



Critical Policy - 5 JUSTICE REFORM - ADVANCED LEGAL SYSTEM

JUSTICE ENFORCEMENT

The Federal Party of Australia will establish a Justice Enforcement division dedicated to independently investigating the conduct of all government officers, their associates, and members of the Legal Profession suspected of breaching or conspiring to breach Procedural Fairness or acting unlawfully in any manner; and such division will be independent of all State and Federal crime and corruption commissions in their varying forms, and independent of all State law societies and law institutes, howsoever named.

A parallel role of Justice Enforcement will be to recommend the re-opening of cases where persons have been convicted of summary offences in Magistrates Courts or indictable offences in higher courts, irrespective of their serving, or having served custodial sentences; and these investigations will be conducted by a Criminal Cases Review Commission (CCRC) with a view to:

- a) establishing the innocence of these persons;
- b) quashing convictions;
- c) granting pardons;
- d) awarding financial compensations;
- e) providing whatever assistance is deemed necessary to restore dignity to their lives; and

finally, to bring to account in a court of criminal jurisdiction any person whose breaches of Procedural Fairness are potentially causing, or have caused a miscarriage of Justice in criminal or civil Judicial Proceedings.

Note: The introduction of Rule 6.14 (e) of our Federal Constitution will be a significant step in freeing innocent Australians from our jails. Currently, this is what we have:

In the Australian criminal Justice System: "Once a person has been convicted at trial and then has had an unsuccessful appeal, that person has no legal right to a further appeal based upon the discovery of fresh evidence... That view has been endorsed by the High Court of Australia." Sangha, B., Roach, K., Moles, R. (2010). *Forensic Investigations and Miscarriages of Justice*. Toronto: Irwin Law Inc.

6.14 Judicial Accountability

Councils of Judicial Review, established within the Organisation, will act vigorously to ensure that prior to an Advanced Legal System taking full effect:

- (e) in the event that fresh and compelling evidence has been discovered in favour of a convicted person who has had an unsuccessful appeal, then that person will be automatically entitled to a further appeal based on that new evidence;

And Rule 6:12 of our Federal Constitution will allow the Justice Enforcement division of a Federal Party government to investigate and bring offenders to account with the imposing of harsh penalties, particularly in relation to false accusation convictions:

6.12 Breaches of Procedural Fairness

Notwithstanding the introduction of an Advanced Legal System, the Organisation will act vigorously to ensure that criminal charges are brought against any offender

who, solely or jointly, prior to or during criminal or civil Judicial Proceedings is found to be responsible for:

- (a) improper forensic testing; or
- (b) improper compiling of forensic reports; or
- (c) introducing improper or wilfully fabricated forensic evidence; or
- (d) tampering with evidence to be exhibited; or
- (e) coercing witnesses; or
- (f) fabricating sworn statements; or
- (g) discarding or withholding evidence vital to the cause of any party to Judicial Proceedings; or
- (h) giving false testimony (perjury) in written or oral form; or
- (i) knowingly acting on improper or fabricated evidence in whatever form; or
- (j) wilfully defrauding or causing a disadvantage to another by engaging in the malpractice of abusing legal processes; and

where such breaches of Procedural Fairness have been for the purpose of bringing false accusation and thereby causing any person to be charged with an offence alleged to have been committed in any one or more of the States and Territories of Australia

or

where such breaches have been for the purpose of causing any person or corporation a financial disadvantage in civil Judicial Proceedings, then the following penalty will apply:

Penalty: (Based on s.131 of the Queensland Criminal Code)

- i. If the offence is such that a person convicted of it is liable to be sentenced to imprisonment for life, the offender is liable to imprisonment for life; or
- ii. if the offence is such that a person convicted of it is liable to be sentenced to imprisonment, but for a term less than life, the offender is liable to imprisonment for 14 years; and
- iii. in any other case, be it criminal or civil, the offender is liable to imprisonment for 7 years.

6.13 Abolition of Advocates' Immunity

While Australia still labours under an archaic law known as Advocates' Immunity, barristers in our nation will continue to enjoy indemnity from suit for negligence in the conduct of civil and criminal proceedings. The Organisation will act vigorously to abolish this immunity bringing Australian law into line with the United States, Canada, United Kingdom and New Zealand. And the protections offered lawyers will be lessened making all legal practitioners culpable for breaches of Procedural Fairness, in whatever form, prior to or during Judicial Proceedings.

Under a Federal Party government its Justice Enforcement division will have the power to override – where it deems necessary – the findings of State law societies and institutes, howsoever named, and commence its own investigations into complaints of alleged malpractice on the part of their members.