Power of Charter of Rights Exists in Prevention, Not Just Cure

The Law Council remains resolute in its support for the adoption of a federal Charter or Bill of Human Rights, despite recent claims that it would fail to deliver protection for victims of human rights violations.

The Council reaffirmed its support for a Charter of Rights after claims were made that such legislation would have done little to protect the rights of high-profile victims such as Cornelia Rau and Vivian Alvarez Solon.

Law Council President John Corcoran said, “The Charter of Rights we support could have prevented the mistakes made in these cases by requiring police and immigration officials to adhere to human rights standards when exercising their powers.”

“A Charter would include specific legal protection for the right to liberty and the right to be treated humanely while in detention. Moreover, the Charter of Rights supported by the Law Council is focused on prevention, not just cure,” Mr Corcoran said.

Mr Corcoran said under a Charter of Rights, laws that authorise immigration detention could not be passed without Parliamentary scrutiny of the potential impact these laws would have on human rights.

“Rather than having to wait for the government of the day to initiate an inquiry into an alleged violation of an individual’s human right, a Charter would draw attention to any laws, policies or government actions that are inconsistent with human rights standards at the time of their development or delivery,” Mr Corcoran said.

“As far as the Law Council is concerned, a Charter is more than just a remedy for an abuse of a human right – it serves as an important yardstick for evaluating both past and future government actions,” Mr Corcoran concluded.

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