

April 18 2016

The Research Director

Legal Affairs and Community Safety Committee

Parliament House

The Darling Downs Environment Council (DDEC) is pleased to make a submission to the Legal Affairs and Community Safety Committee inquiry into whether it is appropriate and desirable to legislate for a Human Rights Act (HR Act) in Queensland, other than through a constitutionally entrenched model.

Although we view Human Rights as essential and therefore would espouse their constitutional entrenchment or even double entrenchment we recognise that there is debate about the nature and description of fundamental rights and we are therefore happy to make submissions as per the terms of reference for legislative or other non constitutional change.

Summary

Our considered view is that there is cause and reason to enact human rights legislation in Queensland.

If our history is any guide, Human Rights in Queensland has been tainted from before the establishment of Brisbane and the State itself. We say that today, despite the better intentions of the State, our history has not been fully expunged. We have an opportunity to do that know. The purpose of Human Rights legislation should be to recognise the mistakes of our past, protect our progress and build our future on strong moral ground.

We submit that the scope of rights that should be included are all those which pertain to sustenance, liberty and actualisation, in that order. We recognise that different understandings of those things exist, and also about how and if all of them should be guaranteed or indeed can be.

It is our view that the rights relating to sustenance are the most fundamental. It is our submission that the right to access sustenance, that is air, water and food is a right without which we do not exist. We also submit that those things are only available from what we term 'our environment', that is atmospheric air, water, and ecosystems needed to sustain agricultural production.

In addition there are innumerable unknown symbiotic processes and biological functions that contribute to our environmental condition, so it is also essential to preserve flora and fauna species regardless of their known or apparent value, in order for the conditions of human life to continue.

The Darling Downs Environment Council calls for access to fresh air, fresh water, and food to be recognised as a Human Right in the State of Queensland.

Submission

DDEC is an incorporated body and is a peak organisation for environmental groups in the Lockyer, Downs and Maranoa regions. Our objects are based on regional protection and preservation of the environment but are founded in a belief that we ultimately rely on the environment to sustain us and therefore it is fundamental to the existence of humanity.

As such it is our submission that access to the products that our environment supplies, such as breathable air, water and food are fundamental to life. If we believe in the value of human life then it must be that access to these things, which are inexorably tied to a healthy environment, are human rights which in a civilised society ought be recognised and protected by law.

It is without dispute that we cannot exist for more than a few minutes without air. It is also broadly recognised that the quality of the air we breathe can adversely affect our health in many ways.

If a right to breathable air were to be a guaranteed human right it would give cause to pursue that right. This could mean that buildings, developments and industrial operations would be forced to demonstrate that they would not deny that right, that is to breathable air. It will be an obvious but resolvable contention as to what constitutes breathable air.

It is also obvious that breathable air needs to be renewed, and that process is completed almost entirely by plants. While the implementation of human rights legislation in Queensland will have no effect on Amazonian deforestation it will allow the consideration of the effects of development decisions made in Queensland which appreciably enhance or deplete breathable air stocks, and give cause where necessary to protect air.

The Darling Downs Environment Council calls for access to breathable air to be a Human Right in Queensland.

At present there are numerous regulations in place regarding access to provision of fresh water. Protection of water is shared by Natural Resources and Environment departments, along with a myriad of boards and regulatory authorities. Court processes, enquiries and permits overlay the system. All of the Authorities, Departments, Boards and Courts are governed by different terms of reference, legislation and regulation.

For urban dwellers with regulated supplies access to drinking water may not be a current issue. However we have seen in the South East of Queensland a water crisis in recent memory and it is in times of shortage that rights to access become an issue.

A possible scenario might involve a future privatised water system in a time of drought. The operator would be within its commercial rights to sell its limited dammed water to the retail distributors who paid most, potentially leaving other customers 'high and dry'. This scenario, whilst unlikely, is not fanciful and instances of profiteering from exclusive potable water supplies are believed to have occurred in Britain and the United States.

It would appear that none of the currently applying legislation would do anything to preserve an overarching water right to urban residents, however the position of rural and remote communities where their water supplies have been threatened by development would be considerably improved if a right in law existed for access to water as a means of sustaining life.

Such a right could also give cause to actions to prevent unsustainable damage to water assets where it threatens the supply of drinking water.

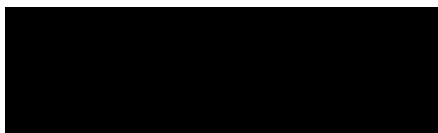
The Darling Downs Environment Council calls for access to drinkable water to be a Human Right in Queensland.

We cannot survive for very long without food, and the time we are alive without it will be miserable. We presently reflect the right to sustenance with laws obliging parents and others to provide it in particular circumstances, but there is no agency that can be forced to act to feed a starving person. We thankfully live in Queensland, where our income and climate mean that food is readily available, however this does not mean it is guaranteed for everyone. Such a guarantee may be symbolic now, however in Queensland in the 1920's and 30's it was not, and no one can predict the future.

Food that can sustain human life is primarily derived from plant life and the animals that feed upon it. Plants convert carbon with the aid of energy from the sun and water into all that we eat. A guaranteed right to food may have interesting consequences. It would be possible that a community fruit tree, symbolic or cultural grove or place might receive protection, however one of the more significant effects would be consideration of the effects of developments on food supply, now and into the future, in planning decisions.

The Darling Downs Environment Council calls for access to food to be a Human Right in Queensland.

We thank you for the opportunity to have input into this process.



Lee Mason

Secretary - Darling Downs Environment Council