Raising community awareness of human rights and fostering community dialogue about the benefits of a NSW Human Rights Act.
3. Engaging in public debate (including through the media) about the need for, and benefits of, a NSW Human Rights Act.

The HRA4NSW Alliance is led by a Steering Committee comprising representatives from the coalition's broader network of member organisations and is co-convened by Australian Lawyers for Human Rights and the NSW Council for Civil Liberties.



**How do I support the campaign or get actively involved?**

1. Individuals can sign on to support the campaign and receive regular campaign updates by visiting the HRA4NSW website here: [humnrightfornewsw.org](http://humnrightfornewsw.org)
2. Organisation can express interest in joining the coalition by visiting the HRA4NSW website here: [humnrightfornewsw.org](http://humnrightfornewsw.org)
3. If you would like to get in touch with any questions about the campaign we we would love to hear from you: [humanrightsactfornewsw@gmail.com](mailto:humanrightsactfornewsw@gmail.com)