

HUMAN RIGHTS COMMITTEE

Human Rights Guidelines

Reports prepared for the consideration of the Legal Aid Commission's Human Rights Committee must clearly identify the human right(s) raised by the applicant's matter.¹

This is a non-exhaustive list of fundamental human rights covered by international human rights law, and where references to those rights can be found in international law.

Basic Human Right

- Right to non-discrimination
ICCPR 26; CEDAW; ICERD; UDHR 2
- Right to life, liberty, security of person
UDHR 3; CROC 37(b)-(d); ICCPR 6 – life; ICCPR 9 – liberty & security of person
- Prohibition against slavery
UDHR 4; ICCPR 8
- Prohibition against torture
jus cogens; UDHR 5; CAT; ICCPR 7; CROC 37(a)
- Right to equality before the law
UDHR 7; ICCPR 16
- Right to a fair criminal hearing (UDHR 10; ICCPR 14), including:
 - Presumption of innocence
UDHR 11(1); ICCPR 14(2)
 - No retrospective application of criminal law or punishment
UDHR 11(2); ICCPR 15
 - Minimum guarantees
ICCPR 14(3)
- Prohibition of arbitrary arrest, detention or exile
UDHR 9; CROC 37(b)-(d)
- Right to privacy, family, home, correspondence
UDHR 12; ICCPR 17

¹ Often, the applicant's legal cause of action clearly relates to a specific human right. For example, a claim under the *Racial Discrimination Act 1975* (Cth) clearly relates to the prohibition against discrimination on the ground of race found in (amongst others) the *Universal Declaration of Human Rights*, and the *International Convention on the Elimination of all forms of Racial Discrimination*.

However, sometimes the applicant's cause of action will be quite separate from the human rights issue that arises. For example, the applicant may seek judicial review of a ministerial decision to cancel or refuse the applicant's visa. This is clearly an administrative law matter. However, the consequences of the refusal may raise clear human rights issues, such as the likelihood of the applicant being tortured upon repatriation (*Convention on the Prohibition Against Torture*; *International Convention on Civil and Political Rights*) or the interests of the applicant's children (*Convention on the Rights of the Child*).

Basic Human Right

- Right to freedom of movement and residence
UDHR 13; ICCPR 12
- Right to seek and enjoy asylum
UDHR 14; Refugee Convention
- Right to a nationality
UDHR 15
- Right to marry
UDHR 16; ICCPR 23
- Right to property
UDHR 17
- Freedom of thought, conscience, and religion
UDHR 18; ICCPR 18
- Freedom of opinion and expression
UDHR 19; ICCPR 19
- Peaceful assembly and association
UDHR 20; ICCPR 21
- Representative government / Democracy
UDHR 21; ICCPR 25
- Social security
UDHR 22; ICESCR 9
- Rights relating to work, including
 - Right to work
ICESCR 6; UDHR 23
 - Choose employment
UDHR 23
 - Safe and healthy working conditions
ICESCR 7; UDHR 23
 - Change conditions
 - Equal pay
ICESCR 7; UDHR 23
 - Just pay
ICESCR 7; UDHR 23
 - Right to form/join trade unions
ICCPR 22 ; ICESCR 8; UDHR 23
 - Working hours
ICESCR 7; UDHR 24
- Right to health and healthcare
UDHR 25; ICESCR 12

Basic Human Right

- Right to education
UDHR 26; CROC 28 & 29; ICESCR 13
- Rights concerning children
 - Best interests of child primary consideration
CROC 3(1)
 - Child shall not be separated from parent
CROC 9(1)
 - When considering separating child from parent, 'all interested parties' given opportunity to participate in proceedings.
CROC 9(2)
- Rights of minorities
ICCPR 27

List of Abbreviations

UDHR – Universal Declaration of Human Rights 1948

ICCPR – International Covenant on Civil and Political Rights 1966

ICESCR – International Covenant on Economic, Social and Cultural Rights 1966

CEDAW – International Convention on the Elimination of all forms of Discrimination Against Women 1979

ICERD – International Convention on the Elimination of all forms of Racial Discrimination 1965

CROC – Convention on the Rights of the Child 1989

CAT – Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment 1984

Refugee Convention – Convention Relating to the Status of Refugees 1951