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Scrutiny of Acts and Regulations Committee
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Review of the Victorian Charter of human Rights & Responsibilities

By Vision Australia

Comments to: Scrutiny of Acts & Regulations Committee
Submitted by: Brandon Ah Tong-Pereira

About Vision Australia
Vision Australia is the nation’s premier provider of blindness and low vision services and was formed by combining the expertise of several organizations who shared in a common purpose. We are a partnership that unites people who are blind, sighted and who have low vision. Our goal is that people who are blind or have low vision will be able to access and participate fully in every aspect of life they choose.

To help realise this goal, we provide early childhood, orientation and mobility, employment, information, recreation and independent living services, advocacy services and Seeing Eye Dog services. We also work collaboratively with Government, business and community groups, to help raise awareness, promote public education and to work towards eliminating barriers for our clients in the community.

Through our combined histories of providing a range of quality client focused services, Vision Australia is well placed to provide a considered voice on a range of public issues affecting people, who are blind, Deaf blind, have low vision and have other difficulties accessing print.

Our Client Group

The Australian Bureau of Statistics (2006) estimates there are currently about 300,000 people living in Australia who are blind or have low vision that cannot be corrected by the use of glasses or contact lenses or surgical remedies. With the aging of the Australian population, the World Health Organisation estimates that this number will double by 2020, as vision loss is, by and large, a disability that is age-related.

People who are blind or have low vision are an important section of the community. Governments and parliaments must take their needs and perspectives into account when making laws and developing policy, and business and the community, have an obligation to be mindful of their human right to access all aspects of Australian life on an equal footing as their sighted peers.

1. Introduction

Along with the Australian Capital Territory as the only other Australian jurisdiction to have enacted specific legislation for the protection and promotion of human rights, Victoria ought to be proud of the leadership shown over the past four years since the introduction of the Victorian Charter of Human Rights and Responsibilities 2006 (the Charter). The Charter expresses willingness for Victorians to hold the principles and fundamental freedoms of international human rights norms on high and with respect. It acknowledges that there are things that we must call out as sacred about what we owe one another that cannot be taken away, and that there are also things that we must actively do to ensure these sacred things are respected and substantively promoted.
Vision Australia does however, believe that Victoria must progress to the next level to ensure that human rights for all, including those persons who because of social and environmental barriers, require a different level of attention in order for their human rights to also be respected. People who are blind, people who have low vision, and people with disability more generally, remain marginalised in many respects in Victoria. People still struggle to move about the community safely and with convenience because our public transport systems are failing to adhere to benchmarks for accessibility. Children and adults in our schools and higher education institutions, lag behind because teachers lack the skills to teach in ways that these students can learn and information is not available at the right time and in the formats they can read. Third world participation rates in employment still plague people with disability as outmoded thinking about people with disability, safety and productivity continues to colour the perceptions of employers. And people with disability remain over represented in poverty statistics as a result of prolonged systemic disadvantage.

People who have a print disability can still only read about 1 in every 20 books on the best seller lists because publishers neglect the consumer who reads in different ways and who use formats other than standard print. Websites and some electronic formats such as PDF shut out people with a print disability from information because they fail to follow accessibility guidelines. A night at the movies, at the theatre or at home in front of the TV, often amounts to nothing but frustration, as audio description remains non-existent in the vast majority of mediums and is still a mythical occurrence in theatre and cinema. People are often afraid of venturing out of their homes because public infrastructure in many places only provides sporadic or inconsistent accessibility features such as audio/tactile pedestrian crossings or obstacle free footpaths. And people continue to find consumer products such as microwaves and DVD players a chore rather than a joy because market mechanisms have largely failed to introduce universal access design principles into their product lines.

Whilst we acknowledge that some of these issues fall outside the public entity scope of the Charter and some beyond the Victorian jurisdiction, Vision Australia believes that there are positive measures that can be done to strengthen the Charter in its own right and to further extend its hegemony across other sectors and areas of society to help address these systemic deficiencies. We therefore make two key recommendations to strengthen the Charter's hand in addressing these problems for Victorians who are blind or who have low vision:

**Recommendation 1**
That the Committee consider introducing into the Charter, the economic, social and cultural rights of the International Covenant on Economic Social and Cultural Rights.
Recommendation 2
That the Committee consider to schedule the UN Convention for the Rights of Persons with Disabilities (UN CRPD) to the Charter as an interpretive document.

Vision Australia thanks the Scrutiny of Acts and Regulations Committee (the Committee) for the opportunity to provide comment to the Review of the Victorian Charter of Human Rights and Responsibilities 2006. We submit comment to the Committee against the selected terms of reference below:

- The matters referred to under section 44(2) of the Charter, in particular whether additional rights should be included in the Charter; and;

- Options for reform or improvement of the regime for protecting and upholding rights and responsibilities in Victoria.

2. Economic, social and cultural rights

The civil and political rights of the International Covenant on Civil and Political Rights are indeed fundamental rights that any social democratic society must protect in order to hold any legitimate claim to such a title. It is however also true, that these civil and political rights which are currently contained in the Charter, ought not to be viewed as more important than other rights. The preamble to the three principle documents of the International Bill of Rights, state clearly that all the named rights, which include the economic, social and cultural (ESC) rights of the International Covenant on Economic Social and Cultural Rights, are indivisible, interdependent and interrelated without distinction from one another. This is a belief that Victoria through the Commonwealth ratification of international treaties, is both obligated to and has a responsibility to respect. Whilst this obligation is not necessarily required to be demonstrated formally in a legislative or constitutional bill of rights but must be promulgated through the sum total and specific policies of government and law, the Charter being in place does provide a site of particular advantage to be a force for good in such a cause.

In 2011, people with disability still face an uphill battle to be included as equal citizens and members of society in many areas of ESC life. Whilst the forced institutionalisation of people who are blind is no longer commonplace and people are theoretically free to pursue a life of their choosing, the social, attitudinal and environmental barriers to ESC rights like work, education, adequate standard of living and arts and culture, often makes this freedom a mirage.
What we know, is that for every five Victorian's who are blind or has low vision and who want a job, three do not have one. For every Victorian who is blind or has low vision and does have a job, almost half need more hours to make ends meet or to live the lifestyle of their choosing. We know that education is pivotal to gainful employment, with 66 percent of people who are blind or who has low vision in paid employment having a post graduate qualification. These figures are almost five times the average of the general population. We know that more generally, only 6.3 percent of the Victorian public service identify as having a disability. When placed alongside the public service figures of a comparable population like New Zealand who have had around 10 percent for the last decade and given that 20 percent of Australians identify with having a disability, we can see that there is still considerable work to do.

We know that in education, information access is crucial, yet we also know that almost 97 percent of all published information is not in a format that people who are blind or who have low vision can read. People who are blind or have low vision read using a range of alternate reading methods from standard print, such as Braille, large print or through screen reading technology that uses synthetic speech to interact with electronic text. Without information in a format that people can read, gaining an education is exponentially more difficult. The Federal Department of Education and Workplace Relations in 2007 found that teachers have expressed overwhelmingly that they feel ill-equipped to teach students with disabilities, that there is inadequate funding for teachers aids and other adaptations and that professional development is not readily accessible for teachers to up skill. This research mirrors the anecdotal evidence that we hear at Vision Australia from our clients and specialist staff and we also know that these short comings in employment and education, have flow on effects to people's standard of living and the opportunities limited by low income.

Vision Australia believes that the introduction of ESC rights into the Charter, especially the rights mentioned above, will further enhance the opportunities for public education and awareness of the problems faced by people who are blind or have low vision and further create an atmosphere for change. We believe this to be the case because of the positive human rights awareness that has already occurred over the past four years. The Victorian Equal Opportunity and Human Rights Commission in the 2010 Charter Review, has listed the areas in which Victorian public authorities have amended policies and procedures or have enhanced their internal culture to be in line with the Charter. The report also showed that when asked, a total of 85 percent of organisations and 71 percent of individuals either strongly agreed or agreed that the Charter had been the catalyst for positive change in this area. In our day to day work, We also see other entities in the community and commercial sectors looking to educate themselves about human rights and what it means for them stemming from the buzz in the public arena. And our advocates and
others in the sector are using the Charter as a tool in their work and further bringing awareness to the broader public through their dealings with the State and local governments and business and through their community engagement campaigns.

We believe the introduction of ESC rights into the Charter, will not only engage these rights through the dialogue mechanisms between the Executive, legislature and judiciary, but the public awareness and education enabled by the Charter, will further help to establish a culture which is mindful of these rights. The problems facing people who are blind or who have low vision will not be remedied solely by the Charter, but along with other measures and avenues at both the State and Federal levels, the tools with which to create change and the opportunities for change to occur, will be enhanced by the adoption of ESC rights into the Charter.

**Recommendation 1**
That the Committee consider introducing into the Charter, the economic, social and cultural rights of the International Covenant on Economic Social and Cultural Rights.

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**3. Schedule the UNCRPD with the Charter**

Since the adoption of the Charter in 2006 and progressive enforcement in 2007 and 2008, Australia has become a ratifier of the UN CRPD. This instrument is the first UN treaty of the 21st century and specifically identifies disability as a site of marginalisation along with race, women and children. While the UN CRPD does not introduce any new rights from those of the International Bill of Rights, it specifically articulates these existing rights in the context of disability. This is important in that it provides those without expertise in disability related discourse, with an explanation of what these rights mean and how these agreed rights must be promoted in protected for this group of people.

Vision Australia contends that as people who are blind or who have low vision and people with disability in general, Remain at the margins of the opportunities within our society for reasons largely beyond their control, that the UN CRPD ought to be scheduled to the Charter in order to give effect to the meaning of human rights for people with disability. Scheduling the UN CRPD to the Charter will give no more rights than are already contained within the Charter or to any rights to be added to the Charter should ESC rights be introduced, but will simply provide interpretive direction for those who wish or need to interpret the intent of the provisions contained. It would provide clarity and consistency and strengthen the Charter as a tool with intent and power of direction.

**Recommendation 2**
That the Committee consider scheduling the UN CRPD to the Charter as an interpretive document.
4. Conclusion

Vision Australia believes in the Charter as a force for good and a beacon for change in the lives of Victorians who are blind or who have low vision. We consider that Victorians and the Charter ought to be strengthened through the introduction of economic, social and cultural rights and by scheduling the UN CRPD to the Charter as an interpretive document. People who are blind or who have low vision remain at the margins in large parts of Australian society and we believe that Victoria can lead the way forward to true equity and dignity through its human rights focus. Human rights tell us that we are all part of the one human family and that we are all responsible for protecting these rights for one another as equals and we look to the Committee to help take a human rights approach forward for Victoria and lead the journey for all Australians in the process.

We thank the Committee for this opportunity to make comment here and we welcome the opportunity to provide comment in person.

Yours sincerely,

Brandon Ah Tong-Pereira
Policy Officer
