

Hard road ahead for human rights bill

The Senate might be given more power to monitor new bills if a human rights act is not introduced, writes **James Eyers**.

As the federal government prepares to outline its position on a statutory human rights act next week, calls are growing for the Senate's Scrutiny of Bills Committee to have an enhanced role to more effectively scrutinise parliamentary bills for rights violations.

Enhancing the committee's power, or introducing a range of alternative measures aimed at bolstering protection through administrative law or education, may provide the government with attractive alternatives to committing to a bill of rights before the election later this year.

The committee has conducted an inquiry over recent weeks into expanding its powers and will report by May 12.

Federal Attorney-General Robert McClelland will use a speech at the National Press Club on Wednesday to respond to the report last year of the Human Rights Consultation Committee, which called for the introduction of a federal human rights act, or bill of rights.

In January, Mr McClelland said the recommendation to introduce a bill of rights at the federal level was "very controversial", both within the parliamentary Labor Party and throughout the community, suggesting the government may not commit to introducing legislation



Robert McClelland says the recommendation to introduce a bill of rights is 'very controversial'.

Photo: JAMES DAVIES

that could alter the balance of power between it and the judiciary.

But the Human Rights Consultation Committee made additional recommendations on protections in the event that a bill of rights was not introduced. It called on the government to compile an interim list of rights for protection and establish a joint committee on human rights, to review all bills "for compliance

with the interim list of rights and, later, the definitive list of Australia's human rights obligations".

It also recommended that the Administrative Decisions Act, which provides grounds for the public to challenge a government decision, be amended to make human rights obligations a relevant consideration in government decision-making. Mr McClelland is

expected to respond to these recommendations next week.

Critics say that even if a human rights act is not introduced, a "back door" bill of rights will be created if such changes are implemented.

Liberal senator Helen Coonan, who chairs the Scrutiny of Bills Committee, said last month the coalition would not support a bill of rights, "but may be amenable to looking at whether or not some of

the human rights issues that might arise in legislation we are scrutinising could be adequately dealt with by the committee".

A clear majority of the 33 submissions to the committee support its expanded role.

The Australian Human Rights Commission said that under its current mandate it was "not able to adequately scrutinise proposed legislation for the commonwealth's compliance with its human rights obligations" because there was a lack of clarity about which rights it should examine. It called for a specialist parliamentary human

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Edward Santow, UNSW

rights committee to be established.

The Rule of Law Association of Australia said the workload of the committee had more than doubled since it was established 30 years ago, given the proliferation of legislation, and called for a "broader charter that spells out the various rights which good laws should embody".

Edward Santow, from the University of NSW, said increasing the committee's remit in the absence of a human rights act was "a bit like sticking wings on a car: your car won't suddenly fly like a plane. Similarly, the enhanced parliamentary scrutiny in a human rights act is part of an integrated system of human rights protection".

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