



LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

STANDING COMMITTEE ON JUSTICE AND COMMUNITY SAFETY
Mr Peter Cain MLA (Chair), Dr Marisa Paterson (Deputy Chair),
Mr Andrew Braddock MLA

Submission Cover Sheet

Inquiry into Petition 32-21 (No Rights Without Remedy)

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**AMNESTY
INTERNATIONAL**



TO – Committees@parliament.act.gov.au

To Mr Jeremy Hanson MLA,

Amnesty International ACT/SNSW welcome the opportunity to provide comment on the Inquiry into Petition 31-21 (No Rights Without Remedy). We write to support the petition, which calls to:

- Enable a complaint about any breach of the Human Rights Act to be made to the Human Rights Commission for confidential conciliation, and
- If conciliation is unsuccessful, enable a complaint about a breach of the Human Rights Act to be made to the ACT Civil and Administrative Tribunal for resolution.

These are rights Amnesty International has long campaigned to protect, and we are pleased to see the ACT Government considering taking this a step further to offer greater protection and pathways for the ACT community.

Amnesty International have long supported moves to strengthen human rights anywhere across the globe. Human Rights is core business. To that end, we are committed to both the establishment of a Federal Human Rights Act, and to improvements that allow a pathway to remedy in the ACT. We recognise that the successes and lessons from the ACT Human Rights Act has led the way for other jurisdictions. A pathway from conciliation to ACAT would help strengthen pathways in the ACT, and demonstrate the ACT's ongoing commitment to the Act. This reform is much-needed.

A robust mechanism, paired with a right to remedy, will more fully implement our international human rights obligations. This including those contained in the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Universal Declaration of Human Rights, the Convention on the Rights of People with Disabilities, and the United Nations Declaration on the Rights of Indigenous Peoples.

Amnesty International ACT/SNSW agrees in the spirit of conciliation as an important mechanism to promoting human rights, resolving disputes, developing options, and providing an educative approach rather than a punitive one. Sadly, conciliation isn't always possible. We support a mechanism that would provide the much-needed 'next step' for those who are still seeking a resolution of their complaint. However, any such escalation must:

- Give regard to the **financial cost** to the complainant. As a principle, all people should have access to justice, and the current costs associated with the Supreme Court of the ACT are out-of-reach for many. Resolution through ACAT would relieve some of this burden.
- Provide a **timely** response. Complaints that drag on for months must consider the stress and frustration prolonged hearings can have on all parties

Amnesty International ACT/SNSW also acknowledge that this Inquiry has received a number of submissions arguing against the private nature of conciliation. Respecting the privacy of individuals is paramount. A person must have the right to lodge a complaint whilst enjoying the right to privacy, noting in particular that some of these complaints relate to the most sensitive areas of private life, including sexuality/gender identity, mental illness or disability, HIV status or lived experience of violence, homelessness or neglect. Indeed, some of these cases pertain to children. Amnesty International ACT/SNSW reiterate the importance of privacy in bringing a case to the HRC. Whilst ACAT do have the authority to publish decisions, the ethical and legal implications of publishing are already well established in these domains and we are confident that public education would be balanced with the rights of individuals to be deidentified.

To my own personal experiences, as an individual advocate at a reputable disability advocacy organisation, where conciliation had failed to reach satisfactory agreement, clients were left feeling dejected and frustrated, with no further pathways. Whilst all reported that they felt supported by the brilliant staff of the ACT Human Rights Commission, this nonetheless reinforced to them the toothlessness of our current legislation, and many expressed that it was not worth the trauma, tension, frustration, time or expense to have the issue addressed through that forum. The Supreme Court was almost never an option for this cohort of people, with cost being a major prohibitor to receiving the necessary legal advice and support. A pathway to ACAT would have been just the pathway these individuals needed.

About Amnesty International ACT/SNSW.

We are the State/Regional branch of Amnesty International. Our committee is made up of committed volunteers who have lived experience as LGBTQIA+ people, people of colour, people with disabilities and people of refugee backgrounds. Our office is on the land of the Ngunnawal and Ngambri people, and we are committed to first nations justice.

We thank the Committee for its consideration. Should you have any questions, please do not hesitate to contact us.

Kind regards,

Jillian Jay Moran

Regional Co-President

Amnesty International ACT/SNSW

06 April 2022