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Review of Charter 2011

There are many who would justifiably argue that this review is long overdue, albeit only a few within my own particular class of ‘minority’ (to wear one of my many hats) that, in some way, fall within the gambit or the jurisdiction of the relevant Human Rights legislation in this state).

For while I am an ethnic Australian who has endured discrimination from many quarters over the years including from government departments, most notably the Department of Education where I was a secondary teacher for years, I am fifty five and thus getting a job is virtually impossible, and again even government departments avoid hiring people of my age sector (and I would happily swear to same before the House) preferring instead young people often fresh out of university with no experience or appreciable skills but who are cheaper to pay, I am also a member of that extreme minority who was deeply and up until that fateful event in 2009 when both of the major political parties combined to deprive us of our rights, I also worked part time for a good and decent Member of Parliament.

We were each and everyone of us FORCED by unjust abuse of legislative power to either voluntarily resign from our positions as democratically and legally elected municipal councillors or from our positions working for Members of Parliament. As I was elected to serve my community I felt that I had no choice but to chose the difficult path of resigning my part time electoral position and thus causing significant harm to my family’s income.

This continues to cause me considerable financial distress to this day because we were never offered the opportunity to transfer into positions within
government departments for which we may have been qualified and experienced or given any real support whatsoever to pursue other employment other than a minor retraining opportunity.

Yet, for example, secondary school teachers placed in excess of requirements get first call at transfers or other employment, with government departments.

We did not receive any of the type of support that is given elsewhere to Aboriginals or to the disabled or to a variety of other minority groups.

This is important because the purposes for which the Charter was originally brought before the Parliament of Victoria and the many Human Rights covenants and Acts of Parliament on which it is based, are all highly commendable and absolutely applaudable, despite the new government of Victoria having a strong history of deniability and indeed outright opposition.

This itself is witnessed in changes to certain legislation, but more on that later.

It is important because we were legally employed and separately to that, legally and democratically elected; but due to blatant corruption by certain MPs allegedly involved with one municipal council we were, one and all, effectively denied our civil and political rights.

Those particular MPs were never prosecuted and one is even advising people that he intends to run for the new Council if it becomes viable in October 2012.

The Councillors from that municipality were never prosecuted for any offence. Yet we were all shafted, and the Charter was deliberately misinterpreted to ensure legislative change. Those former Councillors themselves continue to be ridiculed when those whom I myself know would be regarded by many others across the state as honest and decent members of their communities.

Where are their human rights? Where exactly is the Charter defending them?

Complaints from myself and from others direct to the Victorian Human Rights and Equal Opportunity Commission, and to their federal counterpart, lead absolutely nowhere as we were advised that parliament could legislate any way that they wished, with only a few constitutional constraints.
And I am NOT making any accusations against the sacked councillors [supra] whom I also argue were denied their rights as the complaints against them were primarily against their predecessor council in the previous term and, who in any case, were never formally charged and thus never prosecuted as there was no substantial evidence against them.

They were sacked by a state government eager to cover up for its own few corrupt members of parliament and an Opposition keen to use any scapegoat whatsoever to malign the otherwise solidly performing government.

Of course, we could have both sued and appealed the Act and various lawyers including one Queen’s Counsel advised that we had an excellent case.

But such a case would have first gone to the Supreme Court of Victoria at the first instance and then to the High Court of Australia (on leave from the Supreme Court), resulting in a financial bill that would have bankrupted most of us.

The state government were never willing to openly discuss the situation with us. Instead we were all “told”. We were “spoken to”. Our opinions and our views, our alternatives and our responses were dismissed because we had no political power. We were a minority that could be squished like Queensland cane toads, only we were not venomous.

So since that time, October 2009, I have struggled to survive on a pre tax Councillor allowance that is now about $500 per week, or a little less. For what in my case is often a thirty hour or so week.

Attempts to secure other employment, preferably on a part time or sessional basis, have been unsuccessful and in a number of cases I have discovered that the successful applicants were in their early twenties, with no experience, fresh out of university and often female.

A 55 year old ethnic Australian male has no chance, even with state government departments. Human rights in such examples are basically non existent.
The Charter was subverted by the three oldest and largest political parties in our state, two of whom have a declared policy of destroying the Charter as various legislation recently presented most strongly show.

And the other, the governing party at the time, regrettably turned its back on the Charter for its own political ends.

But where the disabled would receive positive supportive publicity if they were to be victims of such a subversion of the Charter we were such a minority that we were easy targets.

Even our own MPs were ‘forced’ by their respective political parties to speak and vote against us.

The point of all the forgoing is to stress my firm belief that the Charter is a highly commendable product of the Parliament of Victoria and one which should not only be duplicated across the nation, in every jurisdiction, as so many other legislative instruments of our parliament have been, but enshrined in the Constitution of Australia.

As with the late Justice Lionel Murphy QC, a passionate advocate of a Bill of Rights attached to our nation’s constitution, I also believe in the critical need for such a key commitment by Australia as a nation on the world stage to prove that we are mature and responsible.

The Charter is therefore Australia’s only example of such a commitment and one which needs to be strengthened and cemented into our collective psyche, rather than diminished even if for a very brief moment.

Unless the Charter is so guarded it becomes like a shield sent in to battle but with areas where its metal is thin and thus weakened.

In so doing it states much about those values which are an integral part of our
very souls, values which were originally based upon Christian ethics but which
now go far further and far beyond.

The Charter and its associated Acts of Parliament must be strengthen to
eliminate discrimination that still exists in far too many areas for a variety of
reasons, none of which justifies said discrimination.

Why, for example, should a person of my age – middle fifties – consistently
find that employment eludes them in preference for a person half of their age,
and that includes many positions of employment with government and with
parliamentary entities. Or indeed that there is often a gender bias favouring
females as against males.

Why cannot the staff strapped Victoria Police see the benefit in employing
police with disabilities at least in administrative roles, training or other non
physically demanding positions? Why are there still far too many buildings that
are not disability friendly, indeed why do not planning laws require that all new
apartment buildings require door ways wide enough to accommodate wheel
chairs, hand rails in toilets and bathrooms and that all government buildings
are made disability friendly within five years.

But then to stay with the Victoria Police, what is this “nonsense” of removing
the Multicultural Unit? It was bad enough that this unit was taken from its
semi internal/ semi external status to being solely internal some years back but
now it is to be no more.

From a human rights point of view this unit achieved many successes over the
years and so its disbanding makes no sense other than crass politics

Similarly the effective death of the Standing Committee on Local Government
& Cultural Diversity. It expired in April and there has been no announcement of
a renewal or a replacement for some unknown and unexplained reason other
than, possibly, that multiculturalism has a lessor place with this government
than with the last.

Not that the former government can crow over any success stories since much
of what they achieved was dragged out of them or was an accomplishment of
the then Chairman of the Victorian Multicultural Commission, Mr George Lekakis.

For example, there were very few ethnic Australians appointed to the large array of boards, commissions, tribunals or even to different court benches during Mr Hulls term as Attorney General and Messrs Bracks and Brumby as Minister for Multiculturalism, respectively.

But then the new state government seeks to change things for the worse and I wonder how on earth the Charter could have been viewed positively when the new government presented the Bill to remove many a human right from teachers.

I once taught in a academically fabulous Catholic College and in fact taught religious education even though I am not catholic. But I taught exactly what I was required to teach and kept to the curriculum. I later successfully completed a Graduate Certificate in Catholic Studies from the Australian Catholic University.

But that did not stop a very senior staff member from successfully lobbying to end my contract at that college as I was not myself a Catholic. A real case of discrimination which will now, again, be lawful even though absolutely immoral and against the teachings of Christ.

Of course I could continue and go off into many tangents but I shall return and focus my remaining time more specifically in the terms of reference.


1. Whether the Charter should include additional human rights under the Charter, including but not limited to, rights under the –
   (a) International Covenant on Economic, Social and Cultural Rights;
   Subject to the Australian national constitution and jurisdictional matters, there can be no question to the justification of the need for such reforms.
   (b) Convention on the Rights of the Child; and
   If we do not take every measure to protect the rights of the child then we may as well return to the stone age.
   (c) Convention on the Elimination of All Forms of Discrimination against Women?
I doubt that the state government as elected late last year would support this point but there is considerable discrimination against women, the worst area being in terms of pay. Until there is equal pay for equal work we remain a “qualified” civilisation.

2. Whether the right to self-determination should be included in the Charter?
   No comment

3. Whether there should be mandatory regular auditing of public authorities to assess compliance with human rights?
   Whether by the Auditor General or a similar body with similar powers, such and auditing role is essential if discrimination is to be stamped out. But, with respect, I can see both sides of the political fence finding issue with such.

4. Whether the Charter should include further provisions with respect to legal proceedings that may be brought or remedies that may be awarded in relation to acts or decisions of public authorities made unlawful by the Charter?
   This is a given.

5. What have been the effects of the Charter Act on—
   (a) the development and drafting of statutory provisions;
   (b) the consideration of statutory provisions by Parliament;
   (c) the provision of services, and the performance of other functions, by public authorities;
   (d) litigation and the roles and functioning of courts and tribunals; and
   (e) the availability to Victorians of accessible, just and timely remedies for infringements of rights?
   To all of these I argue that not much has improved as the Charter was more a compilation of nice words than effective practices and realistic policies aimed at effecting positive outcomes.

6. What if any, have been the overall benefits and costs of the Charter?
   See response to point 5.

7. What options are there for reform or improvement of the regime for protecting and upholding rights and responsibilities in Victoria?
   The position argued in point three... years ago I was part of an amazing experiment that I strongly argue was a success. A former Labor Government, when the State Insurance Office (SIO) was government owned, established the SIO Consumer Appeals Council. With our Director we effectively became the first insurance ombudsman and, within the SIO, it was an effective tool for
consumer rights as well as corporate modernisation, plain English language policies and a greater commitment to ethical conduct.

We need something similar in this area and the fact that the Charter was largely left to hot air for protection by the former government states a great deal about the level of real commitment to its intent.

We live in a society composed of two genders, plus others who are “in between”, shall I say. We have disabled people, persons from a vast array of different cultures... in fact we are a unique collection of people of all sorts and all types, all faiths, all cultures and of all designs.

A caring society, one that seeks to respect all of these many differences and one which seeks to progress needs to guard the rights of all of its constituent community members without discrimination. It needs to be fair and just to all. That requires some level of competent and independent supervision, professional and relevant auditing and a solid measure of control.

If the Charter is to become more than a set of pretty words then it needs to be rebuilt and then gain a body akin to the Health Services Review Council’s role with the Health Service Commissioner.