

Responses by a Group of Citizens on the Mornington Peninsula to the Ten Questions asked by the Human Rights Consultation Committee

1. Is change needed in Victoria to better protect human rights?

Yes. While our Commonwealth and Victorian constitutions and their laws provide protection for some human rights, e.g., the right to vote and freedom from certain forms of discrimination, there are many rights included in the *International Covenant on Civil and Political Rights* which are not protected in Australia. Some of these, such as equality before the law, are protected by our common law tradition, but the common law can be overruled by parliament, particularly at a time such as the present when there is much fear of terrorism. We see the protection of human rights as requiring a number of things, including: a respect for human rights in our society, appropriate legislation at both state and federal levels, administrative arrangements that encourage a culture which honours human rights, and provision for the courts to provide remedies for those whose human rights have been seriously abused. We think that a Charter of Human Rights passed by our Victorian Parliament would be an important further step in securing the protection of human rights in our society. In particular, it would be an important symbolic statement to us who are citizens in Victoria, a standard by which our State Parliament may assess proposed legislation, and an encouragement to other States and the Commonwealth to take similar action.

2. If change is needed, how should the law be changed to achieve this?

We support the model preferred in the *Statement of Intent*, which preserves the sovereignty of parliament, focuses on prevention and dispute mediation rather than litigation, and favours the promotion of dialogue, education and discussion. We particularly like the preamble to the Australian Capital Territory *Human Rights Act 2004*.

3. If Victoria had a Charter of Human Rights, which rights should it protect?

We think all the rights set out in Articles 6-27 of the *International Covenant on Civil and Political Rights* are desirable, but do not feel competent to judge whether any are inappropriate for a Charter of Human Rights for Victoria. Article 2 states that these rights should apply to all individuals “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.” We would like sexual orientation to be explicitly included in this list.

4. What should be the role of our institutions of government in protecting human rights?

We would support a requirement that the Department of Justice scrutinise all bills as to whether they are compatible with protected rights, and that the Attorney-General report the results to Parliament. We would also support a provision for our Victorian Supreme Court to be able to make a “declaration of incompatibility” where it was unable to interpret a particular law as consistent with our Charter of Human Rights. We think that a process for monitoring and review of the Charter and its operation should be included in the legislation.

5. What should happen if a person’s rights are breached?

We consider that where there has been a gross breach of a person’s human rights, such as in the case of Cornelia Rau, there must be recourse to the courts. We support the development of mediation as a quicker, simpler, less expensive and often more compassionate alternative to the courts, perhaps by extending the responsibilities of the Equal Opportunity Commission.

6. What wider changes would be needed if Victoria brought about a Charter of Human Rights?

We support an emphasis on education, awareness and training, both in our schools and throughout the community. We would support a program of education and training for public servants, judges, police, media and advertisers such as you report is occurring in the United Kingdom. We also commend the advertising program of the Australian Government concerning Violence Against Women as a useful model.

7. What role could the wider community play in protecting and promoting human rights?

We respond warmly to the idea of municipal councils, churches, sporting bodies and other community organisations conducting human rights audits of their programs, as well as other strategies to build community understanding of and support for human rights.

8. What other strategies are needed to better protect human rights?

We would be interested to learn what other communities around Victoria are doing. For ourselves, we are planning a seminar on human rights to be held early next year.

9. If Victoria introduced a Charter of Human Rights, what should happen next?

We hope the Victorian Government will introduce human rights legislation along the lines outlined above, and will then follow it up with well-funded, wide-ranging educational programs. Perhaps something along the lines of “Melbourne Cares” would be appropriate.

10. Is there anything else you would like to tell us about how human rights should be protected in Victoria?

We learned about the community consultation through a chance meeting with somebody who was involved in making a submission. It was then past the deadline for making submissions and so this response is not as thoroughly researched as we would have liked. We are appreciative of the Committee’s promise to read everything submitted, even if it is late. We recognise that it is expensive to conduct community programs, but unless such programs are widely advertised many people will remain unaware of them. We have found the discussion material provided by the Committee excellent. Our experience underlines the need for adequate funding for community programs, and for creative ways of disseminating information on this most important subject of Human Rights.

12 November 2005

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