

20 October 2023

Human Rights Act must overcome inadequate patchwork of laws

The Law Council of Australia has today called for Australia's National Human Rights Framework to be re-established and introduction of a federal Human Rights Act prioritised.

"Australia currently has an incomplete patchwork of laws which provide inadequate protection for many rights," Law Council of Australia President, Mr Luke Murphy explained.

"On a daily basis, members of our profession become aware of individuals having had their rights breached whether through discrimination, invasions of privacy, treatment in detention, and more."

Appearing before the Parliamentary Joint Committee on Human Rights today as part of the Committee's Review of Australia's Human Rights Framework, the Law Council said all Australians should have a means to seek an effective remedy for such breaches.

"This inquiry is vitally important and we have recommended a number of measures be implemented without delay," Mr Murphy said.

"Foremost, is a federal Human Rights Act; but we also think there is significant value in a new federal human rights education program and continuing anti-discrimination law reform.

"In addition, governments should undertake regular engagement with civil society on human rights matters; and the effectiveness of our national framework be monitored through a strengthened parliamentary scrutiny regime.

"Support for a federal Human Rights Act is not new. The extensive National Human Rights Consultation in 2009 recommended a federal Human Rights Act. Developments since the 2010 Framework, including Royal Commissions on rights-related matters and debates about the adequacy of rights protections during the pandemic, emphasise the case for a federal Human Rights Act is as strong as ever."

Law Council representatives told Committee members that as noted in many submissions to this inquiry, the rights Australia needs to protect, and the form a federal Act should take, are largely agreed.

A Human Rights Act would benefit vulnerable Australians who might experience unfair administrative practices, including those in care and others at heightened risk of abuse. It would do this by providing an independent cause of action and effective remedies for breaches of rights. It should impose duties on public authorities, providing a much-needed framework for public service decision making – especially in challenging circumstances where rights impacts need to be carefully considered. The experience of the states and territory which already have human rights legislation is that it strengthens democracy by facilitating better decisions and ensuring peoples' rights are not overlooked.

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The Law Council of Australia is the national voice of the legal profession, promoting justice and the rule of law.