

# National Human Rights Consultation Submission

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**Name:** Derek Sheppard

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A proposition to legislate International Human Rights Law  
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I regard human rights as vital to everyday living in a open, civil, democratic society.

I worked with others for some years to open and operate a democratic school for young people that assured them, not only that Australian democratic values were put into practice, but that their human rights, along with those of the elected Staff were upheld. We were very much alone in our regard, respect and trust for young people, and their ability to generally use their freedom wisely, with responsibility, and to work out who they were, the world around them and to pursue their interests and develop their passions. The State could not accept that informed parents from across Australian societal strata, professionally qualified staff (registered teachers) could actually ensure young people were empowered, through a unique democratic Constitution, to take control of their lives and their futures, and succeed. In a battle, well covered by media, over 8 months the State closed an independent school that they did not own, did not provide any capital equipment for (except for less than \$100 worth of books), did not supply a campus, did not provide bank guarantees to support loans, but only provided a portion of the operating income. None of the parents who signed enrolment contracts and paid fees, nor any of the enrolled students, nor any of the Staff agreed with or wanted the School closed. They were happy, and satisfied, because their children had a safe learning environment, in which they were learning, growing immensely in all ways, and totally involved in every facet of the operation of their participatory democratic education environment, making business decisions, hiring and electing staff by secret ballot, managing their own formalised justice system, making the Rules in Parliamentary-like meetings with Staff, in their quest to become effective adults. All Graduates have successfully gone onto independent living, seeking out work, some establishing their own businesses, most taking up and successfully completing further study in their areas of interest that they had the time and space to develop in their School. Despite written protestations to the State Premier, the State Minister for Education, and the State accreditation Board that our human rights, which we detailed, even by raising other State legislation recognising human rights for a defined minority, were being denied, there was NO response, no acknowledgement that we had human rights. The State demonstrated its supreme power over our people, and that intelligent, powerfully written submissions by ALL the parents collectively, most parents individually, long qualified teachers, and ALL the students by their own initiative could be easily ignored. The people met and agreed that they still wanted the learning environment for their children that had served them well. They decided to operate a Democratic Centre of learning in which parents accepted full responsibility (signing Enrolment Contracts to that effect) for the education of their children, without government funding. They did this for 2.5 years, without the past effects of intolerable government intrusions. The people were satisfied with their efforts. There was high parent involvement, students were happy, and once again succeeding, and some looking forward to Graduating. As was the case in the past, the high Staff to Student ratio prevailed. Parents made sacrifices, but Fees remained low to ensure the Centre was accessible. Most Staff donated their time, but looked forward and planned for a time when they might receive remuneration for their efforts during and after the Centre's 9.00 to 4.30pm operating hours. That is, until the State Minister for Education threatened criminal action and fines against Directors of the not for profit parent entity for operating what he claimed to be a non-accredited non-State School. Criminal law experts recommended the

suspension of the Centre's operation (in hindsight, a mistake). The Centre stopped operating immediately, despite everyone's profound sadness, and anger for some. Directors accepted the recommendation, and the lawyers advised the Minister accordingly in writing. 4 months later the Minister launched criminal proceedings, by Summons, against 1 Director. That Director was on bail for some 7 months, until the State, having produced no evidence, despite numerous requests by defence criminal lawyers, dropped the charges. The shock value of the Minister's unprecedented, and unwarranted, actions achieved one of its purposes, it shattered a sustainable learning community. Most people don't have the fortitude to withstand the might of government, coupled with its use, for political purposes, of Crown Law and a SC. There are a number of human rights that were breached by this action, including at least the right to assembly, the right to education, freedom of association, freedom of thought and (democratic) beliefs. A Committee intends to recommence operation of a democratic centre of learning, on its terms, in accordance with the rights accorded under International Human Rights Law, but without government funding, therefore diminishing governments' rights to intrusions "in the public interest". A new democratic Constitution, which includes adherence to International Human Rights Law amongst its Objects, has been drafted in readiness for incorporation as a not for profit entity.

The people's knowledge of their human rights in this democratic environment far exceeded what was known or realised by others in the community. In its 2nd year of operation Students and Staff decided to make submissions about the relevance and importance of the Convention on the Rights of the Child to a Federal Joint Parliamentary Inquiry into Treaties. Students and Staff not only made written submissions, but also appeared in person en mass before the Committee. The Committee asked the Students and Staff to make a 2nd appearance. Positive comment was made about the Students, due in part to their maturity, communication and listening skills and despite their unorthodox lack of uniforms, hairstyles and obvious individuality. Staff and students made presentations in conferences about human rights, especially children's rights, and responsibilities. Personal and collective responsibility was seen as key to Students' development in the early years of the School. Over time, it was realised, through ongoing open debates, that freedom was central to the objective of democracy, but that it must be balanced by personal and collective responsibility - and those values did not stand alone without the other democratic values of respect, equality and equity, fairness, trust and justice.

The Democratic Centre of Learning, and the School before it, detailed human rights, as ratified by successive Coalition and Labor Australian Governments, as they applied to education, and provided them in written form to prospective Students and their parents.

We have come to believe that human rights ought to be the starting point for the drafting of any legislation. We have complained that even the Common Law right to Natural Justice was taken away from non-state schools, their staff, students and parents in our State in the drafting and passing of new legislation (legislation that came into effect 6 years after our School commenced operation). Yet Natural Justice remained available to staff, parents, students in State Schools. These reflect poorly on the negative effects on a minority, because the majority happens to be represented by the government of the day.

We believe that the legislating of human rights must be non-discriminatory by applying to everyone, not just to those people a Government selects and wishes to favour with positive discrimination.

We know that the rights of parents to establish and operate a School that accords with their beliefs, values and personal convictions, without undue restrictions is available to people in other countries, and perhaps even in other Australian States. We know because people establish and operate democratic schools associated with the same democratic school model in many other countries like the US, in Europe and in Asia. Governments unnecessarily restrict our needs, and the best interests of our children to suit purely political, nanny state parenting.

We believe that the human rights accorded to all people and as debated and decided by State parties in United Nations fora ought to be legislated, because the very promise of governments given to their people in the act of ratifying Treaties, Conventions and Covenants, remains unfulfilled by not legislating International Human Rights Law in its entirety, supported by a resourced, knowledgeable, experienced judiciary and legal system to enable recourse and remedies in the event of allegations of the denials of human rights.

The Treaties, Conventions, Covenants and optional protocols that ought to be legislated, without delay, includes at a very minimum the Universal Declaration of Human Rights, the International Convention on Social, Economic and Cultural Rights, the International Convention on Civil and Political Rights, the Convention on the Rights of the Child, and the Declaration on the Rights of Indigenous Peoples. We can justify this, based on our negative experiences in just one State, and the profound ongoing effects that it is having on our lives, in not being able to fulfill our own needs, despite having proven to ourselves our ability to fulfill that need without State aid.

As was the case in the School and Democratic Centre of Learning, rights ought to be coupled with responsibilities. Too many people think and act only in terms of their supposed, although not actual, rights. For some reason many young people consider their rights as more important than their responsibilities to and for themselves and to others. Any human rights legislation needs to also refer to human responsibilities.

Any human rights legislation must not dilute or diminish Australians' human rights to an extent that is less than in any other democratic country. To do so would diminish both the value of our democracy and the vital importance of human rights to every individual.

Federal human rights legislation must have supremacy over State legislation, as is the right conveyed by the external affairs powers of the Australian Constitution.

I have regularly commented publicly about opinions of those in the community who deride or negate the value of the legislating of our human rights. The lack of legislated human rights cannot be known to those who have not had their rights routinely denied. Many Australians will never experience this because they conform to the dominant paradigm, but for those of us who know, want or seek better or differently, need the freedom, and responsibility, that comes with the legislating of human rights that naturally mesh with a democracy and its democratic values.