To: Mr Edward O'Donohue MLC, Chairperson, Scrutiny of Acts and Regulations Committee

Thank you for the opportunity to contribute my opinion to the review of the Victorian Charter of Human Rights and Responsibilities Act 2006. As someone who grew up in Victoria, I am very proud that the fundamental importance of official recognition of the rights of the individual is acknowledged by our state. No law is perfect, but we as a society are far better off attempting to state clearly the inalienable rights that we can expect each other and our state entities to respect, then if we avoid such an attempt in the fear that it will be imperfect.

I hope that you will consider my responses to your terms of reference questions while performing your review.

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;
   (b) Convention on the Rights of the Child; and
   (c) Convention on the Elimination of All Forms of Discrimination against Women?

I was very pleased to read several statements by Attorney-General Robert Clark that he is unhappy with the extent to which the current charter "asserts a right to abrogate rights which the [International] Covenant [on Civil and Political Rights] says may never be abrogated". I too support fully including the rights identified by each of the above covenants in our own charter.

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

It should be included. I understand that there are situations in which the state and individuals need to act to overrule an individual's own decisions, and that some people feel that declaring such a right will make it difficult to do this, but it should be difficult - self-determination is something that millions upon millions of people both throughout history and still today do not have, and any government that seeks to remove this must be forced to tread carefully and lightly in order to preserve the social progress that has brought us to where we are today.

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

This is an obvious requirement. All public authorities should be regularly audited to detect and prevent the corruption, abuse and neglect that are unfortunate but inevitable by-products of power. I don't mean this as a criticism of any particular authority, merely as a statement of fact borne out by historical evidence.

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?

Unless it is felt that individuals' abilities to seek and obtain remedies for unlawful acts or decisions made by public authorities are ensured by current legislation, yes, specific provisions should be made for such within the charter.

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?

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

7. What options are there for reform or improvement of the regime for protecting and upholding rights and responsibilities in Victoria?

I'm afraid I'm not aware enough of the details of these issues to form an opinion, although I have been pleased with the progress that has been made recently toward ensuring that the institutional denial of the rights of same-sex couples to marry and be recognised under the law.

Again, I am very pleased and proud that my home state has so far lead Australian in enshrining and protecting the rights of
individuals. There will always be cases where an individual takes advantage of a law to receive a benefit that it was not intended to provide them, just as there will always be cases of governments abusing and denying individuals' rights to the detriment of society. I think it is critical rather than shying away, we instead continue to state clearly the rights that members of our society can expect to exercise and enjoy without fear of persecution or denial of benefits.

Thank you for your consideration,
Kendall Lister