

## **Bill of rights could just mean a big bill**

Federal shadow attorney-general George Brandis

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Tony Mokbel, who is considering using Victoria 's contentious charter of human rights as a surprise legal avenue in his bid to avoid facing murder charges in Australia, may be among the few people to have noticed that the charter came into operation on New Years Day, but his interest has helped re-spark debate about a national charter of rights. Federal Attorney-General Robert McClelland, who is believed to have held discussions with the University of NSWs George Williams about Labors commitment to an inquiry into such a charter, has said: Were not considering a constitutional bill that would be enforceable against citizens or corporations [but] a framework for legislators or regulators when preparing legislation.

At issue, in the case of Victorias charter and national debate, are what rights not already protected by existing laws should a bill of rights protect, whether the charter should confer rights enforceable against the government or against public authorities alone, and the risk that override declarations could render legislative provisions exempt from their operation. Critics of the Victorian charter, such as state shadow attorney-general Robert Clark, former NCA chairman Peter Faris, QC, and University of Queensland legal scholar Jim Allen, say potential problems include a flood of litigation as the meaning and limits of protections that charters and bills of rights provide are tested, and hidden costs to business. If the Victorian charter is any guide, nor are there likely to be guarantees of freedom of commerce. The Australian legal system has functioned well for over a century with the rights of citizens protected by common law, anti-discrimination legislation and the like, so the need for an entirely new framework for the protection of existing rights remains far from clear while the risk that any new framework could needless result in legal uncertainty is very real.