

State Rights Bill falls to Federal Bill

KATE CAMPBELL

21 December 2007

[The West Australian](#)

COUNTRY

6

(c) 2007, West Australian Newspapers Limited

The State Government has abandoned plans to introduce a Human Rights Bill, saying it would wait until the Federal Government decides on a national charter.

However, a spokesman for Federal Attorney-General Robert McClelland said the Federal Government aimed for a draft Bill in its first term.

WA Attorney-General Jim McGinty said yesterday a State Bill might never eventuate because the matter was best pursued on a national level, which was easier now with Labor governments across the nation.

The consultation process cost \$500,000, sparking Opposition claims that the money had been wasted.

A committee headed by former Federal minister and Reconciliation Australia director Fred Chaney released its 340-page report yesterday.

It found overwhelming public support for a Human Rights Bill and recommended key changes to the Government's initial proposal.

It called for economic, social and cultural rights - such as the rights to adequate housing, education and health standards - to be in any charter on top of civil and political rights.

Maintaining Parliament's sovereignty to avoid existing laws being overruled by courts, discouraging litigation as a solution to breaches and promoting a human rights culture in government bureaucracies also were suggested. The committee strongly recommended that existing WA abortion laws not be affected by a Human Rights Bill.

Mr McGinty cast doubt over expanding the rights and handing the Equal Opportunities Commissioner extra powers, saying they would need detailed consideration to avoid "unintended consequences".

Out of 401 people the committee surveyed, 89 per cent supported a human rights law. Almost 400 submissions were received and 40 public hearings conducted.

Police, anti-abortion groups, the Director of Public Prosecutions, Aboriginal Legal Service and WA Law Society were concerned that a human rights Act would cause confusion over existing laws, leaving them vulnerable to be challenged, and create heavier workloads.

The committee suggested a three-tier system deal with human rights breaches, firstly through internal conciliation, then mediation by an independent party followed by "limited rights" to take legal action against government agencies as a last resort.

Mr McGinty said he wanted to avoid the US human rights model of litigation for compensation. "We don't want to encourage a culture where people go to the courts seeking compensation, seeking damages for human rights breaches," he said.

He denied that a Human Rights Bill would have significant impact on the work of police or the courts.

Mr Chaney said this report would be a valuable blueprint for all West Australians - not just disadvantaged minorities - and would help the Federal human rights debate.

He said property rights, child protection, adoption and medical treatment were main issues raised with the committee. Difficult indigenous issues warranted closer, longer-term consultation.

ALS WA chief executive Dennis Eggington criticised the Government for shelving the report and said it should go ahead with its own Bill instead of waiting for the Federal Government. He said it appeared that the Bill, even with the new recommendations, would only give "lip service" to indigenous rights.

State Opposition Leader Paul Omodei supported a Human Rights Bill in principle but said the devil was in the detail.

We don't want to encourage a culture where people go to the courts seeking compensation. WA ATTORNEY-GENERAL JIM MCGINTY

THE HUMAN RIGHTS ACT AT A GLANCE

What rights would be protected

The right to life

The right to liberty and security

Protection from cruelty, torture

Freedom from forced work

Freedom of movement

Freedom of religion

Protection of privacy and reputation

Freedom of expression

The right of peaceful assembly

Rights of children

The right of those detained to be treated with humanity, respect and dignity

The right to a fair and public hearing

The right to vote and participate in conduct of public affairs

Rights of minorities