

National Human Rights Consultation Submission

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Submission Text:

Having just attended the community consultation at Wollongong I have great admiration for the patience shown by the two facilitators in trying to manage a hopelessly chaotic and messy process. Western democracy has to find better ways of getting the public involved in contributing to the political process. The current model at all levels from local to federal govt. is just not working. The politicians know this but there seems no will to change things.

I think most people are probably in general agreement about the rights that need to be protected. We have to have a Bill of Rights with compliance monitored by the Human Rights Commission or some other organisation which is politically independent. The big issue for me is how we ensure compliance. Entrenchment is probably not vital. The US has an entrenched Bill of Rights and look what happened at Guantanamo Bay.....and look at what happened when a Supreme Court that had been stacked with Republican nominees did almost nothing to address the situation.

Somehow we need to introduce a radical new system that will keep the politicians honest. Some suggestions. Once a breach of the bill has been found by the commission have no right of appeal to the courts. Judges can be as bad as politicians in subverting the system. The only appeal should be to a special panel composed of equal numbers of distinguished human rights lay panellists and judges. Appointments to the panel and any changes to the Bill should be totally non-partisan and made pursuant to a referendum run at the same time as the federal elections.

There should be no public advertising or campaigns regarding the appointments or changes except for general information purposes. (I realise even that will be controversial but none of this is going to be easy) Politicians and members of political parties should be banned from contributing to the debate which should be organised only in the form of non partisan public forums. Somehow we have to find a better and more inclusive way of running these.

I realise there are major problems with any solution e.g. conflict between different rights where enforcing one right in favour of one person will conflict with other people's rights. We need a fair and just process for addressing these conflicts - maybe a conciliation process where the person discriminated against can sit down with others claiming to be affected by the decision and agree a compromise solution.

I think the adoption of something like the process followed by the Truth and Reconciliation Commission in South Africa should be used by the Human Rights Commission to help resolve disputes. It should be required to follow this process in the event of a dispute (if practicable) before making a ruling on a discrimination issue.

Any bill or legislation needs to be at a Federal level and override state legislation. But I believe the reality is that legislation and/or a Bill of Rights are not going to solve the problem. Australians' values and beliefs have to change as well. That requires education but more than just in the schools.

I think we need human rights ambassadors in every state and city who can model the required behaviour and speak out where human rights are being infringed - they should be able to name and shame organisations, politicians, businesses and individuals who are breaching human rights. Again these have to be non partisan appointments which is always a

challenge. Affirmative action - not sure. Has it worked in the US ?

I realise that whatever is taken to the govt from this consultation process has to be politically acceptable or it won't get off the ground. But that's no reason for sticking to the ways of the past. We have to be innovative and come up with some radical approaches if we ever want real change to happen.

Best wishes with your work.

Richard Creasy