

Tuesday, June 02, 2015

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Submission to 2015 Review of the Charter of Human Rights

Rule of Law

Principle of Legality

Principles of the Magna Carta

Star Chambers

Principle of Competent, independent, impartial Judiciary

Common law principles

Arbitrary, capricious abuse of the process, amounting to INDIRECT DISCRIMINATION

Fair Hearing

Equality before the Law

Writ of Mandamus

Genocide via Murder by Joint Enterprise

Charter for Human Rights and Responsibility Act (VIC) 2006

8. Recognition and equality before the law

24. Fair hearing

Equal Opportunity Act (VIC) 2010: Discrimination, direct and or indirect

Race Discrimination Act (Cth) 1975

Child soldiers

Police as private vigilantes

Tomasevic v Travaglini [2007] VSC 337

There appears to be an attempt to **usurp the power of parliament** to pass law and for the judges to apply them, namely the **Charter of Human Rights and Responsibility Act (VIC) 2006** and the **Equal Opportunity Act 2010**, inter alia.

The failure of the judges of the Supreme Court of Victoria, the Court of Appeal, and the President of Victorian Civil and Administrative Tribunal (VCAT), deputy presidents and members to apply the Charter and the EO Act, have **contributed to the death in police custody of Mr Gong Ling Tang, and now the creation of child soldiers**, of only 17 and 18 year old Victorians and Australians, defending their families and communities against unlawful and genocidal practices of Victorian police and public officials, inter alia.

The **incompetent, non-independent and non-impartial** abuse of discretion, **arbitrary and or capricious abuse of discretion** amounts to direct and or indirect discrimination.

Numerous attempts have been made to VCAT to determine the definition of **Discrimination, indirect or otherwise**. G Nihill and the President Garde, inter alia, have failed to hear matters in proper hearing process, instead to covering up for police member and others. G Nihill in particular prefers to use the **star chamber** process to use simple tribunal rules without reasons or logic. Garde J have now imposed no recording rules to cover up and circumvent "judicial" corruption at VCAT, interfering with the relevant sections in the Charter regarding, fair, public and open hearings.

The Supreme Court and Court of Appeal judges, including Simon Whelan, Nettle, Neave, Emerton JJ. similarly all failed to hear and determine the definition of discrimination, direct or otherwise, in a fair and proper hearing.

This is an attack on the integrity of the Supreme Court and the Court of Appeal, usurping the power of parliament to pass laws, such as the Charter and EO Act.

It is also an attack on the principle of common law precedence:

In **Tomasevic v Travaglini [2007] VSC 337**, Justice Kevin Bell Supreme Court Victoria, indicated that it is the duty of the presiding Judge to help unrepresented litigants according not only to the Charter and Australian Laws but to also the international laws and Treaties, International Covenant on Civil and Political Rights ICCPR.

Failure of the aforementioned judge plus the retired judge Bongiorno, to apply that legal precedence amounts to discrimination, indirect or otherwise.

As a matter of fact, the incompetence of the Justice system and the current judges, is that they had to bring back a retired judge Bongiorno, whose run off with his pension, in order to corrupt the Rule of Law and the Charter, by

1. Arbitrarily detained a defendant and denied him participation in the court hearing, in order to defend himself and his reputation;
2. Failed to apply the Charter to refer his unlawful act up to the Court of Appeals under s 33, s36, inter alia, as requested by the defendant;
3. Failed to applied the Fair Hearing section of the Charter
4. Failed to applied the Equality before the law section of the Charter;
5. All this amounts to unlawful discrimination, direct and or indirect.

Death Cult and Child Trafficking of Inept lawyers who beget inept Judges

In 2013 or thereabouts, matters were before the Emerton J, Supreme Court, not only did the judge appear not to know the definition of Discrimination, direct and or indirect, the judge allowed Ms J M Davidson and Victorian Government Solicitor Office, to run a private case between an Applicant and Minh Nguyen, that has nothing to do with the Victorian Government Solicitor. Minh Nguyen has failed to appear for the hearing, this is not only an attempt to pervert the administration of justice, but also a discrimination against all other Victorians for legal representation, without the consent of the Applicant or Minh Nguyen. In effect, by perverting the rule of law, Ms J M Davidson and Victorian Government Solicitor and Emerton J are setting the Vietnamese up to fail and in so failing to call them inferior.

In 2015, Mr Kevin Kelly, a Melanesian Man, attempted to challenge the act of Ms J M Davidson at VCAT, with an application to refer the matter to the Supreme Court pursuant to the Charter, and once again in the Star Chamber of G Nihill it was refused without reasons or logic. Mr Kelly has been set up to fail and in failing be labeled inferior. **Exhibit 1**

Mr Kevin Kelly is seeking access to his stolen children after the Department labeled him "eating insects and not fit as a father". Mr Kelly alleges that the Department is negligent in putting his children in the care of child abusers.

Section 8. Recognition and equality before the law

Section 24. Fair hearing

Section 21. Right to liberty and security of person

(2) A person must not be subjected to arbitrary arrest or detention.

(3) A person must not be deprived of his or her liberty except on grounds, and in accordance with procedures, established by law.

(4) A person who is arrested or detained must be informed at the time of arrest or detention of the reason for the arrest or detention and must be promptly informed about any proceedings to be brought against him or her.

Section 33. Referral to Supreme Court

Section 36. Declaration of inconsistent interpretation

The aforementioned sections of the Charter, inter alia, are violated by **an arbitrary and or capricious abuse of discretion** by Supreme Court Victoria, and Court of Appeal, and VCAT, in applying the Charter and applying other laws and mere court rules according to the Charter.

Exhibit 1 is Mr Kelly's request for his matter(s) to be referred up to the Supreme Court pursuant to sections 33, and 36, inter alia, and the contents should form a part of this submission.

It is also prudent that we seek an extension of time to file further material to the Review of the Charter and its application.

There appears to be a collusion between the registrars including Mr Rob Shade of the Court of Appeal, the single judges, registrars of VCAT and members and Victoria police, to interfere with the administration of justice by manipulating the actual documents being filed, and or handling stolen goods in that of filing fees.

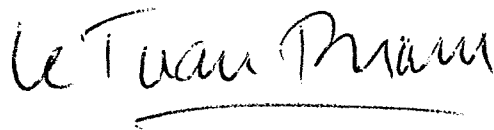
In addition, the death of Mr Gong Ling Tang is not an isolated incident, as Members Wentworth and I Lulham, refused to allow a rehearing for an Applicant who filed a medical certificate from a major hospital, effectively denying the Applicant the medical care.

Competent, independent and impartial court or tribunal after a fair and public hearing, is the hallmark of the Rule of Law and Principle of Legality, key principle of the Magna Carta, and the Writ of Mandamus. The principle is in the Charter, Australian laws and international laws.

Without it the Charter has not been effective, resulting in the death of Mr Gong Ling Tang as well as other deaths in Custody, child abuse, creating criminals out of Victorian police and others, forcing the likes of Mr Lex Wotton to defend himself and his family against unlawful police and it appears the corruption of the principles has create child soldiers our of Victorian youth of barely 17 and 18 years.

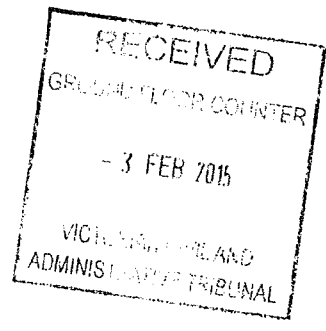
With Respect,

Le Tuan Pham

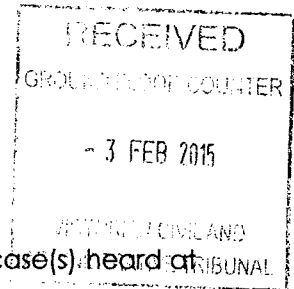
A handwritten signature in black ink that reads "Le Tuan Pham". The signature is written in a cursive style and is underlined with a single horizontal line.

(feel free to contact myself for further information, no permission is given to publish my address publicly)

H 259/2014 H 258/2014
H 265/2014
H 8/2015
H 274/2014
H 262/2014
3-2-15



1. I am Flesh and Blood living Man, known as **KEVIN KELLY**
2. of 140 Paperbark str Doveton
3. of Tribe *wada wurung.*
4. I have been denied access to my children for nearly ten years,
5. Because the department called me "**eating insects and thus not fit as a father**".
6. The **incompetence and inconsistency of interpretation** of Garde (President of VCAT) and Dae (Member of VCAT), to apply and interpret
 - a. Direct and indirect Discrimination in the Equal Opportunity Act 2010,
 - b. Charter for Human Rights and Responsibility Act 2006,
 - c. Inter alia.
7. Has caused the unlawful death of Mr Gong Ling Tang at the hands of Victoria Police in Dandenong, when they in derelict of duty, threw the ill man out into the streets, saying that he was going to die anyways.
8. The **abuse of the power of discretion**, under the **Color of Law, arbitrarily and capriciously** has led to numerous other deaths, and high incarceration of Indigenous and Aborigines peoples throughout Australia.
9. Marlon Noble, Rosie Fulton, and More of Indigenous and Aborigines peoples are held in detention without trial and or conviction, because "judicial" officers refuse to interpret the anti-discrimination laws correctly and or consistently.
10. As such I wish to have the matter referred to the Supreme Court pursuant to s33 and s36 of the Charter, on
11. a question of law arising that relates to the application of the Charter or a question arises with respect to the interpretation of a statutory provision in accordance with this Charter,
12. For a declaration of inconsistent interpretation of the Charter.



13. The question of law is whether the **unequal opportunity** to have case(s) heard at VACT and to have proper open and public hearing, deliberation and reasons under the Rule of Law and the Principle of Legality and Common Law, rather than the Color of Law, amounts to breaches of the Equal Opportunity Act and the Charter s8, s13, s17, s21, s24, inter alia.
14. Which amounts to **death sentences** for groups of people, **improper instructions to juries**, and **setting groups of people up to fail and then to call them inferior**, forcing groups of people to defend themselves against **vigilante police officers** acting under the color of law, and exposing children to abuses.
15. And **aiding and abetting unlawful discrimination, based on race, ethnicity, disability**, inter alia,
16. For the profit of the few like Tony Abbott and his daughter Frances, and his aid Peta Credlin.
17. The Authorities are from the High court Australia, the Pope and Supreme Court judge Bell J:
 - a. Norton v. Shelby County where Field J. stated that an unconstitutional statute 'confers no rights; it imposes no duties; it affords no protection; it creates no office; it is in legal contemplation, as inoperative as though it had never been passed,
 - b. Chief Justice of the High Court of Australia once put it: 'A pretended law made in excess of power is not and never has been a law at all . . . it is invalid ab initio'
 - c. Justice Kevin Bell Supreme Court Victoria, *Tomasevic v Travaglini [2007] VSC 337*, inter alia,
 - d. The Pope Francis' Motu Proprio On The Jurisdiction Of The Juridical Authorities Of Vatican City State In Criminal Matters, including genocide and apartheid.

Kevin T Kelly

KEVIN .T. KELLY 3/2/15

