



Talking Point

Our rights are under threat

GREG BARNES

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If Mr Bartlett is the reformer he says, often and loudly, that he is, then why isn't he rushing to join with Victoria and the ACT on being at the forefront of human rights protection in Australia? '

THERE has been much talk in recent times about restoring and renewing faith in democracy in Tasmania, much of it naive, and predicated on fallacies and myths about supposed corruption.

But what is curious about this debate is that no one -- with very few exceptions -- is talking about giving Tasmanians what every individual in a democracy deserves, a charter of rights.

Only the Greens are unambiguously committed to the introduction of a charter of rights.

The Bartlett Government's perspective on the matter is, to say the least, disappointing. It has no excuse because 12 months have elapsed since the Tasmanian Law Reform Institute's extensive report on a charter. And what has the Lennon/Bartlett Government done about it? Nothing.

When Mr Bartlett announced on August 19 his 10 point plan to strengthen trust. He said: ``Strengthening trust in democracy is a key agenda for me and this government moving forward." But there was no mention then of one of the most important means of bolstering democracy -- a charter of rights.

And on September 24, when the Greens Leader Nick Mckim asked the new Attorney-General Lara Giddings if she was intending to introduce a charter her answer was depressingly non-committal. She had not yet had time to consider the matter fully, she said, but in any event in her view a national charter may well be a way forward and that ``it is one of those issues that, in my time as Attorney-General, I am very much looking forward to being involved in and listening to all sides of the debate".

There are two matters that arise from Ms Giddings' answer to Mr McKim's straightforward question. Firstly, why wait for a national charter, because given the conservatism of the Rudd Government that may take years. And secondly, the debate about the need for a charter should really be over. The international embarrassment of Australia not adequately protecting its citizens through a charter of rights is well documented. The issue is not should we have a charter, because in any serious democracy a charter is as necessary as voting, but what type of charter is suited to strengthening Tasmanian democracy.

Why is Tasmania waiting on this issue, when across Bass Strait Victorians have had their rights protected under that state's human rights laws passed by the Bracks government two years ago? And the ACT's charter is going along very nicely, courtesy of Chief Minister John Stanhope -- the only political leader in Australia to stand up to the federal parliament's repressive anti-terrorism laws.

If Mr Bartlett is the reformer he says, often and loudly, that he is, then why isn't he rushing to join with Victoria and the ACT on being at the forefront of human rights protection in Australia?

It is even more imperative that Tasmania embrace a charter of rights, now that there is a clamour for some kind of super-powered ethics or anti-corruption commission. Such bodies are antithetical to human rights in many respects.

A prime example is the Queensland Crime and Misconduct Commission (CMC). This organisation regularly holds investigative hearings where a person who refuses to answer questions faces imprisonment, even if to do so would jeopardise their criminal trial. In other words, as Queensland lawyer and Australian Council for Civil Liberties president Terry O'Gorman said on September 25, a right enshrined in the Magna Carta of 1215 has been abolished. This occurred in 2001 when the Beattie government passed a law that allows the CMC to hold hearings even if a person is also being tried in another court.

As Mr O'Gorman told Australian Associated Press, now it has become standard practice for the CMC to bring accused people in and make them answer questions about the very matters that they're charged with.

``You have to, as an accused, now hand over the details of your defence to the CMC who, effectively on a daily basis, are conducting these star chamber inquiries," he said.

There is no human rights charter in Queensland, and therefore no opportunity for individuals to seek its protection against the CMC.

By contrast, in Victoria public authorities cannot act in ways that breach fundamental rights. And in countries like the UK and Canada individuals who face star chamber type procedures -- of the type contemplated by the zealots in this state -- have legal protection because in both those jurisdictions there are enforceable human rights charters.

Tasmanians once again, and this is more often the case than not these days, are being treated as second-class citizens because of their Government's failure to protect their rights. It is all well and good to say that Tasmania already has rights protection through laws like the Anti-Discrimination Act, but when it comes to fundamental rights like the presumption of innocence, that is vulnerable to attack each and every day.