

# NSW Charter Group

A coalition of individuals and organisations in support of a Charter of Human Rights for NSW

## **Introduction**

Australia is the only modern democracy without a national charter of human rights. As a result, some states have taken up the challenge of addressing the lack of comprehensive human rights protection.

In Australia, widespread public consultation has supported the development of Charters of Rights in the ACT and Victoria, and they are also being considered in other states including Tasmania and Western Australia.

A NSW Charter of Human Rights would guarantee basic human rights and would ensure that all NSW laws and policies were consistent with these rights.

## **Who are we?**

The NSW Charter Group is a group of concerned individuals and organisations advocating for community consultation on human rights with a view to NSW adopting of a Charter of Human Rights.

## **What do we want?**

1. A widespread community consultation on how best to protect and promote human rights, including whether or not NSW should adopt a Charter of Human Rights, and if so what the Charter of Human Rights should include and how it should work.
2. Following the community consultation, the adoption of comprehensive human rights protection in NSW consistent with the outcomes of the consultation.

## **Why does NSW need a Charter of Human Rights?**

- NSW has a robust system of democracy. A Charter of Human Rights would complement this system by protecting the very rights and values that underpin it.
- Although most people in the community and Government respect human rights, many of the rights we take for granted have no protection under law.
- Although some rights are protected by equal opportunity and anti-discrimination laws, these laws are patchy and do not cover many areas of rights. For example, the *right to vote*, *freedom of expression*, the *right not to be arbitrarily detained* and the *right to join a union and have access to collective bargaining* are not clearly protected.
- Human rights belong to all of us. A Charter of Human Rights is a form of democratic insurance that helps to keep the government accountable.
- Human rights are about the fair treatment of individuals and are put in place to ensure that people are treated with dignity and respect. They are particularly important for people who suffer disadvantage. Human rights are a means of promoting social justice for people who have been subjected to historical disadvantage including Indigenous peoples.
- Current concerns over terrorism require a government commitment to ensure that new laws and counter-terrorism measures do not infringe human rights and do not work against the democratic values we are trying to protect.

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## ***A Charter of Human Rights WILL ...***

- Protect the fundamental human rights of all members of the NSW community
- Make a statement about the rights and responsibilities we all share as members of the community
- Bring all our human rights into one easy to find law
- Ensure that the practices of Government and public authorities are consistent with human rights
- Ensure that laws are interpreted and applied in line with human rights
- Use easy to understand language so that everyone in the community is able to understand their basic rights
- Be based on a comprehensive process of public consultation, so that it reflects the community's shared values and beliefs

## ***A Charter of Human Rights WILL NOT...***

- ***Be anything like the US Bill of Rights***  
Modern human rights laws are more flexible than the US Bill of Rights. The ACT and Victorian Charters are ordinary acts of Parliament. So are the human rights laws in the United Kingdom and New Zealand. This ensures that the final say rests with the community through the democratically elected Parliament.
- ***Put more power in the hands of judges***  
As with other laws made by the NSW Parliament and actions of Government, judges will fulfil their traditional role and be responsible for the legal oversight of the Charter. This could mean that courts interpret laws and Government action consistently with the rights protected in a Charter. Where laws and Government action could not be reasonably interpreted in line with Charter rights, the Courts could refer the issue back to Parliament. Parliament will always have the final say.
- ***Create large amounts of litigation***  
Many other countries have introduced human rights laws that use a model similar to the type that NSW would be likely to adopt for a Charter of Rights. As has been the case here, concerns were expressed about the potential increase in litigation and drain on the courts' resources. However, these countries have seen either no, or a very small, increase in cases brought before the courts. In the ACT, their human rights law was only mentioned in 14 cases in the first year of its operation.
- ***Be fixed for all time***  
Because a Charter of Rights could be based in law rather than in a constitution, Parliament would be able to alter a Charter over time so that it keeps pace with changing community values.
- ***Introduce new values that do not reflect those shared by the NSW community***  
The Charter is intended to embody and protect the common values of those in NSW, not introduce new values. To ensure that this occurs, the NSW Government should consult with a broad range of individuals and groups within the community when developing the Charter.

## ***What can you do?***

- 1) Join the NSW Charter Group and for further information, please visit our website:  
<http://www.nswcharterofhumanrights.org/>
- 2) Write a letter/e-mail of support for a NSW Charter of Human Rights to your local member and other NSW Members of Parliament.
- 3) Learn more about protecting human rights in NSW and Australia through a community education kit by visiting:  
<http://piac.asn.au/publications/hrkit.html>  
(Available in Arabic, Chinese, English and Vietnamese)

## ***Contacts***

Michelle Burrell, NCOSS: michelle@ncoss.org.au  
Robin Banks, PIAC: rbanks@piac.asn.au