

You are basically entitled to the same rights as other citizens, subject to the Corrections legislation, regulations and prison operational instructions. As the legislation seeks to balance security and welfare concerns of people in prison, you are entitled to the rights that are consistent with the good order, management and security of the prison. The rights set out in the Human Rights Charter are in addition to those in the Corrections Act.

Since January 2008, the Charter of Human Rights and Responsibilities (2006) has been fully operative in Victoria and has provisions directly relevant to you:

- protection from torture and cruel, inhuman or degrading treatment (s.10); and
- humane treatment when deprived of liberty (s.22);

Those indirectly relevant include:

- recognition and equality before the law (s.8);
- right to life (s.9);
- freedom of movement (s.12);
- privacy and reputation (s.13);
- freedom of thought, conscience, religion and belief (s.14);
- freedom of expression (s.15);
- peaceful assembly and freedom of association (s.16);
- protection of families and children (s.17);
- taking part in public life (s.18);
- cultural rights (s.19);
- property rights (s.20); and
- the right to liberty and security of the person (s.21).

All of these rights are balanced against the security requirements of the prison. The Charter does impose "an obligation on all public authorities to act in a way that is compatible with human rights" (s.1(2)(c)) and, in interpreting the prison law and rules, prison authorities must ensure that they do "so far as is possible in a way that is compatible with human rights" (s.1(2)(b), and s. 32 of the Charter).

The human rights in the Charter are not 'stand alone' rights, however. That is, if you think your human rights have been violated this does not mean you can automatically take it to court. The Charter should, though, be taken into account when a decision is being made that affects you. You may try and get a decision judicially reviewed in this case, refer to fact sheet #23: Judicial review, and get advice from a lawyer.

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### ***Further information***

This fact sheet contains general information only and is not a substitute for obtaining legal advice. If you would like advice regarding a specific problem please contact one of the legal services listed in [contacts](#) or contact the Law Institute of Victoria's Legal Referral Service on 9607 9311.

