

Human Rights Day

10 December 2022



Human Rights Day is observed on 10 December every year, to commemorate the day the United Nations General Assembly adopted the Universal Declaration of Human Rights (UDHR). The UDHR is a milestone document which proclaims inalienable rights that everyone is entitled to as a human being, regardless of race, colour, sex, political, national or other status. Available in more than 500 languages, it is the most translated document in the world.

Human Rights Day inspires everyone to speak up and take action to end discrimination in all of its forms. It is a day to celebrate the achievements of those who have fought to protect human rights, while reflecting on what still needs to be done to make society equitable for everyone.

2022 theme

Dignity, Freedom, and Justice for All

The 75th anniversary of the UDHR will be celebrated on 10 December 2023. Ahead of this momentous occasion, starting on this year's Human Rights Day, the United Nations General Assembly is launching a year-long campaign showcasing the UDHR, its relevance, activism and legacy. Their hope is to increase knowledge of the UDHR as a foundational blueprint for taking concrete actions to stand up for human rights.

United Nations human rights protections

Under Principle 1 of the UN Global Compact, businesses should support and respect the protection of internationally proclaimed human rights. At Hall & Wilcox, our Pro Bono & Community practice focuses on protecting human rights, including the rights to health, housing, self-determination, equality, access to justice, employment and freedom from discrimination.



DIGNITY, FREEDOM & JUSTICE FOR ALL

Access to justice



17,927.8
pro bono hours



81.3% of our
lawyers participating



40.1 hours
per lawyer

Under Article 8 of the UDHR,

‘Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted [...] by the constitution or by law.’

A right to remedy means nothing if a person cannot access the justice system. Fundamental to our pro bono practice is assisting those members of the community who through financial or other disadvantage would otherwise have no access to justice.

In the 2022 financial year, we completed more pro bono work than ever before. Over 81% of our lawyers delivered 17,928 hours of high-quality pro bono legal services helping protect our clients’ rights, including the rights to work, adequate standards of living, social security and asylum.

In celebration of Human Rights Day, this report shares some of our clients’ stories to showcase how access to justice can be a key enabler for people to protect their human rights.

Our team



Nathan Kennedy
Partner
Head of Pro Bono
& Community



Dan Poole
Lawyer



Ruby Lomi
Pro Bono &
Community
Co-ordinator



Andrew Banks
Lawyer



Nuhulan Ahmed
Paralegal

The right to work

Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment.

...

Everyone who works has the right to just and favourable remuneration ensuring for [themselves] and [their] family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection.

– Article 23 UDHR

Wage theft is a strategic priority area in our Pro Bono & Community practice as an ongoing and significant human rights issue in Australia. Wage theft occurs when an employer deprives an employee of their legal workplace entitlements, such as minimum wages. It is particularly rife in industries that do not require tertiary education and therefore appeal to vulnerable migrant workers.

We are assisting pro bono clients with these claims around Australia through our partnerships with Fitzroy Legal Service in Victoria, Marrickville Legal Centre in Sydney and LawRight in Queensland.

Sarah's story

'Sarah approached us after suffering financial and physical abuse from her employer, who filed court proceedings against Sarah in an attempt to reclaim Sarah's wages.'

Sarah worked for her family friend, Jane, a wealthy businessperson, for approximately five years. Sarah lived at Jane's house during her employment, and over time Jane started to exert increasing amounts of financial control over Sarah and started to physically assault her on a regular basis. Sarah continued to work and live at Jane's house, in fear of what Jane would do to her if she left. She was paid a small living allowance rather than wages and was significantly underpaid for the work she performed.

Eventually, Sarah asked to be reimbursed for the significant amounts of unpaid work she had performed for Jane, and Jane paid a lump sum of \$250,000 into Sarah's bank account. Shortly thereafter, Sarah escaped the abuse perpetrated by Jane by fleeing the house. Jane subsequently issued court proceedings against Sarah claiming the \$250,000 was paid for 'safe keeping', rather than as payment for the work Sarah performed.

Sarah approached us shortly after the court proceedings were filed against her. She could not afford legal representation, was incredibly stressed and faced the prospect of bankruptcy if Jane's claim was successful. We assisted Sarah in drafting a defence and filing a crossclaim in respect of the physical assaults. We succeeded in negotiating for the proceedings to be discontinued with no order as to costs. Sarah was able to keep the \$250,000 she received for her unpaid work.

Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

– Article 2 UDHR

Under Australian discrimination law, it is unlawful to treat a person less favourably on the basis of particular protected attributes, such as a person's sex, religion, race, disability or age. Many of our pro bono clients come to us seeking legal recourse after experiencing discrimination at work and in their communities.



The right to work

Fatima's story

'Fatima was dismissed from her employment because she was required, according to Muslim faith, to pray five times per day'.

Fatima is a 45-year-old woman from Afghanistan who moved to Australia in 2020. In 2021, she started working for a cleaning agency. She worked there for approximately six months. During this time, Fatima was subjected to prejudicial treatment in the workplace because of her faith.

She was eventually dismissed from her employment because she was required, according to Muslim faith, to pray five times per day. Her employment was terminated despite the fact that only two prayers took place during work hours, for approximately five minutes in total. Fatima was prepared to stay back and make up the time at the end of the workday; however, her employer considered this insufficient.

Fatima approached us to help her understand her legal options. We assisted Fatima in making a general protections application in the Fair Work Commission, claiming economic loss as a result of her dismissal, compensation for her pain and suffering, payment in lieu of termination, accrued annual leave and a positive employer reference.

The matter settled outside of court with Fatima receiving compensation.

Gabriel's story

'Gabriel was diagnosed with leukemia and subsequently subject to discrimination, bullying and harassment from his manager and colleagues.'

Gabriel is a 31-year-old man from France who was diagnosed with leukemia in January 2020. In December 2021, Gabriel informed his employer of three years that he would be starting chemotherapy for treatment and may need to take sick leave and/or engage in flexible working arrangements. Soon afterward, Gabriel was subject to discrimination, bullying and harassment from his manager and colleagues.

All employees were hired by Gabriel's employer on fixed-term contracts. In March 2022, Gabriel's employment contract was terminated. Gabriel's colleagues, who were engaged on the same fixed-term contract, continued their employment. When Gabriel asked his employer to provide reasons for the termination, his manager stated Gabriel's future was unclear and they could not see Gabriel working at the company long-term.

Gabriel approached us shortly after his termination and asked for assistance as he was unfamiliar with the Australian legal system. We advised Gabriel on his options for legal recourse under Federal and State employment and discrimination legislation. After drafting a letter of demand proposing a pre-litigation settlement, we engaged in subsequent negotiations with the employer before preparing a deed of settlement for the parties.

Gabriel secured a favourable settlement.

The right to an adequate standard of living

Everyone has the right to a standard of living adequate for the health and wellbeing of [themselves] and of [their] family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age and other lack of livelihood circumstances beyond [their] control.

– Article 25 UDHR

Many of our clients require assistance to claim or defend claims that threaten their standard of living, placing them at risk of homelessness or negatively impacting their health and wellbeing.

Nancy's story

‘Nancy’s carer took advantage of her poor health to intimidate and coercively influence many aspects of her life. Years later, he threatened her standard of living by claiming she owed him money and attempted to make her homeless.’

Nancy is a 64-year-old woman who suffers from a number of medical conditions, including post-traumatic stress disorder, generalised anxiety disorder, fibromyalgia and is a pathological accommodator. She was medically discharged from her employment in 2015 and subsequently hired a full-time-carer, Steven, to assist with her health needs.

Within two months, Steven became very controlling over Nancy, taking advantage of her poor health to intimidate and coercively influence many social, financial, medical, mental and physical aspects of her life. Steven began spending Nancy’s money without her consent and often withheld her medications.

Eventually, Nancy’s neighbour, Tam, noticed Steven’s unusual behaviour and risks he posed to Nancy’s health. Tam called the police and Nancy ultimately obtained an AVO against Steven.

Nancy approached us in 2022 when she received a letter of demand from Steven, claiming financial and non-financial contributions for work Steven allegedly undertook in renovating Nancy’s property when he worked for her. Steven claimed he had an interest in the house and attempted to make Nancy homeless. We assisted Nancy by responding to the letter of demand and rejecting Steven’s claims.

Steven ceased pursuing the matter and we referred Nancy to a health service, so she could find a carer that would uphold their legal obligations in the delivery of care.

Charlotte's story

'Charlotte approached us when she was left without secure housing and could not find work or rental accommodation due to being diagnosed with cancer'.

In July 2019, Charlotte entered a development agreement (**Agreement**) to subdivide and sell half her property. The Agreement specified a third-party Lender would fund the subdivision, with repayment due six months after the work commencement date or date of settlement after sale of the subdivided lot. The Developer assured Charlotte the project would take approximately six months.

Due to Covid-19, the Developer did not commence work until December 2019 and registration of the two lots was not completed until March 2021. In the interim, Charlotte was diagnosed with cancer and commenced undergoing treatment. Due to the diagnosis, the Lender verbally agreed to waive payment timeframes, penalty fees and interest for late payment set out in the original contract. The Lender later reneged on this verbal agreement and demanded payment of the full principal, interest and default charges.

Ultimately, Charlotte was forced to sell her house and subdivided block in a rush, and due to this haste, they were sold well below market value. She received a small monetary amount from the sale on account of the Developer's delay, leading to the Lender's excessive default charges totalling more than \$170,000.

Charlotte approached us when she was left without secure housing. Due to her ongoing treatments and mental health issues, Charlotte was unable to work or find any rental accommodation. She was relying on friends for housing and temporary accommodation.

We assisted Charlotte in drafting her statement of claim, alleging the Lender attempted to circumvent the National Credit Code before the matter settled outside of court. Charlotte was able to use this money to find suitable housing.

'The peoples of the United Nations have in the Charter reaffirmed their faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women and have determined to promote social progress and better standards of life in larger freedom.'

– Preamble, UDHR

Homeless law clinics

Hall & Wilcox is an active member of Justice Connect's Homeless Law and the Public Interest Advocacy Centre's Homeless Persons Legal Service. The clinics provide people experiencing homelessness or at risk of homelessness with practical legal assistance, advice and representation. The primary issues our lawyers encounter are attempted evictions into homelessness and discriminatory fines and infringements on clients experiencing homelessness.

In the 2022 financial year, our firm completed 985 hours of pro bono work for clients experiencing or at risk of homelessness.

The right to social security

Everyone, as a member of society, has the right to social security...

- Article 22 UDHR

Disability Support Pension Clinic

In partnership with the Welfare Rights Centre, Hall & Wilcox takes part in the Disability Support Pension Clinic providing assistance with disability support pension reviews.

In the 2022 financial year, our lawyers spent more than 534 hours assisting clients of the clinic.

The right to seek and enjoy asylum

Everyone has the right to seek and to enjoy in other countries asylum from persecution.

– Article 14 UDHR

Refugee Legal Clinic

Refugee Legal is an independent community legal centre that provides weekly clinical appointments to refugees and asylum seekers. During each appointment, our volunteers provide assistance and advice to clients seeking to engage with visa application procedures. This can include preparing for interviews with the Department of Home Affairs or responding to adverse assessments of protection applications.

In the 2022 financial year, our lawyers completed more than 1,147 hours assisting refugees.

The right of self-determination

All peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.

– Article 1 International Covenant on Civil and Political Rights; International Covenant on Economic Social and Cultural Rights; Article 3 UN Declaration on the Rights of Indigenous Peoples

HalfCut

All human beings depend on the environment in which we live. A safe, clean, healthy and sustainable environment is integral to the full enjoyment of a wide range of human rights, including the rights to life, health, food, water and sanitation. Under Article 26 of the United Nations Declaration on the Rights of Indigenous Peoples, Indigenous peoples have the right to own, use, develop and control the lands, territories and resources that they possess by reason of traditional ownership or other traditional occupation or use.

HalfCut was created as a response to the sad reality that over half of the world's rainforests have been cut down. HalfCut is a social and environmental organisation that works to engage volunteers and raise funds for rainforest regeneration and conservation, whilst protecting threatened and endangered species. They utilise their funds to buy back sold-off parts of the Daintree Rainforest and return the land titles to the Traditional Owners, the Eastern Kuku Yalanji people.

In 2021, we entered into a community partnership with HalfCut to support their mission of preserving and protecting these internationally proclaimed human rights. In their 2022 campaign, HalfCut raised \$711,833 to purchase three lots in the Daintree to preserve and return to the traditional owners.

Reconciliation Action Plan

Our recently published 2022-2024 Innovate Reconciliation Action Plan includes ways in which we can contribute to increase economic equity and support First Nations' self-determination.

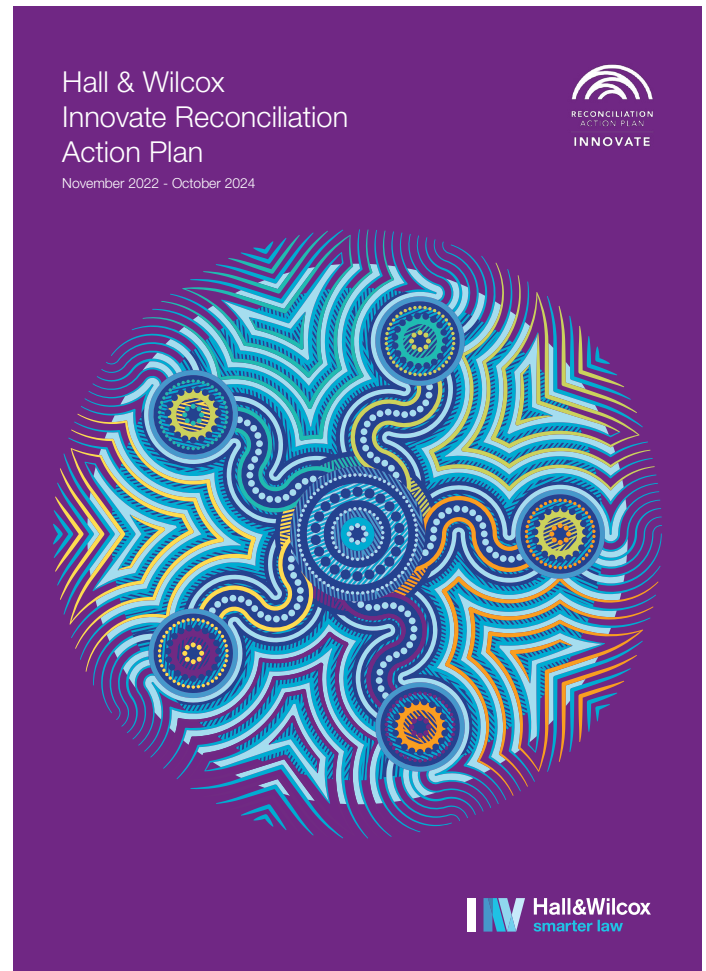
As part of our RAP commitment, we launched a First Nations Pathway Program in all our national offices. The paid program runs for four weeks and provides First Nations university law students with realistic insight into life at Hall & Wilcox. Successful participants are eligible to apply for a graduate position upon completion of their studies.

Our people are currently participating in the Australian Business and Community Network (ABCN) Goals Program for First Nations Students (Goals). Goals is the first program in a three-year Career Mentoring Curriculum that has been co-designed with the NSW Department of Education, Aboriginal Partnerships and Outcomes Division.

Eight mentors from Hall & Wilcox have been paired with a group of year 9 students from Irawang High School, who they will mentor over the course of four sessions. The sessions focus on leadership qualities, building confidence and continuing education to Year 12 and beyond. Goals gives students the opportunity to network outside of their immediate community and expand their options for their future education and career paths.

Hall & Wilcox joined Supply Nation and included over 15 Indigenous businesses in our supply chain in FY22.

We are also providing legal assistance to a greater number of Indigenous businesses. One example is the assistance we provided to Muru Mittigar, a Dharug business that strives to make a significant, measurable and lasting difference in advancing Aboriginal culture. It seeks to promote a better understanding of Aboriginal culture in the wider community by creating jobs, developing workplace skills training and increasing employment opportunities for First Nations peoples. The business achieves this by providing quality contracting and consulting services to Government and businesses, in the land management, education and tourism industries.



Muru Mittigar approached us to conduct a review of a minor works contract, given to them by a property management company to complete landscaping works. We reviewed the proposed contract and identified and extensively described provisions which were particularly onerous or of significant risk to Muru Mittigar as the contractor. Additionally, we provided advice on lower order issues and obligations of the contractor.

