

29 June 2023

Parliamentary Joint Committee on Human Rights
Parliament House
Canberra ACT 2600

Submission: Inquiry into Australia's Human Rights Framework

Thank you for the opportunity to provide comment on the Inquiry into Australia's Human Rights Framework.

COTA NSW supports the legislation of a federal Human Rights Act, also known as a Human Rights Charter.

A Human Rights Act will help prevent human rights abuses because it will place human rights at the heart of decision making by requiring governments to consider human rights when drafting laws, developing policies, delivering services, and making decisions.

Importantly, an Act will give people the power to take action if their rights are violated, and seek reparations for violations. It will advance a greater respect for human rights in Australia, so we can work toward a future where everyone, everywhere understands their rights, and the rights of others.

COTA NSW supports a legislated Human Rights Act, like those in Victoria, Queensland, and the Australian Capital Territory, and supports the position paper released by the Australian Human Rights Commission in March 2023.

COTA NSW asserts that a development of Human Rights Act or Framework should explicitly mention the rights and dignity of older people.

The current legal frameworks in Australia that protect the rights of older people have several shortcomings, which hinder the effective protection and promotion of their rights. These limitations include:

- **Lack of comprehensive legislation:** Australia lacks comprehensive legislation specifically focused on protecting the rights of older people. While there are anti-discrimination laws and legislation addressing elder abuse, there is no dedicated legislation that comprehensively addresses the full range of rights and issues faced by older individuals. This results in a fragmented legal framework that may not adequately address the unique challenges and needs of older people.
- **Inadequate age discrimination laws:** While age discrimination is recognised as a form of discrimination in Australia, the laws addressing it have limitations. The Aged Discrimination Act 2004 offers some protections against age-based discrimination, but it does not provide comprehensive coverage across all areas of life, such as access to goods and services or social activities. This limited scope leaves older individuals vulnerable to discrimination in important aspects of their lives.

- **Insufficient safeguards against elder abuse:** Elder abuse is a significant concern for older people, yet the legal frameworks addressing this issue have shortcomings. There is no unified national legislation specifically dedicated to combating elder abuse, resulting in inconsistencies and gaps in protection across different jurisdictions. The legal remedies and support systems for addressing elder abuse may vary, leading to confusion and difficulties in seeking justice and redress.
- **Ineffective implementation and enforcement:** While legal frameworks may exist to protect the rights of older people, their implementation and enforcement can be inadequate. Insufficient resources, limited awareness, and lack of proactive monitoring and enforcement mechanisms can hinder the effective protection of rights. This can result in older individuals facing barriers in accessing justice and finding recourse for violations of their rights.
- **Limited rights to participation and decision-making:** The legal frameworks often fail to explicitly recognise and promote the rights of older people to participate in decision-making processes that affect their lives. This includes areas such as healthcare decisions, financial matters, and social participation.

A human rights act or framework should include measures that:

- **Address ageism:** Ageism, the discrimination or stereotyping based on age, is a pervasive issue that older people encounter in various aspects of their lives. Updating the human rights framework to include older people would explicitly recognise ageism as a form of discrimination and provide a legal foundation to challenge discriminatory practices. By combating ageism, we can foster a society that values and respects the contributions and experiences of older individuals.
- **Ensure the right to equal access to essential services:** Older people face unique challenges in accessing essential services, such as healthcare, housing, transportation, and social support. Incorporating the rights of older people within the human rights framework would ensure equal access to these services, guaranteeing their well-being and quality of life. This update would help address disparities and promote inclusive policies and practices that cater to the diverse needs of older individuals.
- **Protect against elder abuse:** Elder abuse, including physical, emotional, financial, and neglectful mistreatment of older people, is a grave violation of human rights. Updating the human rights framework to strengthen legal protections against elder abuse and provide mechanisms for reporting and addressing cases effectively.
- **Align with international standards:** Updating Australia's human rights framework to include older people aligns with international human rights standards. The United Nations Principles for Older Persons and the Madrid International Plan of Action on Ageing emphasise the importance of protecting and promoting the rights of older individuals. By incorporating these

principles into our national framework, Australia can demonstrate its commitment to upholding human rights on a global scale.

As Australia's population continues to age, it is imperative a human rights framework is updated to explicitly include older people. By addressing ageism, ensuring equal access to essential services, protecting against elder abuse, promoting social participation and inclusion, and aligning with international standards, we can create a society that values and respects the rights and dignity of older individuals. Updating the framework will not only benefit older people but also contribute to the overall well-being and inclusivity of our society. It is time to recognise and address the needs of older Australians within our human rights framework.

Thank you for the opportunity to provide comment.