

National Human Rights Consultation Submission

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Submission Text:

There is an old saying, 'If it ain't broke, don't fix it.' This applies to human rights in Australia. Why do we need a Charter of Human Rights? The liberty people experience in this country is the envy of much of the world. What's wrong with things as they are?

Another old observation points out that the more rules you have, the more rules there are to break. Ironically, a Charter of Human Rights will only increase the possibilities for people to infringe. Laws are needed but excessive laws are not. In a free democracy, minimal legislation is the ideal.

Human Rights Charters in other countries have actually worked in reverse -- in one country, an attempt to prohibit advertising of smoking, for example, was seen as infringing freedom of speech. This is clearly absurd. In another place, Christian foster parents were refused permission to care for more children because they refused to teach the children that homosexual practice was normal. Where was their right to adhere to their moral values as they saw them? The attempt to allow one group of people freedom of expression simply prevented another group from a similar freedom.

The rigidity of law cannot handle such issues. So the less detailed and prescriptive a law is, the better.

Freedom cannot be legislated. By definition, it needs minimal controls. It does have boundaries, of course. Liberty is not licence. But those boundaries are essentially tied up in the freedom of others. So freedom becomes self-legislating. Where my freedom begins to impose harm on another person, it ceases to be true freedom. A balance needs to be achieved. The question becomes then, not one of law, but of love. To put it differently, the issue is not so much one of 'Rights' as of 'Responsibilities'. A Charter of Rights that was not appropriately balanced by a realisation of responsibilities would be dangerous and irresponsible. This is not to suggest an equivalent Charter of Responsibilities -- that would clutter the law even further. It is simply to make the point that such issues as freedom and obligation are in many ways not the province of the law. By and large, they find a natural balance in a free society. Where there are obvious abuses of liberty, existing laws are well able to cover them.

I strongly disagree with the need for a Charter of Human Rights. The system we have is not broken -- so why try to fix it?

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