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## **Submission to the *Australian Human Rights Group (ahrg)***

by

**Dr Sev Ozdowski OAM**

**Director, Equity and Diversity, University of Western Sydney and  
Australian Human Rights Commissioner (2000-05)**

### **Summary**

This submission argues for the legislation establishing statutory bill of rights for Australia based on the International Covenant on Civil and Political Rights (ICCPR).

### **My Credentials**

As the Australian Human Rights Commissioner and Disability Discrimination Commissioner (2000 - 05) Dr Ozdowski has argued for the bill of rights for Australia since early 2001- see his speeches on the Human Rights Commission (HRC) website. In addition Dr Ozdowski authored a number of the ground-breaking reports, for example *National Inquiry into Children in Immigration Detention: A Last Resort?* report and "*Not for Service*" report which well documented human rights violation under the Australian immigration detention regime and in mental health system.

In addition, Dr Ozdowski published many articles on human rights and immigration, with special focus on children and has worked between 1989-96 in the Office of Multicultural Affairs of the Department of the Prime Minister and Cabinet where he played a major role in the advancement of Australia's key multicultural and human rights policies and institutions.



Dr Ozdowski has an LLM and MA in Sociology from Poznan University, Poland and a PhD from the University of New England, Armidale. In 1984, Dr Ozdowski was awarded the Harkness Fellowship, which took him to Harvard and Georgetown Universities and the University of California to work on race relations, international human rights and public administration.

He also holds the academic appointment of Honorary Professor at the Centre for Peace and Conflict Studies in the School of Philosophical and Historical Inquiry, University of Sydney and was awarded an honorary doctorate from Melbourne's RMIT University. For his service to the Polish community and furthering Australian Polish relations, Dr Ozdowski was awarded the *Medal of the Order of Australia* in 1995. He was also recognised for his outstanding contributions to the human rights movement in Poland and presented with the *Solidarity Medal* in 2006 and most recently with the *Officer's Cross of the Order of Merit* by the Polish President.

### **Australia needs a Bill of Rights**

The summary of my arguments for a bill of rights is provided in the following speeches:

- Human Rights - A Challenge for Australia Speech delivered to the National Press Club, Canberra, February 2002.
- Human Rights in Australia Their Protection and Resolution Through the Law Address to the Chartered Institute of Arbitrators and Victorian Bar Seminar, Owen Dixon Chambers, Melbourne, 20 July 2005
- A Charter of Citizen's Rights - Will this benefit Multiculturalism in Australia? Speech delivered at the 2002 FECCA National Conference on Setting the Agenda for a Multicultural Australia, Canberra, December 2002.

My argument in summary is:

- Australia is now the only democratic nation without a national bill of Rights. Some form of protection for basic rights, especially of those underprivileged and of minority status, is essential component modern democratic governance.
- Australia needs a bill of rights, in particular to protect our civil liberties and freedoms. Economic and social rights are well protected in Australia since the High Court Harvester Decision.
- I prefer a constitutional bill of rights along the US model.
- However, considering that constitutional bill of rights is not achievable in present conditions, I would support a statutory bill of

rights based on the International Covenant on Civil and Political Rights (ICCPR).

- Such bill should:
  - Allow the courts to review Federal legislation for compliance with international human rights instruments Australia ratified and report back to Parliament if non-compliance found;
  - Require Parliamentary Human Rights Committee to scrutinise all the proposed bills for their compliance with international human rights instruments Australia ratified;
  - Give individuals a right of court action in case their civil liberties and freedoms were breached.
- In addition, there needs to be a massive education campaign when such bill is being passed into law aimed at culture changes in the Federal Public service.

It would also assist if Australia would avail herself to a higher level of external scrutiny of its human rights practices. This could be achieved through increased participation in the UN system<sup>1</sup>, but my personal preference would be for Australia to actively explore the possibility of becoming a signatory to the European Convention on Human Rights and to accept adjudication of the European Court on Human Rights in Strasbourg.

Finally, let me leave you with the opening lines of Mick Palmer's report:

*'Protection of individual liberty is at the heart of Australian democracy. When there exist powers that have the capacity to interfere with individual liberty they should be accompanied by checks and balances sufficient to engender public confidence that those powers are being exercised with integrity.'*

Coming from a former federal Commissioner of Police, I think this elegant summation says it all.

I am happy to elaborate on any aspects of this submission, should it be necessary.



Dr Sev Ozdowski OAM  
**Director, Equity and Diversity, University of Western Sydney and  
Australian Human Rights Commissioner  
Disability Discrimination Commissioner (2000-05)**

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