
Time to write our rights

Wednesday, 10 December, 2008

Australians will be shocked to learn that most of the rights protections we take for granted every day simply don't exist.

We are the ONLY democratic country in the world without a document formally shielding human rights.

The right to free speech, the right to be treated with dignity and respect, the right not to be held without charge, and the right not to be mentally or physically tortured, or mandatorily detained for an indefinite period, are some of the human rights ignored under our legislative system.

In Australia, unaccompanied minors have been locked up; elderly couples in nursing homes have been separated from one another; and the homeless have been denied entitlements simply because they have no fixed address.

- "Laws passed with good intentions can be implemented in ways that violate human rights," Australian Human Rights Group chair Susan Ryan said.
- "Bureaucrats and government service providers, who lack guidance in human rights, often treat the old, children, the homeless, the mentally ill, refugees and the indigenous in ways that conflict with Australia's international obligations to treat all with dignity and respect,"
- "Most people living in Australia will know of such instances. They may believe it is time for a national law to improve the way vulnerable people are dealt with by or on behalf of government.
- "Without the checks and balances of a national human rights law, freedoms can be ignored and taken away too easily.

It is appropriate that today, the 60th anniversary of anniversary of the Universal Declaration of Human Rights, the Australian Government has announced a public consultation into human rights protection."

"We congratulate the government on taking this decisive step and encourage all Australians to get involved in the debate. Submissions should be made to the government based on each individual's human rights experience in this country."

The Australian Human Rights Group is made up of more than 60 human rights organisations that have been lobbying for human rights protection in Australia. AHRG member organisations represent over 574,000 Australians and over 25,400 organisations.

For comment: AHRG chair, Susan Ryan AO, 0417 344 926; Uniting Justice Australia national director, Elenie Poulos, 02 8267 4239; Queensland Systems Advocacy for People with Disability director, Kevin Cocks, 0402 288 419 or Chair of the inquiry into a WA human rights, Fred Chaney AO, 0419 906 246.

A sample of the kinds of cases that are being addressed under the Victorian Charter:

- A woman suffered a brain injury that caused severe and very painful contractures in her left hand. Unless treated, the woman will probably have to have her hand amputated. Though she has been waiting for three years, she is not considered a priority for treatment because she is over 50 years of age. The Charter is being used to argue that the woman should have prompt access to treatment on the basis of a right to non-discrimination and other rights under the Victorian Charter.
- A pregnant single mother with two children was living in community housing. She was given an eviction notice, which didn't provide any reasons for the eviction, or allow her to address the landlord's concerns. The Victorian Charter was used to negotiate with her landlord to prevent an eviction into homelessness, and reach an alternative agreement.
- The human rights of a young boy with intellectual difficulties are being emphasised to ensure that his transport to and from school enables him to concentrate and participate in classes. His transport takes over three hours; he is not provided with any stimulation during the journey and cannot communicate with his chaperones as they are not trained in working with children with intellectual difficulties.
- A prisoner who could not afford the high transport costs to attend his civil court hearing used the Charter to argue that his right to a fair hearing was at risk, and the costs were waived.

A sample of the kinds of cases being addressed under the UK Human Rights Act:

- A man detained in a mental health hospital repeatedly soiled himself, and staff refused to clean him up or take him to another room, claiming that he would simply make a mess again. He argued that this treatment breached his right not to be treated in an inhuman or degrading way, and his right to respect for private life, and the hospital changed their practice.
- A husband and wife had been married for 65 years. He was unable to walk unassisted, and relied upon his wife for mobility. She was blind, and relied upon her husband as her eyes. The husband fell ill and was moved into a residential care facility. The wife requested to move with him, but was denied because she did not meet the entry criteria of the facility. She successfully argued for her admission on the basis of the right to family life.

Organisations that support the AHRG include:

Uniting Church in Australia
Amnesty International Australia
Australian Federation of Islamic Councils Inc.
Council of Social Service of NSW (NCOSS)
Victorian Council of Social Service (VCOSS)
Australian Council of Social Service (ACOSS)
ANTaR National
ACT Disability Aged and Carer Advocacy Service
Queensland Advocacy Inc. Systems Advocacy for People with Disability
Australian Lawyers for Human Rights
Domestic Violence Legal Worker's Network
Australian Network for Art and Technology
National Association for the Visual Arts (NAVA)
National Association of Community Legal Centres
Eastern Community Legal Centre Inc.
GetUp!
Australian Marriage Equality (AME)
Darebin Community Legal Centre
Mornington Peninsular Human Rights Group
Australian Lawyers Alliance
Disability Discrimination Legal Centre NSW
Federation of Community Legal Centres (Vic) Inc
Flemington & Kensington Community Legal Centre
Human Rights Act for Australia Inc.
Action for Community Living
Women's Electoral Lobby
Asylum Seeker Resource Centre
Australian Coalition for Equality
Human Rights Law Resource Centre
Indigenous Family Violence Legal Outreach Unit, Queensland
NSW Young Lawyers Human Rights Committee
Just Rights Queensland
Kingsford Legal Centre
Human Rights Arts and Film Festival
Melbourne Unitarian Peace Memorial Church
ACT Human Rights Act Research Project, ANU
Human Rights Coalition Inc.
National Children's and Youth Law Centre
NSW Council for Civil Liberties
Queensland Charter Group
Combined Community Legal Centres Group (CCLCG), NSW
PILCH
PILCH Homeless Persons' Legal Clinic
Preston Reservoir Progress Association
Queensland Council for Civil Liberties
Refugee Advice & Casework Service (RACS)
Save the Children
Women's Legal Services Australia
Women's Legal Services NSW
SCALES
Tasmanian Gay and Lesbian Rights Group
Taylor Street Community Legal Service
Victorian Aboriginal Child Care Agency Co-operative
Victorian Alcohol & Drug Association
Villamanta Disability Rights Legal Service Inc.
Women's International League for Peace and Freedom (Australian Section) Inc