

# Whither human rights in Victoria?

By Joe Charles

The recent Victorian state election, which took place as we went to print, was dominated in the lead-up by law and order issues and the potential for a new government with very different ideas on how to protect human rights. This made human rights a critical campaign issue, even if it was often relegated to the background.

Before the commencement of the formal election campaign, the Castan Centre's State Election Forum provided a great opportunity to see how the protection and importance of human rights continues to divide politicians in Victoria, and how the outcome of this election may fundamentally change human rights protection in this state.

It should be of no surprise that the Forum provided two very different perspectives on the current state of human rights in Victoria. On one side of moderator Damien Carrick was Brian Walters SC, former President of Liberty Victoria, prominent civil

National government would either simply repeal the Charter, or repeal it and replace it with a model somewhat similar to the Federal Government's Human Rights Framework.

In response, Mr Walters made his commitment to the Charter, describing it as the 'first step forward' in human rights protection in Victoria. Mr Walters stated that he favours an expansion of the Charter protection to economic, social and cultural rights.

From here the discussion ranged across many issues from disagreement over the reforms to the Equal Opportunity legislation and the Coalition's support of a 'small business' exemption, to debate over the future of the Neighbourhood Justice Centre in Collingwood and to the Greens' support for a right to euthanasia. One point of clear agreement, though, concerned funding of Legal Aid, with both Mr Walters and Mr Clark agreeing that increased support was necessary.



Host Damien Carrick (centre) with The Hon. Robert Clark (left) and Brian Walters SC.

liberties and defamation lawyer and the Greens candidate for the State seat of Melbourne. On the other was Robert Clark MP, the Shadow Victorian Attorney-General and a vocal opponent of the *Victorian Charter of Human Rights and Responsibilities Act* (the 'Charter') – a piece of legislation he once described as 'hypocritical and dangerous'.

The forum was opened by Mr Carrick, presenter of *The Law Report* on ABC Radio National, who began by questioning Mr Clark on whether he still stands by that description of the Charter. Mr Clark was happy to say that he does, and he added that the current Labor Government has failed to comply with the spirit of the Charter by often attempting to operate outside of its parameters. For Mr Clark, the Charter remains a dangerous piece of legislation that gives Victorians a 'false sense that it [the Victorian Labor Government] is doing something to uphold rights.'

Given this opposition, Mr Clark indicated that the Charter would not continue in its current form if the Coalition was to win the election. Although Mr Clark maintained that the Coalition has not announced a formal policy of repealing the Charter, he suggested that a Liberal/

Despite his absence, Attorney General Rob Hulls MP, who was invited to attend the forum but withdrew without a replacement, was nonetheless a constant presence in the discussion. Mr Walters condemned Mr Hulls and the Labor Government for the introduction of random weapon searches in response to a public perception of an increase in knife crime. Describing them as an affront to the rule of law, Mr Walters argued that the laws should be repealed, given the likelihood of police misuse and abuse.

In response, Mr Clark defended the laws as a necessary cost of public participation, and given that the powers could not be exercised solely by an individual, Mr Clark asserted that unless the powers were used vindictively, they were an appropriate solution to the problem of escalating violence.

Regardless of Mr Hulls' absence, and given the potential for a significantly different Parliament following the election, the State Election Forum and the discussion between Mr Walters and Mr Clark was a fascinating insight into the future of human rights protection in Victoria.