

NSW Human Rights Bill Consultation

Introduction

Australia has a strong history of protecting and promoting human rights, reflected in the country's instrumental role in drafting the Universal Declaration of Human Rights and the ratification of the most fundamental international human rights treaties. Yet, Australia is one of only a small number of liberal democracies without a national charter of rights or Human Rights Act outlining people's basic rights and how they are protected, leaving Australian citizens with limited recourse to challenge domestic human rights violations.

To plug this gap, a number of Australian states and territories have developed their own human rights laws, representing an important step in securing the fundamental rights of individuals. New South Wales now has the opportunity to build on these established models and contribute to strengthening a culture of rights-respecting governance from the ground up. Passing the Human Rights Bill would ensure that state-level decision-making and everyday public administration are grounded in human rights principles and would bolster the national conversation on human rights.

Seeking asylum is a human right, protected by the Refugee Convention 1951, to which Australia is a signatory. However, the human rights treaties to which Australia is party also state that human rights are universal and inherent to us all, irrespective of nationality, race, religion, or visa status. People seeking asylum should therefore be recognised not only through the lens of the right to protection but as rights holders whose dignity and fundamental freedoms must be respected.

Refugees and people seeking asylum should be able to rebuild their lives and participate meaningfully in the community. Human rights protections support access to housing, healthcare, education, family life, and community participation; all of which are essential to the successful resettlement of those who arrive in Australia fleeing war and persecution as and their health and wellbeing.

The ASC welcomes the introduction of a New South Wales Human Rights Bill as a crucial step to achieving dignity, equality, and respect for every person in our state, and welcomes the opportunity to respond to this inquiry.

The Need for A NSW Human Rights Act

New South Wales currently has no charter of rights protecting the fundamental rights and freedoms of those who call it home. The ACT, Victoria and Queensland have all demonstrated how state-legislated Human Rights Acts can protect the equality, dignity, freedom and security of their residents.

The proposal for a NSW Human Rights Act recognises the inherent right of everybody to be treated with dignity and respect. We welcome this legislation as an opportunity to advance human rights in NSW by codifying important aspects of international human rights law in our domestic legislation. Additionally, the establishment of a NSW Human Rights Commission, to act as a human rights watchdog in the state, would be an important step in establishing a NSW-based avenue for human rights complaints and remedies. There are no rights without remedy, and it is important that any Human Rights Bill for NSW includes or builds in accessible complaints mechanisms so that people can take fast, low-cost and effective action when they believe that their human rights have been breached.

Finally, we believe the passing of the NSW Human Rights Act would foster a positive conversation about human rights in the state, create obligations on the state government to consider the human-rights impact of any legislation and push politicians to give greater consideration to human rights in the course of their work.

Polling by Amnesty International shows that 76% of people in NSW support the introduction of a national Human Rights Act¹. Conversely, failing to legislate continues to come at a cost to the wellbeing of people in NSW. The absence of human rights protections in our state means that people risk falling through the cracks. This has a real human cost in people's daily lives.

Seeking Asylum and Human Rights

The 1951 Refugee Convention and its 1967 Protocol, which Australia has ratified, outline the rights of people seeking asylum and the obligations States have towards them.² The 1951 Convention and various other international human rights treaties form the protection framework for the rights of those seeking asylum. These treaties include the International Convention on the Elimination of All Forms of Racial Discrimination³; the International Covenant on Civil and Political Rights⁴; the International Covenant on Economic, Social and

¹ Three in four Australians support a Human Rights Act: New research, Amnesty International, 29 January 2026,

<https://www.amnesty.org.au/three-in-four-australians-support-a-human-rights-act-new-research/>

² Convention Relating to the Status of Refugees, opened for signature 28 July 1951 (entered into force 22 April 1954), as amended by Protocol Relating to the Status of Refugees, opened for signature 31 January 1967 (entered into force 4 October 1967),

<https://www.unhcr.org/media/1951-refugee-convention-and-1967-protocol-relating-status-refugees>

³ 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). Official text: https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-2&chapter=4&clang=en

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

https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-4&chapter=4&clang=en

Cultural Rights⁵; and the Convention on the Rights of the Child, among others⁶. Under this framework, State parties have committed to giving meaningful effect to these rights in practice, ensuring that everyone -- including those seeking asylum -- fully enjoys access to safety, freedom, dignity, and fairness.

When considering the rights of people seeking asylum, it is important to consider not only their right to seek protection but their rights holistically. People seeking asylum in New South Wales face barriers accessing housing, healthcare, and social services -- all of which engage fundamental rights set out in the aforementioned framework. Existing protections are fragmented and decisions regarding access to services are often made without due consideration of their human rights impact.

The Universal Declaration of Human Rights, to which Australia was an original signatory, states:

“Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.”⁷

Australia fails to live up to this ideal on a daily basis when it comes to the exclusion of people seeking asylum from mainstream social services. Meanwhile the safety net that is available to those who have come to Australia fleeing war and persecution and are seeking protection is broken. People seeking asylum are also not eligible for mainstream social support, including Centrelink and the National Disability Insurance Scheme (NDIS). For many, their visa conditions do not confer work rights, leaving them unable to provide for their families and at high risk of living in poverty. Moreover, the Status Resolution Support Services (SRSS) program – the only form of government income support available to people seeking asylum – has been systematically eroded, with spending on the program slashed from \$300 million in 2015-16 to just \$26.1 million in the 2026-27 Federal Budget.⁸

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

https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-3&chapter=4&clang=en

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

https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-11&chapter=4&clang=en

⁷ Universal Declaration of Human Rights, 1948,

<https://www.un.org/en/about-us/universal-declaration-of-human-rights>

⁸ 2026-27 FEDERAL BUDGET: WHAT IT MEANS FOR REFUGEES AND PEOPLE SEEKING HUMANITARIAN PROTECTION, Refugee Council of Australia, May 2026,

<https://www.refugeecouncil.org.au/wp-content/uploads/2026/05/2027-27-Budget-Summary-RCOA.pdf>

Having secure tenure is a human right contained in Article 11 of the International Covenant on Economic, Social and Cultural Rights⁹. People seeking asylum are disproportionately affected by Australia's housing crisis. They are not eligible for public housing and face further barriers securing adequate housing, including financial constraints, lack of rental history in Australia, and discrimination. Half of the people we provide casework support to at the Asylum Seekers Centre are either homeless or are at immediate risk of homelessness. These are crisis situations, which naturally lead their health and wellbeing to spiral and make it more difficult for them to access services. Considering Australia's housing crisis through a human rights lens is crucial to protecting those who are disproportionately impacted.

Access to healthcare is a human right articulated in Article 25 of the Universal Declaration of Human Rights¹⁰ and Article 12 of the International Covenant on Economic, Social and Cultural Rights¹¹. However, accessing healthcare remains a major issue for people seeking asylum in Australia. People lawfully seeking protection can lose access to Medicare in a deliberately complex, punitive system, which sees Medicare rights removed arbitrarily for reasons such as administrative delays. At the Asylum Seekers Centre, around 1 in 3 people we support do not have access to Medicare. The denial of access to proper healthcare, delays in receiving primary care, or fragmented and inconsistent care increases the risk of worsening health outcomes than other groups in Australia.

As rights holders, people seeking asylum should be able to rebuild their lives in Australia in a way that respects their dignity. However, these examples reflect a system that systematically excludes them from accessing basic social services and gives little regard for their rights while they live in the community awaiting the outcomes of their claims for protection.

The proposal to include a range of economic, social and cultural rights in NSW's Human Rights Bill is a welcome opportunity to protect and promote the rights of people seeking asylum. In particular, the inclusion of the right to adequate standard of living, right to healthcare, and right to social security will provide an important legal foundation for advancing the rights of those seeking asylum, and ensuring they can begin to rebuild their lives while living in the community.

Conclusion

We support the NSW Human Rights Bill as a means to give greater protection to human rights in NSW and as a vehicle to advance human rights across Australia. Not only would the

⁹ International Covenant on Economic, Social and Cultural Rights, opened for signature 16 December 1966 (entered into force 3 January 1976) art 11. Official text:

https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-3&chapter=4&clang=en

¹⁰ Universal Declaration of Human Rights, 1948,

<https://www.un.org/en/about-us/universal-declaration-of-human-rights>

¹¹ ICESCR, 1976

https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-3&chapter=4&clang=en

creation of a New South Wales Human Rights Commission create a basic opportunity for recourse for those who believe their rights have been violated but it would also create a foundation for stronger complaints and remedy procedures. Obliging the state government to give consideration to the human rights implications of all legislation would also be an important first step in ensuring that human rights are part of the conversation in any government decision-making. It is our hope that these steps, with room to bolster them further, would ensure that state government decisions affecting the lives of people seeking asylum are more likely to be human rights-respecting in the future. For these reasons we support the NSW Human Rights Bill and urge Parliament to pass this legislation at the earliest opportunity.

The Asylum Seekers Centre

Established in 1993, the Asylum Seekers Centre (ASC) was the first organisation in Australia to open its doors to specifically welcome and support people seeking asylum. We provide practical and personal support for people seeking safety in Greater Sydney, and advocate for fair and humane policies at every level.

In the last financial year, we supported approximately 4,600 people seeking asylum, including around 1,000 children, from more than 90 countries.

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