



Ideology dressed up as social justice

Frank Brennan's proposed charter of rights will erode religious freedom, warns George Pell

THE Christian churches strongly support human rights and their attendant responsibilities. But religious freedom should not be eroded by stealth.

The Brennan committee's report on human rights gives the government two options: an upfront charter of rights or a Trojan Horse version.

The upfront charter is the committee's proposal for a federal human rights act. Committee chairman Frank Brennan already has acknowledged that parts of this proposal are unviable and unworkable because the High Court of Australia probably won't be able to play the part the committee wants to assign it. But that's OK, the report says. The Australian Human Rights Commission, with increased powers, should be able to fill the gap.

In whatever form it comes, Brennan's charter of rights is a bad idea because it is a threat to some freedoms. The upfront version at least has the merit of being in plain sight. The Trojan Horse version is more difficult to come to grips with. It is contained in the recommendations the committee describes as "the primary options" the government should implement even if it rejects an upfront charter.

The keystone is a "definitive list" of rights, to be selected from the international treaties Australia has signed. The beauty of making up your own list of rights is that you don't have to include those you don't like. And if you do have to include some of them for appearance's sake, you can redefine them so they're not too much of a nuisance. The charters in Victoria, the

ACT and Britain leave out the internationally acknowledged right of parents to choose the appropriate moral or religious education of their children.

The law on judicial review of administrative decisions will then be amended so that the definitive list of rights will have to be observed in every federal government decision. The law governing the interpretation of commonwealth legislation will also be amended so that all federal laws must be interpreted in a way consistent with the definitive list of rights.

Finally, every bill introduced to federal parliament will need a statement of compatibility with the definitive list of human rights.

The report's recommendations also include "a comprehensive framework" to educate everybody about the list of rights, and create a "human rights culture" in the public service. Sounds like imposing an ideology.

Strangely, the Brennan report is weak on defending human rights. Stranger still, it wants the Human Rights Commission to have more power to investigate breaches of the definitive list of rights. The commission is presently inquiring into whether religious freedom is compatible with human rights. It doesn't even understand that religious freedom is a fundamental human right.

There is no doubt that if Australia gets a charter of rights, upfront or by stealth, it will be used against religious schools, hospitals and charities by other people who don't like religious freedom and think it shouldn't be a human right. The target will be the

protection in anti-discrimination laws that allow religious schools to exercise a preference in employment for people who share their faith.

If these protections are to be revised, it should be done by MPs answerable to the people, not by judges or human rights commissars.

Under the British Human Rights Act, religious freedom claims have almost never succeeded. The Victorian charter's protection of freedom of religion and conscience has been shown to mean nothing against the more important claim to a right to abortion. We can expect a similar hierarchy of rights under a federal charter, with religious freedom well and truly at the bottom.

Things in Australia are not too bad, but religious freedom is under pressure. The push for a charter of rights should be seen in a wider context that includes the attempt by the ACT government to force the sale of Calvary public hospital in Canberra, which is run by the Little Company of Mary. If it succeeds in this, other public hospitals run by religious organisations will be targeted next.

A charter of rights, upfront or by Trojan Horse, will politicise the judiciary and erode the separation of powers by transferring legislative power to the courts.

Neither a charter nor the Human Rights Commission will protect religious freedom, which is why so many religious people oppose both. Other Australians should do the same.

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