



Monday, 28 March 2016

The Research Director

Legal Affairs and Community Safety Committee
Parliament House
Brisbane QLD 4000

by email only to: lacsc@parliament.qld.gov.au

SUBMISSION TO THE HUMAN RIGHTS INQUIRY

Travis  Jordan

Dear Ms Watson

I refer to the Terms of Reference for Queensland's Human Rights Inquiry. I note that this submission is made pursuant to Clause 3 of the Terms of Reference only.

I make this submission as a private citizen and not on behalf of any organisation. The opinions expressed in this submission are my own and do not reflect those of my employer or any organisation with which I am a member.

I have not prepared this submission to include pages of research. The Inquiry will receive many submissions from organisations better qualified and equipped to provide such in-depth commentary than I. Rather this submission aims to list out a number of recommendations I personally believe would create the best possible legislative human rights regime in the world. Further, I refer the Inquiry to the submission by Professor George Williams and Mr Daniel Reynolds, which I consider of the highest calibre.

Notes:

I believe that the protections that are currently in place to protect the rights and liberties of Queenslanders is completely deficient, and that the decision-making process has been severely compromised by recent political events to the point where the rights and liberties of Queenslanders are routinely violated. The introduction of a Human Rights Act is a step in the right direction.

The experiences of Victoria and the ACT have been instructive in determining the direction I believe Queensland should head in drafting our Human Rights Act. Our Human Rights Act will not be ground-breaking, revolutionary, or be plucked from some intellectual ether. We will be treading a well-worn path, walked by many others over the last 100 years. We have the experiences, failures and successes of dozens of well-established democracies around the world as well as recent experiences of Victoria and the ACT. We can draw on years of research, reviews, case law and jurisprudence in ensuring that our Human Rights Act is as legally clear and unambiguous as possible.

We must ensure we keep the purpose of this exercise at the front of our minds. A Human Rights Act for Queensland serves more than a practical purpose. This is about instilling a culture of respect for human rights in future generations of Queenslanders, and ensuring that all people are guaranteed a just future, free of violations to their rights.

To that end, I make the following **recommendations** to the Inquiry:

1. That the Queensland Parliament adopt a Human Rights Act for Queensland.
 2. That the Act would be modelled upon the Dialogue Model of Human Rights.
 3. That the Act protect all appropriate civil and political rights, economic, social and cultural rights, and intergenerational and environmental rights, as well as any additional specific rights that the Queensland community identifies as particularly worthy of protection.
-

Notes:

4. That the Act protect, at a minimum, those rights enshrined in the *Universal Declaration of Human Rights*, the *International Covenant on Civil and Political Rights*, and the *International Covenant on Economic, Social and Cultural Rights*, in accordance with international law.
 5. That the Purpose of the Act is fundamentally to protect people from prejudice and to raise the bar of respect and dignity for those disadvantaged in society, by outlining, promoting and protecting these basic rights, freedoms and responsibilities for all people in Queensland.
 6. That the Act would bind all public authorities in Queensland, including the Government, Parliament, Courts, Police, local councils and authorities, public servants and all other authorities, agencies or services in the public sphere, and that provision be made to set out express criteria by which a “public authority” is defined for the purpose of this provision.
 7. That the Act would act as a framework and guideline for developing policies, drafting legislation, delivering services and in making judicial and administrative determinations and decisions.
 8. That the Act would impose on all public authorities procedural obligations to give proper consideration to human rights while making legislation, decisions and determinations, and substantive obligations to act in a manner consistent with human rights.
 9. That the Act would incorporate a process wherein all bills and amendments presented to Parliament be accompanied by a Statement of Compatibility, either in the Object Clause or in Explanatory Notes, that indicates if the legislation is compatible with the Human Rights Act and to give appropriate reasoning and evidence to support this conclusion.
 10. That the Act would provide for a joint standing committee to be established in the Queensland Parliament with the responsibility to review all bills and amendments presented to Parliament for the purpose of preparing such a Statement of Compatibility, and that this committee would be supported by qualified legal staff and be empowered to seek independent evidence to support its inquiries.
 11. That the Act would require all policy documents, Cabinet submissions or departmental proposals include a Human Rights Impact Statement.
 12. That the Act would require legislation to be read and interpreted in such a way to most compatible with human rights.
 13. That the Act would retrospectively require all legislation to be drafted, read and interpreted in such a way to be most compatible with human rights.
 14. That the Act would provide for a standalone cause of action to be brought before the Courts for any alleged breaches of human rights.
 15. That the Act would grant wide-ranging discretionary power to the Courts in determining an appropriate remedy, including non-standard remedies such as public apologies or guarantees of non-repetition.
 16. That a specialised Case Management Process be established to facilitate low-cost alternative dispute resolution mechanisms, with the aim to achieve the same optimal remedy with minimal cost and inefficiency.
 17. That individuals be empowered to facilitate their own cause without the need to engage a Legal Practitioner, and that sufficient support is provided to ensure that
-

these Self-Represented Litigants are not disadvantaged in pursuing a claim against a human rights violation.

Notes:

18. That the Act would incorporate a clear and unambiguous provision for Courts to make Declarations of Incompatibility, and specify the process and test for making such a determination.
 19. That the Parliament or the relevant decision-maker must respond to a Declaration of Incompatibility within a reasonable timeframe to be specified in the Act.
 20. That the Parliament or the relevant decision-maker must ensure that any subsequent decision is made in contemplation of such a Declaration of Incompatibility and to make such a decision with all evidence and knowledge available at the time of the subsequent decision.
 21. That the Human Rights Inquiry investigate the appropriateness, capabilities and resources of Self-Represented Litigants Services in Queensland to prepare these services for the introduction of human rights actions.
 22. That the Human Rights Inquiry investigate the roles and powers of the Queensland Ombudsman and the Queensland Anti-Discrimination Commissioner in preparation for the introduction of the Act.
 23. That an independent Queensland Human Rights Commission be established and that its purpose would first be to the promotion and advocacy of human rights in Queensland, second to identify and investigate human rights violations on its own volition, and third to bring causes of actions against potential and ingrained human rights violations.
 24. That this Commission must remain accountable to the Parliament and to the Court in ensuring it exercises this wide-ranging power appropriately, and the Courts must remain vigilant in ensuring such claims for review are non-vexatious.
 25. That decisions of this Commission or any authority created by this Act would be subject to judicial review and to Parliamentary scrutiny.
 26. That the Act incorporates appropriate transition and implementation timeframes in order to prepare public authorities and public servants for the implementation and effects of the Act, and that at least 12 months be afforded to ensure the roll-out and internalisation of the human rights process is complete.
 27. That the Act provide for periodic reviews into the implementation, compliance and effectiveness of the Act, and that these review be set at 5 year intervals.
 28. That the Act include a sunset date of 20 years to ensure that the human rights process has settled and the Inquiry at the sunset date has sufficient data to make a determination.
 29. That thorough reference manuals and guides be developed for all public servants, including customised manuals for Police, frontline service-delivery staff, and policy creators.
 30. That resources be developed to support the Legal Profession in understanding the change and ensuring a smooth introduction of human rights jurisprudence to Queensland.
 31. That the Inquiry recognise it is important to the Legal Profession that we remain abreast and engaged with the development of human rights law, and that the adoption of a Human Rights Act in Queensland would ensure the Profession remains competitive internationally.
-

Notes:

32. That dedicated resources be developed for media professionals, community organisations, and advocacy groups to explain the Act and its effects in simple English and in a manner communicable to disadvantaged or marginalised people.
33. That dedicated resources be developed for self-represented litigants to explain the Act and provide step-by-step guides to resolving an alleged human rights breach.
34. That the Inquiry recognise the importance of promoting human rights and educating people about their rights in creating a culture of rights awareness.
35. That the Inquiry familiarise themselves with the *United Nations Declaration on Human Rights Education and Training 2011* and ensure that their report considers the educational outcomes for a Human Rights Act for Queensland.
36. That a robust human rights based education package be introduced to the Queensland Curriculum for both primary and secondary school students, in accordance with the *United Nations Declaration on Human Rights Education and Training 2011*.
37. That the Act makes provision for future harmonisation with a Federal Human Rights Act whensoever such an Act is introduced.
38. That the Inquiry recognise that, while provision for the Parliament to scrutinise legislation in a manner similar to the *Federal Human Rights (Parliamentary Scrutiny) Act 2011* is important, such legislation alone would not substantively achieve the objectives and purposes of this Inquiry.
39. That the Inquiry recognise that a Human Rights Act should not and will not impede the ability for religious institutions to practice their beliefs or prevent such institutions from advocating against abortion or marriage equality.
40. That the Inquiry further recognise that a Human Rights Act should not and will not prevent any individuals from expressing their beliefs or opinions, insofar as these beliefs and opinions do not harm to others.
41. That the Inquiry acknowledge the immense contribution Australians have made to the creation of human rights norms throughout our history, not least the work of the late Herbert Evatt in pioneering international human rights law.

Finally, I would like to express my gratitude to the Government and to the Parliamentary Sponsors of this Inquiry that ensure this remains on the Government's, and the public's, agenda. Creating a Human Rights Act for Queensland is a gargantuan task, and I thank the Government for consulting widely and reviewing the subject matter so thoroughly. It is important for the long-term sustainability of this legislation that the Act is seen to have been developed objectively, with strict adherence to the policy cycle and to the independence of its drafters. This Inquiry is the first step on a long journey.

Please feel free to ask any questions or for clarification and I look forward to reading further submissions and the final report from the Inquiry.

Yours sincerely

Travis Jordan

■ [REDACTED]
■ [REDACTED]
■ [REDACTED]
