



File Number: 15/9336

**RE: Australia's response to request for submissions on civil society space: HRC resolution 27/31**

A compilation of practical recommendations for the creation and maintenance of a safe and enabling environment for civil society

**Conducive political and public environment**

*Encouraging civic contribution*

- . Australia is founded on the rule of law and has a strong tradition of respect for the rights and freedoms of every individual.
- . A strong civil society, which includes a vibrant and innovative non-government sector, plays a central role across Australia, supporting and providing services to the most disadvantaged in the community.
- . Recognising the important role played by non-government organisations (NGOs), the Australian Government has, for over 20 years, held an annual NGO Forum on Human Rights to provide a consultation mechanism for human rights issues.
- . Australia's independent media also plays an important role in promoting and protecting human rights in Australia and enjoys a high degree of press freedom which allows it to report on human rights issues.
- . Australia is a highly cohesive multicultural society, with over one quarter of Australia's estimated resident population being born overseas. Australia has a range of programmes and initiatives to support this diverse population. For example, the Multicultural Community Liaison Officer network works with a wide variety of ethnic and cultural community organisations to create collaborative

relationships and community networks, and provide information to communities.

- The Government also supports and seeks expert advice from advisory bodies such as the Australian Multicultural Council, on matters of community cohesion and social harmony.
- The Australian Human Rights Commission (AHRC) is Australia's national human rights institution, independent from government, and is an A-status national institution under the Principles Relating to the Status of National Institutions (the Paris Principles).
- The AHRC plays a central role in protecting and promoting human rights in Australia. It has a range of duties, functions and powers with respect to human rights, including undertaking inquiries, intervening in court proceedings, examining enactments and conducting educational programs and public awareness campaigns.
- The AHRC also has the power to investigate and attempt to conciliate complaints of unlawful discrimination under Australia's anti-discrimination legislation.

#### *Common law*

- Under Australia's legal system, the recognition and protection of many rights and freedoms is enshrined in common law.
- Common law results in the creation of legal precedents on points or interpretation of law to be followed by courts and tribunals. The common law has developed principles of statutory interpretation that function to protect human rights. When interpreting legislation, courts will presume that the Parliament did not intend to interfere with fundamental human rights. Another principle applies in cases of ambiguity, where courts will presume that legislation is intended to be consistent with established rules of international law, including Australia's international human rights obligations.

#### *Protection of rights and freedoms*

- The Australian Government is committed to protecting the rights and freedoms of the individual that underpin Australia's liberal democracy, including the right to freedom of assembly and association enshrined in articles 21 and 22 of the International Covenant on Civil and Political Rights (ICCPR). These rights are protected in Australia by the common law, strong systems of governance, and a strong civil society. Australia recognises that these

freedoms are an integral part of Australia's democracy, and contribute to the fulfilment of other civil and political rights, social and cultural rights, including the freedom of expression and the right to participate in the conduct of public affairs.

Australia recognises the need for vigilance to ensure fundamental freedoms, such as the freedom of expression, are not unjustifiably restricted by legislation. In December 2013, the Australian Government asked the Australian Law Reform Commission to critically examine federal laws to identify any that encroach upon rights, freedoms and privileges recognised in Australian common law and to consider whether any encroachments are appropriately justified. The review will inform consideration of whether future legislative amendments are necessary to enhance fundamental rights and freedoms in Australia.

## **Supportive regulatory framework**

### *Access to national human rights institutions*

- . The Government has broadened the focus of the Australian Human Rights Commission, through the appointment of Mr Tim Wilson as Human Rights Commissioner, to focus particularly on the promotion of fundamental common law rights and civil political rights.
- . The AHRC drives public education and human rights awareness in Australia, including through targeted resources for teachers, students, public servants, businesses and vocational education and training, and grant and funding programs.
- . The *Human Rights (Parliamentary Scrutiny) Act 2011* requires that all new legislation introduced into the Commonwealth Parliament is accompanied by a Statement setting out the compatibility of this legislation with Australia's human rights obligations. The purpose of the Statement is to promote the development of human rights compatible legislation and to enable this assessment of compatibility to be available when Parliament considers the legislation to facilitate debate. The Australian Government has developed specialised training and public resources to assist public servants with these processes.
- . The Parliamentary Joint Committee on Human Rights has also been established under this the *Human Rights (Parliamentary Scrutiny) Act 2011* – the Committee is intended to provide a forum for civil society to engage with the Parliament on the consistency of Commonwealth legislation with Australia's human rights obligations.

*Interaction and collaboration with the wider community*

- The Australian Government in partnership with the AHRC is currently running the 'Racism. It Stops with Me' campaign. This campaign draws on existing expertise on anti-racism and multicultural matters across government and non-government representatives to successfully raise community awareness about racism being unacceptable in the community and to empower individuals and organisations through tools and resources to prevent and respond effectively to racism.
- Information on the AHRC's work is available at the following address:  
[<http://www.humanrights.gov.au/human-rights-education-and-training>](http://www.humanrights.gov.au/human-rights-education-and-training)