

National Human Rights Consultation Submission

AGWW-7RAU2Q

Organisation:

Submission Text:

Dear Consultation Committee

I would like to make a submission in a personal capacity, based on a recent opinion editorial.

In Shakespeare's Henry VI, Pt II, a pretender to the throne outlines the utopia that will come when his unruly mob helps to make him king. The unruliest of the them all, Dick the Butcher, leers in an aside to the audience: 'The first thing we do, let's kill all the lawyers'. Wherever and whenever it is staged around the world, Dick always brings the house down.

Steven Spielberg uses much the same technique in the movie Jurassic Park, when the venal lawyer is eaten by the T-Rex whilst on the toilet. Guffaws all round. Now I'm not here to naysay lawyer jokes. Keep 'em coming, I say. Fair cop. I am just here to alert you to the reflex ex-NSW Premier Bob Carr is hitting when he calls any attempt to legally protect human rights in a piece of legislation as leading to a 'lawyer's picnic'.

Bob Carr argues that codifying rights in any way will lead to a frenzy of litigation which will only benefit those bloodsucking parasite lawyers, and so opposed attempts to introduce a human rights charter in NSW. (Victoria and the ACT now have human rights legislation and Tasmania is set to follow.) Carr repeats this argument regularly now in relation to proposals to protect human rights at the federal level. (Just try Googling 'Bob Carr' and 'lawyers. You can add 'Senator Brandis' and 'Archbishop Pell' for further highlights and colourful invective on this theme).

I'm betting that when Carr invokes lawyers when talking about human rights, he wants you to think of lawyers from big glass offices overlooking the harbour in fancy suits, chowing down on salmon nibbly-bits in a marquee. Presumably he is not referring to a human rights lawyer's picnic, which usually feature hommus, bit of John Butler on the radio and lots of hugging. I promise you these affairs are in no way to be feared. (At least not as much as a hypothetical picnic with Carr, Pell and Brandis.)

The other useful tactic is to invoke the ever-present danger of activist judges, as Janet Albrechtsen often does in the pages of The Australian ('Rights charter is from 2009 BC', 14 January). Everyone knows judges are a bunch of free-loving social reforming radicals just itching to get their mitts on some raw unchecked power that rightfully belongs to those saintly polliets. This time Janet manages to make a lively association between activist judges in Canada, the Australian human rights consultation and polygamy (I am often left wondering which judges Ms Albrechtson is meeting and whether I can go to one of their picnics.)

Janet was roused to action because Federal Attorney-General Robert McClelland has announced a national consultation into the protection of human rights and responsibilities, headed by Father Frank Brennan, to report in June. The fur, in other words folks, is about to fly. The 'lawyers picnic' and the 'power-mad judge' mantras are about to be invoked.

My point is that the opportunity of the consultation is more important than any of the messengers you are going to hear from in the newspapers.

Bob Carr is correct, in a way. Human rights protection is not, and should not be about lawyers. It is not even about Premiers or Archbishops. Janet Albrechtson usefully raises questions about the proper separation of powers

between the executive and the legislature on social issues. I think the real action should be happening by rebalancing power between the executive and the Parliament. The whole point of the exercise should be making sure that bad stuff does not happen to people in the first place. Human rights at their core are about the conversations citizens could have with their government about the ways power should be used against individuals, and what obligations citizens should have towards others in their communities.

In my experience, Australians often think three things when they hear the words 'human rights', based on stereotypes and the odd news story:

1. 'Human rights are about things that happen to terrorists and boat people or foreigners generally, not about me'.
2. 'Bad human rights stuff only happens overseas not here'.
3. 'Human rights are about big public issues like the death penalty or stoning or coups. Somewhere overseas (see point 2). To foreigners (see point 1). It doesn't affect my everyday life and my family'.

Human rights are involved in these big international issues, and touch on many faultlines in society about race, religion and politics. But where countries have enacted human rights legislation, such as the UK, it is ordinary folk engaged in everyday activities involving government services that have often reaped the benefits. Meet Beryll Driscoll. Beryll and Richard Driscoll, now in their 90s, married in 1940. Mr Driscoll did war service in Burma, and when he came back, they were always together. When Mr Driscoll became ill and went to live in an aged care facility, Beryll wanted to join him. Gloucestershire social services in the UK stopped her.

The Driscoll family launched a campaign to reunite their parents. Using the UK Human Rights Act they managed to persuade the council to reverse its decision and offer Mrs Driscoll a subsidised place in the same home as her husband. Since the UK passed the Human Rights Act, there have been lots of cases like these, ordinary families trying to be treated as human beings instead of annoyances or numbers.

Human rights can be about the way your government treats you, every day. Do you feel like a person with dignity treated with respect when you go to Centrelink? What about when your parents went into an aged care home? What about when you go? What about when you are a public patient in a NSW hospital? What about when your teenage son gets arrested for being at a protest or a nightclub that is raided? What about when the bank lends you too much money and then you can't repay? What about your access to medical treatment for cancer when you live out on a farm, hours from the nearest town? What about when the government closes your local school? Or sets up a power plant next door? Or both?

These are all human rights issues, the daily stuff of life lived in a community. Human rights protections often do not provide solutions for any of these things, but they offer counter-arguments and a point of view based on the dignity of the individual. The impact on an individual or family is usually the first thing that gets lost when governments have to make hard decisions, especially about resources. Think of the movie, *The Castle*. What can one family do when the weight of the state is pressing down on them? Other than make friends with a barrister who miraculously offers to represent you in the High Court for free, that is?

Whatever you think about human rights, there is a rare opportunity in the national consultation to have your say. Use 'em or lose 'em. Let the usual suspects keep having furious arguments in the pages of broadsheets, that's good clean fun, but there is a bigger picture here.

My answer is that when the government is passing legislation or considering big policy decisions they need a tool where they are reminded to think of people as individuals, about to be affected by that law or decision. All people affected, not just the ones that lobby them or voted for them. That's what human rights are about to me. Let's build a system where we don't need the lawyers. They are always off picnicking anyway.