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19 November 2018

Committee Secretary
Legal Affairs and Community Safety Committee
Parliament House,
George Street
Brisbane Qld 4000

Human Rights Bill 2018

I wish to make a brief submission supporting the passage of this Bill.

It is now a quarter of a century since the Electoral and Administrative Review Commission (EARC), of which I was then Chairman, presented a report to Parliament recommending a Bill of Rights for Queensland, because it was 'necessary to further preserve and enhance individuals' rights and freedoms'. This was one of the final reports made by EARC as part of its response to the Fitzgerald report of 1989. The Act under which EARC was established required it to investigate and report on the 'Preservation and enhancement of individuals' rights and freedoms'.

EARC recommended a Bill of Rights that would recognise three groups of fundamental rights and freedoms:

- (a) civil and political rights;
- (b) economic and social rights; and
- (c) community and cultural rights.

It proposed that the enumerated civil and political rights should be enforceable against the State in the courts, while other rights should be observed by the Government and the community generally. It proposed that the Bill of Rights operate as ordinary legislation for a period of five years 'after which the question of the Bill of Rights entrenchment as supreme law in the Constitution ought to be put to the people by way of referendum.'

Most of the rights recommended to be protected by EARC are contained in the Human Rights Bill 2018 now before the Parliament.

Since the EARC report of August 1993, Bills of Rights have been adopted by Victoria and the Australian Capital Territory. I note that the Human Rights Bill is modelled primarily on the Victorian legislation, though it extends the rights to be covered.

I urge the committee to support the Bill as it stands. However I believe it should recommend that five years after it comes into effect the Government should consider whether some or all of the rights it covers should be better protected by making them enforceable in the courts and entrenching the Bill constitutionally. If it were to do so it should adopt a provision similar to that in the New Zealand and Canadian rights legislation that the rights are 'subject only to such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society' (Canadian Charter of Rights and Freedoms, s. 1).

Yours sincerely,

Dr David Solomon AM