

Footnotes – Victorian Hansard, Legislative Assembly, 22 August 2007

1. Adopted by the General Assembly of the United Nations by resolution 40/34 of 29 November 1985.
2. United Nations Human Rights Committee, General Comment No. 16: *The Right to Respect of Privacy, Family, Home and Correspondence, and Protection of Honour and Reputation* (art. 17): 08/04/88.
3. Ibid.
4. *Van Alphen v. The Netherlands*, Communication No. 305/1988: 15/08/90, UN Doc CCPR/C/39/D/305/1988
5. *Shayler* (2003) 1 AC 247
6. Adopted by the General Assembly of the United Nations by resolution 40/34 of 29 November 1985. This relevantly recognises that victims should receive the necessary social assistance through governmental means; and that the responsiveness of administrative processes to the needs of victims should be facilitated by taking measures to minimise inconvenience to victims and to protect their privacy and safety.
7. *Observer and Guardian v. United Kingdom* (1991) 14 EHRR 153, ECt HR
8. *Hirst v. Secretary of State for the Home Department* (2002) EWHC 602; *R (Daly) v. Home Secretary* (2002) UKHL26
9. *Hirst v. Secretary of State for the Home Department* (2002) EWHC 602, Mr Justice Elias at 29; *R (Daly) v. Home Secretary* (2002) UKHL26, *de Freitas v. Permanent Secretary of Ministry of Agriculture, Fisheries, Lands and Housing* (1999) 1 AC 69
10. *Hirst v. Secretary of State for the Home Department* (2002) EWHC 602, at 42
11. *R v. Home Secretary ex parte Simms* (2000) 2AC 115. Note also that ‘community protection’ is also an objective of sentencing under s 5(1) of the Sentencing Act 1991.
12. *R v. Home Secretary ex parte Simms* (2000) 2AC 115, Lord Steyn, p.127
13. Similarly, the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power (which is incorporated by the Victims’ Charter Act 2006) states that judicial and administrative mechanisms should be established and strengthened where necessary to enable victims to obtain redress through formal or informal procedures that are expeditious, fair, inexpensive and accessible. Providing a mechanism whereby redress can be sought by the victim for ongoing distress and offence caused by a prisoner therefore satisfies this principle.
14. Lord Bingham of Cornhill in *Shayler* (2003) 1 AC 247 at 286, para 23; *Handyside v. United Kingdom* (1976) 1
15. For instance, ss 24 and 25 of the Racial and Religious Tolerance Act 2001 (Vic), create offences in relation to serious racial and religious vilification (these also attract a maximum penalty of 6 months imprisonment). Similarly, s. 471.12 of the Criminal Code of the commonwealth creates an offence of using a postal or similar service to menace, harass or cause offence.
16. *Hirst v. Secretary of State for the Home Department* (2002) EWHC 602, Mr Justice Elias at 29; *R (Daly) v. Home Secretary* (2002) UKHL26; *de Freitas v. Permanent Secretary of Ministry of Agriculture, Fisheries, Lands and Housing* (1999)1 AC 69
17. *Suarez de Guerrero v. Colombia*, HRC 45/79
18. *Hugh Jordan v. the United Kingdom*, Eur. Court HR, Application no. 24746/94 (4 May 2001)
19. Ibid
20. UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials
21. Ibid
22. HRC *Concluding Observation on Cyprus*, 1994
23. United Nations, Economic and Social Council, UN Sub-Commission on Prevention of Discrimination and Protection of Minorities, Siracusa Principles on the Limitation and Derogation of Provisions in the International Covenant on Civil and Political Rights, Annex, UN Doc E/CN.4/1985/4 (1985); principle 22.