



Parliamentary Joint Committee on Human Rights
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Parliament House
Canberra ACT 2600

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Dear Madam/Sir

Inquiry into Australia's Human Rights Framework

Please accept this response to the Committee's Question on Notice concerning the interaction between a federal *Human Rights Act* and State *Human Right Acts*.

Some of the issues raised by this question were discussed by the National Human Rights Consultation in 2009¹.

That Committee recommended that the national Human Rights Act should only apply to federal government authorities. The Council does not support that position. As explained in the course of our submission, we believe that a Federal Act is required to provide a level of human rights protection for all Australians. However, we do not think that should come at the expense of rights enshrined in State Acts

As was submitted to that committee in our view the Federal Act should contain a provision similar to Commonwealth anti-discrimination legislation which provide that the Act is not intended to exclude or limit the operation of a law of a state (or territory) that furthers the objects of the Act and is capable of operating concurrently with the Human Rights Act.

As the then Solicitor General, soon-to-be the Chief Justice of Australia, submitted to the committee:

Express qualification of the rights protected by the [Act] could easily be combined with a provision making clear that the [Act] does not cover the field and is intended to operate concurrently with State law. The result would be effectively to limit situations of inconsistency under s 109 of the Constitution to cases of direct inconsistency: where the State law in its legal or practical operation would otherwise operate to alter, detract from or impair the limited operation given to the right by the [Act] ... In a case of direct inconsistency, the State law would be invalid to the extent, but only to the extent, of the direct inconsistency

We trust this is of assistance to you in your deliberations.

Yours faithfully

Michael Cope
President
For and on behalf of the
Queensland Council for Civil Liberties
5 September 2023

¹ Commonwealth of Australia, *National Human Rights Consultation*, (Report, September 2009) 305-307.

