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The Human Rights Law
Resource Centre Ltd, a joint
initiative of the Public Interest
Law Clearing House and Liberty
Victoria, aims to:

1. Contribute to the harmonisation of Australian law and policy with international human rights norms;
2. Build the capacity of the legal profession, judiciary and community sector to develop Australian law and policy consistently with international human rights standards; and
3. Empower people that are disadvantaged or living in poverty by operating within a human rights framework.

The HRLRC achieves these aims by conducting and supporting human rights legal services, litigation, education, training, research, policy analysis and advocacy.

OPINION

Human Rights Make Good Social and Economic Policy

Human rights considerations and compliance are critical components of good public policy.

At every point in planning social and economic policy, or in developing new legislation, guidance can be found in the primary principles of respect for the rule of law and observance of human rights.

The human rights instruments crafted by the UN Commission on Human Rights in the post-war years (the *Universal Declaration of Human Rights*, the *International Covenant on Civil and Political Rights* ('ICCPR') and the *International Covenant on Economic, Social and Cultural Rights* ('ICESCR')) provide a solid basis of values and ideals on which to build a just society. They reflect the ideas underlying the UN Charter itself – a commitment to the peaceful resolution of disputes, to the economic and social progress of all and to the observance of human rights.

The foundation principle of human rights is that each individual person is equal in dignity and rights, regardless of race, religion, sex, age, nationality or other distinction. Respect for this principle requires each one of us to accept our common humanity and to act accordingly. It is also fundamental to the obligations of governments in their social and economic planning and in their international relations.

The human rights instruments emphasise the rights of individuals, but they go far beyond this. To fulfil the obligation to ensure that each person may enjoy rights on the basis of equality, laws, policies and programs must be developed which deliver these rights to all. The rights proclaimed are in fact a basis for the development of legal, social and economic policy. For example, if an individual is tortured or subjected to inhumane treatment, this is a violation of his/her rights and a remedy is required. But in most such cases, the violation is the outcome of a system failure. To ensure effectively the right of every individual to freedom from torture, the state must not only legislate to outlaw torture and to provide remedies; it must also set up a proper system to supervise places of detention and confinement, ensure adequate training and attitudes of those in power, and develop accessible mechanisms for recourse and redress. Abu Ghraib, Guantanamo Bay and the Australian immigration detention centres are all examples of systems failure, allowing a culture to develop that accepts torture and inhumane treatment and failing to provide proper supervision or recourse for the individual.

Similarly, in the field of economic, social and cultural rights, to deliver to each person the highest possible standard of living and the highest attainable standard of health requires the planning and implementation of programs based on the principle of equal enjoyment of these rights.

Human rights principles do not provide immediate answers to every difficult issue of social justice, such as the boundary between what should be provided for every member of the community and what people should be encouraged to provide for themselves, or how to ensure equal access to the minimum public standards which human rights instruments require. Nor can human rights principles resolve the problem of balancing economic development with environmental sustainability or to the social accountability of corporations (areas now under scrutiny). Nevertheless, human rights are much more than a 'mantra', or a collection of general principles. A considerable body of jurisprudence has been developed, including the work of the UN treaty monitoring committees, which monitor compliance with the Covenants. This work is the result of studying the application of rights in many diverse countries and in the determination of individual complaints, and it adds considerable depth to the interpretation of each right.

My argument is that in all areas of social or economic planning, the relevant human rights principles should be expressed as a part of the goals to be achieved, and the in-depth analysis of those rights should educate policy decisions.

If the principles of human rights were incorporated into our laws, the success or failure of governments to meet the standards which are mandated by the Covenants could be tested in the courts. The absence of those principles in our laws can have adverse effects. It means, for example, that we cannot challenge laws providing for indefinite detention, whether directed against 'unlawful non-citizens' or persons suspected of having information ASIO wants.

Recent events in Australia show just how dangerous it can be to leave decisions about liberty to the bureaucracy and the executive, without independent court scrutiny. A person charged with the most serious crime cannot be detained without proper justification before an independent court. But no such justification need be established when 'unlawful non-

citizens' are detained by decision of the DIMIA bureaucracy. There is no independent supervision of the detention. Australia was told that this was a violation of rights by the Human Rights Committee in 1996, but it ploughed on regardless, until now we are shamed by the outcomes. In the name of fighting terrorism, ever increasing inroads are made into our long standing liberties.

Human rights principles should also be foremost in the development of international policies, in aid, trade and dispute resolution. Yet, Australia's record in this regard is far from perfect. Not only have we made war on Iraq without clear authorisation of the UN, we have withdrawn from the jurisdiction of the International Court of Justice in respect of maritime boundaries when it appeared there might be a case taken there on behalf of East Timor. Despite our prosperity, we have failed to meet our development aid target of 0.7 per cent of GDP. Our commitment to environmental sustainability sits uneasily with our refusal to support Kyoto.

Respect for the rule of law and effective implementation of human rights, by governments and by all citizens, would be a major contribution to a fair and just society.

Elizabeth Evatt is a former member of the UN Human Rights Committee, was Chief Judge of the Family Court of Australia from 1976 to 1988 and President of the Australian Law Reform Commission from 1988 to 1993.

This article first appeared in the online magazine New Matilda.com

NEWS and CASENOTES

Court of Appeal Quashes 'Terrorist' Convictions against Jack Thomas

The Victorian Court of Appeal has quashed the convictions against Jack Thomas for receiving funds from a terrorist organisation and possessing a falsified Australian passport.

Mr Thomas was apprehended in Pakistan in January 2003 and detained for almost 6 months. During that period, he was held for extended periods in solitary confinement, deprived of food and water for up to three days, hooded, shackled, manacled, and threatened with electrocution and execution. On a number of occasions, Pakistani officials told him, 'We're outside the law. No one will hear you scream.'

During his period of detention, Mr Thomas was interviewed on at least six occasions by the AFP and ASIO. Mr Thomas was not permitted access to a lawyer during these interviews and it was implied that if he did not cooperate he faced the prospect of indefinite detention or worse. Mr Thomas subsequently made a number of self-inculpatory statements in the course of an interview conducted by the AFP. Upon his return to Australia, Mr Thomas was charged and convicted on the basis of these statements.

On appeal, the Victorian Court of Appeal held that the admissions were not made voluntarily and that it was contrary to public policy or fairness to admit them to evidence.

In advance of the appeal, the Human Rights Law Resource Centre made written submissions to be heard as *amicus curiae*. According to the Court, 'the Centre sought to make submissions in respect of international law and its influence upon the common law and the exercise of judicial discretion in the areas of:

- torture and other cruel, inhuman or degrading treatment or punishment;
- arbitrary detention;
- the right to legal representation;
- the right to be treated with humanity and with respect to the inherent dignity of the human person; and
- the right to health (including mental health) and the provision of adequate medical care (including mental health care).'

Ultimately, the Court declined the *amicus* application on the basis that counsel for Mr Thomas, Lex Lasry QC, could make the submissions directly on his client's behalf. Following the refusal of the *amicus* application, Mr Lasry QC subsequently filed a supplementary written submission embodying much of the HRLRC's *amicus* submission. Ultimately, however, the Court did not find it necessary to refer to this submission in the disposition of the appeal because it could be dealt with under established principles of domestic law.

In the HRLRC's view, although the international human rights submissions may not have been determinative, they do reinforce the Court's ultimate conclusion and also form part of an important dialogue between the Court and practitioners regarding international human

rights in domestic law. This dialogue will become increasingly important as the Court is required to deal with comparative and international human rights jurisprudence in the elucidation and development of the content of human rights under the Victorian *Charter of Human Rights and Responsibilities*.

The HRLRC is particularly grateful for the outstanding pro bono assistance of Brian Walters SC and Michael Kingston of Counsel and Blake Dawson Waldron in this matter.

For a copy of the judgment, see *The Queen v Joseph Terrence Thomas* [2006] VSCA 165 (18 August 2006) at <http://www.austlii.edu.au/au/cases/vic/VSCA/2006/165.html>

Edging Forwards on Arbitrary Detention; Sliding Backwards on Children's Rights

D and E v Australia, HRC, Communication No 1050/2002, UN Doc CCPR/C/87/D/1050/2002 (25 July 2006).

The UN Human Rights Committee ('the Committee') recently handed down its latest in a string of decisions concerning Australia's policy of mandatory immigration detention. The authors of the complaint were two Iranian nationals who, together with their two children, arrived in Australia by boat in November 2000. Pursuant to Australia's policy, the four were held in immigration detention for a total of three years and two months. During their period of mandatory detention, the relevant provisions of the *Migration Act 1958* (Cth) effectively precluded judicial review of the lawfulness of their detention, while their applications for asylum were rejected. The four were ultimately granted Global Special Humanitarian visas on 13 March 2006.

The authors made two primary claims:

- that their prolonged detention was 'arbitrary' and in breach of art 9 of the *ICCPR*;
- that the prolonged detention of their two young children additionally violated *ICCPR* art 24(1), which provides that every child shall have the right to such measures of protection as are required by his or her status as a minor.

The Australian Government argued that the claim was inadmissible because it was insufficiently substantiated and because the

claimants did not exhaust all domestic remedies available to them. Both of these arguments were based on Australia's position that the claimants could have pursued a writ of *habeus corpus* or other remedy under s 75 of the *Australian Constitution*. The Committee rejected these arguments, reiterating its prior observations that a *habeus corpus* application would be legally futile in light of the High Court's ruling as to the constitutionality of the mandatory indefinite detention provisions.

With regard to the merits of the art 9 claim, the Committee reaffirmed its earlier jurisprudence that, although immigration detention for administrative purposes is not arbitrary *per se*, prolonged detention for such purposes may be arbitrary where it continues 'beyond the period for which a State party can provide appropriate justification'. The Committee went on to reject Australia's arguments that the detention was proportionate to the State's objective of processing the parties' asylum claim, noting that Australia 'has not demonstrated that other, less intrusive, measures could not have achieved the same end ... for example, the imposition of reporting obligations, sureties or other conditions ...'. Having determined that the prolonged detention was 'arbitrary', contrary to art 9(1), the Committee affirmed that Australia was obliged to provide the authors with an effective remedy, including 'appropriate compensation', and 'to take measures to prevent similar violations in the future'.

In relation to the art 24 claim, all parties invoked the Committee's *General Comment 17 (Rights of the Child)*, which states that art 24 requires 'the adoption of special measures to protect children'. The authors argued that the best interests of their children were not served by keeping them in prolonged immigration detention. Australia responded by arguing that nothing in the *ICCPR* requires the best interests of the child to be taken into account, and that Australia's obligations to do so under the *Convention on the Rights of the Child* ('*CRC*') are not justiciable by the Committee. Further, Australia argued that by providing appropriate educational and recreational programs for detained children it had fulfilled its obligation to take 'special measures' for their protection.

In a surprisingly brief paragraph the Committee appeared to defer to Australia's arguments, holding that the authors' claim had not been

sufficiently substantiated for the purposes of admissibility, thus precluding an examination of the merits of the claim. This decision is most curious, as it appears from the Committee's Report that Australia did not seek to challenge the *admissibility* of the art 24 claim (at least not by any arguments made in addition to those in relation to the art 9 claim, which the Committee rejected). The Committee therefore appeared to go out of its way to avoid dealing with the more complex substantive issues raised by both parties in relation to art 24. In particular, Australia's assertion that a consideration of the best interests of the child is irrelevant to its *ICCPR* obligations does not necessarily hold water. Though it is true that art 24, unlike the *CRC*, does not strictly require states parties to consider the 'best interests of the child', it does not necessarily follow that such a consideration should not *inform* the state's obligation to provide special 'measures of protection' under art 24. In this way, Australia's *CRC* obligations might legitimately have been invoked by the Committee as an *interpretive tool*, informing the content of Australia's obligations under *ICCPR* art 24, thus overcoming the justiciability argument raised by Australia. In any case, *General Comment 17*, which provides that 'the paramount interest of the children' should be considered upon, for example, the dissolution of marriage, suggests that the Committee itself has been willing to invoke the 'best interests of the child' test when elucidating other *ICCPR* obligations. Accordingly, the Committee's cursory treatment of the art 24 claim in this case does not appear to do justice to the complexity of the substantive arguments involved in an analysis of art 24.

On the one hand, human rights activists should welcome the Committee's decision as further confirmation of the inhumanity of Australia's mandatory detention regime. However, the victory is likely to be pyrrhic. Jurisprudentially, the decision adds nothing new in relation to arbitrary detention — the Committee merely reiterated its prior views on the issue of 'arbitrariness'. Moreover, in holding the art 24 claim to be inadmissible, the Committee has adopted a posture of deference towards Australia's authority to determine appropriate 'special measures' for protecting children. In this way, the decision would appear to undermine the interdependence of human rights and to shield Australia from international scrutiny over its controversial policy of keeping children with their detained parents.

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High Commissioner for Human Rights Reports on Legal Protection of Economic, Social and Cultural Rights

The importance of the realisation and fulfilment of economic, social and cultural rights ('ESC rights') can hardly be challenged. As the South African Constitutional Court held in *Government of the Republic of South Africa v Grootboom*:

human dignity, freedom and equality, the foundational values of our society, are denied those who have no food, clothing or shelter. Affording socio-economic rights to all people enables them to enjoy their other rights.

According to Justice Perry of the South Australian Supreme Court, speaking at a recent HRLRC seminar, 'nobody could seriously join issue with that statement. The real problem is whether or not protection and advancement of the socio-economic rights of people in the community is best achieved by turning alleged denial of these rights into issues justiciable by the courts.'

The effective legal protection, including legislative entrenchment and justiciability, of ESC rights has recently been considered by the United Nations High Commissioner for Human Rights, Louise Arbour, in her July 2006 report on the *Legal Protection of Economic, Social and Cultural Rights*.

The Report examines challenges and solutions to the effective legal protection of ESC rights. It describes how the nature of these rights is similar to civil and political rights, noting that modern conceptions of human rights perceive rights in terms of rights of the individual to be free from State interference and the abuse of State powers (that is, freedom from the State) as well as rights to State intervention (that is, freedom through the State).

The obligation to realise ESC rights derives from art 2 of the *ICESCR*, which imposes an obligation on States to 'take steps' using the 'maximum available resources, with a view to achieving progressively the full realisation of the rights recognised in the Covenant.' According to the Committee on Economic, Social and Cultural Rights ('CESCR'), art 2 requires that States move towards the full

realisation of ESC rights within a reasonably short time and as expeditiously as possible. This requires concrete, targeted and effective steps. Retrogressive measures are not permitted other than in exceptional circumstances. If resource constraints are the reason the obligation of progressive realisation is not met, a State must at least show it genuinely attempted to meet core obligations using its available resources. To assist States in implementation, the CESCR has identified a tripartite typology of obligations. In brief, these obligations require that States *respect* rights by refraining from interference, *protect* rights by preventing third party violations, and *fulfil* rights by implementing positive and facilitative measures and promote and realise rights.

The Report contends that strategies to promote and protect human rights should be multidimensional, covering a range of legal, administrative, financial, budgetary, educational and social measures. Legal protection of ESC rights must be an essential element in this strategy, particularly given the recognition of these rights in legally binding treaties and because of increasing proof that legal protection is effective.

The first step in legal protection is the recognition of ESC rights in domestic law. This can occur through the incorporation of international norms into the domestic legal order and recognition of ESC rights in the constitution, in legislation or, in limited cases, by the judiciary. Echoing recent comments by the UN Special Rapporteur on the Right to Health, Prof Paul Hunt, at the 2006 HRLRC dinner, the Report identifies a global domestic and regional trend towards the recognition that ESC rights create legal entitlements and obligations. According to both the Report and the CESCR, constitutional or legislative entrenchment of ESC rights is 'highly desirable and in some cases indispensable' in order to clarify the minimum core content of rights and, importantly, provide remedial avenues for violations or implementation failures. While the judiciary can assist with legal protection, such measures alone are inadequate; ESC rights need intentional and direct protection. Moreover, the greater and more specific the legislative protection of ESC rights, the lesser and more confined the discretion of the judiciary to adjudicate on fiscal or socio-political matters.

The second component of legal protection of ESC rights is the provision of effective remedies. Courts, administrative tribunals, quasi-judicial mechanisms (such as national human rights institutions), and regional and international treaty bodies (such as the CESCR) all have an important role to play in the provision of legal remedies for breaches of ESC rights. In this context, the drafting of an Optional Protocol to the *ICESCR* should stimulate strengthened legal protection of these rights and must be strongly supported.

The Report is available at <http://daccessdds.un.org/doc/UNDOC/GEN/N06/403/50/PDF/N0640350.pdf?OpenElement>

European Court Rules on Permissible Limitations on Human Rights

Section 7 of the Victorian *Charter of Human Rights and Responsibilities* provides that the human rights contained therein may be subject to 'such reasonable limits as can be demonstrably justified in a free and democratic society based on human dignity, equality and freedom'.

Pursuant to s 7, the imposition of any such limitations must take account of all relevant factors, including: the nature of the right to be limited; the importance of the purpose limitation; the nature and extent of the limitation; the relationship between the right and the limitation; and whether there are any less restrictive means to achieve the purpose of the limitation.

A recent decision of the European Court of Human Rights, *Keegan v United Kingdom* (Application No 28867/03, 18 July 2006), has considered the issue of permissible limitations under the *European Convention on Human Rights* in detail. Pursuant to s 32(2) of the Charter (which permits consideration of international law and the decisions of foreign and international courts and tribunals relevant to a human right), this decision may inform the interpretation and application of permissible limitations under s 7.

The case concerned the execution of a search warrant by forcible entry into the applicants' home. The search warrant was obtained and executed without adequate investigation into the connection between the offence being investigated and applicants and their home. The search was unsuccessful.

The European Court of Human Rights held that the forcible entry and search violated the applicants' right to privacy and respect for the home under art 8 of the *European Convention* (the Charter contains an analogous provision at s 13). The Court then considered whether this interference was permissible in that it was necessary to pursue a legitimate aim (namely, the prevention and investigation of crime).

The European Court held that the interference was not permissible having regard to the following principles:

- the notion of necessity requires that the interference corresponds to a pressing social need and is proportionate to a legitimate aim (see also *Olsson v Sweden* [1988] 10465/83);
- what constitutes a pressing social need and legitimate aim should be interpreted narrowly and the need for interference or limitation in a given case must be convincingly established (see also *Funke v France* [1993] 10828/84); and
- the Court must assess whether the reasons adduced to justify interference or limitations are relevant and sufficient, and whether there are sufficient safeguards against abuse.

The Court considered that, in a case where basic steps to verify the connection between the address and the offence under investigation were not effectively carried out, the resulting police action, which caused the applicants considerable fear and distress, could not be regarded as proportionate. The Court ordered the payment of between €2000 and €3000 to each of the applicants, together with costs.

POLICY, ADVOCACY and LAW REFORM

UN Special Rapporteur on Adequate Housing Calls for Immediate Action on Homelessness in Australia

The United Nations Special Rapporteur on the Right to Adequate Housing, Miloon Kothari, has made an urgent call to Australian commonwealth, state and territory governments to respond to what he has called a 'serious hidden national housing crisis in Australia'. He has urged that governments take immediate measures to comply with international obligations to ensure that all Australian citizens are able to realise their

human right to safe, accessible, appropriate and affordable housing.

Between 31 July and 15 August 2006, the Special Rapporteur toured the country on an official visit to Australia. In the course of the visit, he raised serious concerns about the housing conditions for Indigenous people, for women (particularly those who are fleeing situations of family violence) and for the large urban, rural and regional homeless populations.

A request from the Special Rapporteur to visit Australia was made after receiving reports from various members of Australian civil society and non-government organisations about the situation on the ground in relation to housing, including a report that was sent by the PILCH Homeless Persons' Legal Clinic to the Special Rapporteur in 2005. That report detailed alarming plans by state and commonwealth governments to cut funding to homelessness services by \$30 million in what would have arguably been a breach of Australia's core obligations under arts 2 and 11 of the *ICESCR* to ensure that all people have the right to adequate housing, and to devote the maximum of available resources to progressively ensure that this right is realised and protected. Under the international human rights framework, retrogressive measures (such as cuts in expenditure on public housing or homelessness services) are permissible only in 'exceptional circumstances.' These do not exist in Australia.

According to the Special Rapporteur, what does exist in Australia is a puzzling and disturbing lack of commitment to making housing a national priority and a reality for many poor and low income families and individuals. This is evidenced not only by the already apparent and growing disparity between rich and poor in this country, but also by the lack of interest and engagement by senior government officials at state, territory and federal levels and the absence of a national housing strategy. Aside from a meeting with officials from the Department of Family, Community Services and Indigenous Affairs, the Special Rapporteur noted 'with disappointment that no other high level meeting was planned during his mission.'

It is disturbing that, in a country experiencing unprecedented economic growth and budget surpluses, there are over 100,000 people who are homeless on any given night and a far

greater number living in inadequate, inappropriate and unsafe housing. Every day and night, crisis accommodation services turn homeless people away because services are unable to meet the growing need for support. In Victoria, there are people who have been lingering on the appallingly long list for public housing for over 10 years. Across Australian jurisdictions, there is a patchy and loose framework of tenancy protection and laws including begging laws and public space offences that criminalise homelessness. In Victoria, despite the introduction of the *Charter of Rights and Responsibilities* into Victorian law earlier this year, the right to be free from poverty and the right to adequate housing were not considered worthy of legislative protection.

This is not a situation that has happened by accident or because people have chosen to be poor. It is a situation that is engineered and maintained by neglect and lack of political will.

It is to be hoped that the observations made by the Special Rapporteur, which will be finalized for a report to the United Nations Human Rights Council and to the Australian government, will be a much-needed catalyst to focus government attention on compliance with their international human rights obligations. It is particularly important that responsible governments do their duty to ensure that all people have access to proper housing, health services and adequate income support.

Kristen Hilton is the Coordinator and Principal Solicitor of the PILCH Homeless Persons' Legal Clinic

CASEWORK

Conditions of Detention of Unconvicted Remand Prisoners in Victoria may Violate Human Rights

On 3 August 2006, the Human Rights Law Resource Centre wrote to various UN Special Rapporteurs in relation to the conditions of detention of 13 men charged with various 'terrorist' offences (collectively, 'the Detainees').

Ten of the Detainees have been held as unconvicted remand prisoners in the maximum security Acacia Unit of Barwon Prison in Victoria since November 2005, while the remaining three have been held since March 2006.

The HRLRC understands that the type, length, conditions and effects of the Detainees' detention include that:

- at various stages, the Detainees have been held with convicted prisoners;
- most of the Detainees are being, or have been, held in solitary confinement;
- the Detainees are permitted out of their cells for up to six hours per day; however, this time limit varies frequently to as low as one hour per day;
- most of the Detainees have either no contact, or contact with only one other prisoner, while they are out of their cells for exercise purposes;
- in terms of family access, the Detainees are permitted only one non-contact visit per week (through glass) and only one contact visit per month. The contact visit is limited to children under the age of 16 and is not permitted to spouses, partners or other family members;
- the Detainees are strip searched both before and after every contact visit and both before leaving and upon returning to prison to attend court;
- the Detainees have very limited access to legal representatives. The capacity of legal representatives to take adequate instructions is also very limited, with professional visits, telephone calls and videoconferences usually terminated by 2.30pm;
- all communications between the Detainees and their legal representatives are video- and audio-taped;
- the mental health of some of the Detainees has been severely and deleteriously affected as a result of the conditions of their detention; and
- the conditions of detention are likely to endure for at least another 18 months until the conclusion of the Detainees' committal and trial.

The HRLRC is gravely concerned that the type, length, conditions and effects of the Detainees' detention amount to serious ongoing human rights violations, including in relation to:

- the right to be free from cruel, inhuman or degrading treatment or punishment under art 7 of the *ICCPR*;

- the right to freedom from arbitrary detention under art 9 of the *ICCPR*;
- the right of prisoners to be treated with dignity and respect under art 10(1) of the *ICCPR*;
- the right to a fair trial, including the right to adequate time and facilities to prepare a defence, under art 14(3) of the *ICCPR*;
- the right to freedom of religion under art 18(1) of the *ICCPR*; and
- the right to the highest attainable standard of physical and mental health under art 12 of the International Covenant on Economic, Social and Cultural Rights ('*ICESCR*').

The HRLRC's letter of complaint requests that various UN Special Rapporteurs – including the Rapporteurs with mandates relating to arbitrary detention, torture and cruel treatment, health, freedom of religion, and counter-terrorism – consider and investigate the complaint as a matter of urgency.

The letter of complaint is available at www.hrlrc.org.au

SEMINARS and EVENTS

Papers Now Available Online

The following papers from HRLRC seminars and events are now available online @ www.hrlrc.org.au under 'Past Events and Papers':

- Andrea Durbach, 'Human Rights and the Rule of Law', Speech to the 'Human Rights and Activism' seminar on 25 May 2006 in Melbourne;
- Geoffrey Robertson QC, 'Speech at the Launch of the Human Rights Law Resource Centre' on 14 March 2006 in Melbourne;
- Justice Chris Maxwell, President of the Victorian Court of Appeal, 'Speech at the Launch of the Human Rights Law Resource Centre' on 14 March 2006 in Melbourne;
- Justice John Perry, 'International Human Rights and Domestic Law and Advocacy', Speech to the 'Human Rights in Domestic Law' seminar on 7 August 2006 in Melbourne;
- Professor Larissa Behrendt, 'Achieving Social Justice for Indigenous Australians',

Speech to the Achieving Social Justice for Indigenous Australians seminar on 1 August 2006 in Melbourne;

- Brian Walters SC, 'Indigenous Peoples and the Right to Self-Determination', Speech to the Achieving Social Justice for Indigenous Australians seminar on 1 August 2006 in Melbourne;
- Mark Leibler AC, 'Achieving Social Justice for Indigenous Australians', Speech to the Achieving Social Justice for Indigenous Australians seminar on 1 August 2006 in Melbourne; and
- Professor Paul Hunt (UN Special Rapporteur on the Right to Health), 'Taking Economic, Social and Cultural Rights Seriously', Speech to the 2006 Human Rights Dinner on 29 April 2006 in Melbourne.

EDUCATION, RESOURCES and TRAINING

HRLRC Offers Legal Training regarding *Charter of Human Rights and Responsibilities*

The HRLRC is available to provide in-house training to lawyers regarding the Victorian *Charter of Human Rights and Responsibilities*.

The *Charter* received royal assent on 25 July 2006 and will commence on 1 January 2007. The *Charter* enshrines a range of rights derived from the *ICCPR*.

The *Charter* will have a significant impact on the development, interpretation and application of law in Victoria. There is a vast body of international and comparative human rights jurisprudence that will be relevant to the elucidation and development of the content of these rights.

The *Charter* provides, among other things, that:

- all Bills introduced to parliament should be compatible with human rights;
- 'public authorities' have a duty to act compatibly with human rights and to give proper consideration to human rights in decision-making process; and
- *all* legislation must be interpreted and applied, so far as is possible, compatibly with human rights (where this is not possible, the Supreme Court is empowered to issue a Declaration of Inconsistent Interpretation).

The definition of 'public authority' is broad and includes not only government departments, agencies and statutory bodies, but also private bodies discharging public functions. This may include hospitals and health care providers, private prison operators, public transport operators, essential service providers, aged care and disability services, among many others.

The HRLRC has identified the effective implementation and operation of the *Charter* as a key strategic priority and has already developed substantial expertise and materials in this regard.

As a component of this strategy, the HRLRC is available to provide in-house training to lawyers, in the form of a 2 hour interactive workshop, regarding the *Charter*. The cost of this workshop is \$550 (inc GST) for up to 50 people.

Please contact Phil Lynch on hrlrc@vicbar.com.au or (03) 9225 6695 to discuss this opportunity further.

Human Rights Tools for Human Rights Professionals @ www.humanrightstools.org

This excellent new website offers four services:

1. a human rights library, including access to online databases, case law, jurisprudence, human rights instruments, advocacy tools and thematic resources;
2. key resources for country analysis;
3. daily updated human rights headlines; and
4. access to a human rights e-newsletter.