Mr Edward O’Donohue, MLC
Chairperson
Scrutiny of Acts and Regulations Committee
Parliament House

By email: charter.review@parliament.vic.gov.au

29 June 2011

Dear Mr O’Donohue

Inquiry into the Charter of Human Rights and Responsibilities

The National Association of Community Legal Centers (NACLC) welcomes the opportunity to make this submission to the Scrutiny of Acts and Regulations Committee on the Victorian Charter of Human Rights and Responsibilities Act 2006 (Victorian Charter).

About NACLC

NACLC represents around 200 Australian community legal centres. Community legal centres are independent, community-based organisations that provide free referral, advice and assistance to more than 350,000 people each year. Community legal centres also undertake community development, community legal education and law reform projects based on client need.

NACLC is an experienced and well-respected commentator on Australian human rights issues in both domestic and international fora. Domestically, NACLC frequently makes submissions to government and other inquiries endorsing a human-rights-based approach to assisting disadvantaged and marginalised people in the community.

In 2008-2009 NACLC conducted consultations with individual CLCs across the country for the National Consultation on Human Rights and, in light of the strong support for legal human rights protection that emerged in these consultations, advocated for the enactment of a Federal Human Rights Act.

Internationally, NACLC has held ECOSOC Special Consultative Status since 2003 and has reported on human rights issues in Australia on numerous occasions. In particular, NACLC has played a leading role in coordinating, drafting and presenting several reports to UN human rights treaty bodies, including the Human Rights Committee, the Committee on Economic, Social and Cultural Rights and the Committee on the Elimination of Racial Discrimination. These reports provide a comprehensive overview of the realisation of human rights in Australia.
The Victorian Charter

The Victorian Charter is a landmark piece of legislation that requires each of the arms of government to properly consider human rights in legislative and policy development and decision-making processes. It sets an example nationally of how human rights can be protected through legislation.

Four years after its enactment, there is strong evidence that the Charter has:

- improved the quality of law-making and government policy by integrating human rights considerations into those processes;
- improved public service delivery by encouraging a more client-focused, responsive and individualised approach to public services;
- facilitated a shift away from inflexible or blanket policies and practices;
- protected marginalised and vulnerable individuals – including people who are homeless, people with disability and people with mental illness – by challenging poor treatment and improving the quality of life for those people; and
- supported the creation of a culture of human rights.

These outcomes should be viewed in contrast to those in states that do not benefit from legislative human rights protections. In Victorian, the institutionalised commitment to the protection and promotion of human rights has contributed to a fairer, more inclusive, more tolerant community.

Recommendations

NACLC supports the Victorian Charter and makes the following recommendations regarding its review:

1. the outcomes of the review should ensure that the Victorian Charter is strengthened and that existing rights and protections are not abrogated or diluted;
2. the Victorian Charter should be amended to protect all the human rights contained in the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR);
3. the Victorian Charter should be amended to allow individuals to take action for a breach of their human rights by public authorities and seek an appropriate remedy, including damages.

Please contact me on 03 9285 4822 or at michael@eclc.org.au if you have any questions regarding this submission. Alternatively, please contact Bill Mitchell on 07 47215511 or bill_mitchell@clc.net.au, or Rachel Ball on 03 8636 4433 or rachel.ball@hrf.org.au.

Yours sincerely

Michael Smith
National Convenor