



## Factsheet: Freedom of association and peaceful assembly

### Background Information

The interrelated rights of freedom of association and peaceful assembly empower individuals to exercise other civil, cultural, economic, political and social rights.

Freedom of association and peaceful assembly are not generally protected in Australian law. Several Australian laws limit these freedoms. Freedom of association is protected in the employment context through the *Fair Work Act 2009* (Cth) which protects the right of persons to join or not join an industrial association.

While limits on these freedoms are permissible, any limits must be lawful and necessary in a democratic society in the interests of national security or public safety, public order, the protection of public health or morals, or the protection of the rights and freedoms of others.

### Key Issue

Jurisdictions in Australia have recently enacted 'anti-bikie' laws purporting to target organised crime conducted through motorcycle gangs that unjustifiably limit freedom of association. These include:

- Anti-consorting laws, such as s 93X of the *Crimes Act 1900* (NSW) which criminalise the act of people associating with each other rather than their criminal activities.
- Provisions of the *Vicious Lawless Association Disestablishment Act 2013* (Qld) which require the imposition of significant mandatory additional imprisonment of 15 to 25 years upon people deemed 'vicious lawless associates' who commit offences as part of their participation in a gang.

Some jurisdictions have enacted anti-protest laws that unfairly limit freedom of peaceful assembly and expression by criminalising certain protest activities, such as:

- The *Workplaces (Protection from Protesters) Act 2014* (Tas) – which criminalises legitimate forms of peaceful protest
- The *Summary Offences and Sentencing Amendment Act 2014* (Vic) – an anti-protest law expanding police powers to move people on from public space
- The *G20 (Safety and Security) Act 2013* (Qld) - which granted police broad powers to control protesters during the 2014 Brisbane G20 summit.

### Recommendation

***The Commission recommends that state and territory governments amend anti-protest and anti-bikie laws so they do not unduly restrict human rights.***