



**SUBMISSION TO THE LEGAL AFFAIRS AND COMMUNITY SAFETY COMMITTEE
ON THE HUMAN RIGHTS BILL 2018**

24 November 2018

Professor Heather Douglas, ARC Future Fellow,
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I research and teach in the areas of criminal law and procedure and legal responses to violence against women.

I welcome the introduction of the *Human Rights Bill* to Parliament, and I commend the Palaszczuk Government for initiating this important reform for Queensland.

I endorse the submission of Dr Rebecca Ananian-Welsh et al from the University of Queensland's TC Beirne School of Law.

I support calls for a standalone cause of action to be incorporated into the Bill, following the ACT model (see *Human Rights Act 2004 (ACT) s 40C*).¹

It is particularly pleasing to note that clause 106 protects the reproductive rights of women ensuring that nothing in the (proposed) Human Rights Act affects any law relating to termination of pregnancy or the killing of an unborn child.

In this submission I am predominantly interested to comment on clauses 30, 31 and 32 of the draft Bill and more specifically on the need for recognition of victims' rights in the Bill.

It is imperative that all defendants charged with a criminal offence or any person who is a party to a civil proceeding has the right to have the charge or proceeding decided by a competent, independent and impartial court after a fair and public hearing. It is also important that those charged with a criminal offence are provided with adequate information, time, facilities and legal support to defend their case. However, it is of equal importance that victims of crime should have a fair hearing. I am concerned that the rights of victims in the criminal process are not sufficiently recognised in the current draft of the Bill.

For the past four years I have been undertaking interviews with women who have engaged with the justice system in response to the intimate partner violence they have experienced. In many cases women have told me that they have been provided with no information about whether complaints they have made to police have resulted in a criminal charge. Where they are aware that their (ex)partner has been charged with an offence they are often not provided with information of progress of the case at various stages of the process (eg. bail, adjournments etc.), they are sometimes not consulted with respect to decisions to withdraw

¹ See, for example, submission to this inquiry from Dr Rebecca Ananian-Welsh et al. T.C.Beirne School of Law, The University of Queensland.

charges and sometimes they are not informed of the sentence received by the offender or their subsequent release on parole. In cases where the matter does proceed to trial and women have been required to give evidence they have often received very limited support or information during that part of the process.

In many cases women report that they have not been provided with an interpreter when making their complaint to police or when talking with prosecutors in preparation for a case in which they are the complainant. Some women report that their children are co-opted as interpreters during criminal justice processes. Some women report receiving limited or no interpreter support in criminal trials where they may be cross-examined on complex matters.

In contrast to those who are charged with a criminal offence (see clause 32) the Bill provides no express rights to victims to receive information, free assistance of interpreters, or support of any kind. Furthermore while those who are deprived of liberty (see clause 30) have a right to be treated with humanity and respect for the inherent human dignity of the person, no such rights are expressed in the Bill for victims of crime.

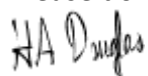
In my view a further clause should be added to the Bill focussed on victims of crime so that victims of crime are expressly recognised to have the right:

1. to be treated with courtesy, compassion, respect and dignity, taking into account the victim's needs,
2. to information, at the earliest practicable opportunity, about services and remedies available to the victim,
3. to non-disclosure of their personal information unless authorised by law,
4. to receive information about criminal justice proceedings (including withdrawal of charges, change of plea, bail, sentencing and parole) in a timely manner,
5. to have free assistance of an interpreter if the person does not understand English,
6. to have free assistance of specialised communication tools and technology, and assistants, if the person has communication or speech difficulties that require assistance.

The Charter of Victim's Rights recognised in s6B of the *Victims of Crime Assistance Act 2009* (Qld) (VOCA) and set out in schedule 1AA of the VOCA already recognises a number of victims' rights. However the charter is not enforceable. As a minimum clause 63 of the Bill should be amended to add 'contraventions of specific Charters of Rights in other Queensland legislation'. If this is done, the *VOCA Charter of Victims' Rights* should be identified in Regulations associated with the Bill as a relevant charter for the purposes of clause 63.

However my preference is for the incorporation of a specific provision in the *Human Rights Act* that explicitly recognises the rights of victims. Anything less risks the continued marginalisation of many victims of crime from the criminal justice process.

Please do not hesitate to contact me with any queries regarding this submission.



Professor Heather Douglas,

