

REGNET PROGRAM REVIEW 2001-2006

IMPACT CASE STUDY: HUMAN RIGHTS

RegNet scholars have been active in research on the domestic translation of international human rights law. They have written extensively on the effect of human rights norms in the Australian context and identified various components of the Australian ambivalence about international law. In 2000, Hilary Charlesworth was invited to give the New College lectures at the University of New South Wales on the protection of human rights in Australia, which were later broadcast as a series on ABC Radio National. The lectures formed the basis of a book, *Writing in Rights: Australia and the Protection of Human Rights* (2002). The book argued that the protection of human rights in Australia is inadequate and considers various alternative models.

This research led to Charlesworth's appointment by the Australian Capital Territory government in 2002 to chair an ACT Bill of Rights Consultative Committee, whose mandate was to consult with the ACT community about whether a bill of rights should be adopted and if so what form it should take. After nine months of consultations, the Committee produced a major report in May 2003, *Towards an ACT Human Rights Act*. The report recommended the adoption of a legislative bill of rights based on Australia's international human rights obligations and included draft legislation. The ACT government enacted a Human Rights Act based on these proposals in 2004, Australia's first bill of rights.

RegNet scholars have since been involved in education programs on human rights for the ACT judiciary and public service. In 2004, Hilary Charlesworth and Andrew Byrnes (UNSW) were awarded an ARC Linkage Grant to work with the ACT Department of Justice and Community Safety on monitoring the implementation of the Human Rights Act. Gabrielle McKinnon has been employed under this grant. This project, commenced in 2005, has involved the publication of scholarly articles, newspaper articles, the hosting of an annual conference reviewing developments in Australian bills of rights and the creation of a well-visited web site (<http://acthra.anu.edu.au>) which includes a database of cases under the ACT Human Rights Act. The project is conducting empirical research into the experiences of the ACT public service with the Human Rights Act which will not only generate scholarly articles, but also assist the ACT government in the implementation of the legislation. It also convenes an ACT Human Rights Act Legal Network for legal practitioners and academics, which meets quarterly, and provides members with regular email updates on new cases and developments under the Act

RegNet researchers have been consulted by the ACT government on various matters of implementation of the ACT Human Rights Act and have provided pro bono advice to the Chief Minister on the human rights implications of the draft Commonwealth Anti-Terrorism Bill 2005.¹ This advice was instrumental in forming ACT government policy on anti-terror legislation. Scholars at RegNet also made a submission to the October 2005 Senate Legal and Constitutional Legislation Committee inquiry into the provisions of the Anti-Terrorism Bill (No 2.) 2005² and made a submission to and appeared before the ACT Legislative Assembly's Standing Committee on Legal Affairs Inquiry into the Exposure Draft of the Terrorism (Extraordinary Temporary Powers) Bill 2005 in February 2006.³ The RegNet submissions were influential in both Reports.

RegNet scholars were consulted by the ACT Department of Justice and Community Safety about the content of the Discussion Paper for the current 12 month review of the ACT Human Rights Act, and have provided a submission to that review.

The role of RegNet research in the design and implementation of Australia's first bill of rights has been acknowledged by the ACT government. On 22 November 2005, the ACT Chief Minister Jon Stanhope, commenting on the award of the Goler T. Butcher Medal to Hilary Charlesworth, told the Legislative Assembly that:

[I]t is a matter of honour and some comfort that it was Professor Charlesworth who advised this government on the path that we followed in legislating a human rights act for the Australian Capital Territory. I am certainly conscious-we would all be conscious-of the significant and important role that Professor Charlesworth had in guiding the nature or the structure of the legislation ultimately adopted by the Assembly in legislating a human rights act here in the territory.

... It is also important-and something that we should reflect on-that it was Professor Hilary Charlesworth who was the first significant or notable academic in Australia to comment on the extent to which the commonwealth's current anti-terrorism bill was inconsistent with

¹ Available on the Chief Minister's website at http://www.chiefminister.act.gov.au/docs/Stanhope_advice_20051018.pdf

² The RegNet submission was referred to in the Senate Legal and Constitutional Legislation Committee *Report on Provisions of the Anti-Terrorism Bill (No. 2) 2005*, November 2005 at pp 11, 28, 34, 36, 37 and 65.

³ The RegNet submission and evidence before the Committee were referred to in the Standing Committee on Legal Affairs *Report on Terrorism (Extraordinary Temporary Powers) Bill 2005 exposure draft*, February 2006 at pp 16, 26, 36, 52, 67, 74, 80, 94, 108, 109 and 121.

Australia's international human rights obligations, particularly those obligations as reflected through the international covenant on civil and political rights.⁴

The ACT Human Rights Act has prompted considerable interest from state governments and from researchers around the world. Indeed the Victorian government has now introduced draft human rights legislation that is closely modelled on the ACT Human Rights Act. Western Australia, Tasmania and New South Wales are now beginning similar processes. RegNet scholars have been involved in advising all these initiatives.

In this context, RegNet-based research has contributed to a major identifiable social and legal outcome, Australian bills of rights, both locally and nationally.

⁴ ACT Legislative Assembly Hansard 22 November 2005 pp 4427-4428.