

Submission to the Human Rights Bill 2025 Inquiry

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About the Justice and Equity Centre

The Justice and Equity Centre stands for a society that is fair and free from discrimination and disadvantage. Established in 1982 as the Public Interest Advocacy Centre (PIAC), we use the law and policy advocacy to challenge injustice and inequality. We do this through:

- legal advice and representation, specialising in test cases and strategic casework;
- research, analysis and policy development; and
- advocacy for systems change to deliver social justice.

We collaborate and partner in our work with people and communities who are experiencing marginalisation and disadvantage and focus on finding practical solutions. We work across five focus areas:

Disability rights: challenging discrimination and making the NDIS fairer to ensure people with disability can participate equally in economic, social, cultural and political life.

Justice for First Nations people: challenging the systems that are causing ongoing harm to First Nations people, including through reforming the child protection system, tackling discriminatory policing and supporting truth-telling.

Homelessness: reducing homelessness and defending the rights of people experiencing homelessness through the Homeless Persons' Legal Service and StreetCare's lived experience advocacy.

Civil rights: defending the rights of people in prisons and detention, including asylum seekers, modernising legal protection against discrimination, raising the age of criminal responsibility to 14, advancing LGBTIQ+ equality and advocating for open and accountable government.

Energy and water justice: working for affordable and sustainable energy and water and promoting a just transition to a zero-carbon energy system.

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The Justice and Equity Centre acknowledges and pays respects to the Gadigal as the Traditional Owners of the land on which our office stands.

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Recommendations

Recommendation 1

The NSW Government should legislate a comprehensive Human Rights Act.

Recommendation 2

The NSW Government should modernise the Anti-Discrimination Act 1977 (NSW), including protection against religious discrimination, prior to or simultaneously with the introduction of a Human Rights Act.

1. Introduction

The Justice and Equity Centre ('JEC') is a community legal centre that works with people and communities who are marginalised and facing disadvantage. Together we seek to build a fairer, stronger society by helping to change laws, policies and practices that cause injustice and inequality.

Human rights are at the heart of our work. For example, we engage with the right to housing through our Homeless Persons' Legal Service; the right to seek asylum and to be protected against arbitrary detention and torture in our work on Asylum Seeker Rights; the rights of Indigenous peoples through our work to advance First Nations Justice; rights to be free from arbitrary arrest and detention, and cruel, inhumane and degrading treatment and punishment, in our Civil Rights work; and the right to a healthy environment in our Energy and Water Justice program.

In this context, the JEC has long supported the introduction of Human Rights Acts both federally and in NSW. We are members of the Federal Human Rights Act Campaign Advisory Committee, as well as the Human Rights Act for NSW Steering Committee.

We therefore welcome the Legislative Assembly Committee inquiry into the Human Rights Bill 2025, as an important step along the path to the passage and implementation of such a law.

2. NSW needs a Human Rights Act

NSW needs a comprehensive Human Rights Act to protect human rights and promote a fair, just and equal society for everyone.

Currently, human rights in NSW are not adequately protected. This means the human impact of laws, policies and decisions can be overlooked or deprioritised, leading to unjust outcomes.

People in the ACT, Victoria and Queensland are already benefiting from protections afforded by a human rights Act or Charter. There is wide support in NSW for our own Human Rights Act – with polling indicating 76% of people support it.¹

A NSW Human Rights Act would make real improvements to people's lives by requiring public authorities to properly consider human rights when making laws and decisions, developing policies and delivering services. It would also require them to act compatibly with human rights and empower people to seek remedies when their rights are threatened or breached.

By embedding human rights in laws, policies and decisions, a Human Rights Act would create a culture of respect for human rights – ensuring they are considered proactively and transparently by government. In doing so, an Act can help prevent harm and injustice.

¹ Amnesty International, *Three in Four Australians Support a Human Rights Act: New Research* (Web Page, 29 January 2026) <<https://www.amnesty.org.au/three-in-four-australians-support-a-human-rights-act-new-research/>>.

We consider the Human Rights Bill 2025 a constructive starting point for a Human Rights Act.

3. Case studies – where a Human Rights Act could have made a difference

Through our work, we regularly see the impact of inadequate human rights protections. The following case studies from our Homeless Persons' Legal Service (HPLS) provide examples of where a Human Rights Act could have made a significant difference: particularly to the lives of people experiencing disadvantage in our community.

The clients' names have been changed to protect their privacy.

3.1 Minimum standards for housing: victim-survivor of domestic violence living in mould-ridden social housing property

Olga is a woman in her late forties. She is a survivor of domestic violence and has multiple chronic health conditions. After 10 years of being on the social housing waitlist, Olga was finally offered a house. She has now lived there for over 12 years.

Since Olga moved in, the house has had severe and persistent mould, water leaks, rusted and leaking gutters, and damaged plumbing. The mould affected every room in the house and penetrated the fibro sheeting walls and ceilings.

Many of Olga's possessions have been damaged or destroyed by mould, including furniture, clothing, photographs and treasured family heirlooms. She has had to discard and replace many belongings at her own cost.

Over the course of a decade, Olga has repeatedly requested that Homes NSW address these issues. The sporadic repairs organised by Homes NSW in response failed to address the water ingress causing the mould.

Eventually, in 2024 Homes NSW organised more substantive renovations for the property. Olga initially agreed to relocate to her caravan for a period of two weeks while renovations took place. However, the renovations stretched out over several months, and recurrent heavy rain meant that Olga's caravan was damaged. She was forced to live in her car for months – homeless, despite having a home.

Even after this work was completed, the house continued to be plagued by ongoing leaks and mould.

In 2025, Homes NSW also tried to evict Olga – claiming that the property was uninhabitable and providing less than one week for Olga to vacate her home of 12 years. Legal assistance from the Homeless Persons' Legal Service convinced Homes NSW to withdraw their termination notice, helping Olga keep her home.

The home's state of disrepair, the ongoing failure of Homes NSW to remedy these issues, and the attempted eviction have had a devastating impact on Olga.

Olga's physical health, mental health and overall quality of life have deteriorated. Doctors have confirmed that mould in the property has 'more than likely' contributed to recurring irritating rashes and a chronic cough; while another specialist has noted that her anxiety and social isolation are 'further compounded by her current housing crisis.'

Olga's right to an adequate standard of living and housing has been adversely impacted by the insufficient repairs. The right to adequate housing comprises seven elements, including habitability.² This means that the house should meet basic standards of safety and quality, protecting occupants from physical threats (such as damp or structural hazards).³

A Human Rights Act with a right to adequate housing would place positive obligations on the NSW Government to ensure minimum standards of housing. Had it been in place, the Act could have ensured that adequate repairs were carried out swiftly by Homes NSW in order to meet their obligations – preventing the significant impact of the home's disrepair on Olga's quality of life.

3.2 The right to a fair hearing: lack of interpreter for tenancy matter

Mary was a client who came from a non-English-speaking background and lived with significant mental health issues, which had previously resulted in her admission as an inpatient to a mental health ward.

She did not understand legal concepts without an interpreter and had difficulties communicating when stressed.

Mary sought assistance from HPLS for her tenancy hearing date at NCAT. She sought our assistance very close to her hearing date. This is not uncommon for our clients, who are often experiencing homelessness and focused on prioritising basic needs, including access to shelter, food and medicine.

HPLS was not able to represent Mary in the hearing, but assisted her to collate evidence and prepare submissions. The day before her hearing, HPLS contacted NCAT on Mary's behalf to request an interpreter to be present during the proceedings. After calling the NCAT Registry with this urgent request, we were advised to put the request in writing, which we did.

The day after the hearing, we were notified by the Registry at NCAT that the client's matter was heard and finalised without an interpreter.

The failure to provide an interpreter undermined Mary's right to a fair hearing, as she did not understand what happened in the hearing and was therefore not provided with an adequate opportunity to respond to the matters discussed. For tenancy matters in the Tribunal, a lack of a fair hearing can have significant consequences, including resulting in homelessness.

² CESCR, *General Comment No 4: The Right to Adequate Housing (Art 11(1) of the Covenant)*, 6th sess, UN Doc E/1992/23 (13 September 1991): explains that the right to adequate housing comprises seven elements: a) legal security of tenure; b) availability of services, materials, facilities and infrastructure; c) affordability; d) habitability; e) accessibility; f) location; g) cultural adequacy. Each of these elements must be present for housing to be adequate.

³ Jessie Hohmann, Human Rights Law Centre, Human Rights Act and UTS, *The Right to Housing in Australia* (Report, 2025) 4 <<https://www.hrlc.org.au/app/uploads/2025/02/RightToHousingReport2025.pdf>>.

A Human Rights Act would bring a greater focus on this fundamental right – ensuring that Tribunal processes and policies prevent this breach from occurring and allowing people like Mary to seek a remedy if it does occur.

3.3 Right to dignified treatment and equality before the law: woman with multiple disabilities required to attend multiple rental inspections while experiencing homelessness

Jennifer had been staying in temporary accommodation (TA) after being made homeless. TA is short-term, emergency housing provided by Homes NSW.

To continue staying in TA, Jennifer was asked by Homes NSW to demonstrate that she was trying to meet her housing needs. This required Jennifer to apply for 8-10 rental properties per week.

Jennifer had been applying for rentals online. She was then informed by Homes NSW that she had to view properties in person or her TA would be cancelled. Jennifer was struggling to comply with this requirement as she has multiple physical disabilities and could not travel to inspections.

Despite submitting medical evidence to support this, Homes NSW maintained the requirement for Jennifer to inspect properties in person. Jennifer was told by Homes NSW to drive or catch an Uber. This was also not feasible for Jennifer. Her car needed repairs, which she could not afford. Likewise, she could not afford multiple Ubers throughout the week. These requirements caused Jennifer significant distress and frustration, and she feared having to live in her car.

We advocated on Jennifer's behalf, to encourage Homes NSW to remove this requirement. They eventually did so. However, many other people with disabilities who are seeking TA have similar requirements set by Homes NSW.

A Human Rights Act would require Homes NSW to actively consider the human rights implications of these requirements on Jennifer, and other people seeking housing support. This would include the right to dignified treatment – ensuring that people experiencing homelessness are treated with respect for their dignity, autonomy and right to self-determination. The right to equality before the law, and freedom from discrimination would also be relevant in developing housing supports that do not unfairly impact people with disabilities.

3.4 The right to life: victim-survivor in social housing refused permission for security door

Ella had experienced serious domestic violence by her ex-partner, Ben.

This included several occasions where she believed Ben was going to kill her, including by strangulation. Ben had been convicted of several charges in relation to these incidents, including contravention of an Apprehended Domestic Violence Order and common assault. Ella has been diagnosed with post-traumatic stress disorder because of the violence.

During this period of violence, Ella had been living in social housing. She was forced to relocate because the head landlord, a private real estate agency, terminated the lease with Homes NSW – who managed Ella’s tenancy.

Ella was reluctant to take the new property, as it was on the ground floor and had few safety features in place. In her previous home, Ben had broken into her property, hid beneath the bed and locked her out of the house. At the time of the relocation, Ben was in the community on parole, and Ella was deeply concerned about her safety.

Ella took the property on the proviso that new safety features would be added, including a crime safe security door. Homes NSW were aware that Ella was a victim-survivor of domestic violence, and assured her that once this request was put in writing, these features would be approved.

Once Ella had moved in, Homes NSW refused her request for a security door – despite Ella being willing and able to pay for it herself. Over many months, HPLS made repeated requests to Homes NSW to approve this request. Homes NSW never approved it.

This left Ella at serious risk for her safety. She felt extremely vulnerable and anxious, and her mental health issues were made significantly worse. Ben later came to the property, having found Ella’s address through neighbours, deepening Ella’s fears and confirming the high level of risk to her safety.

A Human Rights Act would have required Homes NSW to consider the impact of their decision on Ella’s rights – including her right to life, and her right to security. There is a clear need to better protect victim-survivors from harm and a Human Rights Act can play an important role in doing so.

4. Key elements of a Human Rights Act

4.1 Scope of rights protected

A NSW Human Rights Act should protect rights that Australia has already committed to uphold under international law, including (but not limited to):

- Civil and political rights⁴
- Economic, social and cultural rights⁵
- Rights of children⁶
- Rights of people with disabilities⁷; and

⁴ *International Convention on Civil and Political Rights*, opened for signature 16 December 1966, 999 UNTS 171 (entered into force 23 March 1976).

⁵ *International Covenant on Economic, Social and Cultural Rights*, opened for signature 16 December 1966, 993 UNTS 3 (entered into force 3 January 1976).

⁶ *Convention on the Rights of the Child*, opened for signature 20 November 1989, 1577 UNTS 3 (entered into force 2 September 1990).

⁷ *Convention on the Rights of People with Disabilities*, opened for signature 13 December 2006, 2515 UNTS 3 (entered into force 3 May 2008).

- Freedom from discrimination rights.⁸

The Act should also be aligned with the *United Nations Declaration on the Rights of Indigenous Peoples*,⁹ which Australia has endorsed. This is to ensure the unique individual and collective rights of First Nations peoples are central to the Act's protections.

4.2 A dialogue model

Similar to the frameworks already in place in the ACT, Victoria and Queensland, the Human Rights Bill 2025 adopts a 'dialogue model', which maintains parliamentary supremacy and gives each arm of government a distinct role in considering and enforcing human rights. This facilitates a 'dialogue' between each branch about the nature, meaning and scope of human rights.

- **Duties on public authorities:** The Act should place a positive duty on public authorities to consider, and make decisions in alignment with, human rights. This duty should extend to non-government entities exercising public functions. The Act should also place a procedural duty on public authorities to consult and engage with communities, where a decision disproportionately affects a specific group or groups.
- **Parliamentary scrutiny:** The Act should require all legislative instruments to be accompanied by a Statement of Compatibility which explains how the instrument is compatible with human rights and if it is incompatible, the nature and extent of that incompatibility.
- **Interpretation by courts and tribunals:** The Act should require all NSW laws to be interpreted by courts and tribunals in a way that is compatible with human rights.

4.3 Complaints and Remedies

It is crucial that people have access to justice when their human rights have been breached. A Human Rights Act should ensure effective and accessible remedies are available by establishing multiple pathways for complaints.

The Act should enable complaints to be made directly to public authorities. It should also create a NSW Human Rights Commission (NSWHRC) to receive and conciliate complaints. The functions of a NSWHRRC should further include:

- making orders to effect conciliated outcomes in a manner consistent with the Act, with a wide discretion to receive requests for remedies and act on them where appropriate;
- promoting human rights education;
- assisting public authorities to comply with their obligations; and

⁸ *Convention of the Elimination of All Forms of Discrimination against Women*, opened for signature 18 December 1979, 1249 UNTS 13 (entered into force 3 September 1981); *International Convention on the Elimination of All Forms of Racial Discrimination*, opened for signature 21 December 1965, 660 UNTS 195 (entered into force 4 January 1969).

⁹ *United Nations Declaration on the Rights of Indigenous Peoples*, GA Res 61/295, UN Doc A/RES/61/295 (2 October 2007, adopted 13 September 2007).

- playing a role in investigating and monitoring systemic human rights abuses.

This specialist body could be created through expanding the scope and resources of Anti-Discrimination NSW which already has responsibility for overseeing the operation of the *Anti-Discrimination Act 1977* (NSW), including conciliating discrimination complaints.

People should be able to raise all rights in the Act in administrative review processes and other legal proceedings. Where conciliation fails, or is inappropriate, the Act should provide a standalone cause of action, allowing people to bring their claim before a NSW court. This is to ensure people have effective remedies for breaches of their human rights, without requiring an existing cause of action. As recommended by the Australian Human Rights Commission, courts should be able to grant a range of remedies, including monetary damages.¹⁰

The Act should also protect complainants against adverse costs orders, except in exceptional circumstances, such as where a complaint is vexatious.

4.4 Resourcing and education

A Human Rights Act must be accompanied by adequate resourcing for:

- the NSW Human Rights Commission;
- broad human rights education to increase awareness of human rights in the community; and
- legal and non-legal services to support people with information, advice and assistance in protecting their human rights.

4.5 Reporting and evaluation of human rights progress

Public authorities and the NSW Human Rights Commission should report annually on the complaints received, responses to complaints and any actions taken to further the objects of the Human Rights Act.

Recommendation 1

The NSW Government should legislate a comprehensive Human Rights Act.

5. Interaction with Discrimination Law

The *Anti-Discrimination Act 1977* (NSW) ('ADA') is a key pillar of NSW's human rights framework, but it only protects a limited set of rights. A comprehensive Human Rights Act is needed to complement the ADA.¹¹

¹⁰ Australian Human Rights Commission, *Free and Equal: An Australian Conversation on Human Rights* (Report, 2022) 271-273 <https://humanrights.gov.au/_data/assets/file/0029/46856/Free_equal_hra_2022_-_main_report_rgb.pdf>.

¹¹ We note that a Human Rights Act will not make the ADA redundant as the ADA covers a wider range of activity, including discrimination and sexual harassment in non-government employment, the provision of goods and services by private companies and acts of vilification.

The ADA is currently being reviewed by the NSW Law Reform Commission. We welcome this process as a long-overdue opportunity to remedy the lack of comprehensive and effective protection against discrimination in NSW law.¹²

It is important that, as part of the modernisation of the ADA, specific provisions on religious belief discrimination are settled prior to, or at the same time as, the introduction of a NSW Human Rights Act. This is needed to provide clarity and detail to the broader freedom from discrimination clause in a Human Rights Act (clause 14 of the Human Rights Bill 2025 (NSW)).

The JEC has long supported adding religious belief as a protected attribute in the ADA on an equivalent basis to other existing attributes. Importantly, this protection must not undermine the rights of other groups in the community, including women, LGBTQ people, people with disability and people of minority faiths, to live their own lives free from discrimination.

Recent debates about the scope of the right to freedom of conscience and religion highlight the need to settle on clear religious belief discrimination provisions, including religious exceptions, ahead of or alongside the introduction of a Human Rights Act. Without this, there is a risk of anxiety among some community groups about possible adverse impacts of protection of religious freedom in a Human Rights Act – and a lack of clarity in the law if a Human Rights Act is enacted, undermining its effectiveness and community support.

In the three Australian jurisdictions which have adopted Human Rights Acts or Charters, all three had successfully prohibited religious belief discrimination beforehand.¹³ We recommend that religious discrimination provisions are enacted as part of a modernised ADA by the time a Human Rights Act is introduced into NSW.

Recommendation 2

The NSW Government should modernise the Anti-Discrimination Act 1977 (NSW), including protection against religious discrimination, prior to or simultaneously with the introduction of a Human Rights Act.

¹² See our report 'Leader to Laggard: The case for modernising the NSW Anti-Discrimination Act', <https://jec.org.au/wp-content/uploads/jec-publications/13322/PIAC-Leader-to-Laggard-The-case-for-modernising-the-NSW-Anti-Discrimination-Act.pdf>.

¹³ Through the *Discrimination Act 1991* (ACT), *Equal Opportunity Act 1984* (VIC) (predecessor to the *Equal Opportunity Act 2010* (Vic)), and *Anti-Discrimination Act 1991* (Qld).