

YACVic Response to Rights, Responsibility and Respect: The Report of the Human Rights Consultation Committee.

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Support for a Charter

The Youth Affairs Council of Victoria would like to congratulate the Human Rights Consultation Committee on the release of their report *Rights, Responsibilities and Respect* documenting the findings of their extensive consultations and making recommendations for the implementation of a Victorian Charter of Human Rights and Responsibilities.

YACVic enthusiastically welcomes the recommendation that a Charter of Human Rights and Responsibilities be implemented in Victoria, believing that the implementation of a Human Rights Charter is a very important, productive step towards providing protection to some of the basic human rights that Victorians expect to enjoy.

YACVic commends the Attorney General for his clear statement of support for the implementation of a Charter, showing a commitment to strengthening protection of the human rights of Victorians. Clearly, the overwhelming majority of people who engaged in the Committee's consultation process are in favour of changing the law in order to better protect their human rights.¹

Following are some further comments that YACVic would like to make in response to *Rights, Responsibilities and Respect*.

Which Rights?

The Committee recommends that Civil and Political Rights be included in the Charter. Whilst YACVic agrees with the Committee that 'a Charter containing civil and political rights is a significant step along the journey towards the better protection of human rights in Victoria' we advocated in our original submission for the inclusion of the rights of the child, the specific rights of Indigenous peoples and Economic, Social and Cultural Rights. YACVic is pleased to see the Committee recommend a review of the Charter, and strongly supports Recommendation 34 which suggests that the review involve a consideration of the inclusion of rights contained in the International Convention on Economic, Social and Cultural Rights, the Convention on the Rights of the Child and the Convention on the Elimination of All Forms of Discrimination against Women. YACVic would also suggest that the review take into consideration the Rights of Indigenous people as First Nations Peoples. YACVic believes that the incorporation of these types of rights into the Charter would further strengthen the capacity of the Charter to provide protection to human rights in order to effectively improve the lives of young Victorians.

¹ 84% of the people who participated in a consultation or submitted to the Committee, and 94% if petitions and the like are included, were in favour of changing the law to better protect their human rights. See the Introduction and Summary of *Rights, Responsibility and Respect: The Report of the Human Rights Consultation Committee*, 2005. p.v.

Charter enacted through an Act of Parliament

YACVic believes that it is appropriate that a Charter of Human Rights and Responsibilities should be enacted through an ordinary Act of Parliament. YACVic believes that the flexibility awarded the Charter if it may be altered through the amendment of legislation is highly valuable. This will enable for the Charter to potentially be broadened to incorporate the rights listed above following reviews of the Charter or in response to growing Community understanding and respect for human rights. YACVic would like to reiterate the points made by Victoria Legal Aid to the Committee, highlighting other benefits to enacting the Charter through legislation, who point out that such a law:

- *preserves the sovereignty of Parliament;*
- *can give practical protection of human rights by allowing courts to interpret ambiguous legislation;*
- *can provide practical protection to human rights by ensuring that public authorities comply with it.²*

The role of all arms of Government

YACVic agrees with the assertion by the Committee that 'by infusing human rights considerations at all levels of government, and in the policy and law making process, there is a greater prospect of preventing laws and policies which are incompatible with human rights.'³ YACVic views the focus that the model suggested by the Committee for the roles of the Executive, the Courts and the Parliament places on the development of legislation that is consistent and compatible with the Charter, is potentially the most positive implication of the introduction of a Charter of Human Rights in Victoria.

YACVic strongly supports Recommendation 17 put forward by the Committee that:

All Victorian courts and tribunals should be required to interpret legislation in a way that is compatible with the Charter. In doing so, courts and tribunals should be directed to take account of the purpose of the legislation. Where relevant, international law and the judgements of foreign and international courts and tribunals should be considered.

YACVic sees that it is crucial that the courts and tribunals consider international law and the judgements of international courts and tribunals. This acknowledges that the Charter draws from and is a part of a broader human rights framework.

² Human Rights Consultation Committee. *Rights, Responsibilities and Respect: The Report of the Human Rights Consultation Committee*. Department of Justice, 2005. p.21

³ Human Rights Consultation Committee *ibid.* p.67

Accessible advocacy support:

YACVic strongly support Recommendation 32 of the Report that the 'Victorian Government should consider how best to implement appropriate and accessible advocacy support as part of its commitment to the Charter.'

In our original submission YACVic pointed out that young people generally have specific advocacy needs and particular difficulties in seeking out personal redress for a breach of their rights. YACVic stresses that appropriate and accessible advocacy support needs to specifically target young people in order that young people may equitably enjoy the benefits of a Charter of Rights. Similarly, Indigenous young people and communities would also require targeted advocacy support.