

Submission to the Australian National Human Rights Consultation

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Australians have a fundamental and deeply held belief that they already have rights. Unfortunately this belief is (generally speaking) False.

I found this out for myself when I tried to register to vote in an Australian election while I was living in Canada. I went to the Australian consulate in Vancouver, Canada, and asked how I could register and then vote in a forthcoming Australian Federal election. I was told point-blank that I could not. As an Australian citizen I did not have the right to vote.

This was a shock! Like most Australian's I grew up secure in the knowledge that I have a right to vote (after turning 18) but it's not true, and politicians have been able to take my vote away from me by making arbitrary rules about where I can or can't live to be able to vote in a so-called democracy.

Now I am living in Australia I guess I might be able to vote, but I know for sure it's not a 'right'!

I had no come back when I was told that I could not vote. What we all need as Aussies is a fair go when things like this happen. That's the basic thing about being Australian in my opinion – a fair go. I didn't get a fair go, but I didn't have anywhere to turn. What I needed, what we all need, is a way to get a fair go.

We don't need a 'bill of rights' to pander to lawyers, judges, politicians, do-gooders or even criminals. What we need is something that simply puts in writing those things we all know in our guts are the inalienable rights of Aussies – and makes sure that none of those lawyers, judges, politicians, do-gooders or criminals can take those things away from us. We don't want other countries "bills of rights" or whatever they call them, they are not Australian, we need something that says what it means to be Australian, how to get a "fair go", puts it in writing, and makes it legal so that no-one can take our fair go away from us.

Since finding out that the Rudd government is so courageously proceeding with this Human Rights consultation process, and after educating myself further (for example by reading Geoffrey Robertson's excellent book "The Statute of Liberty"), I have been shocked to find out how little protection we have of those things that we all believe are "self evident".

This is the travesty that is being perpetrated by some surprisingly ignorant people; that somehow this process is about giving some people special privileges, or taking things away from people who have them now. Well, I hope that's not going to happen because it certainly could, but if the process is done right the question is not "do we do this or not?", but "how to do this to make it fair for everyone?"

So – how can we create a “Fair Go Guarantee” so that it makes sure that life will be fairer for all of us? Well, it strikes me that it should be fairly simple, how about this:

- Write down something that describes what makes us Australian – “fair go” is a good start.
- Write down all of the things that we as Australia believe are our rights
- Add all the things from the various international treaties that we have agreed to “give effect” to
- Do a review (with the nay-sayers in particular) to make sure that we haven’t disadvantaged a particular group
- Bob’s your uncle.

A good starting point is the list of so-called “rights” that new Australians can expect when they decide to become Australians as published on the Government of Australia website:

- Freedom of speech
- Freedom of association
- Freedom of assembly
- Freedom of religion
- Freedom of movement

Ironic isn’t it that the Australian government makes these claims; that we Aussies have these freedoms and that new migrants will get them too, when it’s basically false advertising – more obvious when you read the details from the website at:

<http://www.immi.gov.au/living-in-australia/choose-australia/about-australia/five-freedoms.htm>

Perhaps we can fix that!

As Geoffrey Robertson suggests, we should add a few of the basics, things that we as Australians consider so fundamental that they would be very surprised to learn are generally not really protected;

- The right to life, including no death penalty
- Freedom from Slavery
- The right to Vote – and to be fair, the right not to.
- The right to stand for election
- The right to collective bargaining through trade union (and also the right not to!) and the right to strike
- All the standard “you have the right to remain silent” rights relating to arrest
- The right to fair trial by jury (and also the absolute right for the defendant to chose trial by judge or tribunal only)
- Equality of sexes and ethnic backgrounds and acceptance of cultural diversity
- Rights for disabled people, including those with mental illness.
- The right to work, with equal pay for equal work

- The right to privacy
- The right to own things without anyone unfairly taking them away from you
- The right not to be unfairly imprisoned by anyone or unfairly forced to do anything we don't want to do
- The right to Education
- The rights of children to be treated fairly and protected as children
- Recognition of the special rights of indigenous Australians
- The right to not be subject to arbitrary and unfair rules, regulations and laws

We should also recognize, as part of the idea of a 'fair go' that non-Australian's are also human beings and deserving of rights. We are not Americans who assume that human rights only apply to American's but not to anyone else. Recognition of "Human Rights" must consider those basic rights that apply to all human beings, while also adding a few basic additional rights that apply due some of us being Citizens of the Lucky Country.

Apart from the right to vote, the right to stand in an election and the right to leave and re-enter Australia, are there any of these rights that should be denied to non-citizens? Do non-citizen's who are mentally ill have different rights? Do only Aussies have the right to free speech? Do you have to be Australian to stop the government locking you up indefinitely with no way out? To be fair – this should be made clear.

An important point about these rights is that they belong to the person, to the individual. They are not simply 'barriers' that prevent certain classes of institution, like the government or the courts, from doing something wrong – they are positive characteristics inherent in the individual. There's nothing here that says that this doesn't protect individuals rights from being treated unfairly by a private business or corporation, or some other institution we haven't thought of, they are individual human rights to be treated fairly – by anyone, including by other individuals and private companies or whoever. It's the right of each of us to a "fair go" and we have this right no matter what the forum.

Note the use of the word "fair" throughout this. Any arguments or questions that anyone might make about the unreasonableness of this approach should be asked "have you got something against a fair go?"

These rights need to be expanded with a little more detail, but a real effort needs to be made to avoid legal language. We need to make sure that real people can understand what is being said. As much as I respect and admire Geoffrey Robertson, he has been tainted and he couldn't write plain English to save his life – please don't let a lawyer do the writing.

This is very important work, a country such as Australia needs to have this fundamental human rights protection and we cannot go out into the world discussion human rights with others and commenting on the lack of human rights in other countries when we are so open to criticism at home due to our current fundamental failure to protect human rights with an Australian "Fair Go".

Regards

Tim Tuxworth