Mr Edward O'Donohue MLC
Chairperson
Scrutiny of Acts and Regulations Committee
Parliament of Victoria
Melbourne Vic 3002

Dear Mr O'Donohue,

I wish to make this submission to the inquiry and review of the Charter of Human Rights and Responsibilities Act 2006 (Vic) now being conducted by the Scrutiny of Acts and Regulations Committee.

Over the past four years, the Charter has been successful in improving the protection and promotion of human rights in Victoria. It has generated a greater awareness of certain civil and political human rights within public bodies and the general community. It has facilitated the making of policies, decisions and laws which are sensitive to human rights concerns. It has taken steps to bring Victorian jurisprudence into the mainstream of international law which is increasingly developed by the courts and legislatures in the light of universally accepted human rights principles.

Nonetheless, it is now time to extend the operation of the Charter.

Under the terms of reference, question 1 asks whether the Charter should include additional human rights, including but not limited to rights under the International Covenant on Economic, social and Cultural Rights, the Convention on the Rights of the Child, and the Convention on the Elimination of all forms of discrimination against Women.

In my submission, the Charter should include all rights under international covenants and conventions to which Australia is a party. These include the instruments listed in the Commonwealth Parliamentary Scrutiny (Human Rights) Bill 2010 as follows:

the International Convention on the Elimination of all Forms of Racial Discrimination

the International Covenant on Economic, Social and Cultural
the International Covenant on Civil and Political Rights
the Convention on the Elimination of All Forms of Discrimination Against Women
the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
the Convention on the Rights of the Child
the Convention on the Rights of Persons with Disabilities.

These rights are recognised and given effect in many countries throughout the world and have been expressly ratified by the Australian government, although not yet incorporated into domestic law at the national level or fully at state level within Australia.

I recognise that Victoria, like the rest of Australia, has democratic institutions that aim to protect and promote human rights, including the institutions of representative democracy and an independent judiciary. Nonetheless, they do not always ensure that the full range of internationally recognised human rights are properly considered when policies and decisions are made by public bodies, decisions are made and explained by our courts and laws are enacted by Parliament.

In order to embed human rights into our democratic processes and in public discourse, it is necessary that the full range of internationally recognised human rights which have been ratified by the Australian government be protected and promoted by an expanded Charter. In this way, the government and parliament will signal a commitment to a decent existence for all Victorians that is fitting for the intrinsic dignity with which all people are endowed.

Yours faithfully,

John Rutherford