

State proposal for increased police powers in breach of human rights



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Peninsula Community Legal Centre (PCLC) is concerned at the introduction of legislation to the State Parliament to provide police the power to conduct random strip searches in the street and potentially to prevent people from spending time with their friends and families in public spaces.

Principal Lawyer Victoria Mullings says, 'Introduction of any such laws represent a serious curtailing of the human rights of all Victorians'.

International Human Rights Day is recognised on 10th December and provides an opportunity to reflect upon the status of human rights and human rights practices in our State.

The State Government introduced legislation into the Parliament on 12 November 2009 that:

- Provides police with random search powers (including strip searches) in designated areas;
- Gives police the power to direct people to move-on from a certain area;
- Includes a new offence of disorderly conduct; and
- Increases penalties for the new offence of disorderly conduct and for existing offences of 'drunk and disorderly' and 'drunk'.

The Victorian Charter of Rights and Responsibilities became law in 2006. It enshrines a body of civil and political rights to ensure that all people can fully participate in our community. 'Entrenchment of the right to free expression, assembly, association and public participation enhances democracy,' said Ms. Mullings. 'The Victorian Charter does not give courts the power to strike down legislation, but merely to remit a law to parliament for reconsideration if it cannot be interpreted compatibly with human rights. Parliament retains absolute sovereignty to respond to these declarations as it sees fit.'

The Victorian Charter establishes mechanisms to ensure that human rights are taken into account by parliament, the courts and public services when developing and applying law and policy. This promotes a conversation between the three arms of government about how best to protect human rights and leads to better governance. However, the Government has failed to have any conversation in relation to the proposed legislation, questioning the validity of their commitment to the Charter and the rights of Victorians.

A report by the UK Department of Constitutional Affairs found that Human Rights Acts lead to a 'shift away from inflexible or blanket policies towards those which recognize the circumstances and characteristics of individuals'. 'The proposed legislation is an example of a blanket policy which from experience in other jurisdictions, is applied in a discriminatory manner towards some of our most vulnerable community members – people who are homeless; young people; indigenous people and people suffering from mental illness' said Ms. Mullings.

'There is no evidence to suggest that the proposed powers result in reduction of crime rates either in Australia or internationally. In fact such powers have been shown to either divert people to areas with a lower police presence and/or divert people into the commission of more serious criminal activities'.

In addition to providing free legal services, PCLC advocates on behalf of the community to ensure that measures introduced to Parliament protect and enhance the community, are not detrimental to basic human rights and will not unfairly impact on already marginalised members of our community.

For more information about free legal services, please call 9783 3600 or visit www.pclc.org.au.

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