

Original

Final Report

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EXECUTIVE SUMMARY

Background and method

As part of the National Human Rights Consultation, two research projects have been undertaken in the Australian community. One of these is focussed at the community level, consisting of focus groups in each state and territory followed by a national telephone survey to identify and measure prevailing attitudes and opinions within the general community. The other, known as the Devolved Consultation component, was a qualitative study to better understand the experiences and opinions of groups who are marginalised in society or thought to be specifically vulnerable to their rights being threatened or violated.

The Devolved Consultation reported here involved small group discussions with people from a number of groups. These sessions were organised by service providers and peak bodies who work in the area, and interviews were also conducted with the contacts at these organisations. The discussions and interviews focussed on understanding the practical, day-to-day experiences of these groups to provide better understanding of the real world impacts of the concepts discussed more theoretically in other parts of the Consultation.

Nine group sessions and nine interviews were conducted in Sydney and Wagga Wagga in June and July 2009. The groups involved were: homeless people; people with a mental illness and with a physical disability; recently arrived refugees, immigrants and those recently released from immigration detention; ex-prisoners; the aged; and people with drug or alcohol dependencies.

Key findings

Who does not get a fair go

All of the groups involved either explicitly reported that they do not get a fair go, or described situations in which clearly they were not. A number of factors that impacted on getting a fair go were seen:

- People who have limited functionality or who are outside of the 'norm' tend to get less of a fair go. This is particularly the case for those who cannot communicate or 'defend' themselves.
- Individuals who fall into more than one vulnerable group, or at the intersection of vulnerable groups, were particularly worse off.
- Financial problems are often a consequence or correlate of the experiences of these marginalised groups, exacerbating the problems they experience.
- Indigenous Australians and Carers were two groups who were commonly identified, even by people themselves in these marginalised groups, as having their rights compromised.

What rights are at risk

In the general Australian community, the benefits of the most fundamental rights relating to survival can mostly be taken for granted, and attention then turns to higher level rights associated with expression and development. However, for those in the most vulnerable or marginalised groups, it is precisely these survival-type rights that are most threatened. Food, shelter, personal safety and access to medical care are all at risk for many of these groups.

The right to dignity, a concept which underlies much of human rights, is also threatened or absent for many groups.

Many people in these marginalised groups report difficulties with being able to 'move on' from their situation. Having to disclose past behaviours or experiences, even though they may refer to a past phase of their lives, continues to impact on their current experiences, and mostly in a negative way. One of the more widespread problems for these groups appears to be obtaining employment, with their past often making them unattractive to employers or uncompetitive against other applicants.

Problems faced in getting a fair go

A lack of awareness and understanding of human rights is a real problem for these groups, not just the inconvenience or curiosity it is to the general community. From both people and agencies, they feel that a lack of clearly understood rights prevents them getting the same opportunities that others do. Their own lack of knowledge means that often they are not even sure whether they have a legitimate complaint or not. A perceived lack of easily accessible and understandable information about rights perpetuates this problem.

Other problems these groups face disproportionately to the general community include not being able to keep up with technology, negative stereotyping, and not being able to access documentation they are required to have to utilise services or for other processes.

How protection can be improved

A written document outlining the rights of all groups in society was seen by many of the marginalised and vulnerable groups to be a necessary step before any rights could be consistently protected. This would be expected to provide guidance for what was perceived as a general goodwill to do the right thing in the Australian community. It would also serve an important role for educating the community, organisations and themselves about what rights they had.

Service delivery was seen as a major area where improvements were possible – largely because this is where the actual day to day experience often derives from. Processes designed more for functioning people in 'normal' situations were a cause of frustration; complex bureaucratic processes were higher barriers to many of these groups than the general community; and a lack of caring case management further marginalised some groups.

Generally, in relation to human rights, enhancing service delivery was felt to come down to four factors:

1. Ensuring all staff within service providers know, understand and uphold the rights of those receiving services.
2. Ensuring that service providers, government departments and health workers show respect and empathy when dealing with vulnerable groups.
3. Ensuring that vulnerable groups are treated the same as other members of society.
4. Designing services and service delivery more around the needs, barriers, and limitations of those using the service.

It was also felt that a 'statute of limitations' on having to disclose historical information would assist many people in these groups to move back into the general community more easily by limiting the impact of their past on their present and future.

Issues for individual groups

A number of issues were raised by the individual groups. Some of these crossed over groups, while others were specific to particular groups. The table below summarises these issues.

Issue	Homeless	Aged	Mental illness	Physical disability	Ex-Prisoners	Drug and alcohol users	Immigrants / refugees	Immigration detention
Carers		X		X				
Medical treatment		X	X		X	X		
Discrimination / stereotyping		X				X	X	
Dignity		X	X		X			
Communication barriers		X					X	
Education and opportunity			X		X			
Safety	X	X		X				
Movement and access				X				
Able to defend own rights					X			
To 'move on' / get employment					X	X	X	
Accommodation / live on the street	X							
Documentation	X						X	
Mental health impacts					X		X	X
Case workers / service providers					X			X

1 BACKGROUND, OBJECTIVES AND METHODOLOGY

1.1 Background

The National Human Rights Consultation was launched on 10 December 2008. The Australian Government identified three key questions for the Consultation:

1. Which human rights (including corresponding responsibilities) should be protected and promoted?
2. Are these human rights currently sufficiently protected and promoted?
3. How could Australia better protect and promote human rights?

The Australian Government appointed an independent Consultation Committee to conduct the National Human Rights Consultation (NHRC, or “*the Consultation*”). The role of the Committee is to bring together the full range of views as to how Australian society should protect and promote human rights. The Committee has conducted over 66 roundtables and has received over 35,000 written submissions from the public and interested organisations.

The Committee commissioned research to better understand how well what they heard from consultation participants represents the views of the wider Australian community. There is a well established understanding that interested parties can often be over-represented in self-selection community consultation processes, and that the ‘silent majority’ may be un-represented by these expressed views. The general community research established the prevalence of particular views, attitudes and expectations within the general community, allowing the inputs from other channels of the Consultation to be interpreted more confidently, and with an understanding of how they may be expected to reflect wider views.

However, some of the groups within the Australian community who are potentially most at risk of having their rights threatened or violated are also those least likely to be participants in either the self selection process or the community level research. Some groups may have less confidence than others to choose to participate, or not be able to even find out that such community consultations are happening. These groups can also be unlikely to be included in community level research, due to factors such as communications barriers, being unable to be randomly contacted, and simply being relatively infrequent within the community and therefore difficult to detect from a statistical perspective.

A third, Devolved Consultation, phase has therefore also been completed and is reported here - with cross references to the separate community level research where relevant.

1.2 Aims and objectives

The key aims of this consultancy were to address the Consultation’s three overarching key questions amongst specific, marginalised groups in Australian society.

From these, Colmar Brunton Social Research has derived a number of specific research objectives to assess specific views about the protection and promotion of human rights.

These specific research objectives with these groups include exploring perceptions of:

- Groups who are missing out on getting a fair go
- What rights are at risk or being violated
- Problems faced in trying to get a fair go
- How protection of human rights could be improved for these groups

In addition, the research seeks to identify specific issues experienced by individual groups, and any commonalities across some or all groups.

In particular, the devolved consultation process looking at the experiences of vulnerable and marginalised groups specifically sought to understand how such experiences translate into daily living

for these groups. It specifically sought to obtain detailed stories and examples from people to illustrate the reality of these experiences alongside the often more philosophical debates that have taken place in other channels of the Consultation.

1.3 Methodology

A qualitative methodology was used, with two key components:

1. Small group sessions with vulnerable groups, and
2. One-on-one phone interviews with Non Government Organisation (NGO) service providers to vulnerable groups.

The groups and interviews were conducted mainly in Sydney, with a full schedule outlined below.

Participants were recruited through contacts at service providers and peak bodies provided by the Attorney General's Department. These contacts were asked to recruit a small number of participants from their clients and contacts for the groups, and most of the contacts were also asked to be participants for the depth interviews. Groups were facilitated by the Managing Director and CEO of Colmar Brunton Research, both experienced researchers and facilitators.

Nine discussion groups were completed with members of the targeted groups. Each session ran for 90-120 minutes, with 3-8 respondents in each group. These were conducted at facilities provided by the NGO service providers. Colmar Brunton would like to gratefully acknowledge the important contribution of the service providers and peak bodies who contributed to the success of this project by assisting in the organisation of the group discussions.

Nine depth interviews (15-60 minutes each) were conducted with NGO service providers or Peak Body representatives who are directly in contact with vulnerable groups. Most interviews were conducted over the phone, but some face to face around the group sessions.

Group	Discussion Groups		NGO Interviews
	Number of Respondents	Location	Number
Homeless	4	Sydney CBD	1
Recently released prisoners (12m-)	4	Sydney CBD	1
People with a criminal record (12m+ released)			(extended duration)
Refugees	5	Wagga	1
People in immigrant detention	2 (interviews)	Sydney	2
Recently arrived immigrants	3	Wagga	1
People with a mental illness	4	Sydney Eastwood	1
People with disabilities	7	Sydney CBD	1
The aged	8	Sydney CBD	1
People with drug and alcohol dependencies	3	Sydney CBD	0*

* NGO contacts participated in group session rather than in separate interviews

2 DETAILED RESULTS

2.1 Which groups are not getting a fair go?

2.1.1 Any individual who has limited functionality or is outside the norm

All groups included in the study either consciously felt that their rights were compromised in one way or another, or gave examples that showed they were. A summary of specific vulnerable groups' concerns is presented in Section 2.5. However, there was a general consensus among participants that all societal groups who are in any way dysfunctional, who cannot communicate clearly or defend themselves, tend to get less of a "fair go". Rights are generally seen to be protected, so long as an individual has the knowledge and means to stand up for themselves (or have an appropriate person stand up on their behalf). Where these are lacking, rights were often seen to be abused.

"The system is designed for functional people"

Drug user group

"The whole system falls down if you can't communicate what you need"

Mentally ill group

This was also seen in the general community research, with groups such as children, the elderly and those with a mental illness identified as groups who are at risk unless others can assist them to resolve or avoid problem situations.

There are two broad ways in which "the system" is seen to fail to preserve the rights of vulnerable or marginalised groups. The first is in instances where an individual's situation makes it difficult to satisfy basic requirements to get help – in other words, where service providers expect "normal things from abnormal people".

"The issue of being able to identify yourself, especially when you're living on the street. If you don't have sufficient identification you can't access a lot of these services that are meant to look after your human rights. And the issue of ID with street people has always been a very very big issue in terms of accessing services... How many homeless people do you reckon would be carrying passports around?"

Homeless group

"I can't get a job 'cause I've got no qualifications, I can't get any ID and I can't even get a Centrelink payment 'cause I can't get a bank account."

Ex prisoner group

On this point, the NGOs reiterated the concern that there is no "identification" of unique needs of each vulnerable group. There is a sense that the standard requirements are "unrealistic" for these individuals. These groups need additional consideration in order to navigate "the system" and access services to get a "fair go."

"The system doesn't identify those who need extra support"

NGO, Homeless

"Not many homeless people know that they do have any rights, so they come up against a government department who is being frustrating or denying rights then they just storm off and then not access things that are really vital for them- so many do not access Centrelink at all because it is too frustrating"

NGO, Homeless

"a [homeless] mother was issued with truancy fines even though the school were aware both mother and children were living on the streets as a result of domestic violence situation"

NGO, Homeless

“If you come as a refugee it is much harder to access services [healthcare, housing, employment]. That is until you make yourself understood [in English] it is hard to navigate the bureaucracy of the immigration system”

Immigrant Detention, NGO

The second way in which the system is seen to let vulnerable groups down is in the attitudes of service providers, agencies and the public in regards to people who are seen to be dysfunctional. Individuals in vulnerable groups claim to be stigmatised and actively discriminated against.

“We actually fit in when we don’t disclose [our mental illness] but as soon as we disclose we seem to be treated different if that makes sense”

Mentally ill group

“We went to the police station, wanted to make a report about the incident [physical abuse], and the policeman said “where do you normally live?” And my mate said to him I live on the street, and the officer said well there you go, bye. Couldn’t be bothered filling the paperwork out.”

Homeless group

The NGOs also support the notion that there is active discrimination and prejudice toward vulnerable groups from the general public and service providers. This is not considered to be “a fair go.”

“I had a recent example where the [mentally ill] person was purchasing an excursion ticket on a bus, the driver questioned the legitimacy of the disability pension card- they look normal”

Mentally ill, NGO

“The stigma about mental illness is strongest amongst doctors”

Mentally ill, NGO

“There is underlying racism in the community”

Immigrant Detention, NGO

“Despite being well dressed, and heading to a business address, this individual [with polio related physical impairment] was subjected to an interrogation from a taxi driver as to whether they would be able to pay the taxi fare”

Disability , NGO

“On release from prison parole officers can vary in their duty. Many are there to ‘catch them out’ rather than help them re-integrate in society”

Criminal, NGO

2.1.2 Indigenous Australians

It is important to note that one of the first, and most often, cited groups within society that participants felt had their rights compromised were Indigenous Australians.

“Aborigines are the most discriminated against and over-represented groups within prisons”

Ex-prisoner group

“The aboriginal population would be the obvious first example [of a group not getting a fair go]”

Drug user group

“Indigenous Australians...that would be nearly number one”

Mentally ill group

“They [indigenous people] have a poorer education quality and find it more difficult to survive in our society they don’t have the support services”

Ex-prisoner NGO

However, apart from initial mentions by participants, the issue of aboriginal rights was not explored in depth within this phase of the research, given that it was explored elsewhere.

2.1.3 Carers

Many participants across different groups noted that the rights of carers were not appropriately protected, and this group was also similarly identified in the general community research. Participants believed that many did not become carers willingly and were forced to take on a carer’s role as there was no one else in the family capable of taking on the role. Participants felt that the absence of choice in becoming a carer for many was a reason to have special protection or consideration for this group.

“There is a lot of discrimination of carers and carers aren’t just older people, carers are across the board, even from children, teenagers, young teenagers, not going to school or trying to juggle school and caring for somebody at home, whether it’s their mother or assisting with a sibling or whatever.”

Aged group

“They [doctors] withdrew her medication without any consultation with the carer”

Mentally ill group

Carers were also believed to ‘inherit’ the stigma of the people for whom they are caring, thereby often suffering the same discrimination or perceived abuse of rights.

“The taxi driver was so pleasant to her [mental health worker], until he found out what she did for a living and then all of a sudden the attitude just totally changed...so she had the same stigma put on her as the people she cared for”

Mentally ill group

There were also some who believed that carers should be allowed to represent the rights of people they cared for if those people are incapable of understanding or expressing their own rights.

“There’s a fine line between allowing people with Alzheimer’s to make their own decisions about their lives, and their carers knowing that they’re making wonkey decisions”

Aged group

2.1.4 Individuals who fall into more than one vulnerable group

A common belief among group participants was that individuals who exist at “the intersection” of vulnerable groups (e.g. homeless people who are also drug users, or elderly individuals or refugees who also have mental illness, etc) were particularly worse off than others when it came to human rights. Such people were seen to suffer multiple stigmas, and were more likely to be discriminated against.

“If you are a woman and you have a physical disability and you are from a vulnerable religious background then you are pretty much at the bottom of the society ladder”

Physical disability group

"I think ..where the stuff intersects... where drug using intersects with being poor, with being Aboriginal ...that is where it really belts home"

Drug user group

"Multi-cultural groups with mental illness as well... they actually have like stigma in two areas, plus with mental illness a lot of their culture would actually interfere as well"

Mental illness group

Furthermore, many of the groups felt individuals in disadvantaged situations often develop additional problems due to their circumstances. Drug use and psychological disorders (particularly depression) were seen as serious risk factors for many individuals who participated in the research.

"People on the streets go to escape being on the streets with drugs and alcohol or anything that they can find. Yeah, so, it's just creating more problems, more mental problems, physical problems, and yeah, it's just a massive cycle."

Homeless group

"I think if you can't see and can't hear and can't really get around, then you're going to be depressed"

Physical disability group

"If you've been inside for a while, you really do have some issues to deal with...jails cause mental health problems"

Ex-prisoner group

A consistent finding in the NGO interviews was also that individuals "intersecting" more than one of the vulnerable groups had an even tougher time in relation to human rights. The most common intersections were drug use and mental illness, though the stresses of being a refugee were also linked to mental health issues. For some, drug use was discussed in terms of a "coping strategy" for other conditions present (i.e. homelessness, mental illness).

"Around 60% of the homeless population also suffer from drug/alcohol dependencies and mental illness "

Homeless NGO

"Addiction is often a coping strategy; medications make them feel drowsy so they want an upper"

Mentally ill NGO

"You are stressed – without your family, you don't know anyone"

"Physically they are happy, but mentally they are worried"

Refugee group

Amongst NGOs there was a strong sense that individuals intersecting multiple vulnerable groups were not getting a fair go. In relation to risk factors; NGOs indicated that services tend to provide band-aid solutions rather than target the root of the problem (ie family breakdown, domestic abuse). As a result of these problems not being adequately addressed, they snowball into larger problems (criminal behaviour, homelessness, mental illness etc). These individuals were seen to become even worse off in relation to their human rights and much more vulnerable.

"There is a 'Lock away and taught a lesson' mentality, but we should be targeting the underlying causes which are mainly family breakdowns."

Ex Criminal, NGO

“Homelessness is a big problem for the ex-prisoner community...when prisoners are released and have no place to go.... Eventually [they] get kicked out of hostels”

Ex-prisoner NGO

“The refugees coming out of detention are suffering severe mental health problems....clinical depression is well documented amongst refugee groups”

Immigrant Detention NGO

“Mentally ill prisoners are in gaols where their mental health conditions are not being addressed”

Ex-prisoner NGO

Impact of financial dependence

A common theme that was identified across a number of groups was that a financial dependence can be an outcome of the factor that results in them being in a marginalised group. For example, refugees and immigrants, as well as ex-prisoners and drug users all talked of the difficulties of obtaining employment. Homeless people talked of having to use almost all of their Centrelink payments on accommodation, leaving nothing for food. For these people, there can simply be not enough money to allow them to pay for all the elements of a ‘normal’ lifestyle.

In these cases, the person’s financial situation brings with it additional complexities which contribute to and exacerbate their situation – and increase their chances of falling into more than one at risk group. For example, financial problems are also associated with mental health issues; or the costs of accommodation and food being mutually prohibitive.

2.2 What are the main rights perceived to be at risk?

The main rights identified by marginalised and vulnerable groups as being at risk are amongst those identified in the mainstream community research as being the most important and unconditional rights – those related to survival. The community level research indicated that most people in society can assume that these will be met, and that the more expressive and developmental rights are more salient at this level. However, participants did identify that some people and groups ‘fall through the cracks’ in terms of these universal rights, and the experiences described here show that this is clearly the case.

2.2.1 Food and shelter

Generally food, water and shelter were seen as the most basic human rights. Most groups felt that the right to having clean water and food was well protected and delivered within Australian society. However, some members of the homeless group felt that food and water were more difficult for them to receive than other groups.

“You’re forced to virtually hand over 80 percent of fortnightly payments in accommodation which leaves very little money for anything else... I was stuck in a boarding house paying \$180.00 a week on DSP and not eating and just having a roof over my head, just for the sake of not going back out on the street again”

Homeless group

“We have to source food from service providers like charities”

Homeless group

Along with food, shelter was seen as a basic necessity and right. However, in contrast to food and water, many participants across the groups felt that their right to clean and safe shelter was often unfulfilled. Although it was acknowledged that there were systems in place for the purpose of housing people, these systems were often seen to fail those for whom they were designed. Waiting lists were seen to be too long, and when shelter was received, it was often considered unclean and unsafe.

“There is a waiting list like a hundred thousand waiting for housing commission... But that’s across the board, even in our area you look through the paper, and rents for two bedroom houses, \$250, \$300. Now an older person or a single person has no hope in hell of paying for even a granny flat”

Aged group

“Departments have to understand the urgency of it all. The guy is looking now, he’s not looking for it [shelter] now and hoping for it in 12 months time. He’s looking for it ‘cause he needs it now”

Homeless group

“It [the boarding house] was disgusting - raking cockroaches out of me mouth at 12 o’clock at night, pulling them out of me nose and hoping they don’t crawl down my ears...using a kitchen that people just might as well use as a toilet. They’re totally overpriced, totally unsafe ...they’re inhumane.”

Homeless group

“Something that’s really basic to me is a home. Like you know that’s your safety that’s your shelter. And you’ve been in gaol so you’ve got no recent references for real estate”

Ex-prisoner group

“They’re sleeping on the floor in someone’s apartment, if they’re lucky.”

Immigrant Detention NGO

The sentiments of the homeless group were played back by the NGO (homeless) who indicated that some individuals can be on department of housing waiting lists in some cases for 5 or 10 years. In more recent times, there has been increased incidence of families on the street as a result of; (1) domestic violence and (2) the global financial crisis.

The ability to access shelter was seen as more difficult for vulnerable groups. Discrimination was mentioned in relation to the Department of Housing selecting successful applicants – which is consistent with the view that people who are at the intersection of two or more vulnerabilities are more likely to miss out on getting a fair go.

“Department of housing employees told me that when they receive an application for housing from someone with an anxiety disorder that automatically place it on the reject pile”

Mentally ill NGO

There was also concern raised over the ‘peaceful inhabitation’ of shelter in the community. The NGO (homeless) reported that police and security guards do not always follow the legislation of ‘peaceful inhabitation’ so that homeless persons are “moved on” by Police or security when there is “an event” (ie APEC) or complaints from residents or businesses despite the legislation.

2.2.2 Safety from harm

A basic right to personal safety was seen as both critical, and often neglected amongst group participants. Although a number of participants recounted experiences in which they, or someone near to them, suffered physical abuse, the most prevalent abuse of safety was amongst the homeless.

“I can’t count the amount of times I’ve been bashed and moved on, mistreated, urinated on, excreted on.”

Homeless group

“We couldn’t sleep where we normally slept, so we moved up the road...about two o’clock in the morning we woke up and a few guys were using size 12 alarm clocks on us, kicking the shit out of us, about six of them. That’s what happened to me after they urinated all over me first”

Homeless group

Furthermore, the right to personal safety was seen to be unfulfilled twice for many people – once when they are abused, and again when they try to report the crime.

“I reported it [being physically abused] twice and was told to piss off. That was with a fractured skull, couple of missing teeth, face was out here like a pumpkin”

Homeless group

“If a crime happens to you as a known drug user, it is very hard for you to go to the police and expect equal treatment”

Drug user group

There were also concerns amongst elderly and disabled groups about abuse by carers or within institutions.

“Over 50% of people with physical disability have been sexually abused...because of that, I will only let my son [who is physically disabled] be looked after by family members...I need to think about the mechanisms that are in place to insure his safety”

Physical disability group

“She spent one year in the acute [psychiatric] ward and being subjected to males who were dual diagnosis and very aggressive in the ward, kicking walls in and swearing,

threatening sexual contact. She could not go to sleep at night... she felt very very threatened."

Mental illness group

The immigrant detention group indicated that they felt there was no protection for them, and they were not safe from harm in the community, because "the system" (i.e. police, legal system) did not consider them. Immigrants both in the community and in detention did not feel safe from harm, and did not feel they had an avenue of protection.

" [The migration agent] was saying the new comers are getting cocky, and disobey the rules, and it is time to teach them a lesson" ..." my son was attacked by a person in a balaclava with a knife"

Immigrant detention group

"My son was put in stage 1 in a mix up, this centre is reserved for criminals... there are gangs and knives and murderers in that place"

Immigrant detention group

The NGOs reported similar cases where individuals in vulnerable groups were not protected from harm in care facilities.

Examples of harm ranged from intellectually disabled individuals suffering abusive episodes from other residents (living in government accommodation), through to extremely violent acts of seclusion and restraint in mental care facilities.

"We contacted the facility, and the property manager looked into it, but the violence continued and it had to be escalated to the ombudsman"

Disability NGO

"When I was reviewing the services in a particular hospital, I heard reports that the doctors would request nurses "box and bag" the patients when they needed restraint. This act involved male nurses sitting on patients in order to get them into a straight jacket, then patients were put in isolation"

Mental illness NGO

The notion of 'safe from harm' is a complex issue in mental health services. There are two major concerns from the NGO perspective:

(1) Firstly, The mental health act currently has a provision for mechanical restraint as a last option, however the NGO indicated that restraint processes were common and not only used as last resort. Health care workers (nurses) were "afraid" to stand up to the doctors in these instances.

"The nurse admitted she was too afraid to the doctor yet was horrified with what was going on"

Mental illness NGO

(2) Secondly, the existing process of "scheduling" in the community is discussed as an example where there is an "inappropriate" amount of force and criminalisation.

"The process of scheduling needs reform, in some cases 6 police officers will enforce a schedule and throw a person in the paddy wagon"... "treatment as a criminal has long lasting effects"

Mental illness NGO

There is a strong sense that "force" is routine in the seclusion and restraint processes in mental health facilities.

2.2.3 Health and medical care

Almost all groups interviewed claimed that their right to medical and health care were either failed or not adequate. Inability to get appropriate medical care was often a result of being seen as a second or lower class citizen.

This discrimination took a slightly different form for each of the groups. Drug users found it particularly difficult to get appropriate treatment because they are stereotyped as a “junkies” and there is distrust associated with prescribing them with drugs.

“Drug users are too scared to approach health services because doctors classify them as junkies”

Drug user group

“Doctors don’t trust you, they will under-prescribe”

Drug user group

For the homeless, getting sick is not an option,

“A bloke asked me “what happens when you get sick on the street?” I said you just don’t get sick mate”

Homeless group

For mentally ill patients, they felt they were not given a fair go in the health service sector both from their doctors and other mental health workers. Patients believe they are a low priority for their doctors. Doctors reportedly treat similar patients in the same fashion, with same medications, treatment plan etc.

Both the group and service provider indicated that the best treatment outcomes for mental illness occur when there is a partnership between doctors and patients rather than ‘one size fits all’ approach to treatment. Older doctors were reported to be unaware of (or to not practice) newer techniques such as psychotherapy.

“The stigma that’s in the community is very much evident within health professions...there are health professionals that treat people with mental illness as lower class”

Mental illness group

“Older doctors don’t understand or know all options like psychotherapy” ... “they just provide the standard medications”.

Mental illness NGO

Another reason for inadequate or inappropriate medical care is the perception that the individual is beyond treatment or too much of a risk for medical intervention. This was particularly the case for elderly participants, many of whom have been rejected for treatment due to their age. Elderly participants also felt that proactive or preventative medicine (e.g. tests and screens) was less likely to be offered to them.

“Hasn’t that person of 88 got the same human rights and right to medical treatment that maybe someone else has?”

Aged group

“The attitude is well we shouldn’t really be putting as much care into them [elderly] as into someone in their 40’s. And I think that’s a human rights issue. They’ve got every right to get the same sort of treatment and medical care as someone that could be forty or fifty.”

Aged group

"I was wondering about having a prostatectomy. And the doctor said at your age, no surgeon would do it. In other words you live with the cancer rather than removing it. And it's this question of if I was ten years younger, no problem. They'd take out the prostate....But don't you have the same right as someone ten years younger?"

Aged group

"I'm as good a patient as the bloke across the road who's had his appendix out, never touched drugs, waiting to go back to work, I don't 'cause any trouble to the nurses or to any other staff that maybe around. I'm just as polite, but because I'm taking methadone, I'm registered at a certain clinic, I'm an ex-junkie, no I'm just in there to rot pills and all the rest of it. And the treatment is absolute third world"

Homeless group

Prisoners also found it difficult to obtain adequate medical care, both in and out of gaol. In gaol, the queue for medical care was often considered too long and the treatments too superficial.

"This guy had a really really bad tooth ache, like unbelievable pain. And he said look I've got an appointment to see the dentist in two months time, but I have to see him now I'm in all sorts of pain. And they said no, you're going to have to stay in the queue, wait your two months and he was given just Panadol by the local nurse there [in gaol]. And he was told we don't care how much pain you're in. Tough mate, tough."

Ex-prisoner group

The ex-prisoner NGO detailed a pattern of healthcare in gaols where inmates enter gaol in poor physical health (due to substance abuse, homelessness etc) and actually leave gaol in much worse condition.

"A large number of people in gaol don't have access to dental treatment so they lose their teeth and are in constant pain"

Ex-prisoner NGO

"They get Medicare taken away when entering, so can't get medication or specialist treatment"

Ex-prisoner NGO

For immigrants, Medicare was not always accessible (depending on their visa) and doctors were wary to treat them.

"Sometimes [immigrants] turn up to the hospital and they have to sign a paper saying they're going to pay the bill. But when they're on bridging Visa E, they don't have money to pay for anything. They only get \$90 a week from Centrelink."

Immigrant detention NGO

"I had been poisoned [in Russia] and arrived as a refugee with no hair, very sick"... "doctors always asked me what visa I had, they were negligent toward me and did not want to spend anytime with me" ... "I could not get any real medical assistance until I was a permanent resident"

Immigrant detention group

Experiences as a migrant in the immigrant detention system highlight patterns of mental health issues and long term clinical depression. There was strong agreement that these cases were not being identified and adequately treated by "the system."

"When my brother arrived in detention, a man just hanged himself"

Immigrant detention group

“Clinical depression is well documented in immigrant detainee groups”

Immigrant detention NGO

“Healthcare needs to be improved in detention facilities, a private prison company is in charge of the detention centre and try to make a profit, doing everything on the cheap”

Immigrant detention NGO

Despite suffering some discrimination (i.e. not considered a priority), the NGO (aged) was positive about the standard of health services provided to the aged group. Although single pensioners were identified as a group that may not be able to access the medication they need, overall the health system compared well to America.

“Single pensioners have an inadequate pension. Those suffering illness may have medication that cost more than the pension - in some cases some disregard the medication in order to have a decent meal”

Aged NGO

“Old people are not too badly off with the health system”.... “Thank god we’re not in America” ...“we pay only \$5.30 for a \$30 prescription”

Aged NGO

2.2.4 The right to “move on”

Although not explicitly expressed as a right, most groups talked about the difficulty of “moving on” from one’s past or present situation. There was a feeling that once someone had fallen into a vulnerable group such as the mentally ill, prisoners, or drug users, it was difficult to escape the stigma, even after recovery.

This was particularly relevant to getting work, something that most group participants felt was both a fundamental right and a difficult goal to achieve, but had wider long-term implications and impacts.

“If you go and fill out a job application it says where do you live, no fixed address. You know, do you have a criminal record, yes. What do you think’s going to happen to that job application? It’s going to go straight through the shredder, you know...it’s 15 years ago I committed an offence, longer now, but it’s always going to harm me”

Homeless group

“And my doctor has said to me like you probably won’t get an internship anywhere because you see I’m a self harmer and I’ve self harmed on my arms...It’s not fair. And self harm marks they can last, the scars can last for the rest of your life”

Mentally ill group

“Employers are not educated toward mental illness, there is no empathy”... “[employers] assume [we] are unwell all the time “

Mentally ill NGO

“When you come out of gaol and apply for a job now, even private, they ask about do you have a criminal record. And of course, if you’re honest and you tick that box, then there is no way you’re going to get that position.”

Ex-prisoner group

“[Patients] need help preparing for employment.. a co- operative owned job would help [patients] and employers”

Mentally ill NGO

2.2.5 The right to work

On the whole, employment was seen to be a positive self esteem promoting activity that assisted individuals with a sense of belonging, self worth and was a positive activity in changing their situation. For those who suffer discrimination or are unable to work, this leads to feeling of social isolation and helplessness (e.g. immigrant and mentally ill).

The right to work was discussed in some detail in the general public research, and amongst this group it was more often seen that there was a right to be *considered* for work, rather than to have a job per se. The issues described above show clearly that some of the marginalised groups do not experience this right to be considered – ex-prisoners, the homeless and drug users for example.

However, there are a number of barriers to employment beyond the ‘moving on’ from past problems. Most employment situations are competitive, and many individuals from all these groups are likely to be relatively uncompetitive compared to other candidates. Refugees and immigrants particularly spoke of problems related to language barriers, and to a lack of any or recognised work experience. While in this sense they are at least being treated to the right to be considered, to be perpetually uncompetitive means that being considered will not necessarily lead to the desired outcome.

2.2.6 The right to dignity

In discussions in the groups, most of the discussion explicitly centred around more basic rights in the hierarchy of human needs, such as food, shelter, and safety (in the general community research, these were identified as being more universal rights).

However, many group participants also described situations in which they felt their dignity was taken from them – and implicitly made reference to the fact that this was an important right that was being violated. Indeed, these were the stories that often evoked the most emotion, both from those telling the stories and from the rest of the group.

“You get used to the indignation from the average Joe on the street....they spit on you with their eyes...feeling of being on the streets and of people spitting at us with their eyes, you feel like the absolute lowest forms of life there is. You feel like a worm crawling across the ground. And you’re just waiting for people to step all over you.”

Homeless group

“With these seven women, they [gaol guards] had them undress, stand there naked, video them from behind fully naked which is illegal, asked them to spread their legs, where then two officers then went down beneath under their legs and looked up. Made them stand there for a length of time naked right so breached so many different rules in the policy that’s required when you strip search a woman. Nothing was found on any woman. Sorry what’s the video tape for, what are you videotaping my naked person for? Oh this is for training for officers at the academy. So both men and women officers are going to see my naked body. Yes they will. So is this allowed?”

Ex-prisoner group

“Like when psychiatrists or other professionals start sort of babying you and belittling you...you know that’s sort of really dehumanising and demoralising.”

Mentally ill group

Elderly participants also talked about the importance of the right to a dignified old age and death (in reference to euthanasia). A number of elderly participants were worried about growing old and losing their dignity, particularly within institutions.

“It’s a human right to live in dignity till you die and there are a lot of people out there that haven’t got that”

Aged group

The concept of dignity was also a common theme for both the disability and aged NGOs (as well amongst the general community groups) who described instances where individuals were unable, or scared to communicate their wishes / preferences to carers. The result was care provision that was not respectful of their dignity.

“While in care, an individual spent several years being cared for by male nurses, which was extremely distressing for this individual, this only came to light following her recovering the ability to communicate.”

Disability NGO

“In nursing homes the use of infantile talk reserved for small children and pets, diminishes dignity and is a form of discrimination”...” many fear to challenge this talk in fear of victimisation after doing this as they require care from the staff.”

Aged NGO

2.3 What are the problems faced in trying to get a fair go?

2.3.1 Lack of public awareness of human rights

One of the main problems that participants faced in trying to defend their rights is the perceived lack of awareness of rights amongst the general public.

“Australians are not very well versed in the notions of human rights”

Drug user group

This lack of awareness and understanding was also identified in the mainstream community research. However, for most people – where their rights are not under threat – this is not much of a problem. For these marginalised and vulnerable groups though, who *are* experiencing a threat to their rights, this does become a real problem, with others not knowing exactly what they can and cannot expect.

For a few, this was seen to be a direct result of Australia’s not having a Bill of Rights, though for most, it was more due to a lack of basic education on human rights. A number of people mentioned the need to have a special syllabus in schools covering human rights.

“I think that we should start right from the beginning to educate our young”

Aged group

“A lot of it is brought down to a lack of education and awareness among consumers”

Mentally ill group

“Maybe the school should have a special kind of program that starts educating our young from a very young age”

Aged group

“[immigrants] think democracy equals human rights”

Immigrant Detention NGO

2.3.2 Lack of awareness amongst vulnerable groups

An additional problem relating to awareness was the perception that the vulnerable groups themselves were lacking awareness of their own basic rights and how to obtain information on them. Again, this was recognised amongst the wider population, but was less of a problem.

“A lot of people living on the street don’t understand their rights. And they’re not prepared to stand up and fight for their rights because they don’t know what their rights are. So how do you fight for something you don’t know?”

Homeless group

“Not many homeless people know that they do have any rights, so they come up against a government department who is being frustrating or denying rights then they just storm off and then not access things that are really vital for them - so many do not access Centrelink at all because it is too frustrating”

Homeless NGO

“We went to Amnesty International to find out about our rights, but they did not help”

Immigrant Detention group

Many of the NGOs reported that there is no form of rights communication to vulnerable groups they work with. For some, they have tried to facilitate an awareness process (distributing information), but the material was not distributed by government agencies (i.e. prisons), while others were the port of call for any breaches.

"We sent them [gaols] info packs on human rights for prisoners, but prisoners never saw the material"

Ex-prisoner NGO

"There is no access to human right info, [immigrants] think democracy equals human rights"

Immigrant Detention NGO

"They go to NGOs for information"

Aged NGO

"Support structures for those with disability are often not well known or accessible so that the ombudsman is contacted to review the breaches"

Disabled NGO

2.3.3 Lack of awareness amongst service providers

Lack of awareness amongst service providers was also mentioned as a considerable barrier in getting a "fair go". Individuals working in government departments were seen as having not enough understanding / education about the people they serve or of basic human rights. Low education / awareness was reported to lead to:

- Incorrect / incomplete servicing of individual (i.e. refugees)
- Discrimination (via stereotype or standardised policies that do not consider unique needs)
- Allocation to the "too hard basket" (immigration)
- Breaching from services (Centrelink, Department of Housing)

"The government employ people who have no idea about the people using their services"

Physical disability group

"There is very low education level in the immigration system"

Immigrant Detention group

"Department of housing employees told me that when they receive an application for housing from someone with an anxiety disorder they automatically place it on the reject pile"

Mentally ill NGO

"Many carers don't even realise their actions [of ageism] are discriminatory"

Aged, NGO

"The lack of "identification" amongst service providers is also an issue, where no provision is made for the conditions of the individual."

Homeless NGO

"Homeless are made to "go through rigmarole of making job applications" to receive Centrelink payment"

Homeless NGO

2.3.4 Accessible information

For those wishing to receive information on human rights, there was a feeling that information was not easily accessible – though this may reflect more that such information simply does not exist in a comprehensive form. Group participants generally did not know where to go to get information about human rights and often mentioned their relevant non-government organisation as a first port of call.

“Well the consumers who come here to this facility on a regular basis, they learn a lot. They learn heaps because [name] and [name] are such good advocates that they make sure that they’re fed that information...But there are too many, just like there are hidden carers, they are hidden consumers out there who are still isolated and don’t come to these places where all the information is”

Mentally ill group

“I don’t have any information. I wanted to know more about them [human rights, to prepare for the discussion], and I searched for the information...couldn’t find it.”

Refugee group

It was also mentioned that even when information was accessible, it was often in a format that was inappropriate for those who needed it. Participants with severe visual impairment claimed that it was difficult to come by the information in Braille, while homeless participants pointed out that information available on the internet was inaccessible to them. For immigrants, language was a huge factor in accessing support and services in the community.

2.3.5 Inability to keep up with technology

A number of participants felt that their lack of understanding of the latest technologies was an impediment to getting a “fair go” and having their rights upheld. There was a feeling that much of the information that was available on rights was on the internet, a medium that was either unfamiliar (particularly amongst the elderly) or physically inaccessible (for example, among the homeless).

“It’s assumed today that everyone is computer literate and can work mobile phones and can have access to MSM and whatever technology is the buzz at the moment.... you miss out”

Aged group

“A lot of elderly people don’t have access to the internet and aren’t interested”

Aged group

For refugees and immigrants from developing countries, technology could also be a substantial barrier. In these countries technology is far less pervasive than it is in Australia, and many people will have grown up without any experience of the sorts of technologies that are fundamental to daily living in Australia. This lack of familiarity can be both an immediate barrier, but also a longer term one.

2.3.6 Stereotyping

Many of the groups involved in this stage of the research explicitly or implicitly reported that the wider community treats them as stereotypes of the category rather than as individuals – and that in most cases these stereotypes are negative, and have negative impacts on how they are treated. Examples included drug users who reported that it was just assumed they were rorting the system to obtain drugs; refugees that people saw them as people from countries that they knew only bad things about; and mentally ill people who are ‘normal’ until they disclose their illness.

This stereotyping appears to result in negative encounters and outcomes, in some cases generating ill-will and if anything perpetuating the stereotype. Being able to be treated as an individual rather than a member of a group may help those who are trying to “move on” to do so.

2.3.7 Documentation

A number of groups also reported problems associated with documentation. Being able to prove your identity to access certain services and benefits often requires formal documents, which some people do not have. For example, homeless people may not have passports and driver’s licences, nor credit cards and other secondary identifications that most members of the community do have.

Refugees also described a problem with being able to access documents. In the countries that they come from, record keeping is often not as formal as it is in Australia, and some reported that only one original hard copy of documents is likely to ever have existed. If these are destroyed or unable to be accessed – not uncommon in countries where refugees have come from – then there is simply no way to obtain a copy of them. However, they report that Australian agencies and companies are often very rigid in their requirements for documents, and cannot deal with situations where they cannot be provided.

2.4 How protection of human rights could be improved

2.4.1 Make it “black and white”

A fundamental, written document outlining the rights of all groups in society was seen by many of the marginalised and vulnerable groups to be a necessary step before any rights could be consistently protected. Although most generally agreed that Australian culture and society usually sought to uphold human rights, most felt that it was necessary to commit to the protection of human rights in writing so that this good intent had some specific guidance.

“You will never stop discrimination, whether it be racial discrimination, whether it be class discrimination, whatever. You will never stop that, but if it’s in black and white saying that you cannot purposely go out and victimise that person because they’re homeless, then at least the person that is homeless has some form of rights by that charter, by that legislation”

Homeless group

“I think if there was a human rights bill legislated to me that would mean that not only all government departments but all NGO’s would have to follow that legislation”

Drug user group

“We as individuals don’t have to educate the doctor, the legislation does it for us....Makes it a level playing field. Then they’ve got no defence”

Aged group

“I just want something that tells me what rights I have when I get to Australia”

Immigrant detention group

This view was also widely expressed in the qualitative stages of the general community research – though interestingly it did not come through so strongly in the survey responses.

Several participants suggested that human rights could be summarised in a document that could be easily hung on a wall. This document could then be distributed amongst government departments and agencies, thus serving as a constant reminder to staff and an easy reference to those receiving government services. This may help to overcome the problems of both individuals now knowing their rights, but also agencies or service providers who work with them not knowing their rights.

This notion of an “overarching act” was reiterated by the NGOs who believed having a written document would help vulnerable groups have a framework to approach breaches in their rights. Often, the existing structures for addressing human rights breaches (ombudsman, equal opportunities, conciliation) are difficult and end in no formal findings.

“A human rights act would be ideal - so that department agencies have a framework in which they can manage homeless person’s situation.”

Homeless NGO

“The lack of formal documentation [of rights] means that the ombudsman is often the only way to address the breaches”

Disability NGO

“Signing of the optional protocol, once ratified will be great. It will make the country responsible for the conditions of the prisoners, UN inspectors come and inspect to shame countries”

Ex Prisoner NGO

2.4.2 Enhance service delivery

In describing many of the problems that participants had in attaining their basic human rights, the vast majority of participants referred not to human rights *per se*, but to service providers. As in the general public research, there was a feeling that rights were essentially protected by the Australian legal system and also by Australian culture, but that when rights were not upheld it was often due to systemic problems with service delivery.

“Australian society is generally about getting a fair go...it’s the systems in society where we generally come unstuck”

Physical disability group

As described earlier (see Section 2.1), service providers are often seen to have been designed to deal only with people who can function at a ‘normal’ level – ie: those with fixed addresses, telephone numbers, those who can communicate clearly, travel easily etc. This was often seen to be at odds with real people in need of service provision. A homeless group participant described such a situation:

“In 2008 I had received a letter from the Department of Housing to say that I had two working days from date of issue to contact them, otherwise it would be assumed by the Department of Housing that I was already housed and no longer required their services. That’s what they said, two working days. When I was living on the street I only used to access my mail once a week, once or twice a week from a service provider and I was five or six days late anyway. So I looked at it and I thought well, there’s my train and it’s already gone”

Homeless group

This particular scenario was described as quite common by the NGO for homeless people, interviewed in the research. The NGO claimed knowledge of “at least 100” such situations, where there was clear mismatch in service delivery protocol and the needs of those who rely on the service.

“Most of them just tear up the letter and don’t bother following it up any further than that”.

NGO, homeless

Refugees also reported similar issues with respect to, for example, Centrelink payments being stopped if a response was not received within 2 working days to a letter – but through language barriers or failure to have updated contact details, these letters not being received or understood.

Given the opt-in nature of these type of arrangements, these cases may in fact look like successes to the agencies involved – but are clearly failures from the perspective of the (non) recipient.

Migrant and immigration detention service provision is another area NGOs would like to see focus in order to improve basic human rights provision for this vulnerable group. For NGOs it was about a ‘fair go’ for immigrants / refugees who need support services and do not have the luxury of contacting their own embassy in Australia as they are fleeing from that administration.

There are 3 areas for improvement to better protect human rights; (1) Support services, (2) Immigration Legislation/process reform and (3) Case management.

(1) Increased support services (induction and education). Access to migrant services and support was reported to have declined considerably so that migrants were left isolated and unsupported in the community. The migration system is in need of induction and support when entering the country or exiting detention to ensure these individuals are not simply lost.

“We need to know what to do, where to go, who to talk to”

Immigrant detention group

“This organisation was lovely but they did not know anything, they were only able to give us some furniture. They could not tell us about legal advice, housing or education schemes, we did not know how to find information”

Immigrant detention group

In one example, refugees (from Africa) arrived in Australia and were collected by migrant services and delivered to housing, but not given any instructions on how to do basic activities such as how to use a kettle, or use a phone.

“Migrant Services arrived to the house on Monday, and the family had not eaten anything all weekend, they didn’t know how to open a tin”

Immigrant Detention, NGO

“An African family arrived on Friday with an ill child, by Monday the child was dead because the father could not use a telephone or speak English”

Immigrant Detention, NGO

“If you’ve fled Afghanistan, or Nigeria or anywhere, unless you’re really sure the people you are talking to are trustworthy, then you’ve got a real problem. They don’t know who to talk to.”

Immigrant Detention, NGO

“Some people tell them to go to a migration agent. Sometimes they go to legal aid, if they know about legal aid, but often they can’t find out about these things.”

Immigrant Detention, NGO

“The NGOs take responsibility for caring for refugees in detention and when they are released because the government does not provide any support”

Immigrant Detention, NGO

(2) The Immigration process and legislation. The NGOs indicated that not only is the system so difficult to navigate but there are legislations which “need” reform.

“Whichever way we turn there is another regulation”

Immigrant Detention, NGO

“Migration Act should change- as it stand there is a clause that people may be locked up indefinitely – which is outrageous”

Immigrant Detention, NGO

“There is no other country in the world has this process where a federal court can overturn a tribunal decision to have it return to the tribunal and the same decision made again”

Immigrant Detention, group

Refugees and the refugee NGO noted that processes which they need to access – for example, trying to bring family members to Australia - are often very complex, and made especially difficult for people with limited English language skills. Refugees also reported that they were often not given any information about what criteria their applications needed to meet – either before being made, and in some cases even after being rejected.

(3) Case management across a range of issues

There is no provision in the immigration system for case management when individual cases are complex. For many immigrants they feel at the mercy of the system and powerless to change their situation because they cannot work or obtain an education.

“Some of them [immigrants] just give up [mentally] and are not interested any more”

Immigrant Detention, group

In these instances, NGOs may take a case management role, and in most cases they incur great personal expense to do this.

"God sent us these people [NGO name] and [NGO name]"

Immigrant Detention, group

"I just wanted to come to Australia and get an education, but I had no right to work and no right to study, if I did, I would be sent to detention"

Immigrant Detention group

The parole system is another service provision area described as being in need of reform. Currently being run by corrective services, the parole system is considered to focus on "catching people out" rather than helping readjust and rehabilitate in the community. Some parole restrictions placed on parolees are considered "unrealistic" and counter-productive in the readjustment process.

"One parole officer did not allow parolee to see any person including his mother and brother, whom he had a close relationship with. Isn't this essential? Shouldn't we be encouraging this?"

Ex prisoner NGO

"Because parole officers are not easy to deal with, some prisoners will not take parole and serve entire 7 years" [instead of 5 years plus 2 years parole]

Ex prisoner NGO

The inability to access support structures in order to "move on" was a common theme amongst NGO interviews. The prisoner community were considered to be in need of re-adjustment mentoring and education post gaol time in order to significantly reduce re-offense rates.

"Prisoners are not given appropriate training to prepare for release... how to operate computers, skills, proper training course"

Ex-prisoner NGO

"Mentor needs to be able to introduce the 'mentee' to proper housing programs, education programs, computer programs"

Ex-prisoner NGO

For those with mental illness, there was also a strong call for increased coaching and mentoring services to help a readjustment and recovery process in the community. The mental illness patients are in need of mentoring and support to re-adjust to life and employment after periods of "relapse."

"NGOs play the role to fill the gap when care co-ordinators do not have the time to sit on a bus or go to the movies"

"[patients] need assistance to prepare a wellness plan to prevent relapse"

Mentally ill NGO

Generally, in relation to human rights, enhancing service delivery was felt to come down to four factors:

1. Ensuring all staff within service providers know, understand and uphold the rights of those receiving services.
2. Ensuring that service providers, government departments and health workers show respect and empathy when dealing with vulnerable groups.
3. Ensuring that vulnerable groups are treated the same as other members of society.
4. Designing services and service delivery more around the needs, barriers, and limitations of those using the service.

2.4.3 Raising awareness through easily accessible media

Most felt that raising awareness of human rights is an important step to protecting the rights of vulnerable groups.

A number of participants mentioned that the 60th Anniversary Special Edition booklets produced by the United Nations are a good example of an accessible and transferable medium through which to promote individual rights.

“I think handing out booklets like this that are easy to carry is a great idea. Relatively easy to read, I mean for those that can read.”

Homeless group

2.4.4 Enforce a “statute of limitations” on background information

The issue of people who were previously in a marginalised or vulnerable group moving on was clearly identified as a problem. The ability of people to move out of these groups and into mainstream society is clearly beneficial for all parties, but forcing people to have to continue to acknowledge past events which may no longer be directly relevant for an extended period of time can prevent them from doing so – with this information from their past continuing to shape their present.

“Anyone that’s done ten years after gaol that hasn’t re-offended ...if there is a box to tick, they shouldn’t have to tick it [when applying for a job]”

Ex-prisoner group

“The ‘tickbox’ should be removed unless its relevant, for example we shouldn’t need it if applying for a job as a postman or labourer”

Ex-prisoner NGO

2.5 Specific issues raised by vulnerable groups

2.5.1 The aged

Elderly participants generally felt that rights are well protected within Australia, but had concerns about a number of specific issues:

Grandparents raising children

Participants were concerned that, although the number of grandparents raising children was growing in Australia, this group did not have access to the same welfare rights as carers (largely because they are considered family by service providers, rather than carers).

The right to the best available medical treatment

Elderly participants were not only concerned about their right to access appropriate and affordable medicine, but also their right to choose the treatments they received. Several participants noted that medical practitioners often failed to recommend the best course of action for elderly patients because they felt the patient was too much at risk or simply because the patient was considered to have little time to live regardless (see Section 2.2.3).

Some participants also felt that preventative healthcare should be as much a right of the elderly as of younger demographics.

“Mammograms for women over 70 you’re actively encouraged between 60 and 70 to have a mammogram. And after 70 they go quiet, ‘cause you’re too old, they don’t care.”

Aged group

“For those suffering illness [on a single pension] the medication costs more than the pension - in some cases people will disregard medication in order to get a decent meal”

Aged NGO

The concept of ageism

The concept of ageism was used as a term that covered discrimination against the aged population. Electronic and print media were cited to reinforce the negative stereotypes of the aged.

“Ageism is the inability / refusal to recognise the rights and dignity of older people. Community sees older people lacking competence, having problems with computers. Ageist views are in the work place where it is believed that we can’t learn new skills, absenteeism is greater and I don’t respect my manager”

Aged NGO

The right to dignity in old age and in death

Aged care institutions were often seen as removing older people’s rights to dignity, based on the experiences of some people that group participants knew.

Several participants commented on the importance (and perceived absence) of the right to a “dignified death”, or euthanasia. This was also commonly mentioned in the general community research.

For others, it was a concern of appropriate communication to the elderly in care;

“In nursing homes the use of infantile talk reserved for small children and pets, diminishes dignity and is a form of discrimination... many fear to challenge this talk in fear of victimisation after doing this as they require care from the staff.”

Aged NGO

The rights and role of carers of the elderly

There was much discussion around carers and the fact that this group needed to be recognised more within the welfare system. Participants also felt that there were situations where carers should be made “custodians” of the rights of those they cared for. This was particularly important in situations where a recipient of care is not sound of mind and is incapable of making good decisions, for example in the case of progressive senility or age-related mental illness.

Using appropriate technology to communicate rights

Elderly participants were amongst the most vocal in criticising the exclusive use of internet and, to a lesser extent, mobile phones, for communicating rights to people. They felt that they, as a generation, were naturally less likely to use such technologies, and thus, unlikely to benefit.

Equal Opportunities for the Aged

An area emphasised by the NGO was surrounding equal opportunities for persons over 50 years, and in particular employment opportunities. It was reported that there are “myths” about the aged that prevent them from getting employment. The inability to secure employment is reported to cause feelings of low self esteem.

“The thing that really gets up men’s noses is the devalued feelings... it’s an issue of self esteem. Low self esteem means sicker more often”

Aged NGO

“Equal opportunities should have an educating function”

Aged NGO

“Some companies offer training (like Westpac bank) and have an all ages policy - good stuff”

Aged NGO

2.5.2 The mentally ill

Participants with mental illness tended to focus on many of the same themes that arose in the Aged group, namely:

The right to dignity

Participants with mental illness felt strongly that there was a stigma attached to mental disorders and that they suffered discrimination as a result, even at the hands of health care professionals.

“We’re not schizophrenia, bipolar, ADHD...we’re people and that’s what human right is all about”

Mentally ill group

“The stigma about mental illness is strongest amongst doctors”

Mentally ill, NGO

“The process of scheduling needs reform, in some cases 6 police officers will enforce a schedule and throw person in the paddy wagon”... “treatment as a criminal has long lasting effects”

Mentally ill, NGO

They also felt that the stigma associated with mental illness often prevented them from attaining other rights, such as the right to work and drive.

“There is this assumption that people with mental illness are ill all the time”

Mentally ill NGO

The right to choose treatments

A specific issue raised within this group was the right to choose medicines and treatments. There was a feeling that the medical system often imposed treatments without considering the preferences of the individual, or the potential side effects for that individual.

“All the education I’ve got is my own body, my own body tells me what [medicine] works and what doesn’t work”

Mentally ill group

“I help educate consumers to plan appointments to tell doctors certain information so they are not given blanket medications.”.... “We need to respect the rights to be part of the decision making process.”

Mentally ill, NGO

The rights to holistic mental health care and support

The mental health system is described as a system operating in silos that do not have a holistic approach to care provision. The mental illness NGO suggested that people with mental illnesses will not be given a fair go in the Australian community until there is an holistic approach.

An holistic approach is suggested to enable those in the system to have a number of services co-ordinated on their behalf. The system is described to focus on crisis care and dealing with the symptoms of the mental illness but not the underlying causes (eg childhood trauma or abuse). The system is depicted to be overloaded so that there is not an imbalance between crisis care and care co-ordination.

In addition mentoring programs to assist readjustment and recovery was back in the community will ensure individual can access all the rights/services they require.

The right to Education & Opportunity

It is reported that there is widespread misunderstanding of mental illness amongst the broader Australian community. It is suggested that increasing *accurate* knowledge and awareness of mental illness in the community will help with increased empathy and opportunities from employers and organisations. One solution for employment opportunity was suggested to be “commune jobs”.

“Assistance to re-join society in the form of employment, responsibilities”

Mentally ill, NGO

2.5.3 The physically disabled

Physically disabled participants also voiced similar concerns to aged and mentally ill participants, including:

The right to safety from harm

One of the key concerns of physically disabled individuals, their carers and relevant NGOs was the levels of abuse they suffered – both physical and sexual. Severely physically disabled individuals were seen to be at considerable risk, particularly if they were incapable of communicating clearly.

The rights of parents of disabled children

Several participants felt that parents of children with disabilities needed their rights protected, particularly in regards to welfare, medical and psychological/psychiatric treatment. Participants felt that parents' needs and rights were often overlooked, despite the physical and mental burden of caring for a disabled person.

“Often you get pretty severe health deterioration among parents [of disabled children] ...who is speaking out on their behalf?”

Physically disabled group (parent)

The right to freedom of movement and access

Although group participants acknowledged that much progress had been made in ensuring that disabled people were able to move freely in public, many felt that there were still too many instances in which facilities were not designed with the rights of disabled people in mind.

“It shouldn’t be that we have to argue after a building is built [for disabled access]”

Physically disabled group

“Person with dexterous difficulties may be unable to purchase transport tickets from ticketing machines”

Physically disabled NGO

2.5.4 Ex-prisoners

Although group participants were all ex-prisoners now living freely within society, many of their concerns were focussed on the rights of people inside prison.

“There’s a general statement inside prison about how people feel about their rights. And that is that you’ve got no rights”

Ex-prisoner group

There was a general belief that all rights within prisons were either taken away or to some extent degraded. However, there were some specific rights that participants felt were particularly important.

The right to dignity

Basic rights (or needs) such as food, water and shelter were generally seen to be provided, but participants felt that prisoners often lost their identity and humanity. A number of stories arose in which prisoners were degraded (e.g. by being asked to strip, then video-taped).

Right to defend one’s rights

Ex-prisoners felt that the prison system punished those who spoke out and tried to defend their rights whilst in gaol, by taking away basic privileges.

“You know it’s wrong, you know it’s illegal, but if you were to make a complaint, you will lose because of it.”

Ex-prisoner group

“If you start standing up there’s ramifications ... You’re a trouble maker and you lose things as a result.”

Ex-prisoner group

“Why don’t people speak up about all these things that happen [in prison]? Most times, because they’ve been knocked down so many times when they do speak up in there and they lose so much more as a result of speaking up, so they don’t after a while”

Ex-prisoner group

Right to an education

There was feeling that prisoners were seen as “lost to society”, with little investment made in rehabilitation, including provision for education whilst in prison. The right to an education was seen as a fundamental right that should be protected for all members of society, including prisoners.

“The teacher’s federation are up in arms about this, they’ve got all the wonderful facilities, but no one will pay for the teachers to come out and teach them”

Ex-prisoner group

Right to “move on”

One of the biggest issues for ex-prisoners after leaving gaol was the difficulty of re-integrating into society (see also Section 2.2.4). In order to do so effectively, participants believed that there was a necessity to “move on” from the past. However, this was difficult to achieve given the constant need to provide information about their prison time – employment forms, applications for private housing, and applications for bank accounts and finance all require them to identify their past records – and this is felt to further negatively influence the outcomes of their current application.

2.5.5 Drug users

Most of the concerns of drug users were also reflected in other groups (particularly the ex-prisoner and homeless groups).

The right to healthcare

The biggest concern for drug users was in the difficulty of obtaining what they perceived to be good healthcare. Generally, there was a belief that users are “judged” very quickly within the medical system, then treated as a secondary priority. This was particularly the case if they suffered medical conditions that were prevalent amongst users, such Hepatitis C.

“Drug users are too scared to approach health services...Doctors classify them as junkies”

Drug user group

“They don’t identify themselves as a user or Hep C user, because they feel judged”

Drug user group

The right to “move on”

More so than many other groups, drug users felt that their condition rendered it very difficult to get on with their lives once they decided to take action to stop using drugs.

"It is very difficult to get back on track"

Drug user group

Many drug cessation treatments were seen to be harsh, and unsympathetic to users. It was noted that for other addictions and mental health problems (e.g. gambling), treatments tended to wean people off their addictions, whereas most drug cessation treatment expected users to suddenly stop using substances, whilst at the same time trying to fit back into "normal" society.

2.5.6 Homeless

Not surprisingly, basic rights such as food and shelter were the main concerns of homeless people. Shelter, in particular, was seen as a basic right that was not adequately protected. Participants understood that systems were in place to provide housing, but often complained that the systems are designed as if to deal with normal people, rather than people in their circumstances. The following is a story that summarises such a situation:

"Early in 2008 I had received a letter from the Department of Housing to say that I had two working days from date of issue to either contact them, otherwise it would be assumed by the Department of Housing that I was already housed and no longer required their services. That's what they said, two working days. I have a copy of the letter in my bag if you would like one. When I was living on the street I only used to access my mail once a week, once or twice a week from a service provider and I was five or six days late anyway. So I looked at it and I thought well, there's my train and it's already gone...why should I bother ringing up, getting rejected once again by the Department of Housing saying sorry AJ but you were meant to contact us within two working days from date of issue."

Homeless group

The right to safety from harm

After food and shelter, physical safety is a key issue for homeless people. Sleeping on the streets exposes "Streeties" to frequent attacks and violence (see Section 2.2.2 for more detail and examples).

The right to live on the streets

Although apparently counter intuitive, one of the rights that this group felt needed protecting was the right to live on the streets. Having found themselves with no option but to sleep on the streets, homeless people felt that they should be protected and left in peace, without the constant pressure to be "moved on" by police.

"These people have to have written rights where they are able to stay on the streets in a safe place without move on orders and disruption so they can get themselves into housing or at some stage when they can find housing. You know they are protected in their Cocoon, not torn out and accused and thrown about and spat on and all the rest of it"

Homeless group

2.5.7 Recently arrived Immigrants and Refugees

Refugees and immigrants faced many of the same issues, though there were some additional factors that were especially relevant to refugees. Those people who participated in the research (both immigrants and refugees) generally indicated that they found the human rights situation in Australia far better than what they had previously experienced, and overall were very positive about Australia and the way they were treated. They were aware that some individual people treated them badly, but felt that mostly their treatment by Australians was good. The refugees in particular were at pains to make

it clear that they would have preferred to have been able to stay in their home country, but once they had had to leave, Australia offered them a very good alternative. The service provider interviewed felt that where racial tension was seen it was because groups instinctively realised that they were competing with each other for limited resources and funding –and that this seemed particularly to be the case between the indigenous population, and some (but not all) immigrant or refugee communities.

“Australia is doing very well. Where I came from before, we had no rights.”

Refugee group

“Australian person very nice. I feel very comfortable. Love the freedom. Hope to stay in _____, find job.”

Immigrant group

“I see Australia as a combination of all the refugees that come together - a free country, a free mind, [for] a broken heart. You describe the refugee, like a group of people that they are all broken, they have broken hearts. A hopeless life...they are hopeless because they saw their life destroyed...they don't have any hope that they can make their life again or not. They think "I'll be alive, or not". In Australia we can't say that all these people they are hopeless and they have a broken heart. All broken hearts together to start a new life...because every refugee comes together [and] they make a new life”

Refugee group

“Not all the branches are wet, and not all the branches are dry. In every country there are good people and bad people.”

Refugee group

“It's just been a huge change in my life, and I thank God for that.”

Refugee group

They did note however that Australian's perceptions of them were often quite stereotyped, and often these stereotypes were based on attitudes derived from a continually negative depiction of their home countries in the media. It wasn't that the media was felt to portray them or their countries unfairly, but rather in an unbalanced way such that only negative images were ever propagated. The result of this was that some people tended to judge them based on visual characteristics such as skin colour etc, rather than treat them as individuals, and that the automatic associations were of poverty, crime and violence.

“You only ever hear of these places when there is a problem.”

Refugee group

“All that people know here about _____ is bad.”

Refugee group

Communications and language

The most obvious issue which influences the experience of someone who comes to Australia from another country is their language skills. People who come from English speaking countries (even non-Anglo English speaking countries) have a significant advantage over those who do not. People who cannot communicate in English are forced to utilise friends or other community members to act as translators, with this dependence giving them less freedom to move around the community and interact with people.

“People who cannot speak English have a much harder time than refugees who can speak English.”

Refugee group

The service provider interviewed reported that relatively few immigrants who they work with appear to use the various translation services available, due to factors like cost, awareness and unfamiliarity with how to actually use them. They also noted that even when underlying language skills are reasonable, that an accent causes some people to assume that they cannot or will not understand the person, and so they don't even try to listen to what they are saying.

Communications problems cause a number of issues, and can result in relatively trivial issues becoming more serious.

"For instance, I remember I was with a driver who was stopped by a policeman simply because he had more than enough people in the car. Instead of charging or fining him they sent this man straight to jail. From there he spent two days in jail before they sent him to court. The judge sent him to work two weeks in prison - he spent another fortnight. It's the complication; you have no one to look after you."

Refugee group

It was noted however that there were English language classes readily available, and that children learned more easily in schools and became a valuable resource for parents and the older generation. The service provider interviewed felt that sometimes teachers in schools were not really aware of the culturally different roles that children played in immigrant or refugee families, and how these may impact on the time that they could devote to schoolwork.

"My 15 year old daughter learns English at the high school, she has much better English than me or my Husband."

Immigrant group

A consequence of poor language skills is that written communications are not understood, and often not read at all. This is particularly important when communications from Government agencies, especially Centrelink, are not responded to. Participants reported cases where they knew of people who had received letters from Centrelink that they could not read – but which had required a response within two days in order to avoid payments being stopped. Because they had not been able to do so, this had resulted in significant economic hardship in the interim.

Complex bureaucratic forms and processes are also not well understood by those with poor English. Given that many immigrants and refugees are trying to work with systems to bring out other family members, which is a particularly complex process, this often causes problems and additional stress. Refugees reported not being able to find out about the criteria that they had to meet, or those that they had not met when they were declined.

A final note on immigrant and refugee communication skills relates to the difference between spoken and written language. Because education levels in many countries are poor, some people cannot read or write their own language to start with; and some English speakers can speak but not read or write in English. In this way, immigrants and refugees can more easily find themselves having similar issues that any illiterate person in the community might, even when their spoken skills are adequate.

Employment

A key impact of the communication barrier is on the ability of immigrants and refugees to obtain a job. The failure to have a job means that their financial situation can be difficult, and then there are further issues that flow from this state.

"To find a job is difficult, because of the language."

Immigrant group

Both immigrants and, in particular, refugees identified the requirement to have work experience as a major barrier to their ability to obtain work. When competing for work, having no experience (and presumably no referees) makes them relatively less competitive, and therefore less able to obtain a job.

Ability to get a job can also be impacted by limited experience with pervasive technologies, putting immigrants and refugees at a competitive disadvantage.

“What about people who don’t understand computers?”

Refugee group

In order to actually get a job, immigrants and refugees often have to repeatedly move around the country trying to find opportunities. This is somewhat problematic in terms of settling into a community and establishing networks. It also means that often the contact details that Government agencies have for them are out of date, and important communications such as Centrelink notices or driver’s licence papers go astray.

Documents

People who come to Australia from other countries often do not have, or have access to, documents that most Australians would be able to obtain. This is especially the case for refugees, for whom any such documents often only ever exist in their original form – and the events that lead to them becoming refugees often also result in the destruction of these documents or else make them impossible to get.

Australian systems are often very inflexible in respect to these documents, and participants reported having excessive delays or being unable to proceed when not able to produce documents such as marriage certificates or the like.

“I could not get my marriage certificate. I thought the photos we had from our wedding would be enough, but they said no. It was only because I had not deleted e-mails that I could prove that I had been in communication with him [my Husband] for the whole time, but what if I had not kept them?”

Refugee group

Mental Health

This research has shown that people with mental health issues also have associated human rights issues; and that people who experience more than one marginalising factor can be particularly vulnerable to human rights issues. The very experience of being an immigrant is stressful, and for refugees this is amplified by the events that lead to their situation, and quite often separation from and uncertainty about family members. It seems very likely that immigrants and especially refugees could experience mental health problems.

“Physically they are happy, but mentally they are worried.”

Refugee group

“I can see it in their eyes that they [people in the street] are scared of me.”

Refugee group

Immigrants and refugees who have language barriers experience additional stress, including being concerned that with their limited skills they will inadvertently cause offence. Because they cannot express themselves, they often will say that things are ‘good’ even if they are not, simply to avoid problems.

“I am...always...worried.”

Refugee group (very limited English skills)

Lack of Information

One participant in the refugee group attempted to do some research into Human Rights in Australia, and was surprised to find that he could not find any single document that described the rights that people had. He felt that this would be very useful information to have.

2.5.8 People in immigration detention

The experiences of detainees were similar to experiences of refugees and recently arrived immigrant groups in relation to communication and navigating the bureaucracy of immigration with the plethora of forms and documents required. The people who participated in the research indicated the overall experience in Australia had been frustrating because “the system” did not provide any support for them, they needed to know “what to do, where to go, who to talk to” and this was not provided. The types of support the group indicated was needed were legal advice, housing advice and education scheme advice.

“I had no right to work, no right to study and if I do, I go to detention”

Immigrant detention group

The immigrant detention group generally had positive feelings toward the Australian community, and felt indebted to the NGO for support provided to them. Apart from this support, these immigrants felt they had no support and “no voice,” they indicated that they had “nothing to do with the government” in relation to rights. In particular, the immigration department was described as discriminatory, unfair, inconsistent (in its actions) with a high degree of regulation which left immigrants feeling helpless and powerless to continue in their situation.

“[NGO name] was interested in our case and helped us, she was the only one”

Immigrant detention group

“Until you make yourself understood [in English] it is hard to navigate the bureaucracy of the immigration system”

Immigrant Detention, NGO

“You have no voice unless you have a lawyer with you”

Immigrant detention group

“They do not have a voice, they come from countries where they are not allowed to have a voice or stand up for themselves”

Immigrant detention NGO

The Detention Experience

Both the immigrant group and service provider described the detention experience as one with no rights, no access to support and no provision of a human rights framework. Overall, the detention experience is described to be isolated, with poor general conditions and medical care. In several examples, individuals in detention would sell all property and assets in their home countries to arrange legal support while in detention, often to no avail, being still in detention and subsequently penniless.

“Unless you get a visitor you are never brought out into the main area, I was involved with one lady who had no contact for 6 years while she was in detention”

Immigrant detention NGO

“Healthcare needs to be improved in detention facilities, a private prison company is in charge of the detention centre and try to make a profit, doing everything on the cheap”

Immigrant detention NGO

Mental Health

Mental health is a particular concern with high incidence in detention. There were cited cases of suicide whilst in detention; long term depression and drug use associated and resulting from the detention experience (see section 2.2.3).

Employment & Education after detention

The immigrant detention group and service provider spoke about the Visa situation (Class E) and requirements to report to immigration (in some cases this was daily). This scenario meant immigrants were not allowed to work or study. Daily reporting to CBD immigration offices was a huge struggle for immigrants from a cost and language perspective. The immigrants felt it was an unfair expectation, as they were not allowed to work to earn money or study to learn English - yet they were required to have both money and English skills to travel to immigration.

Migration Agents

Both the immigrant detention group and service provider described concerning accounts of experiences between immigrants and migration agents. Immigrants described being advised to contact migration agents as a first port of call for legal advice / support. There was a sense that migration agents were taking advantage of the illegal immigrant situation (ie the vulnerability of having no English language skills and no visa).

There was strong concern of insufficient policing of migration agents so they were doing whatever they wanted to do. The group cited examples of alleged personal threats, violence, theft of documents, over charging, and blackmail. In one example, a group member alleged that the migration agent "lied" on the paperwork that resulted in the individual being sent to detention.

Lack of Information

The immigrant detention group indicated that they were not provided with any information from the government about services and support available. In many cases they were writing their own high court, immigration and tribunal as they did not know who else to contact or where else to go.

3 APPENDIX A: THE DISCUSSION GUIDE

NOTE: START RECORDING AT OUTSET OF SESSION SO THAT AKNOWELDGMENT OF RECORDING IS ON FILE

INTRO: Thanks for coming along to talk to us today. This session, and a number of others like it, is part of a wider National Human Rights Consultation. We have been talking to people around the country about what human rights are, what is important about them, and how well they are protected in Australia. What we'd like to talk to you about today is mainly your own personal experiences of living in Australia, but also what you have seen of the experiences of other people and groups.

Before we start though, can you just tell us what you have been told about today, and what you are expecting it to be?

DON'T NEED TO CAPTURE – PRIMARILY FOR MODERATOR TO GET A SENSE OF GROUP EXPECTATIONS.

We'd like to make sure that everyone gets a chance to tell us some of their experiences today, but when you do, we'd like to hear about them in quite some detail.

I'd like to make it absolutely clear that what you tell us today is totally confidential. Our client doesn't know who is at the session today, and they never will – that is one of the reasons for using our company to do this work. We hope that you can tell us openly and honestly what you think during the session today.

We will be recording what we talk about today – these recordings are generally only used by us to make sure we can get exactly what people say. Our client will very occasionally want to listen to a recording, but they only do so without any information about who is in the session, and if they somehow recognise a participant they are required to stop listening immediately. No other organisation or people will be allowed to listen to the recordings without us getting your permission first.

We have a series of questions that we'd like to work through today. We'd like for you to answer as many of them as possible, but if there are things you don't want to share with us, please feel free not to, or to come and talk to us privately after the session.

To start off the discussion....

1. In Australia at the moment, are there any groups of people who are missing out when it comes to getting a fair go?

Who?

In what way?

How come?

1a. IF NECESSARY: Are we missing out on getting a fair go? PROBE IN DETAIL

Who?

In what way?

How come?

2. Are there any groups that need special assistance to actually get a fair go?

Who?

In what way?

How come?

3. What problems might we face in trying to get a fair go for ourselves?

4. Where do we go now if we feel that we are not getting a fair go?

5. What SHOULD we be able to do if we feel that we are not getting a fair go?

6. What is being done now to improve our lives?

What are we doing

What is the government doing

What are other people doing

What are other organisations or groups doing

Who IS helping us

How

7. Protecting Human Rights is one of the ways that everyone in Australia can get a fair go. Where do we get information about human rights from?

8. How could the protection of our own human rights in Australia be improved?

9. What are the good things about Human Rights in Australia?

10. What are the bad things about Human Rights in Australia?

11. What other information would we want to have about human rights in Australia?

CLOSE

This document takes into account the particular instructions and requirements of our Client. It is not intended for and should not be relied upon by any third party and no responsibility is undertaken to any third party.

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