

**Submission by**  
**YOUTH ADVOCACY CENTRE INC**  
to the  
**Inquiry of the Legal Affairs and Community Safety Committee**  
In relation to  
*A Human Rights Act for Queensland*



**APRIL 2016**

“...human rights are about everyone; about our everyday hopes for ourselves and for our families; about how we expect to be treated when interacting with the world ... about the innate humanity in us all....human rights are a formal manifestation of the fair go, that quintessentially Australian characteristic about which we so readily soliloquise...it is a very Australian thing to want our rights articulated.”<sup>1</sup>

“Young people that we work with have a clear message – they wish to see their rights better recognised and protected and they wish to be treated fairly, with respect and in a just manner.”<sup>2</sup>

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<sup>1</sup> Rob Hulls, ‘A New Magna Carta? Six steps towards a Queensland Human Rights Act’ (Speech delivered for the Queensland Council of Civil Liberties, Brisbane, 13 May 2015)

<sup>2</sup> Tiffany Overall, Youthlaw, Child Rights Taskforce presentation National Human Rights Consultation, 2009

## INTRODUCTION

The Youth Advocacy Centre Inc (YAC) is a community legal and social welfare agency for young people generally aged 10-18 years in the greater Brisbane region who are involved in, or at risk of involvement in, the youth justice and/or child protection systems and/or are homeless or at risk of homelessness. YAC has been operating for nearly 35 years. YAC appreciates the opportunity to contribute to this important discussion.

It was the lack of legal representation for young people alleged to have broken the law; the detention, by way of administrative decision, of young people (particularly young women) who had not broken the law; and the general lack of regard for children's rights in the youth justice and child protection systems which led to the establishment of YAC in 1981 by a group of concerned citizens led by Father Wally Dethlefs.

YAC has had the benefit of being able to read a number of submissions which have already been lodged with the Committee and published on its website. In particular, YAC supports the submissions made by the Human Rights Law Centre and the UQ Pro Bono Centre, TC Beirne School of Law, University of Queensland.

We have also reviewed material from other similar discussions, particularly the 2009 National Human Rights Consultation (NHRC)<sup>3</sup>, which remains relevant to the discussion at this time even though that took place in the national context and which we refer to as a result.

YAC believes Queenslanders should have a Human Rights Act to ensure that their human rights are actively recognised and protected from arbitrary removal, being ignored or actively abused. Queensland is fortunate in that it has a number of Human Rights Acts it can turn to, including the recent review of the Victorian legislation, in determining the right balance for the content and structure of a Human Rights Act in Queensland. In line with Article 29 of the Universal Declaration of Human Rights, it is important to note that rights are not always absolute - "everyone shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society".

A Human Rights Act would hold elected representatives and public authorities more accountable in their decision making and this must extend to those who are delivering what have been traditionally public services which government has now outsourced. Consideration should also be given to including other overtly public functions, such as the media, having some responsibility in terms of the affect their actions can have on people's lives (see example on page 9).

In general, YAC notes that, for a right to be effective, there must be appropriate processes for determining whether a breach has occurred and appropriate remedies where a breach is confirmed. People must also know what those rights are and how to seek a remedy for a breach of those rights and therefore education must be a key component of the implementation of an Act.

Where it is proposed that a human right is to be overridden there must be an open and transparent process which alerts Queenslanders to this and enables them to provide their views in relation to the appropriateness or otherwise of such a step. A Human Rights Act should stipulate that any exceptions should be considered as vital in terms of the need to prefer the common good over the individual and are to be a matter of last resort.

## General comments

The United Nations Office of the High Commissioner for Human Rights has noted:

Human rights inhere in all humans, regardless of nationality, place of residence, sex, national or ethnic origin, colour, religion, language, or any other status.

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<sup>3</sup> <http://pandora.nla.gov.au/pan/94610/20100324-0000/www.humanrightsconsultation.gov.au/www/nhrcc/nhrcc.nsf/Page/Home.html>

They create individual (and in some cases group) entitlements and impose state obligations to act in certain ways or to refrain from certain acts, in order to promote and protect human rights and fundamental freedoms of individuals or groups.<sup>4</sup>

Human rights are relevant to the lives of every person, every day. For many people, Australia is a good place to live and they enjoy a good standard of living by world standards and in relative safety. However, that is not the case for everyone and people may find their life circumstances change which puts their human rights at risk. "Australia has a healthy respect for the rule of law, but its system of checks and balances has not always protected the human rights of all people in Australia"<sup>5</sup>.

While life is going well, people do not think about human rights – it is when things go wrong that we need to know that they are there, recognised and can be acted upon. An individual, a family member or friend, may find themselves in a situation where human rights may be ignored or even abused. A car accident can leave a person with an acquired brain injury or in a wheelchair; an elderly parent is in need of aged care services, and for some older people there are concerns about elder abuse; a family member may suffer from a mental illness; a friend may identify as transgender; the recent situation at Queensland Nickel and the problems rural communities face in times of drought provide examples of everyone's vulnerability to unemployment and the challenges which can flow from that such as access to housing.

Rights have been hard won but they can be easily lost, especially if that happens in a non-transparent manner. Those most at risk when this occurs are usually those who have the least ability to fight against it and whose voice is not heard – those who are marginalised from mainstream society. Discrimination on the basis of social status (such as homelessness, mental health) can have serious negative consequences for those affected, psychological and practical, including being denied access to goods or services.<sup>6</sup>

Aboriginal and Torres Strait Islander peoples experience ongoing discrimination in many aspects of their lives with corresponding poor life outcomes and experiences. Following allegations that Aboriginal singer Gurrumul Yunupingu was not treated appropriately at a recent hospital presentation, his medical specialist noted that "the singer's experience was endemic of a broader problem across Australian health care.....The idea is not that individual people are racist but that the whole system is designed with certain assumptions that lead to people not receiving appropriate treatment for their conditions because of issues related to race"<sup>7</sup>. Twenty five years after the Royal Commission into Aboriginal Deaths in Custody, twice as many Aboriginal people are in custody. "Young Indigenous people in detention are 74% more likely to end up in adult prison than those diverted to other forms of rehabilitation" and "Indigenous children are 26 times more likely to be in juvenile detention than non-Indigenous children"<sup>8</sup>.

There has been a number of cases where treaty bodies have found a breach of human rights within Australia. For example<sup>9</sup>:

**In *Brough v Australia***, the UN Human Rights Committee found that the conditions of detention of an Aboriginal boy with a mild intellectual disability violated the right of persons deprived of their liberty to be treated with humanity and respect for their dignity, the right of juvenile offenders to be segregated from adults, and the right of all children to special protection without discrimination. The boy was held in solitary confinement in an adult prison, his clothes

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<sup>4</sup> United Nations Office of the High Commissioner for Human Rights website at <http://www.ohchr.org/EN/Issues/Pages/WhatAreHumanRights.aspx>.

<sup>5</sup> Australian Human Rights Commission submission re NHRC

<sup>6</sup> ACOSS Submission re NHRC

<sup>7</sup> Dr Paul Lawton quoted on ABC Darwin April 2016

<sup>8</sup> *Indigenous incarceration in Australia at a glance* 15 April 2016 <https://theconversation.com/indigenous-incarceration-in-australia-at-a-glance-57821>

<sup>9</sup> Examples taken from ACOSS Submission to the National Human Rights Consultation June 2009

and blankets were removed from him, and he was exposed to prolonged periods of artificial light. While being detained in these conditions, he attempted suicide.

**In *Young v Australia***, the UN Human Rights Committee found that an Australian law discriminated against same-sex couples, in breach of the right to equality before the law. Mr Young had been in a relationship with Mr C for 38 years. Mr C was a war veteran. When he passed away, Mr Young applied for a veteran's pension under the *Veterans' Entitlements Act 1986* (Cth). The Department of Veterans' Affairs denied his application on the basis that he did not fall within the definition of persons who could be a veteran's 'dependant', which covered members of de facto couples but not same-sex couples.

**In *Coleman v Australia***, the UN Human Rights Committee found that Australia had violated the right to freedom of expression. Mr Coleman was fined for breaching a Queensland by-law which prohibited giving a public address at a particular pedestrian mall without a permit. He failed to pay the fine and was imprisoned.

Australia is the only western democracy that does not have a national Human Rights Act or a constitutional bill of rights. People living in the ACT or Victoria have the benefit of protection at a Territory/State level, but Queenslanders do not. This is particularly important in Queensland which does not have a second house or chamber of review as part of its Parliamentary system.

The reasons for a Human Rights Act was succinctly put by the Australian Human Rights Commission to the NHRC:

- Human rights treaties to which Australia is a signatory have not been adequately incorporated into Australian [or Queensland] law
- Australia's constitution does not fully protect human rights
- Human rights can be overlooked in law and policy development
- The common law does not properly protect human rights
- Administrative decisions may breach human rights
- Anti-discrimination laws do not protect all human rights or prohibit all types of discrimination.

A Human Rights Act would therefore:

- Protect everyone's civil, political, economic, social and cultural rights
- Protect everyone in Australia without discrimination
- Ensure human rights are considered when:
  - Law and policy is developed by government
  - Before new laws are passed by Parliament
  - Courts and public authorities are interpreting and applying laws
- Require public authorities to respect human rights and thereby benefit ordinary people in their everyday interaction with government and the provision of government or public services.
- Support an increased understanding by the community of human rights and the need to protect them.

A Human Rights Act would build on existing protections and strengthen democratic government, particularly in Queensland, by requiring greater transparency in, and accountability for, decision-making by elected representatives and public authorities and *providing important checks and balances on government which protect people from abuse of power. This can have a direct effect on people's everyday lives*<sup>10</sup> as the following examples<sup>11</sup> indicate:

- In the UK the experience of public authorities that have begun to embed human rights into their service provision is that the services are more responsive to the users, improving relationships between public service providers and the users of their services.

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<sup>10</sup> Human Rights Law Centre, Victoria, submission to this Inquiry

<sup>11</sup> Ibid

- The ACT Attorney-General acknowledged “a marked shift” in how government undertakes its work: “many agencies, particularly those with a service delivery focus, are exploring the opportunities to better serve the community through human rights compliant policies, legislation and operational practices.”
- The privatisation and outsourcing of traditionally public functions means that private entities are delivering services. A Queensland Human Rights Act must therefore also apply to situations where private entities are exercising public functions, such as public education, aged care, disability services, child protection services, youth justice services [including detention centres], transport, housing and health services, and supply of gas, electricity and water.

Rob Hulls, former Victorian Attorney-General, has identified the following examples of how the Human Rights Charter has positively assisted the everyday lives of individual Victorians:

- better accessibility on public transport
- older same sex couples able to access superannuation benefits
- a more flexible approach to tax collection for disadvantaged families
- improved enforcement of the right to a fair hearing
- rate payers having better access to interaction with local councils
- the prevention of eviction from their homes for disadvantaged Victorians including single mothers, elderly people and people with disabilities
- a man with a disability gaining access to his own mail
- a woman in residential care having better protection to privacy through the simple provision of a shower curtain when showering.<sup>12</sup>

At a time when government is increasingly concerned about the outcomes being achieved for those receiving government and public services with the use of public monies, rather than simply the number of services being delivered, a Human Rights Act could be a useful tool because of its focus on addressing people’s fundamental needs and supporting prevention and early intervention work.

### Importance of human rights to children and young people

With respect to the views of children and young people on the matter of human rights, regrettably YAC does not have the resources to be able to undertake an appropriate consultation in the time available for this Inquiry. By way of a proxy, we have included two documents as Appendices which detail the outcomes of consultation with children and young people in relation to the NHRC in 2009 which we consider are valid in this discussion in relation to a Human Rights Act and relevant to young Queenslanders:

- **Appendix 1:** Appendix 6 to the AHRC’s submission which details the outcomes of meeting with over 400 children and young people (mostly 13-20 years of age) and over 100 advocates from children’s and young people’s organisations across all states and territories including Brisbane, Deception Bay and Toowoomba in Queensland.<sup>13</sup>
- **Appendix 2:** the joint submission to the NHRC by the ACT Children and Young People’s Commissioner; NSW Commission for Children and Young People; NSW Office for Children - the Children's Guardian; SA Guardian for Children and Young People; Commissioner for Children Tasmania; WA Commissioner for Children and Young People. To inform this submission, the NSW Commission for Children and Young People consulted about 140 children and young people aged 4 to 18 years in NSW from a diverse range of cultural backgrounds and life experiences. Children and young people in NSW and Queensland also contributed to this submission through an online survey.

<sup>12</sup> Rob Hulls, *A New Magna Carta? Six steps towards a Queensland Human Rights Act* (Speech delivered for the Queensland Council of Civil Liberties, Brisbane, May 2015) quoted by The Honourable Justice Margaret McMurdo AC President, Court of Appeal, Supreme Court of Queensland at the University of The Sunshine Coast Inaugural Law Oration September 2015 *A Human Rights Act for Queensland?*

<sup>13</sup> AHRC Submission Appendix 6, to NHRC

Children and young people in Australia are entitled to the same basic human rights as adults under the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR). These rights are confirmed by the United Nations Convention on the Rights of the Child (UNCROC) which also provides for additional human rights that recognise the need for protection for those under 18 years of age and that adults are responsible for providing the resources for this. A Human Rights Act which provides for better legal and practical protection of the rights of children under the conventions has potential to improve children's well-being<sup>14</sup>.

Children and young people are susceptible to the non-recognition, diminution or abuse of their rights, not least because "they are excluded from participating in society in many ways adults take for granted, and their active participation in the community, in legal and governmental processes does not seem to be appropriately valued and respected."<sup>15</sup> They also generally do not have the resources, nor often the knowledge, to be able to assert or protect their rights. Even when they do, there is a general reluctance on the part of adults to listen to children or take what they have to say seriously, as evidenced generally by complainants to the current Royal Commission into Child Sexual Abuse, and the following example specifically:

James tried to get a violence restraining order from a court due to the ongoing abuse of his stepfather. James had left the home because his mother refused to do anything about the abuse against him. The Magistrate refused to grant a restraining order on the basis that no complaints had been made to police prior to James' application, the police had never been called to the house and the only evidence that the court had was the testimony of James.<sup>16</sup>

This is despite Article 12 UNCROC:

States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.

The United Nations Youth Association of Australia (UNYAA) also made a submission as part of the NHRC process. It noted that it "strongly believes that the exclusion of young people from decision making structures undermines protection of their 'substantive' as well as 'participatory' rights. The best method of ensuring that a group of people's human rights are protected is to involve those people in the formulation of laws and policies that may impact on their human rights. The current policy formulation process fails to incorporate the views of young people, and by ignoring and marginalising the interests of a key stakeholder leads to the creation of policy that ignores the needs and human rights of youth." Young people consistently reported to UNYAA their perception that no one listens to them because they are 'kids'.

The Human Rights Law Resource Centre noted in its oral evidence in the NHRC process that young people do not distinguish between 'civil and political' or 'economic, social and cultural' rights but recognise "a collective set of rights many of which are interdependent and mutually re-enforcing".

The civil and political rights identified as being of particular importance to young people were:

- the right to non-discrimination based on age
- the right of participation
- freedom of speech
- the right to feel safe (in public places, at home, work, school) and protected from violence.

These were viewed as 'basic rights' which are fundamental to other human rights protection in the economic, social and cultural space, particularly the right to access to safe, affordable housing, education, access health care, and fair conditions at work.

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<sup>14</sup> Submission by six State and Territory Commissioners and Guardians with a mandate to promote the well-being of children and young people to the NHRC

<sup>15</sup> Presentation by Tiffany Overall, Youthlaw, on behalf of the Child Rights Taskforce to NHRC

<sup>16</sup> Source: Case study from SCALES Community Legal Centre, Western Australia

UNYAA also noted that the importance of including economic and social rights in a Human Rights Act. “Given the financial disadvantage and dependency of many young people, the recognition and protection of such rights is of particular importance to the protection of their dignity and the fulfilment of their human potential – a fundamental aim of human rights protection.”

In YAC’s experience of working with young people, access to suitable housing is fundamental to being able to engage in education or employment. Homelessness is both a potential cause, and a result, of involvement in the youth justice system.

The *Rights of Passage* study found that young people consider the right to education one of the most fundamentally important human rights. It is, of course, critical for young people to be able to participate meaningfully in their communities and to equip them with the skills and knowledge to exercise their other human rights<sup>17</sup>.

### **Examples where children and young people’s human rights have recently been/are at risk in Queensland**

- The ongoing overrepresentation of Aboriginal and Torres Strait Islander children and young people in the youth justice and child protection systems, including the over-policing of Indigenous young people
- The principle at common law, in legislation and in breach of the United Nations Convention on the Rights that children in the youth justice system should only be held in custody as a last resort was removed in 2014 (is before Parliament for reinstatement).
- Children in the criminal justice system are subject to public identification (other than first time offenders): this was also imposed in 2014 (is before Parliament for removal).
- A police practice of charging a child with offences where the child has appeared subsequent to them and been dealt with for later matters: in one matter, the police were aware of the earlier offences when prosecuting the later ones but then charged the young person months later – at a time when his life was settling down and he was in employment. This was in breach of a principle in the *Youth Justice Act 1992* that decisions should be made in a timeframe appropriate to the child’s sense of time and the requirement in Art 40 UNCROC that a child must have a matter determined ‘without delay’.
- The closure of a building which was Queensland’s only specialist Children’s Court building. If there had been a Human Rights Act, the decision making process may have taken proper account of the best interests of children as required by UNCROC.
- Security staff at courts not being adequately trained in interacting with young people and other vulnerable groups.
- Queensland remains the sole jurisdiction in Australia to treat 17 year olds as adults for the criminal justice system, including being placed in adult jail, even though they cannot vote, purchase alcohol, etc until they are 18. This has been the subject of ongoing advocacy by YAC and other community agencies and individuals since the introduction of the then *Juvenile Justice Act* in 1992 as well as negative comment by the UN Committee on the Rights of the Child.
- Children are the only group of people in Queensland (and indeed Australia) who can be legally assaulted – unacceptable at a time when domestic and family violence is quite rightly being condemned and an anomaly not lost on young people themselves:
 

“...if [adults] physical contact with someone, like punching ‘em, it’s against the law...they could go to jail, they could be charged with assault...And that’s exact same for smacking. But...if you’re a kid, and it’s in the house, it’s o.k because they’re your kids...If you are a kid, it doesn’t really matter...because...you barely have any say” (age 9)<sup>18</sup>

<sup>17</sup> Human Rights and Equal Opportunity Commission, 2005

<sup>18</sup> Bernadette Sanders and Chris Goddard, Children and Society Vol 22 (2008) *Children’s Perspectives on Physical Punishment*: quoted Presentation by Tiffany Overall, Youthlaw, on behalf of the Child Rights Taskforce to NHRC

- Children in the care of the State, victims of trauma, suffer further abuse in a range of ways, including criminalisation for behaviour which most functional families would deal with themselves: breaking crockery in temper (wilful damage) and similar.
- Children are criminalised for behaviour for which an adult cannot be found to have broken the law: a girl under 16 taking a picture of herself and sending it to her boyfriend being prosecuted for making, possessing and distributing child exploitation material which is a serious sex offence and which will affect her ability to get a “blue card” in the future if she wanted to be a teacher or similar. Similarly: young people under 16 are charged with indecent dealing for consensual sexual activity with a peer boy or girlfriend which should be considered as normal adolescent development. While adults may wish to dissuade them from this behaviour due to the potential risks, these are education, health and welfare issues, not criminal matters in this context.
- Children are denied a proper education when a Principal decides to suspend them from school if charged with **any** offence or exclude them after being found guilty of **any** offence even though the offence was not related to the school, another student or a teacher or during school hours (our emphasis) on the basis of an ill-defined test of “being reasonably satisfied it would not be in the best interests of other students or of staff” for the charged/convicted child to attend school.
- An eight year old boy who may appear as a witness in relation to the alleged murder of a man by his father when he was six, was named in a Queensland newspaper which included the following statement online: “An eight-year-old Brisbane boy has accused his father of a heinous crime.....”
- The use of electronic devices and other means intended to dissuade children and young people from using public space.

#### Examples of how a Human Rights Act has assisted children<sup>19</sup>

- In **Victoria**, a primary school used human rights principles to inform its policies and processes in re-designing and developing the school building including special consideration given to disabled and Indigenous children. The school’s principal noted that “the process had a positive effect on the students and broader school community through the development [of] strong relationships and positive, supportive community cultures”.
- In the ACT, a single mother of two children was not entitled to remain in her mother’s public housing property when her mother died, as the lease had been in her mother’s name. The children had always lived in the house, had close links with the local community including school and friends and were at risk of being removed from their mother if she did not have a home for them. Advocates cited the right to protection of family life to the public housing authority, which granted a lease over the house to the mother.
- Pursuant to its powers under the Human Rights Act, the **ACT** Human Rights Commission provided advice in relation to ensuring human rights compliance of the new youth detention centre, Bimberi. The advice concerned matters including its design, physical structures, operating procedures and programs for residents, and identified areas for further development.
- In the **United Kingdom**, a young girl with a learning disability was denied school transport ordinarily offered to children with special educational needs, even though she was unable to travel independently. This decision was made on the basis that she lived 2.8 miles, rather than the prescribed ‘more than 3 miles’, from school. The mother argued that this inflexible application of policy disproportionately interfered with her daughter’s right to respect for private life, and failed to consider her specific circumstances. The local authority reversed its decision.

<sup>19</sup> Submission to NHRC by Edward Santow Director, Charter of Human Rights Project, Gilbert + Tobin Centre of Public Law which draws on material by the Human Rights Law Resource Centre:

- *Fact Sheet on Charter of Human Rights and Responsibilities: Human Rights and Children and Young People in Care*
- *How a Human Rights Act can Promote Dignity and Address Disadvantage*

## Remedies

Rights are worth nothing if they can be ignored with impunity or at least without consequence. UNYAA observed that a key challenge to the protection of young people's rights is their ability to access remedies and that an overemphasis on judicial process can be a barrier for young people who often have minimal experience of the judicial system and lack the knowledge and resources to be able to use it. They find the courts at best a mystery and at worst intimidating. Therefore, while judicial remedies are important, there must be "child friendly" mechanisms. In any event, the ability to address a breach should be able to be addressed in its own right and not dependent on other proceedings being on foot.

No agency has the authority, role or resources to effectively monitor Australia's compliance with UNCROC and there is limited reference to it in relation to government decision making or processes. "At the most basic level there is often no automatic recognition of the need to adopt special procedures for children and young people to either make "best interests" determinations or to facilitate their participation."<sup>20</sup>

Queensland had a Commission (and Commissioner) for Children and Young People (CCYP) for about 18 years. YAC advocated strongly for its establishment and more recently against its abolition and 'replacement' by the Queensland Family and Child Commission (QFCC). This was a recommendation from the *Taking Responsibility: A Roadmap for Queensland Child Protection* report following the 2012/13 Queensland Inquiry into Child Protection (QICP). Inexplicably, the QICP came to the conclusion that "there is no longer a need for the Commission for Children and Young People and Child Guardian to be retained in its current form." The result is that there is no agency in Queensland with responsibility for overseeing and monitoring the rights and needs of **all** young Queenslanders and providing child appropriate assistance. It is clear that the QICP did not appreciate the broader role that a Commission and Commissioner for Children and Young People should play in the protection of the human rights of all Queensland children and young people.

YAC therefore calls for the return of a broader, child rights focussed organisation in Queensland, whilst ensuring that the most vulnerable, children in the care of the State and Aboriginal and Torres Strait Islander children, are afforded particular attention. The Commission should:

- provide advice and assistance to any young person who has reported concerns and brought complaints about abuse of their human rights
- be responsible for monitoring legislation and executive decision making in order to assess the consistency of particular government laws, regulations and policies with young peoples' human rights
- be empowered to bring complaints on behalf of young people against those laws, regulations and policies inconsistent with their human rights.

From 2000, the CCYP also included the Office of the Child Guardian. Following other recommendations of the QPIC, this role was placed with that of the Adult Guardian in an Office of the Public Guardian. As YAC suspected would happen, it understands that people are now appointed to work as both adult and child community visitors because "they both protect the rights, interests and wellbeing of vulnerable people. They also share similar functions, particularly in their role of visiting people in different types of out-of-home accommodation—visitable locations—to ensure they are safe and well and to help resolve any issues the residents may have." Whilst this may be true, the client groups are quite different and we would suggest that their respective needs and interests would be better protected by people who have the skills and experience relevant to each client group.

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<sup>20</sup> Submission by six State and Territory Commissioners and Guardians with a mandate to promote the well-being of children and young people to the NHRC

### Human Rights Education

It is clear from the discussion around Brisbane during this consultation phase in relation to a Human Rights Act for Queensland, and some submissions which have been lodged, that there is still a lack of proper understanding about human rights: what they are, and why we all need them.

UNYAA noted that “the Australian community seems to view violation of young people’s rights such as the violation of the right to freedom of association that occurs when young people are banned from public spaces such as shopping centres as tolerable, or simply not issues of human rights”. It has been a matter of longstanding bewilderment to YAC staff that they are told that they should not tell young people about their rights “because if you do – they will use them.” It is unclear why adults fear young people exercising their rights while, as one young person has observed: “if people are more aware of their own rights, they are less likely to violate others”.<sup>21</sup>

A link can be made between young people’s knowledge and understanding about human rights and their engagement in civic and political processes.<sup>22</sup> Human rights education, which includes the action people can take when their rights are not observed, should be provided to children and young people, both formally and informally, contributing to their development as citizens.

### Conclusion

A Queensland Human Rights Act which takes account of the interests of children and young people would be an important step in realising the Vision that has been the focus of YAC since its inception, namely that:

*The community accepts collective responsibility for the importance, empowerment, rights, wellbeing and humanity of its young people.*

**April 2016**

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<sup>21</sup> Young person consulted by UNYAA in relation to the NHRC

<sup>22</sup> Human Rights and Equal Opportunity Commission, ‘Rights of Passage: A Dialogue with Young Australians about Human Rights’ (2005)