

# **Inquiry into Australia's Judicial System, the Role of Judges and Access to Justice**

## ***Information about the Inquiry***

This document to The Senate Legal and Constitutional Affairs Committee inquiring into Australia's judicial system, the role of judges and access to justice, with particular reference to:

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- a. the procedure for appointment and method of termination;
  - d. jurisdictional issues;
  - e. the cost of delivering justice;
  - g. the judicial complaints handling system;
  - i. the ability of people to access legal representation;
  - j. the adequacy of legal aid;
  - k. measures to reduce the length and complexity of litigation;
  - l. alternative means of delivering justice;
  - o. other matters relating and incidental thereto.

The reporting date for this inquiry is **17 August 2009**.

The Committee invites written submissions by **Monday 30 March 2009**. Submissions should be sent to:

Committee Secretary

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Senate Standing Committee on Legal and Constitutional Affairs  
Department of the Senate  
PO Box 6100  
Parliament House  
Canberra ACT 2600  
Australia

The committee encourages the lodgement of submissions in electronic form. As the secretariat is in the process of implementing a new system for lodging submissions via the Parliament's website, you will find a link to submit online in the box below. Alternatively, intending submitters requiring further information could also contact the secretariat before lodging your submission.

Cc: Governor General, Prime Minister, Attorneys General, Federal and States, Australian Federal Police

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SUBMITTED BY:

PHAM

FOR: Tran Pham Wilson anors

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Tuesday, 3 March 2009

What safeguards does the Senate have for the following issues regarding and for the protection of common law rules of ultra vires and natural justice, against deprivation of rights under color of law, what is the due process of law, that judges apply the law as passed by the parliament, inter alia, and in conjunction with the attached Notice of a Constitutional Matter:

d. jurisdictional issues:

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- 1.1) Interpretation of the *Commonwealth of Australia Constitution Act, 1900 (U.K.)*
  - 1.2) *Interpretation Act 1901 (Cth)*
  - 1.3) *Judicial Act 1903 (Cth)*
  - 1.4) *Evidence Act 1995 (Cth)*
  - 1.5) *Privacy Act 1988 (Cth)*
  - 1.6) *Crimes Act 1914 ( Cth) and Criminal Code Act 1995 (Cth)*
  - 1.7) *Administrative Appeals Tribunal Act 1975 (Cth)*
  - 1.8) *Human Rights and Equal Opportunity Act 1986 (Cth)*
  - 1.9) *Racial Discrimination Act 1975 (Cth)*
  - 1.10) *Human Rights Act, 1998 (UK)*
  - 1.11) Proof of the *corpus delecti*
  - 20 1.12) **FIAT JUSTITIA, RUAT COELUM**
  - 1.13) commonwealth of Australia and united kingdom treaties: Peace Treaty of Versailles on 28th June 1919, League of Nations, Article 2 (1) of the Charter of the United Nations, Geneva Convention Number IV, *Article 36 of the Statute of International Justice 1966, Declaration on Civil and political Rights, Universal Declaration of Human Rights .*
  - 1.14) “*Commonwealth Power to Make and Implement Treaties*” paragraph 4.13
  - 1.15) *At P15 ‘ People Versus Power’ by Sir Kenneth M. McCaw QC (ISBN 0 03 900161 X).*
  - 30 1.16) United Nation Treaties: **Universal Declaration of Human Rights, article 5 and 14 (inter alia) International Convention on the Elimination of All Forms of Racial Discrimination, article 14.1 (inter alia) International Covenant on Civil and Political Rights, International Covenant on Economic, Social and Cultural Rights.**

1.17) Clause 5 of the Constitution: “This Act, and all laws made by the Parliament of the Commonwealth under the Constitution, shall be binding on the courts, judges, and people of every State;.....”

1.18) Clause 5 preamble demands obedience, and s.24 AA (1) (a) 1914 Crimes Act says it is an act of treason not to obey the Constitution.

1.19) Australian Citizenship Act 1948;

1.20) in contempt of the High Court's *Coco v The Queen* (1994) judgment which ordered a judicial officer to support orders with legislation, which is law pursuant to s.25 Judiciary Act 1903, with regard to High Court decisions;

10 1.21) with regard to s.40 Judiciary Act 1903.

1.22) The University of Wollongong v Metwally (1984) H.C. decision ruled that the Constitution has self-executing status, that does not require judicial order.

1.23) To swear false oaths affirmations with regard to the Constitution is an act of treason (s.24 AA (i) (c) 1914 Crimes Act.

1.24) a s.41 and s.30 Crimes Act 1900 indictment of attempted murder.

20 i) collusion and conspiracy by the executive branch, with consent and participation from the judiciary, contrary to the separation of powers of the two branches of government expressed in the Constitution; I have yet to see any evidence of child sexual abuse in the enactment of the racist NT aborigines intervention policy, no one has been charged to my knowledge; VID491/2007; M142/2007 PHAM vs French anors;

ii) protection of rule of law and its vital instruments such as Mandamus, Habeas Corpus, Notice of Constitutional matter; VID491/2007; M142/2007 PHAM vs French anors;

iii) Protection of “beyond reproach” principle, where there is abuse of discretionary powers subject to common law rules of ultra vires and natural justice;

iv) Protection against judges whose actions and conduct ultra vires their jurisdiction; VID491/2007; M142/2007 PHAM vs French anors;

30 v) Protection against judges, registrars, deputy registrars, prothonotaries and other non-parliamentary commonwealth officials who have no legal capacity under

the Constitution to make laws, or to make adhoc rules, ultra vires; VID491/2007; M142/2007 PHAM vs French anors;

vi) Protection against the aforementioned groups giving themselves discretionary powers to disregard, Australian laws and Constitution, and international treaties, ultra vires; VID491/2007; M142/2007 PHAM vs French anors;

vii) In the event that the Attorneys General of the Commonwealth and the States failed to intervene on a Notice of a Constitutional Matter and an Application for the Writ of Mandamus for the ultra vires activities and conduct of High Court, Federal Court judges, and Senior member of the Administrative Appeals tribunal, what protection is there against High Court judges acting as counsel for the defendants and still be independent; VID491/2007; M142/2007 PHAM vs French anors;

viii) Protection for questions of law to be answered by the High Court under s78B; VID491/2007; M142/2007 PHAM vs French anors;

ix) Protection for international treaties that are valid in the commonwealth of Australia jurisdiction: **Universal Declaration of Human Rights, article 5 and 14 (inter alia) of International Convention on the Elimination of All Forms of Racial Discrimination, article 14.1 (inter alia) of International Covenant on Civil and Political Rights, International Covenant on Economic, Social and Cultural Rights**, inter alia; enforceable under Human Rights and Equal Opportunity Act 1986 and Racial Discrimination Act 1975, inter alia; VID491/2007; M142/2007 PHAM vs French anors;

x) Protection against contempt of the High Court's *Coco v The Queen* (1994) judgment which ordered a judicial officer to support orders with legislation, which is law pursuant to s.25 Judiciary Act 1903, with regard to High Court decisions;

xi) Protections against the commonwealth conspiring to pervert justice and to cause injury; VID491/2007; M142/2007 PHAM vs French anors;

xii) In the event that this senate committee cannot answer the following legal points in the Notice(s) of a constitutional matter after having received the best legal advice, this Parliament must seek that the FULL BENCH of the HIGH COURT make determination on the questions of law without interference by the Commonwealth of Australia and its executive branch;

e. the cost of delivering justice;

10 i) protection against the Commonwealth Governor General modifying the Court rules at the behest of the Executive and without Parliamentary oversight, adding rule 11, targeting myself as an individual and as a racial group in total disregard for HREOA1986 and RDA1975; authorized Fee Regulations Rule 11, without authorization of Australian Parliament, and contrary to Australia's obligations to ICCPR article 14.1, inter alia; thereby authorized the Commonwealth's violations of the Plaintiff's Human Rights of access to the High Courts, and lower Courts; VID491/2007; M142/2007 PHAM vs French anors;

g. the judicial complaints handling system;

20 i) Requests for Senior Member John Handley to disqualify himself for apprehended bias, and to disqualify himself for not doing so;

ii) Requests for North and Gray JJ to disqualify themselves for apprehended bias, and to disqualify themselves for not doing so;

iii) How will the senate committee deal with rogue elements in the judiciary when mandamus had been sought through the courts against judges; what are the safeguards; VID491/2007; M142/2007 PHAM vs French anors;

i. the ability of people to access legal representation;

i) How will the senate committee deal with rogue lawyers who steal from clients without providing legal opinion, and they get protection and coverup by the judiciary; VID491/2007; M142/2007 PHAM vs French anors;

j. the adequacy of legal aid;

i) How will the senate committee deal with Legal aid Victoria and other charters, who refuse to provide legal opinion, and then get protection and coverup by the judiciary;

k. measures to reduce the length and complexity of litigation;

a. President of HREOC John von Doussa refusing to terminate complaints of racial discrimination under HREOA 1986 46PO (Cth), inter alia, such that they can be heard in the Federal Court, contrary to Australia's obligations to ICCPR article 14.1, inter alia;

10 b. President of HREOC John von Doussa refusing to report complaints of human rights violations to Australian Parliament under HREOA 1986 46PO (Cth) inter alia;

c. How will the senate seek to enforce HREOA1986 and RDA1975;

l. alternative means of delivering justice;

a. President of HREOC John von Doussa refusing to terminate complaints of racial discrimination under HREOA 1986 46PO (Cth), inter alia, such that they can be heard in the Federal Court, contrary to Australia's obligations to ICCPR article 14.1, inter alia;

b. President of HREOC John von Doussa refusing to report human rights violations to Australian Parliament under HREOA 1986 46PO (Cth) inter alia;

20 c. How will the senate seek to enforce HREOA1986 and RDA1975;

o. other matters relating and incidental thereto. subject to common law rules of ultra vires and natural justice. The Notice of a Constitutional Matter, Writ of Mandamus against French, Hayne, Gummow, Crennan, North, Gray, Heerey JJ, Warrant for arrest of Senior Member John Handley, counsel Tim de Uray, and lawyer Paul mentor under the Crimes Act and the Criminal Code Act;

i) In June of 2008, grandmother Teresa Thi Tran of Melbourne VIC, died in pain because the Alfred Hospital VIC, and Dr Stuart K Roberts Director of gastroenterology, withdrew her treatment and failed to put her on palliative care, and most importantly, failed to notify her family of her prognosis or the need for palliative care.

ii) We tried to apply to the High Court and the Supreme Court of Victoria on Questions of Law regarding this sort of Human Rights violations and racial discrimination. Hayne, Gummow and Crennan JJ refused to hear Questions of Law regarding access to the law and the constitution, rules of law and rules of evidence. Hayne, Gummow and Crennan JJ allowed this grandmother to die in pain and without dignity in her final hours. Hayne, Gummow and Crennan also allowed and authorised through their decisions and non-decisions

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- a. the racist police abuse and deaths of TJ Hickey and Mulrunji (known as Cameron Doomadgee),
- b. the abuse of Vivian Solon and Cornelia Rau,
- c. and the incarceration of Lex Wotton and Aborigines for fighting for their home and family;
- d. how many others is John von Doussa, the president of HREOC covering up?

iii) The case of Teresa Tran is also the direct result of the Australian governments and the Senate and House committees' on Legal and Constitutional Matters failure to act against the misconduct of John von Doussa. Since 2000, the President of HREOC, John von Doussa, has refused to investigate human rights violations and racial discriminations by the Commonwealth and others, and then refused to terminate the complaints so that they can be heard in the Federal Court. von Doussa also refused to report to Parliament any human rights complaints, as required under HREOA (Cth) 1986 section 46PO, inter alia.

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iv) John von Doussa refused to investigate the actions of

- a. Qld Health, Gregory Seymour, Suzette Porter, PM Bartold, Rod Marshall, Laurie walsh;

in violating public safety, as Roberts is doing now, whilst rorting the public purse and taxpayers money for their continued employment. Apparently, workplace safeties are only for some persons, we sought to question the High Court Australia who those persons may be. According to Hayne, Gummow and Crennan, Questions of law can't be heard to protect the public either.

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- v) The conduct of Rosemary Musolino (High Court) and Chris Weymouth (counter staff), Byrne J (Judge, Supreme Court Victoria), Joe Saltalamacchia and Mary Louise Brien (Prothonotary, Supreme Court Victoria) in refusing to seal my Applications in the High Court and the Supreme Court Victoria without legal cause or instruments. Chris Weymouth threatened us physically, and Rosemary Musolino refused to witness our affidavits, such that we had to call the security staff and Joe Logiudice at the High Court, to come assist us in filing our documents.
- 10 vi) These individuals were authorised by Hayne, Gummow and Crennan JJ to prevent grandmother Tran from receiving the palliative and/or proper care, when our Writs and Applications were refused in the Supreme Court Victoria and the High Court Australia. Grandmother Tran died in pain and without dignity because we couldn't have legal redress against Roberts and the Alfred Hospital in time to force them to conduct care with due diligence.
- vii) Hayne, Gummow and Crennan JJ have destroyed our Australian citizenship without cause or legal reasons, just as they have done against John Wilson, Lex Wotton, Cornelia Rau, Vivien Solon, TJ Hickey and Mulrunji and the Aborigines, and many others.
- viii) **Conspiring to pervert justice by fabricating documents and evidence;**
- ix) **Conspiring to cause injury;**
- 20 x) **The senate will note that the state of Victoria does have a Bill of Rights 2006, disregarded by Byrne J, Saltalamacchia and Brien;**
- xi) **What safeguards does the Senate have to protect the integrity and application of the rule of law, of Commonwealth of Australia laws, and Australian judicial system within the Commonwealth, and the separation of powers of the Executive and the Judiciary? Are Mandamus and Habeas Corpus and other instruments of rule of law made redundant by any Commonwealth of Australia laws, and/or the Constitution;**
- xii) **Following documents will be attached: Notice of a Constitutional Matter (Tran, Pham, Wilson anors vs Commonwealth);**
- xiii) **Transcript of M142/2007 PHAM vs FRENCH anors;**
- xiv) **Notice of a Constitutional Matter (Pham vs French anors);**
- 30 xv) **Affidavit for pham vs French anors;**
- xvi) **Affidavit for pham vs Byrne, Hulls anors;**



## NOTICE OF A CONSTITUTIONAL MATTER

1. The Plaintiff gives notice that this proceeding involves a matter arising under the Constitution or involving its interpretation within the meaning of Section 78B of the Judiciary Act 1903 .

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Filed for Plaintiff by

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2. [ State the nature of the matter (e.g., the constitutional issue which is said to arise).

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On grounds **section 78b(1) of the judiciary Act 1903, ULTRA VIRES** concerning Australia and states laws and **oaths** (queen of a foreign country) after 10 September 1919 ( Hansard, Commonwealth of Australia for the 10th September, 1 of October 1919, Pages 12169a, 12171d and on 30 September 1921 page 11631, the speech is by Mr. Hughes, Prime Minister) and trespass of sovereignty and points 1 to 34 below.

2) Interpretation of the *Commonwealth of Australia Constitution Act, 1900 (U.K.)*

3) *The Royal Style and Titles Act, 1973 (Cth) (foreign law)*

4) *Deprivation of rights under color of law. What was the due process of law*

5) *Interpretation Act 1901 (Cth)*

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6) *Judicial Act 1903 (Cth)*

7) *Evidence Act 1995 (Cth)*

8) *Privacy Act 1988 (Cth)*

9) *Crimes Act 1914 ( Cth) and Criminal Code Act 1995 (Cth)*

10) *Administrative Appeals Tribunal Act 1975 (Cth)*

11) *Human Rights and Equal Opportunity Act 1986 (Cth)*

12) *Racial Discrimination Act 1975 (Cth)*

13) *Human Rights Act, 1998 (UK)*

14) *Royal and Parliamentary Titles Act, 1927 (U.K.) (foreign law)*

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15) *commonwealth of Australia and it states politician and judges are committing treason (oath to queen) and are not legal, lawful or authorised because working for foreign power (sue v hill)*

16) *validity of all admiralty laws, and maritime laws in the commonwealth of Australia and its states*

- 17) *what presumption, assumption, interpretation of the word, statute, society person (natural person god's creation, persona, artificial person(s) {family name and or Mr} which has duties and responsibility)*
- 18) *validity of all state and commonwealth laws after 1919 to present day*
- 19) *All politician and judges are stealing the natural Australia people sovereignty given by the king and parliament of England (foreign power)*
- 20) Proof of the *corpus delecti*
- 21) **FIAT JUSTITIA, RUAT COELUM**
- 10 22) commonwealth of Australia and united kingdom treaties: Peace Treaty of Versailles on 28th June 1919, League of Nations, Article 2 (1) of the Charter of the United Nations, Geneva Convention Number IV, *Article 36 of the Statute of International Justice 1966, Declaration on Civil and political Rights, Universal Declaration of Human Rights .*
- 23) *“Commonwealth Power to Make and Implement Treaties”* paragraph 4.13
- 24) *At P15 ‘ People Versus Power’ by Sir Kenneth M. McCaw QC (ISBN 0 03 900161 X).*
- 25) The agreement or contract that all the natural people of the Commonwealth of Australia signed giving their Sovereignty to a foreign power the queen or parliament of England (sue v hill, high court of Australia).
- 20 26) United Nation Treaties: **Universal Declaration of Human Rights, article 5 and 14 (inter alia) International Convention on the Elimination of All Forms of Racial Discrimination, article 14.1 (inter alia) International Covenant on Civil and Political Rights, International Covenant on Economic, Social and Cultural Rights.**
- 27) This natural man does not consent to be governed or ruled by lies, deceit and the fictional government and courts using the colour of law and has sworn a oath to the queen of England foreign power (sue v hill).
- 28) Clause 5 of the Constitution: “This Act, and all laws made by the Parliament of the Commonwealth under the Constitution, shall be binding on the courts, judges, and people of every State;.....”
- 29) Clause 5 preamble demands obedience, and s.24 AA (1) (a) 1914 Crimes Act says it is an act of treason not to obey the Constitution.
- 30 30) Australian Citizenship Act 1948;
- 31) in contempt of the High Court's *Coco v The Queen* (1994) judgment which ordered a judicial officer to support orders with legislation, which is law pursuant to s.25 Judiciary Act 1903, with regard to High Court decisions;
- 32) with regard to s.40 Judiciary Act 1903.
- 33) *The University of Wollongong v Metwally* (1984) H.C. decision ruled that the Constitution has self-executing status, that does not require judicial order.

34) To swear false oaths affirmations with regard to the Constitution is an act of treason (s.24

AA (i) (c) 1914 Crimes Act.

35) a s.41 and s.30 Crimes Act 1900 indictment of attempted murder.

1. The matter before all Courts depends upon the interpretation; and validity of the executive and judiciary power of the Commonwealth as vested in the Queen (*a foreign power*) and is exercisable by the Governor-General (*oath to a foreign power*) of the Commonwealth of Australia as the Queen's (*a foreign power*) representative and extends to the execution and maintenance of clause nine (9) of the (63 & 64 VICTORIA, CHAPTER 12) An Act to constitute the Commonwealth of Australia.(9th July 1900)UK (*a foreign law*) and of the laws of the Commonwealth, as is specified in section 61 of the aforesaid clause of the aforesaid Act.
- 10 2. The *Preamble* to the *Commonwealth of Australia Constitution Act, 1900 (U.K.)* defines the Crown (*a foreign power*) as that of "the United Kingdom of Great Britain and Ireland".
3. Clause two (2) of the *Commonwealth of Australia Constitution Act, 1900 (U.K.)* states, "The provisions of this Act referring to the Queen (*a foreign power*) shall extend to Her Majesty's heirs and successors in the sovereignty of the United Kingdom."
4. Throughout the entire *Commonwealth of Australia Constitution Act, 1900 (U.K.) (a foreign law)* "the United Kingdom" is as defined within the *Preamble* to that Act.
5. The *Royal and Parliamentary Titles Act, 1927 (U.K. (a foreign law))* established the new sovereignty of the United Kingdom of Great Britain and Northern Ireland. The *Royal and Parliamentary Titles Act, 1927 (U.K.) (a foreign law)* was never law applicable to the Commonwealth of Australia, not being law adopted as Australian law under the *Statute of Westminster Adoption Act, 1942 (Cth) (foreign law)*.
- 20 6. The *Royal Style and Titles Act, 1973 (Cth) (a foreign law)* are not legal or lawful in the commonwealth of Australia.
7. Australian law since 1919 are not legal or lawful in the commonwealth of Australia subsequent laws (*foreign laws*) are not legal or lawful.
8. In order for a Bill of Law of the Federal Parliament of the Commonwealth of Australia to become an Act of Law of the Commonwealth of Australia, the Bill is required to be given Royal Assent in accordance with the provisions of section 58 of clause nine (9) of the *Commonwealth of Australia Constitution Act, 1900 (U.K.) (a foreign law)*.
- 30 9. 78b notices have been sent to all the attorney general of the state and commonwealth and Territory of Australia.

### Constitutional Issues For Ruling

1. Which Sovereign appointed and which Sovereign was represented by the Governors-General (swears a oath to *foreign power and foreign laws*) of the Commonwealth of Australia and states who gave Royal Ascent to non-existent laws enforced by French, Hayne, Gummow and Crennan in M142 of 2007 PHAM vs French anors, and such matters giving rise to or resulting from M142 of 2007?
  2. The Plaintiffs submits that the Royal Ascent given by the Governors-General (sworn a oath to *foreign law and power*) to (*foreign laws*) in M142 of 2007 PHAM vs French anors, and such matters giving rise to or resulting from M142 of 2007, are defective and cannot be rectified as any Royal Ascent so given would have been given either by a representative of a non-existent Sovereignty or by a representative of a Sovereignty that was not recognized by the *Commonwealth of Australia Constitution Act, 1900 (Cth)*. (*foreign law*)
  3. Australia was a Plenipotentiaries a belligerent nation of the Peace Conference of Versailles
  4. *meaning and assumption of the word person*
  5. *the law that allows a foreign government and their law to establishing a religion and imposing the governments religious observance and over rides god the creator (who creates owns control) of man and interferes with the natural mans practices and observance to their creator god on the living man?*
  6. commonwealth of australia papers relating to the peace treaties, contracts and agreements signing and ratification by the parliament of Australia.
    - (a) Memorandum dated 12th March, 1919 circulated by Sir Robert Borden, on behalf of the Dominion Prime Ministers. (Sir Robert Borden was Prime Minister of Canada)
    - (b) Rules of the Peace Conference contained in Annex II to Protocol I of the Conference, defining the position and representation of the several powers, including the Dominions (dated 18th January 1919).
    - (c) Correspondence between the Commonwealth Government and the Secretary of State for the Colonies concerning the signing and ratification of the Peace Treaties.
    - (d) Order in Council passed in Australia, moving his majesty The King to issue Letters Patent appointing plenipotentiaries in respect of the Commonwealth of Australia.
- Section (b) of this document was classified Secret by His Britannic Majesty's Government and had a nominal 30 years non disclosure attachment notification.

- a. A matter arising under The Constitution or involving its interpretation within the meaning of section 78B of the Judiciary Act 1903 as follows:
- b. Whether Section 1 of the constitution is null and void. S1:

**Legislative power**

The legislative power of the Commonwealth shall be vested in a Federal Parliament, which shall consist of the Queen, a Senate, and a House of Representatives, and which is hereinafter called *The Parliament* , or *The Parliament of the Commonwealth* .

- c. Whether Section 51 of the constitution is null and void. S51:

**Legislative powers of the Parliament**

10 The Parliament shall, subject to this Constitution, have power to make laws for the peace, order, and good government of the Commonwealth with respect to: (inter alia)

(vi) the naval and military defence of the Commonwealth and of the several States, and the control of the forces to execute and maintain the laws of the Commonwealth;

(xix) naturalization and aliens;

(xxiii) invalid and old-age pensions;

(xxiiiA) the provision of maternity allowances, widows' pensions, child endowment, unemployment, pharmaceutical, sickness and hospital benefits, medical and dental services (but not so as to authorize any form of civil conscription), benefits to students and family allowances;

20 (xxiv) the service and execution throughout the Commonwealth of the civil and criminal process and the judgments of the courts of the States;

(xxv) the recognition throughout the Commonwealth of the laws, the public Acts and records, and the judicial proceedings of the States;

(xxvi) the people of any race ~~other than the aboriginal race in any State~~, for whom it is deemed necessary to make special laws;

(xxvii) immigration and emigration;

(xxxi) the acquisition of property on just terms from any State or person for any purpose in respect of which the Parliament has power to make laws;

30 (xxxvi) matters in respect of which this Constitution makes provision until the Parliament otherwise provides;

(xxxix) matters incidental to the execution of any power vested by this Constitution in the Parliament or in either House thereof, or in the Government of the Commonwealth, or in the Federal Judicature, or in any department or officer of the Commonwealth.

- d. Whether Section 52 of the constitution is null and void. S52:

**Exclusive powers of the Parliament**

The Parliament shall, subject to this Constitution, have exclusive power to make laws for the peace, order, and good government of the Commonwealth with respect to:

40 (i) the seat of government of the Commonwealth, and all places acquired by the Commonwealth for public purposes;

(ii) matters relating to any department of the public service the control of which is by this Constitution transferred to the Executive Government of the Commonwealth;

(iii) other matters declared by this Constitution to be within the exclusive power of the Parliament.

e. Whether Section 73 of the constitution is null and void. S73:

**Appellate jurisdiction of High Court**

The High Court shall have jurisdiction, with such exceptions and subject to such regulations as the Parliament prescribes, to hear and determine appeals from all judgments, decrees, orders, and sentences:

- 10 (i) of any Justice or Justices exercising the original jurisdiction of the High Court;
- (ii) of any other federal court, or court exercising federal jurisdiction; or of the Supreme Court of any State, or of any other court of any State from which at the establishment of the Commonwealth an appeal lies to the Queen in Council;
- (iii) of the Inter-State Commission, but as to questions of law only;

and the judgment of the High Court in all such cases shall be final and conclusive.

But no exception or regulation prescribed by the Parliament shall prevent the High Court from hearing and determining any appeal from the Supreme Court of a State in any matter in which at the establishment of the Commonwealth an appeal lies from such Supreme Court to the Queen in Council.

20 Until the Parliament otherwise provides, the conditions of and restrictions on appeals to the Queen in Council from the Supreme Courts of the several States shall be applicable to appeals from them to the High Court.

f. Whether Section 75 of the constitution is null and void. S75:

**Original jurisdiction of High Court**

In all matters:

- 30 (i) arising under any treaty;
- (ii) affecting consuls or other representatives of other countries;
- (iii) in which the Commonwealth, or a person suing or being sued on behalf of the Commonwealth, is a party;
- (iv) between States, or between residents of different States, or between a State and a resident of another State;
- (v) in which a writ of Mandamus or prohibition or an injunction is sought against an officer of the Commonwealth;

the High Court shall have original jurisdiction.

- g. Whether Section 80 of the constitution is null and void. S80:

**Trial by jury**

The trial on indictment of any offence against any law of the Commonwealth shall be by jury, and every such trial shall be held in the State where the offence was committed, and if the offence was not committed within any State the trial shall be held at such place or places as the Parliament prescribes.

- h. Whether judges, commonwealth non-parliamentary officials and/or employees, registrars and deputy registrars of the courts, or prothonotaries have the legal capacity to make laws contrary to the aforementioned Constitution sections, inter alia;
- 10 i. Whether *Human Rights and Equal Opportunity Commission Act 1986* is null and void as illegally opinioned by French, Hayne, Gummow, Crennan, North, Gray, Heerey JJ, contrary to
- i. Being validly published and proclaimed Act of the Australian Parliament;
  - ii. By Reference to Section 13 Acts Interpretation Act 1901, as part of an Act it is Law;
  - iii. It is cited as a Law in the *Privacy Act 1988*;
  - iv. It is cited in S 138 (3) (f) *Evidence Act 1995*;
  - v. It is cited as a Law in the *Criminal Code Act 1995*, in the Dictionary, and three offences;
- 20 vi. By S 5 Commonwealth of Australia Constitution Act 1900, it binds the “courts judges and people of every State” so every Magistrate and Judge must cease discrimination, Guaranteed by Article 14 of **International Covenant on Civil and Political Rights (THE COVENANT)**;
- vii. By Article 50 of the Covenant its provisions extend to every State Jurisdiction in Australia.
- j. Whether S 3 of the *Administrative Appeals Tribunal Act 1975* is null and void: decisions under an Enactment are reviewable

*“Enactment is defined as set out below, and where a decision is made by any administrative officer, whatever called, it is caught by the Act:*



*Rules which purport to confer a power to make a decision, but do not specify that it must be made by a “court” including decisions made under Rules of Court are reviewable under the above Act.”*

*Enactment includes: (c) an instrument (including rules, regulations or by?laws) made under an Act or under such an Ordinance;*

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- k. whether the Affidavits and the sworn Statements of certain Australian Citizens are less valid and of less legal standing than the lies and fabrication of other Australians and the Commonwealth of Australia;
  - l. Human Rights and Equal Opportunity Act (HREOA) 1986 (Cth): whether Australia has obligations under International Convention on Civil and Political Rights and other International Human Rights charters make it unlawful to deprive Australian citizens access to the laws and legal process and to basic Human Rights;
  - m. Racial Discrimination Act 1975 (Cth): whether Australia has obligations under International Convention on the Elimination of All Forms of Racial Discrimination and whether Commonwealth laws (HREOA and RDA) make it unlawful to discriminate and treat differently based on race; and whether the Judiciary is exempt from them;
  - n. Whether Order 53 r 2, 0 53B r 2 and 059 r 1 and Section 44 of the Administrative Appeals Tribunal Act 1975 permit the Plaintiff the option seek the Court make findings of facts;
  - o. Evidence Act 1995: whether hearsay is admissible; Respondents' documents satisfy all the elements that make them prima facie inadmissible by the rule against hearsay;
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  - p. Whether perjury is endorsed and encouraged by the Judiciary in the interpretation and/or application of the Judiciary Act 1903 and/or any other Acts;
  - q. Whether fabrication of evidence and facts are endorsed and encouraged by the Judiciary in the interpretation and/or application of the Judiciary Act 1903 and/or any other Acts;
  - r. Whether rule 6.07 of the High Court Rules 2004, dispenses with the Constitution, and all other Acts of Parliament of the Commonwealth of Australia, and International Treaties to which Australia is signatory;
  - s. Whether rule 6.06.1 of the High Court Rules 2004 provides for “having given that person an opportunity to be heard”;
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  - t. Whether *Human Rights and Equal Opportunity Act 1986 (Cth) and Racial Discrimination Act 1975 (Cth)* or whether the *Human Rights Act, 1998 (UK)* apply in the Commonwealth of Australia;

3. I State the facts showing the matter is one to which Section 78B of the Judiciary Act 1903 applies.

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- i) On 24th January 2008, Hayne J violated the Plaintiff's rights to Originating Process and Notice(s) of Constitutional Matter in the High Court jurisdiction in direct violation of the *Commonwealth of Australia Constitution Act 1900*, the Acts Interpretation Act 1901 - SECT 25D and others, the *Evidence Act 1995 (Cth)*, the *Crimes Act 1914 ( Cth)* S 43 and other sections, the HREOCA 1986 and RDA 1975 which give rise to Australia's obligations under the Universal Declaration of Human Rights, International Convention on the Elimination of All Forms of Racial Discrimination, International Covenant on Civil and Political Rights, International Covenant on Economic, Social and Cultural Rights, under articles relating to "right to an effective remedy by the competent national tribunals" and "right to social security"; as affirmed by Crennan, Gummow JJ on 20 February 2008, in denying the Applicant right of reply in further application (5 Feb 2008) to the High Court, contrary to rule 6.06.1 of the High Court;
- ii) Hayne J not only prejudiced the process but effectively running the defence for the Defendants, (who failed to file notices of appearances), on false pretences and non-existent jurisdiction; All Defendants failed to appear to challenge the proceedings;
- iii) Hayne J failed to recognize "Peremptory Stay of Proceedings" on challenges of jurisdiction at the lower courts;
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- iv) Hayne J failed to award court costs for the Defendants' non-appearances and for costs from costs regulations 8.2, 9, 10, 11;
- v) The Commonwealth Governor General authorized Fee Regulations Rule 11, without authorization of Australian Parliament, and contrary to Australia's obligations to ICCPR article 14.1, inter alia; thereby authorized the Commonwealth's violations of the Plaintiff's Human Rights of access to the High Courts, and lower Courts;
- vi) President of HREOC John von Doussa refusing to terminate complaints of racial discrimination under HREOA 1986 46PO (Cth), inter alia, such that they can be heard in the Federal Court, contrary to Australia's obligations to ICCPR article 14.1, inter alia;
- vii) President of HREOC John von Doussa refusing to report human rights violations to
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- Australian Parliament under HREOA 1986 46PO (Cth) inter alia;
- viii) In June of 2008, grandmother Teresa Thi Tran of Melbourne VIC, died in pain because the Alfred Hospital VIC, and Dr Stuart K Roberts Director of gastroenterology, withdrew her treatment and failed to put her on palliative care, and most importantly, failed to notify her family of her prognosis or the need for palliative care.

ix) We tried to apply to the High Court and the Supreme Court of Victoria on Questions of Law regarding this sort of Human Rights violations and racial discrimination. Hayne, Gummow and Crennan JJ refused to hear Questions of Law regarding access to the law and the constitution, rules of law and rules of evidence. Hayne, Gummow and Crennan JJ allowed this grandmother to die in pain and without dignity in her final hours. Hayne, Gummow and Crennan also allowed and authorised through their decisions and non-decisions

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- a. the racist police abuse and deaths of TJ Hickey and Mulrunji (known as Cameron Doomadgee),
- b. the abuse of Vivian Solon and Cornelia Rau,
- c. and the incarceration of Lex Wotton and Aborigines for fighting for their home and family;
- d. how many others is John von Doussa, the president of HREOC covering up?

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x) The case of Teresa Tran is also the direct result of the Australian governments and the Senate and House committees' on Legal and Constitutional Matters failure to act against the misconduct of John von Doussa. Since 2000, the President of HREOC, John von Doussa, has refused to investigate human rights violations and racial discriminations by the Commonwealth and others, and then refused to terminate the complaints so that they can be heard in the Federal Court. von Doussa also refused to report to Parliament any human rights complaints, as required under HREOA (Cth) 1986 section 46PO, inter alia.

xi) John von Doussa refused to investigate the actions of

- b. Qld Health, Gregory Seymour, Suzette Porter, PM Bartold, Rod Marshall, Laurie walsh;

in violating public safety, as Roberts is doing now, whilst rorting the public purse and taxpayers money for their continued employment. Apparently, workplace safeties are only for some persons, we sought to question the High Court Australia who those persons may be. According to Hayne, Gummow and Crennan, Questions of law can't be heard to protect the public either.

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xii) Submission to Administrative Appeals Tribunal V1865/2007, with the AAT seal on every page, since Senior Member John Handley has a bad habit of fabricating evidence and document. Handley refused to seal and serve Summons on relevant witnesses, preferring to abuse the rule of evidence by relying to hearsay evidence and fabricated evidence from counsel Tim de Uray, and Paul Mentor of Sparke Helmore. All of the affidavits have been filed in the Federal Court and the High Court. Handley refusing to

disqualify himself for apprehended bias in a previous matter, refusing to disqualify himself for not disqualifying himself for apprehended bias. North J refusing to disqualify himself under similar circumstances.

xiii) Hayne J in M142/2007 PHAM vs French anors, not only ran the case for the commonwealth but he also refused to answer Questions of Law and modified our application without our authorisation. Hayne's intention was to change our Notices of a Constitutional Matter, to an appeal of the decision of the Federal court so that we couldn't appeal anything further, depriving us of appeals avenue. Hayne thereby illegally deprived us of our filing fees like a common thief.

10 xiv) Gummow and Crennan JJ tried to sidestep the legal process by refusing filing of Questions of Law and Notices of a Constitution Matters, based on discretionary powers they don't have. We would like to know who can have Questions of Law answered by the FULL High Court?

xv) The conduct of Rosemary Musolino (High Court) and Chris Weymouth (counter staff), Byrne J (Judge, Supreme Court Victoria) and Joe Saltalamacchia (Prothonotary, Supreme Court Victoria) in refusing to seal my Applications in the High Court and the Supreme Court Victoria without legal cause or instruments. Chris Weymouth threatened us physically, and Rosemary Musolino refused to witness our affidavits, such that we had to call the security staff and Joe Logiudice at the High Court, to come assist us in filing our documents.

20 xvi) These individuals were authorised by Hayne, Gummow and Crennan JJ to prevent grandmother Tran from receiving the palliative and/or proper care, when our Writs and Applications were refused in the Supreme Court Victoria and the High Court Australia. Grandmother Tran died in pain and without dignity because we couldn't have legal redress against Roberts and the Alfred Hospital in time to force them to conduct care with due diligence.

xvii) Hayne, Gummow and Crennan JJ have destroyed our Australian citizenship without cause or legal reasons, just as they have done against John Wilson, Lex Wotton, Cornelia Rau, Vivien Solon, TJ Hickey and Mulrunji and the Aborigines, and many others.

30 **xviii) Conspiring to pervert justice by fabricating documents and evidence**

**xix) Conspiring to cause injury;**

Autograph of artificial person(s)

mark of natural man

Witness

Witness

Witness

Tuesday, 3 March 2009