



Charting the wrong course

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WITH the Labor Party in power across the country, a push is on for every state and territory to adopt a charter of human rights.

Victoria and the ACT have done it already. In Tasmania the Law Society, the Greens and some Labor MPs support the idea. The Law Reform Institute has drawn up plans and received more than 400 submissions, mostly in favour. Proponents says this shows clear community support.

That is nonsense. If there is such an overwhelming desire for change, why not do it properly and draft a Bill of Rights for Australia? Have a referendum to alter the Constitution and let the voters decide. Why not? Because it would fail miserably.

A small group of lawyers, activists and lobbyists supports this but most of the public is unaware and certainly not clamouring for it. There is no groundswell of support. Instead, advocates are trying to introduce the change piecemeal, through legislation in each state parliament, using the innocuous term "charter" instead of Bill of Rights.

The more conservative Labor MPs are reluctant to forge ahead with this reform and with good reason.

A charter of human rights sounds comforting and plausible but it is not a small refinement of the system. It is a radical redrawing of power away from the people and their elected representatives and towards a tiny group of judges. It gives these judges immense authority to interpret and determine the effect of laws passed by parliament and they are wholly unaccountable to the voters.

Tasmania has one of world's fairest electoral systems and an honourable record in progressive social legislation. It has led Australia in compensating wards of the state and the stolen generations, and in establishing a relationships registry to give legal status to same-sex couples.

This has been achieved through the Westminster system's wonderful capacity for reform and renewal, without the need for a handful of lawyers to decide what is best.

Where there have been wrongs that needed righting, such as discriminatory homosexual laws, it has been done through vigorous public debate.

If people object to a government's policies, they can pressure it or turf it out. It is not for a clutch of lawyers to determine. It is up to the voters as part of the democratic process.

A human rights charter would give one court too much influence and open the door to more litigation and a whole new industry of human rights lawyers and activists.

Advocates point out that many other countries have a charter or a bill of rights. Even Britain, the home of the Westminster system, has a Human Rights Act now, mostly to counter the influence of European human rights legislation. Yet a lofty definition of rights does not guarantee any country a fine human rights record. Some nations with a Bill of Rights are nasty dictatorships. Some still have the death penalty.

Australia is one of the world's freer societies. It has many laws to protect people's rights. The system is adaptable and open to reform. It is accountable and it works.

The push for a charter assumes that judges know what is right for Australia and reveals a basic distrust of the public and its capacity to decide.

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