



MEDIA BRIEFING

GOVERNMENT RESPONSE TO THE BRENNAN REPORT

While welcoming the initiatives announced on 21 April 2010 by the Commonwealth Government for the protection and promotion of human rights in Australia, the Human Rights Council of Australia expressed deep disappointment that the Government will not enact a Human Rights Act or Charter of Human Rights.

The Council hopes that the creation of a joint parliamentary standing committee on human rights, together with the introduction of statements of compatibility, will help to ensure that members of Parliament are conscious of and take proper account of Australia's international human rights obligations when deciding whether to enact new legislation that may contravene or limit human rights obligations. These measures may help to avoid hasty or ill-considered legislation that breaches or unnecessarily restricts rights.

The Council also welcomes the provision of additional funding to the Australian Human Rights Commission and the non-government sector. More funding for human rights education will help to make sure that all Australians get the benefit of their rights under international law. Rights such as the right to an adequate standard of living and adequate food clothing and shelter, affect many Australians but especially the marginalised and vulnerable.

Education of the Commonwealth public service about human rights principles is also long overdue. The Council hopes that this will better ensure that decision-making by public servants, which affects many Australians and others including asylum seekers, takes account of international human rights obligations.

The Council is deeply disappointed that the Government has chosen not to accept the recommendation for the enactment of a Charter of Human Rights. Without a Human Rights Charter, the scope for Australians to enforce human rights will remain extremely limited. Current mechanisms for enforcing human rights are piecemeal and inadequate. Without a comprehensive enforcement mechanism such as a Charter of Human Rights, the rights of Australians will continue to be inadequately protected.

A Charter of Rights would have ensured that the actions of public servants that fail to comply with international human rights, could be challenged through the courts. It would also have enabled the courts to draw attention to laws that breach human rights, without taking away from parliament its prerogative to pass such laws. The courts are an integral part of our system of government. They provide a check and balance on the executive.

The Human Rights Council had submitted to the Brennan Inquiry that courts should have a role in the enforcement of economic, social and cultural rights, as well as civil and political rights. Even if the role of the courts is limited to enforcement of civil and political rights, the absence of this protection mechanism is a significant weakness in the system for protection of human rights in Australia. Those most affected will continue to be the vulnerable and marginalised members of Australian society who suffer disproportionately from violation of their human rights, including the mentally ill, indigenous Australians, persons with disabilities and the economically disadvantaged.

The Rudd Government has promised to do a little but nowhere near enough.

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