

Parliamentary Joint Committee on Human Rights
PO Box 6100
Parliament House
Canberra ACT 2600

18 October 2023

By email

Dear Ms Coles,

**RESPONSES TO ADDITIONAL QUESTIONS—
INQUIRY INTO AUSTRALIA'S HUMAN RIGHTS FRAMEWORK**

Thank you for referring two additional questions from Senator Lidia Thorpe to the Australian Lawyers Alliance (ALA), after the appearance of Shaun Marcus and Dr Louis Schetzer on behalf of the ALA before the Parliamentary Joint Committee on Human Rights at the public hearing on Wednesday, 27 September 2023 in Sydney.

This letter includes our responses to those additional questions. Thank you in advance for referring the following responses to Senator Thorpe.

- 1. You state the Federal dialogue is good because it maintains sovereignty of Parliament - a principle often used as an excuse to not address the systemic defect of rights protection, as happened in NSW in 2001. It is true that constitutional Bill of rights in federal and sub-national jurisdictions might affect the legislative power; the notion of Parliamentary sovereignty seems rather odd as the Constitution already binds both Commonwealth and States Parliaments. Their powers are already either expressly or impliedly limited and as such not sovereign in any event. Why is this an issue if we choose to use constitutional power to ensure compliance with human rights principles?**

This question references an occurrence in NSW in 2001. The ALA is seeking clarification as to what this specifically refers, so that we can provide a considered and thoughtful response to the question and answer it fully and accurately.

- 2. There have been a number of suggestions about how people can seek justice for their human rights abuses. What would be the best, most fit for purpose solution? Should human rights abuses proceed through the normal legal system, an expansion of the AHRC, the Federal Circuit Court, a new tribunal, or could we have a whole new fit for purpose State and Federal Human Rights Court system that is properly funded in designed with human rights in mind, as opposed to trying to fit it into existing harmful systems?**

The ALA supports the Australian Human Rights Commission's proposals in respect to cause of action, complaints and remedies under a federal Human Rights Act, as outlined in Chapter 11 of the Australian Human Rights Commission's *Free and Equal* report. The ALA has addressed these matters in detail in paragraphs 112 to 121 of our [written submission](#).

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Thank you for your attention on the above.

Yours sincerely,

Shaun Marcus
National President,
Australian Lawyers Alliance

Dr Louis Schetzer PhD
Human Rights Special Interest Group,
Australian Lawyers Alliance