

Submission: Human Rights Bill 2018

Committee Secretary
Legal Affairs and Community Safety Committee
Parliament House
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Dear Committee

My submission addressing an amendment to the Human Rights Bill 2018 is brief, and I should disclose, is submitted as the parent of a child with a physical disability.

It is wonderful to see the Human Rights Bill introduced to Queensland Parliament on 31 October 2018. My sincere appreciation to the politicians and public servants who have dedicated great consideration and time to deliver this Bill to Parliament.

I would appreciate the Committee consider an amendment to Clause 36: The Right to Education, in the Human Rights Bill.

I have read the Explanatory notes attached to the Bill, and the Bill, itself.

I note that the International Covenant on the Economic, Social and Cultural Rights (ICESCR) informed the language around the right to education, as did the ICESCR inform the language on the right to health.

Clause 36 Right to education

Article 13 of the ICESCR Every child has the right to have access to primary and secondary education appropriate to their needs. Every person has the right to have access, based on their abilities, to further vocational education and training that is equally accessible to all.

Clause 37 Right to health services

Article 12 of the ICESCR Every person has the right to access health services without discrimination. A person must not be refused necessary emergency medical treatment.

However, Clause 36 (contrast to Clause 37) does not include the phrase: ‘without discrimination’.

In the updated General Comments attached to the ICESCR on the Right to Education (General Comment No.13 [1999]), there is specific reference to ‘without discrimination’ as being an obligation in relation to the right to education:

States parties have immediate obligations in relation to the right to education, such as the "guarantee" that the right "will be exercised without discrimination of any kind" (art. 2 (2)) and the obligation "to take steps" (art. 2 (1)) towards the full realization of article 13. [20] Such steps must be "deliberate, concrete and targeted" towards the full realization of the right to education.¹

My concern is that Clause 36, as it stands, is ambiguous. The phrase ‘appropriate to a child’s needs’ could be interpreted as limiting the obligation to provide resources that support the child. The phrase could also be interpreted by an education provider, especially a private independent school, as ambiguous enough to justify exclusion on the grounds that a school is not resourced to support the child.

Coupling ‘without discrimination’ with ‘appropriate to child’s needs’ would create a clause that asserts the right to education in the best interest of the child. To my mind, the phrase ‘without discrimination’ protects children who may face discrimination on grounds of disability, gender, or race.

Therefore, I request an amendment to the Bill so that the 'Right to Education' (Clause 36) includes the phrase 'without discrimination'. If this inclusion is deemed not to be necessary, I would appreciate an explanation for its exclusion.

Thank you for this opportunity to provide a submission to the Committee.

Sincerely

Sara Davies



¹ UN. 1999. ICESCR General Comment 13 (1999) Paragraph 43 [https://www.ohchr.org/EN/Issues/Education/Training/Compilation/Pages/d\)GeneralCommentNo13Therighttoeducation\(article13\)\(1999\).aspx](https://www.ohchr.org/EN/Issues/Education/Training/Compilation/Pages/d)GeneralCommentNo13Therighttoeducation(article13)(1999).aspx) accessed 2 November 2018.