

Human rights in a *Culturally diverse society*



Australian
Human Rights
Commission

everyone, everywhere, everyday

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This information sheet talks about some of the human rights issues faced by individuals and communities living in a culturally diverse Australian society. It also highlights how a federal Human Rights Act could help deal with these issues.

Which human rights are we talking about?

Human rights are about everyone, and they are very important to the functioning of culturally and linguistically diverse societies. We are all entitled to the enjoyment of human rights without discrimination of any kind, including on the basis of race, ethnicity or religion.

Human rights and freedoms particularly relevant to people from culturally and linguistically diverse backgrounds in Australia include the right to:

- freedom from discrimination on the basis of race
- an adequate standard of living, including adequate food, clothing and housing
- be free and safe from violence
- work, and fair working conditions
- form and join trade unions
- freedom of expression
- freedom of religion and belief
- protection from hate speech
- participate freely in cultural and public life
- freedom of religion and belief
- vote
- use public spaces
- be treated equally under the law.

What are some of the human rights problems that emerge in culturally and linguistically diverse societies?

Some people in Australia experience discrimination, vilification or violence because of their ethnic, racial, cultural or linguistic background. This often includes racism, discrimination and vilification in:

- the workplace – for example, difficulties in obtaining employment or racist comments made by co-workers or issues relating to qualification recognition
 - public places – for example, racist graffiti or name-calling
 - the media – for example, offensive racist comments in a newspaper
 - accessing goods and services – for example, discrimination faced by newly-arrived immigrants seeking rental accommodation
 - racism and bullying in schools.
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Other human rights problems experienced by people from culturally and linguistically diverse backgrounds include:

- social isolation, especially for older people from culturally diverse communities
- lack of access to culturally appropriate health services
- inadequate settlement services for newly arrived migrants
- poor relationships with police and the criminal justice system.

Disturbing experiences of harassment

'I was walking down to the Chadstone shopping centre, where I always go shopping. On the way an Australian guy came up to me and abused me. He put his hand up close to my buttock and slapped me. When I turned around I thought it was somebody who knew me. I realised it wasn't and then he asked me, "Are you married, single or a terrorist?" He was very aggressive and just itching for a fight. When I came to Australia, people occasionally told me about racist incidents they had encountered. They warned me too about things that can happen on the train and in the streets. But I didn't really take them seriously. I didn't imagine it was like this.'

Human Rights and Equal Opportunity Commission, 'Unexpectedly Embarrassed', *Voices of Australia Magazine* (2005), p 48.

What are the limitations of existing human rights protections in Australia for culturally and linguistically diverse communities and individuals?

There are limited human rights protections for people from culturally and linguistically diverse backgrounds at the moment. For example:

- Under the *Racial Discrimination Act* it is difficult to prove to a court that racial discrimination has occurred. There have been very few successful cases in which direct racial discrimination has been proven under Australian federal law.
- Serious acts of racial hatred or incitement to racial hatred are not criminal offences under federal law.
- There is nothing stopping the federal government from making racially discriminatory laws. Recent examples include the federal government's 1998 amendments to the Native Title Act and the enactment of the 2007 Northern Territory Emergency Response legislation.
- There is no obligation on government agencies to ensure that people from ethnic backgrounds have equal access to employment opportunities and that the services that the government provides to the public are accessible, for example in the area of aged care.

There is nothing stopping the federal government from making racially discriminatory laws. Recent examples include the federal government's 1998 amendments to the Native Title Act and the enactment of the 2007 Northern Territory Emergency Response legislation.

If you feel you have been discriminated against or vilified because of your race, you can make a complaint to the Australian Human Rights Commission under the federal *Racial*

Discrimination Act 1975 (Cth) (RDA). This might involve a complaint of discrimination in employment; education; accessing land, housing or accommodation; accessing goods and services; accessing public places and facilities; advertising; or trade union membership. Or, you could make a complaint under state or territory anti-discrimination laws. However, the federal government has the power to suspend or override the RDA.

Under the 'Northern Territory intervention' legislation (passed in August 2007), the federal government initiated a range of sweeping changes to address family violence and sexual abuse among Indigenous communities in the Northern Territory. These changes included health checks for all Aboriginal children, widespread alcohol restrictions, reforms to welfare payments, an end to the Community Development Employment Projects scheme, scrapping the system of permits for entering Aboriginal land, increased policing, and acquiring townships under five-year leases. The Commission expressed concern that the legislation contained a number of racially discriminatory provisions, and that it removed protection against discrimination by preventing the application of the *Racial Discrimination Act 1975* (Cth) to the 'intervention' legislation:

... as the Northern Territory intervention demonstrates, the commitments that we do have across our society to non-discrimination and to equal treatment for Indigenous peoples are such that many in our society deem it acceptable to simply 'switch off' the protection from racial discrimination when it is expedient to do so.

Tom Calma, *'Still Riding for Freedom' – An Aboriginal and Torres Strait Islander Human Rights Agenda for the Twenty-First Century*, (Speech delivered at The Charles Perkins AO Memorial Oration, University of Sydney, 23 October 2008).

How could we improve human rights protections in a culturally diverse Australian society?

The Australian Human Rights Commission supports a Human Rights Act for Australia.

A Human Rights Act could help prevent human rights breaches from happening and provide remedies for those breaches that were not prevented.

A Human Rights Act could make a difference in protecting and promoting the rights of culturally and linguistically diverse people in Australia by requiring our government to carefully consider how decisions impact on human rights.

If Australia had a Human Rights Act it could:

- make the **federal Parliament consider how laws impact on human rights** – for example, parliament would have to publicly justify any decision to adopt a law which discriminated on the basis of race
- make the **federal government respect human rights when developing policy** – for example, policy about aged care would have to consider the needs of culturally diverse communities, especially people who may be socially isolated

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- make **public servants respect human rights when making decisions and delivering services** – for example, government agencies would need to ensure that there are adequate culturally appropriate health services
 - provide a **range of enforceable remedies** if a government department breached human rights.

Over the longer term, a Human Rights Act would also be a powerful tool for fostering a stronger human rights culture in Australia by promoting greater understanding and respect among all people in Australia.

In addition to a Human Rights Act, there is a range of ways in which the human rights of people from culturally and linguistically diverse backgrounds could be better promoted and protected in Australia. For example:

- amending the Australian Constitution to prohibit discrimination on the basis of race
- adopting National Human Rights Action Plans to address racial discrimination and vilification
- improved protections in the federal Race Discrimination Act
- developing a national public education program about human rights, with a focus on racism in Australia.

These and other measures could make a positive difference to human rights protection.

Where can I find more information on human rights in a culturally diverse Australia?

Australian Human Rights Commission:
www.humanrights.gov.au/racial_discrimination/about_race.html