



**CHALLENGE
INJUSTICE.**

16 February 2023

Hon. Dominic Perrottet, MP
Premier
52 Martin Place
SYDNEY NSW 2000

Hon. Paul Toole, MP
Deputy Premier
52 Martin Place
SYDNEY NSW 2000

Hon. Chris Minns, MP
Leader of Opposition
Parliament House
Macquarie Street
SYDNEY NSW 2000

Ms Jenny Leong, MP
Greens spokesperson for Human Rights
383 King Street
NEWTOWN NSW 2042

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Re: A Human rights agenda for the next NSW Government

Dear Mr Perrottet, Mr Toole, Mr Minns, Ms Leong

As NSW goes to the polls next month, we write to you to share our agenda on some of the important human rights issues facing 275,000 Amnesty International supporters residing in the state.

The 2023 election takes place at a critical time for human rights in the state of NSW. While many governments across Australia have taken action to progress human rights, NSW has lagged. But the next NSW Government has an opportunity to change this. By implementing Amnesty's human rights agenda, you can impact NSW voters' lives for the better. Amnesty's human rights agenda is about ensuring Aboriginal and Torres Strait Islander children go to school and not to prisons. It is about ensuring that members of the LGBTQIA+ community are treated equally.

Essentially, Amnesty's human rights agenda is about protecting the fundamental freedoms and protections that belong to all of us in NSW, including our right to housing, to health, to education, to protest, and to a clean environment.

Amnesty International Australia seeks your political party's commitment to supporting our priorities and urges you to respond to the recommendations below and outline your positions on the human rights issues facing NSW.

Raising the Age of Criminal Responsibility

Last July, nearly 65,000 people in NSW signed a petition to the state government to raise the age of criminal responsibility. Organised by the Raise the Age coalition of Aboriginal and Torres Strait Islander organisations and legal, medical and human rights groups, including Amnesty International, we called on all state and territory governments to change the laws so that children under 14 are not sent to prison.

The Attorney General's admission, a month later, that his government has no intention to raise the age during this term of government was a massive slap in the face to many medical and legal experts, organisations, and, importantly, First Nations families and communities, whose children are disproportionately overrepresented in the youth justice system here in NSW and indeed across the country.

In December 2022, the Standing Council of Attorney-General released a report, kept secret for two years, with a key recommendation to raise the age to 14 without exceptions.

The government's refusal contradicts mounting evidence that children between 10 and 13 should not be sent to prison. It also contradicts the state's own Closing the Gap objectives as raising the age would result in a reduction in the youth incarceration rate.

The two territory governments have taken their first steps, with the NT legislation to raise the age from 10 to 12 taking effect this year and the ACT committing to raising the age to 14 in a two-stage process, starting with a bill lifting the minimum age to 12 this year.

Amnesty International Australia calls on your political party to commit to:

- Ending the overrepresentation of First Nations children in the criminal justice system by raising the minimum age of criminal responsibility to at least 14 without any exceptions;
- Breaking the cycle of intergenerational incarceration by diverting money from prisons into First Nations communities-led diversion programs.

Government systems dealing with child protection and youth justice have repeatedly failed Aboriginal families. There are many examples of successful community-led solutions across the country. They need proper, long-term funding and a commitment from the government to move away from Band-Aid responses that harm kids and don't achieve the outcomes they promise.

Human Rights Act

Human rights protect us all, ensuring everyone is treated equally, regardless of race, age, gender, sexuality, beliefs, or postcode. However, human rights in Australia are protected through a patchwork of laws across federal and state governments that can pit different rights and people against each other.

In NSW, human rights are protected in a piecemeal fashion, where some fundamental rights are adequately protected whilst others are not.

Voters in NSW believe in a fair go for everyone, and want to live in a state where everyone's freedom, equality and dignity are protected by state law.

Australia is the only Western democracy that does not have a law that protects the human rights of its citizens. Federal Labor has committed in its policy platform to undertake a review of the federal human rights framework with a view to legislating an Act.

Victoria, Queensland and the ACT have passed Human Rights Acts that protect peoples' rights in law. These laws deliver tangible improvements in people's lives through fairer laws, policies and practices in their everyday lives. They've helped people to overturn unjustified eviction notices that would have seen them homeless, to access appropriate medical treatment, to stop children from being locked up in cruel conditions in an adult prison and much more.

Amnesty's polling shows that 73 % of the community supports a Human Rights Act in Australia, with 24% uncertain and only 3% opposed.¹ Other polls confirm this.

Amnesty International Australia calls on your political party to commit to:

- Introducing a Human Rights Act in NSW as a priority.

Right to Protest

The right to protest is central to a healthy democracy. Protests have played a key role in securing social justice over many decades, from Aboriginal land rights to workers' rights to women's rights.

Amnesty expressed our grave concern about the anti-protest legislation that was rushed through the NSW Parliament by the Coalition Government last year, with Labor's support, imposing severe penalties on people engaging in peaceful protest. These laws are disproportionate and undermine Australians' freedom of association and expression. In recent years, NSW police have also raided peaceful protesters and repeatedly visited the homes of activists. Amnesty has documented police injuring peaceful protesters, and using pepper spray at protests.²

¹ Amnesty International Australia Human Rights Barometer 2022

<https://www.amnesty.org.au/report-amnesty-international-australia-human-rights-barometer-2022/>

² Letter to NSW Police Commissioner: Right to Protest

<https://www.amnesty.org.au/letter-to-nsw-police-commissioner-protect-the-right-to-protest/>

Amnesty International Australia's polling showed that an overwhelming majority of Australians (68%) support the right to protest.³

Amnesty International Australia calls on your political party to commit to:

- Reversing the draconian anti-protest laws in NSW and enshrining the right to protest into law;
- Ensuring that police respect people's rights to freedom of assembly, association and expression.

LGBTQIA+ rights

Conversion practices, also known as Sexual Orientation and Gender Identity Change Efforts (SOGICE), are pervasive in many faith communities in NSW and across Australia and are causing real harm to LGBTQIA+ people. While we welcome recent statements from both the NSW Government and NSW Labor to ban conversion practices, the state is still lagging behind Victoria, whose world-leading legislation came into effect in February 2022 – it is based on the most comprehensive research and informed by the most prominent survivor groups in the world. In this respect, Amnesty wishes to highlight the importance of working with survivor-led groups in the drafting of any legislation, to ensure it meets best practice.

Amnesty International Australia calls on your political party to commit to:

- Working with national survivor-led groups, such as SOGICE Survivors and Brave Network, to ensure this issue is addressed effectively;
- Introducing or supporting legislation to ban conversion practices. Successful conversion practices legislation must strongly affirm that LGBTQIA+ people are not 'broken' or 'disordered'; ban practices in both formal (medical/psychology/counselling) and informal (including pastoral care and religious) settings, whether paid or unpaid; protect adults, children, and people with impaired agency, including the prohibition of the removal of children from a jurisdiction for the purpose of conversion practices.

There are other legislative reforms that NSW can make to ensure the protection of the human rights of LGBTQIA+ people.

Amnesty International Australia calls on your political party to commit to:

- Reforming the Births, Deaths and Marriages Registration Act to allow trans and gender diverse people to update their gender markers on birth certificates without the need for surgical or medical intervention;

³ Amnesty International Australia Human Rights Barometer 2021
<https://www.amnesty.org.au/amnesty-international-australia-human-rights-barometer-report-2021/>

- Introducing legislation preventing so-called ‘normalising’ medical interventions on people with innate variations of sex characteristics without their personal consent;
- Undertaking a review and comprehensive reforms of the Anti-Discrimination Act 1977 (NSW) to ensure all LGBTQIA+ people are protected from discrimination.

These legislative reforms are simple, meaningful steps towards achieving a fairer, better state.

We look forward to working with you to ensure these priorities become a reality, because when human rights are protected, so too are the shared values of fairness, compassion and dignity.

Let’s make 2023 a year of action on human rights in NSW.

For further information or to discuss and organise a meeting, please contact Kyinzom Dhongdue at kyinzom.dhongdue@amnesty.org.au or 0416 695 590.

Yours sincerely,



Sam Klintworth
National Director
Amnesty International Australia