Submission of the United Macedonian Diaspora (Australia) to the Parliament of Victoria Scrutiny of Acts and Regulations Committee Inquiry into the Charter of Human Rights and Responsibilities Act 2006

6 June 2011
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Mr. Edward O'Donohue MLC
Chair, Scrutiny of Acts and Regulations Committee
Parliament of Victoria
Melbourne VIC 3002

Dear Mr. O'Donohue,

Re: Submission to the Inquiry into the Charter of Human Rights and Responsibilities Act 2006

The United Macedonian Diaspora (UMD) congratulates the Parliament of Victoria, Scrutiny of Acts and Regulations Committee for initiating this important Inquiry into the Charter of Human Rights and Responsibilities Act 2006.

We welcome the opportunity to contribute to parliamentary and public policy debates and discourse on strengthening democracy, human rights and social justice in Victoria. We believe that continuous review and innovation of Acts, public policy and practices is essential for keeping them relevant to the changing needs of society.

The Victoria Parliament and the Victorian Government in partnership with all relevant stakeholders including diaspora communities and organisations can play an important role in making human rights legislation capable of delivering better social and economic outcomes.

The role of the Australian-Macedonian diaspora in the 21st century is focussed on partnerships. We aim to harness strong personal and professional relationships with political, cultural, research, academic, financial, media and other stakeholders in Australia and globally in support of the national interests, public image and international reputation of Australia and Macedonia.

We look forward to reading the Committee's report.

Yours sincerely

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Executive Summary

The executive summary:

- The inquiry and review of the Charter of Human Rights and Responsibilities Act 2006 contains many important research questions which need to be answered using world class rigorous and relevant qualitative and quantitative research. We recommend to the Victoria Government to commission a Research Project(s) that will take an in-depth look at each of the research questions using triangulation and multiple disciplines and stakeholders.
- The United Macedonian Diaspora supports the continuation and expansion Charter of Human Rights and Responsibilities Act 2006 as we it helps to strengthen democracy and human rights in Victoria.
- The Charter of Human Rights and Responsibilities Act is the starting point for positive transformation of Victoria into a world leader in human rights legislation, administration and social innovation.

United Macedonian Diaspora responses to Terms of Reference

1. Whether additional rights should be included in the Charter?

UMD believes that the Charter of Human Right and Responsibilities Act 2006 should be expanded to include economic, social, cultural, children's and women's rights. Such an expansion would align the Act with the most innovative and effective human rights acts in Scandinavia and other parts of the world.

The Victorian Government should invest in research and policy innovation in order to calibrate the effectiveness and to strengthen human rights and social justice legislation in Victoria. Social progress can be made when we have an accurate understanding and measurements of the strength of connections between human rights and social justice and the conditions under which they yield optimal outcomes for stakeholders.

2. Whether the right to self-determination should be included in the Charter?

The right to self-Identification is a particularly important question to Macedonians and other ethnic groups in Victoria and Australia. UMD believes that the right to self-identification should definitely be included in the Charter. Such an innovation of the Charter will align it with the United Nations Charter of Human Rights.

UMD believes that all individuals and communities in Victoria should have the right to self-Identification guaranteed in an Act.

3. Whether there should be mandatory regular auditing of public authorities to assess compliance with human rights?

UMD believes that there should be mandatory regular auditing of public authorities to assess compliance with human rights. If Victoria is serious about human rights then it makes sense to measure the performance of public authorities compliance with human rights legislation and quality standards. The Victorian Government should commission a Literature Review and Research Report on world best practice in auditing public authority compliance with human rights legislation. Such a report will assist public authorities to have a clear
understanding of the scales for measuring compliance with human rights. It will also enable them to identify gaps which need to be closed in order to improve their performance. Furthermore, we believe that public authorities should report on their compliance with human rights as part of their Annual Reports.

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

UMD believes that the current Charter of Human Rights and Responsibilities Act falls into the category of so-called soft charters. Soft charters are those which are designed to raise awareness and create a culture of embedding human rights into the strategy, operations and communication of public authorities. UMD believes that the Charter can be transformed into a more effective mechanism by specifying legal remedies that may be awarded in relation to the Act.

UMD recommends that the Victoria Parliament and the Victoria Government should migrate to an evidence-based model. Rigorous and relevant research should be conducted to establish which remedies would work best in Victoria.

5. What has been the effects of the Charter Act on:.

- The development and drafting of statutory provisions;
- The considerations of statutory provisions by Parliament
- The provision of services and the performance of other functions by public authorities;
- Litigation and the roles and functioning of courts and tribunals
- The availability to Victorians of accessible, just, timely remedies for infringements of their rights

UMD believes the above set of research questions can only be answered through rigorous and relevant scientific research. Again, the Victorian Government should invest in research in order to have accurate answers to the above questions.

6. What have been the overall benefits and costs of the Charter?

UMD believes that above research questions can only be answered through rigorous and relevant scientific research. The Victorian Government should invest in research and auditing to measure the social and economic impact of the Charter?

UMD believes that benefits of the Charter need to be assessed from a qualitative and quantitative perspective. The assessment should identify and include all relevant stakeholders including the most vulnerable people and communities in society who have been impacted by the Charter.

Victoria enjoys a proud reputation of being the first and only state in Australia to have a Charter of Human Rights and Responsibilities Act. This is an important achievement and must not be undervalued as it shows that Victoria is a leader and trend setter in human rights in Australia. The fact that other states do not have such a Charter means they are human rights laggards who need to catch up with Victoria and the rest of the developed world.
7. Options for improving the regime for protecting and upholding rights and responsibilities in Victoria?

UMD would recommend to the Victoria Government to commission the following studies:

- an international comparative study of models for protecting and upholding the human rights and responsibilities in Victoria.
- a scientific review of the effectiveness of the existing Charter in protecting and upholding the human rights and responsibilities in Victoria.

UMD believes there is scope to harness the power of the whole-of-government, whereby each government department or agency with a social progress agenda can and should assist with strengthening human rights and responsibilities in Victoria.

UMD is also of the view that the private and the social sectors can act as significant facilitators for human right and responsibilities in Victoria. A partnership between government, the private sector, the social sector and diasporas can improve the quality and social impact of the Charter.