



A Charter of Rights for Australia

Position Paper

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Who we are

Background

The Australian Lawyers Alliance is the only national association of lawyers and other professionals dedicated to protecting and promoting justice, freedom and the rights of individuals. We estimate that our 1,500 members represent up to 200,000 people each year in Australia. We promote access to justice and equality before the law for all individuals regardless of their wealth, position, gender, age, race or religious belief. The Lawyers Alliance started in 1994 as the Australian Plaintiff Lawyers Association, when a small group of personal injury lawyers decided to pool their knowledge and resources to secure better outcomes for their clients – victims of negligence.

Corporate Structure

ALA Ltd, trading as the Australian Lawyers Alliance, is a company limited by guarantee with branches in every state and territory of Australia. We are governed by a board of directors made up of representatives from around the country. This board is known as the National Council. Our members elect one director per branch. Directors serve a two-year term, with half the branches holding an election each year. The Council meets four times each year to set the policy and strategic direction for the organisation. The members also elect a president-elect, who serves a one-year term in that role and then becomes National President in the following year. The members in each branch elect their own state/territory committees annually. The elected office-bearers are supported by eleven paid staff who are based in Sydney.

Funding

Our main source of funds is membership fees, with additional income generated by our events such as conferences and seminars, as well as through sponsorship, advertising, donations, investments, and conference and seminar paper sales. We receive no government funding.

Programs

We take an active role in contributing to the development of policy and legislation that will affect the rights of individuals, especially the injured and those disadvantaged through the negligence of others. The Lawyers Alliance is a leading national provider of Continuing Legal Education/Continuing Professional Development, with some 25 conferences and seminars planned for 2008. We host a variety of Special Interest Groups (SIGs) to promote the development of expertise in particular areas. SIGs also provide a focus for education, exchange of information, development of materials, events and networking. They cover areas such as workers' compensation, public liability, motor vehicle accidents, professional negligence and women's justice. We also maintain a database of expert witnesses and services for the benefit of our members and their clients. Our bi-monthly magazine, *Precedent*, is essential reading for lawyers and other professionals keen to keep up to date with developments in personal injury, medical negligence, public interest and other, related areas of the law.

Introduction

Australia is one of the few democracies in the world with neither a constitutional charter of rights, or legislation that formally protects basic human liberties.

The Australian Lawyers Alliance believes that formally enshrining human rights in legislation would both protect individuals and foster a community that is conscious and respectful of the needs and rights of others.

Appropriate model

There are two ways to go about establishing such a charter: amending the Australian Constitution by referendum or by parliament changing its laws. The Australian Lawyers Alliance believes that the first step is to ask the public how it thinks our human rights would best be protected. If the community endorses a law which sets out basic human rights, it can be altered where appropriate as issues arise. The Constitution can also be changed later to reflect these rights in a more permanent way if the public deems it desirable.

The Lawyers Alliance believes that a charter of rights needs to have greater strength than other laws because of its non-specific nature. Currently, laws can be suspended or altered, reactively, in response to perceived threats or inflamed prejudices. The Lawyers Alliance supports a provision that would not permit changes to the charter without a two-thirds parliamentary majority, rather than a mere simple majority, as is the case with other legislation.

Rights to be protected

The Lawyers Alliance supports the adoption of a broad range of human rights, reflecting the wide range of international treaties that Australia has signed.¹ It also supports the protection of fundamental civil, political and legal rights along with economic, social, cultural and indigenous rights. These rights can include the right to liberty and freedom from forced work, and the rights to privacy, protection of family life and to take part in public life.

The model [Human Rights Bill 2006](#), drafted by the Human Rights Act for Australia campaign, reflects these wider rights.

Human rights providing a cause of action

The Lawyers Alliance believes that any charter of rights should also include a ‘cause of action’ for an aggrieved individual, who feels that either a government or private body has trespassed against their rights.

This ‘cause of action’ should allow access by individuals to appropriate civil remedies, with the courts providing compensation for any breach of human rights, where appropriate.

Conclusion

The Australian Lawyers Alliance believes that a formalised charter of rights in this country is long overdue, protecting key civil liberties that both government bodies and the private

¹ Such as the International Covenant on Civil and Political Rights; International Covenant on Economic Social and Cultural Rights; Convention on the Rights of the Child; Convention on the Elimination of all forms of Racial Discrimination; Convention against Torture and others forms of Cruel Inhumane and Degrading Treatment and Punishment and the Universal Declaration of Human Rights.

sector must respect, and creating responsibilities for our communities to respect the dignity of all people in Australia.



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