



Submission to the Legal Affairs and Community Safety Committee

Human Rights Inquiry

15 April 2016

The Multicultural Development Association (MDA) is committed to building a flourishing multicultural Queensland in which people from different cultural and linguistic backgrounds have an opportunity to thrive and contribute.

MDA has provided specialist settlement support for over 15 years. We currently settle every newly arrived refugee in Brisbane, Rockhampton and Toowoomba. Our current client base includes refugees and asylum seekers. In the past year we have worked with more than 4000 clients from over 65 different countries. A core component of our work is creating welcome by forging connections within and between community groups to facilitate the settlement journey and contribute towards a socially cohesive society.

Introduction

MDA is a specialist settlement support service, settling every newly arrived refugee in Brisbane, Rockhampton and Toowoomba. Our work with refugees and asylum seekers is part of our commitment to a flourishing multicultural society in which diverse people have opportunities to thrive and contribute.

MDA values are human rights values - freedom, equality and dignity of individuals and working to promote a quality of life for all. We would welcome Human Rights legislation for Queensland, specifying rights to ensure that all people have capacity and opportunity to fully participate and contribute to community life. The following principles guide our submission:

- Commitment to respecting Australia's human rights obligations of providing protection and sanctuary to refugees and asylum seekers; and
- Commitment to facilitating the inclusion of asylum seekers, migrants and refugees into our culture, society and economy and working to ensure responsiveness to cultural diversity needs across all systems and services.

Recommendations:

1. That the Queensland Government pass a Human Rights Act;
 - a. A Queensland Human Rights Act should specify all the fundamental civil, political, social, economic and cultural rights necessary for participation in the community. Towards this we would endorse the full suite of rights protected under the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR).
2. MDA endorses the substantive recommendations provided to the Committee by the *Anti Discrimination Commission Queensland* and the *Human Rights Law Centre*.
3. MDA recommends that Queensland Human Rights legislation should bind private entities exercising public functions and actively encourage other private entities to 'opt in' to obligations of public authorities (e.g. as provided in the ACT Human Rights Act).
 - a. With moves towards collaborative governance of public functions in a wide range of areas - human services, delivery of infrastructure and other significant projects, non-public bodies implicated in government and its services will need to be captured by Human Rights legislation
4. Additionally MDA recommends that any legislative framework for Queensland Human Rights include:
 - a. Commitments to the protection of the rights of all individuals – citizens and non-citizens;
 - b. Commitment to the development of a human rights culture in the wider Queensland community through an education, training and information dissemination function;
 - c. Commitment to affordable access to remedy in the event of a breach of an individual's rights.

Rather than address all of the Inquiry's technical terms of reference, the following discussion explains our rationale for the final recommendation above.

Commitment to the protection of the rights of citizens and non-citizens

MDA would like to stress the need for a specific a commitment to the protection of the rights of all individuals – irrespective of their visa status in Australia, whether or not they have yet attained citizenship. Understanding that some political rights, such as the right to vote, are conditional on citizenship, we note that residents on a variety of visas have important interactions with public agencies that ought to be encompassed in any rights framework.

The passage of the *Multicultural Recognition Act* already suggest that the Queensland Government is committed to ensuring equity in access to services, that cultural and linguistic diversity should not be an impediment to full participation and access. MDA has already applauded the passage of this Bill. We would like to see the intent also reflected in any human rights framework for Queensland. The reasons are twofold:

1. Humanitarian entrants and migrants face particular inequities in their access to services - that may be a result of their pre-migration experiences, settlement stressors or some other language or cultural barriers.
2. Asylum seekers and other temporary visa holders often have conditions inherent in their visas that disadvantage their enjoyment of rights and place limitations on access to other services.

Thus humanitarian entrants, asylum seekers and other migrants encounter specific impediments that can function to limit their understanding of their rights and their capacity to seek redress.

Ensuring that Queensland's human rights legislation is applicable to non-citizen residents is an important step in communicating welcome to new arrivals to Queensland and building social inclusion. MDA recommends that the Inquiry give specific consideration to this matter.

Commitment to the development of a human rights culture

The passage of human rights legislation is a necessary first step in creating a human rights culture in Queensland. MDA supports the inclusion of processes for education, training and information dissemination under human rights legislation that will help complete this cultural transformation. The importance of this strategy is borne out by some of the learnings from other jurisdictions. For example, a [report](#) by the British Institute of Human Rights shows how a culture of respect for human rights begins to take root, supported by the Human Rights Act. The said report draws case studies that have involved work providing awareness-raising training about the Human Rights Act to voluntary and community sector organisations. Key findings from the report show how awareness raising about human rights empowers people to take action and how the language and ideas of human rights take on a dynamic beyond the courtroom and provides practical tools for people facing discrimination or disadvantage.

MDA would support Human Right legislation that embeds awareness and competence in government department and employees, as well as promote human rights education and information to community groups and private entities. Our support for strategies to ensure access and community education is in light of the multiple barriers that people from CALD (specifically from new and emerging communities with a refugee background) face to accessing rights and redress for

discrimination. A commitment to an education and promotion function (example, through the QLD Anti-Discrimination Commission) would support this move.

Queensland is already populated by people from different cultures that have different experience and understanding of human rights, any public education strategy should be mindful of the importance of communicating across cultural difference with due regard for the importance of divergent traditions and their points of intersection with the values that underwrite a commitment to human rights. The passage of a Human Rights Act is an important opportunity to drive commitment to this key aspect of Australian political culture.

Commitment to affordable access to remedy in the event of breach of rights

Human Rights legislation should provide avenues for complaint and enforceable remedies in the event of breach of rights. Through our service experience we are aware that many disadvantaged people do not easily seek redress for acts of discrimination. While there are avenues available to people through the Qld Anti-Discrimination Commission, community members remain reluctant to pursue these remedies due to a lack of confidence – or even a lack of adequate information about the system and its processes.

MDA supports the Queensland Anti-Discrimination Commission's submission, seeking a multi-layered approach to dealing with breaches of human right (to ensure accessible, affordable and speedy remedies). The Commission suggests that the emphasis at the first instance should be to promote a culture of human rights that increases the ability of people to seek some remedy for a breach of their rights – without resort to litigation. The Human Rights system should encourage internal processes within public agencies to resolve human rights complaints; conciliation processes through independent agencies as well as rights to take action in Courts and Tribunals for breaches of human rights.

MDA supports a role for the Qld Anti-Discrimination Commission to investigate and conciliate on human rights complaints and also investigate and report on systemic issues that impede the enjoyment of rights by all. This will of course require additional resources.

Conclusion

MDA welcomes the consideration of a Human Rights legislation for Queensland and hopes the Legal Affairs and Community Safety Committee will recommend a Human Rights Act for Queensland. We believe this legislation will not only assist in the protection of the rights of vulnerable Queenslanders – but with the right emphasis and resourcing, it can also have a significant impact on the development of a rights-respecting culture across Queensland.