

Human rights charter could hinder child protection program: professor

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3 May 2007

[The West Australian](#)

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A human rights charter such as that proposed by the State Government could jeopardise plans to take children from alcoholic or abusive parents in the town of Halls Creek and put them in hostels, constitutional law expert Greg Craven said yesterday.

Professor Craven, from Curtin University, said he believed a wide range of laws would be called into question if the Government forged ahead with a proposal to enshrine basic freedoms in a rights charter.

The West Australian understands that Attorney-General Jim McGinty will unveil details of his plan for a State human rights charter today.

Professor Craven said that in theory Parliament could override a human rights charter or any court ruling which found legislation breached the charter. But in reality, this was not likely to happen because of the adverse political consequences.

Asked if he believed the proposal for a charter could affect the Government's plan to remove children in Halls Creek from dysfunctional families, he said: "It might, yes it might.

"I don't think it's going to be the end of the world, we're not going to suddenly wake up in America.

"But I do think we're going to have quite unpredictable consequences because what it will do is put question marks over a whole range of laws as to whether they breach human rights or not.

"On the one hand, if they're going to be effective then what's going to happen is the courts are going to take over from Parliament in making important decisions and I don't like that because it's undemocratic.

"And if they're not going to be effective, if that's not going to happen, why have them ... it's a pretend Bill of Rights.

"I also think that once that happens (a court rules a law to be in breach of an established human right) it would be very hard for parliaments to say, "Well we still want to go on because we think that's what has to happen'."

Mr McGinty has stressed previously that any new laws would not erode the power of elected representatives by giving courts sovereignty over Parliament. The new laws would give the courts the power to declare legislation in breach of an established human right but it would then be left to Parliament to face the consequences if it was not changed.

On Friday, the ALP national conference voted for an inquiry into a charter.