REVIEW OF VICTORIAN CHARTER OF RIGHTS

SCRUTINY OF ACTS AND REGULATIONS COMMITTEE

(Submission)

1. Introduction

The Australian Family Association (WA) is generally opposed to Human Rights Charters for the following reasons:

Some of the most brutal regimes on the earth, including China, Zimbabwe, Sudan and the USSR operate, or have operated, under Charters of Rights. A Charter is no guarantee that human rights will be protected.

Under a Charter of Rights, responsibility for legislation is effectively shifted from the Parliament to the Judiciary; which is an unelected body.

Far from providing all Victorians with benefits, such Charters generally provide benefits for minority groups; often at the expense of the majority.

Increased litigation, sometimes for frivolous reasons, follows the introduction of Charters of Rights.

Many attempts have been made to graft a Charter of Rights onto the Federal Constitution; all have failed. It should be noted that in Victoria and the ACT, Charters have been introduced without conducting plebiscites to determine whether they were needed, or indeed wanted. This surely must rank as a breach of human rights.

Given the above we recommend that, in the first instance, the statute enshrining the Charter is repealed in its entirety.

2. Section 44(2)

In the event that it is not possible to repeal the statute, we would suggest the following:

Allowance be given to recognising the right to life of a child, prior to birth, as a basic human right. Indeed, unless this right is enshrined in the statute, all other rights become meaningless.

In the event that a child survives an abortion, the right to a duty of care to preserve the life of the child to be exercised by the clinic carrying out the abortion; under pain of prosecution.

Doctors, who have grave objections to either conducting abortions or referring for abortion be provided with the right to a conscientious objection clause, which enables immunity from prosecution.

The right of all women contemplating abortion to be advised about all aspects of the abortion procedure; including the risks of breast cancer, infertility, depression, etc. That such women be obliged to view ultra-sound scans of the child being carried, and be provided with a cooling-off period before the procedure is carried out. And that, after satisfying all the conditions above, in
the event that they do not wish to proceed with the abortion they be given every opportunity and support to carry the child to term.

3. Conclusions

We would question the necessity for the State of Victoria to retain a Charter of Rights on its statute books; especially as it has been introduced without reference to the electorate. Many aspects of such Charters do not sit well with the Westminster system which was embraced by the State as its model for government.

Thus, the option most favoured by this Organisation is the total repeal of the statute.

Otherwise, under Section 44(2) of the Act, we would favour acknowledgment of a right to life of a child before birth. A duty of care to protect the lives of children who survive the abortion procedure. Immunity from prosecution for doctors who have a conscientious objection to either carrying out abortions or referring for abortion. Advice to women considering abortion about all aspects of the procedure; and, support for women who decide, after weighing up all pertinent factors, not to proceed.

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