

A Human Rights Act for Queensland

How could a Human Rights Act assist people from culturally and linguistically diverse communities?

A Human Rights Act will help to create a fair, just and equal society for everyone. When human rights are protected by law they help to ensure that we are all treated fairly, and with dignity, equality and respect.

Protections offered by a Human Rights Act will also have relevance for particular groups of Queenslanders who are vulnerable, marginalised or disadvantaged – including people from culturally and linguistically diverse communities.

This factsheet provides examples of how human rights legislation in other places has improved the lives of people from culturally and linguistically diverse communities.

Freedom of religion

A woman contested the decision of her guardian to have her moved into a residential facility where no workers spoke her language, understood her cultural and religious beliefs or would prepare food in a way which was required by her religion. The woman and her family wished for her to stay primarily with them in her family home. The woman's advocates argued that the decision was in breach of the Victorian Charter of Human Rights and Responsibilities Act, namely protection of families and children, cultural rights and the right to freedom of religion. The resulting decision of the tribunal was that the guardianship be revoked.

Source: Public Interest Law Clearing House: Submission for Review of the Victorian Charter of Human Rights and Responsibilities Act 2006 <http://hrlc.org.au/files/VictorianCharter_in_Action_CASESTUDIES_march2012.pdf> (Case Study 77).

Cultural rights

An Aboriginal woman lived in housing owned and leased by a non-Aboriginal community organisation. A condition of her tenancy was that she was required to engage with community services.

After her nephew died she went back to her country for a couple of weeks of 'sorry business'. When she returned she started receiving warnings to engage with services, however she wasn't able to do so because she was overwhelmed with family responsibilities, trauma and grief.

A possession order was made and the police came to her door with a warrant. Her advocates made an application for an urgent review and stay. They argued that the community organisation had failed to engage with the woman's cultural rights and the rights of her grandchild and family members in their eviction process. These rights are protected in the Victorian Charter of Rights and Responsibilities. As a result the community organisation withdrew their possession application and engaged an Aboriginal support service.

Source: Victorian Aboriginal Legal Service Submission to the 8 year review of the Charter, Submission 98 (Case Study 1)

Which rights?

The case studies above show that the rights that protect everyone have been used to protect the rights of people from culturally and linguistically diverse communities. Many of these rights originally come from the United Nations International Covenant on Civil and Political Rights.

The United Nations International Covenant on Economic, Social and Cultural Rights provides people with the right to participate in cultural life.

The United Nations Convention on the Elimination of All Forms of Racial Discrimination specifically provides people with protection from discrimination based on race. Queensland's Anti-Discrimination Act and the Commonwealth Racial Discrimination Act provide some protection of the rights contained in this Convention.

In order for the rights contained in the Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights to be enforceable in Queensland they need to be protected in law – for example in a Human Rights Act for Queensland.

The ACT and Victoria both have human rights legislation that provides specific protections to people from culturally and linguistically diverse communities. Victoria's Charter of Human Rights and Responsibilities Act says:

"All persons with a particular cultural, religious, racial or linguistic background must not be denied the right, in community with other persons of that background, to enjoy his or her culture, to declare and practise his or her religion and to use his or her language."

The ACT's Human Rights Act also provides that anyone charged with a criminal offence is entitled to the free assistance of an interpreter if he or she cannot understand or speak the language used in court.