

Beyond Australia's First Bill of Rights

29 June 2005

Today I will set out the background to the Victorian process (<http://www.justice.vic.gov.au/humanrights>) and what we are doing as well as some of the challenges we are facing.

May 2004 Justice Statement

- In a broad ranging vision for the justice portfolio proposed a process of discussion and consultation with the Victorian community on how human rights and obligations can best be promoted and protected in Victoria, including the examination of options such as a charter of human rights and responsibilities.
- Canvassed in broad terms different models:
 - constitutional / statutory
 - rights (civil and political and ESC)
 - as well as responsibilities.
- Said that 'The community consultation process will allow for the discussion and elaboration of the benefits and disadvantages of these different models.'

May 2005 Statement of Intent

- Cabinet decision implemented Justice Statement by creating a Human Rights Consultation Committee of independent persons: myself (chair), Andrew Gaze, Rhonda Galbally and Haddon Storey QC.
- Only 6 months process to report on 30 November 2005 (2006 election).
- Set out Preferred Human Rights Model:
 - sovereignty of Parliament
 - statutory as in the UK, NZ and the ACT – not US
 - focus on civil and political (democratic basis) vs ESC rights
 - no individual causes of action.
- But still broad:

- ESC rights in other contexts and indeed directed to prevention and other changes to culture and education (welcome shift from a focus on the courts)
 - reform of Parliament – eg AG and committee roles and a preference for dialogue.
- Process to ‘consult with the community by seeking and deliberating on written submissions from members of the Victorian community on this Statement of Intent for human rights ... The Committee is also to adopt strategies for engaging with marginalised and disadvantaged communities, as well as strategies to ensure that people from regional and rural areas are given the opportunity to have their say.’
 - Recommendations: ‘The Committee is asked to make recommendations on a suitable framework for human rights in Victoria based on the preferences expressed in this Statement of Intent and the views of the Victorian community’.

What we have done in our first 8 weeks (16 weeks to go!)

- Established a team of 4 people in DOJ led by Michelle Burrell (well resourced) and supported by Solicitor-General Pamela Tate.
- Built goodwill and understanding and enabled devolved consultation.
- Not sought media attention for its own sake (need education and engagement).
- Released a plain English (plus other languages) discussion paper – focus on 10 key questions (*see the questions*) that are open-ended
- Started to receive submissions (by 1 August plus after that).
- To come – engage more directly with some communities (eg, Indigenous and rural) and then write report from early September and test out conclusions.

Some of the challenges we face

- Level of education on civics and lack of understanding (eg, 18-24 years olds poll – 45% yes) – online submission process.
- Short time frame to educate and get views (but vs other processes with no consultation) – community leaders and devolved consultation.
- Rights issues often federal such as refugees and terrorism laws (but actually often State –service delivery and mandatory sentencing)
- Expectations from Justice Statement that might be entrenched and cover ESC rights (but incremental, which shows importance of ACT 1 and 5 year reviews).
- Need to answer legal questions – eg on remedies and interpretive clause.
- Community only half of the equation – need to consult government (IDC plus other means)

But the prospects

- This is a process with Cabinet support and strong political backing by AG.
- Second largest State and prospect of momentum built for other States (esp WA, SA and Qld).
- Get involved and send us a submission!