
AUSTRALIA FREE NATION OR PENAL COLONY



PROPOSED
STATE AND FEDERAL GOVERNMENT INITIATIVE
HUMAN RIGHTS IN AUSTRALIA

by

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REFERENCES

International Covenant on Civil and Political Rights 1967 (*ICCPR*)
Universal Declaration of Human Rights 1948 (*UDHR*)
International Human Rights Commission (*IHRC*)
Australian Human Rights Commission
The Joint Human Rights Committee
Making of Law State & Federal
The United Nations
Wikipedia & Google
ABC 4 Corners

MAIL & E-MAIL LIST

Educational Institutions
Australian Human Rights Commission
State Ministers & Federal Politicians
Queensland Gov. Human Rights Enquiry
Human Rights Organisations
Media: News Paper, TV & Radio
Australian United Nations Representatives

ABOUT THE AUTHOR

<http://www.hootgallery.com/#!/cv/c1kyo>

HUMAN RIGHTS IN AUSTRALIAN

As discussion about Australian civil liberties and human rights gains momentum, the important first step is for a better understand of the position taken by Government in relation to civil liberties and, how that leads to violation of human rights in Australian society today.

CIVIL LIBERTIES: International Covenant on Civil and Political Rights 1967 (ICCPR) A covenant is a treaty in force binding upon the parties to it and must be performed in good faith - *Able to be manipulated so is adopted by Government*

Civil liberties derive from the constitutions or laws of each country. Civil liberties arise only by virtue of a legal grant of that right. Different nations can grant or deny different civil rights and liberties. Civil rights protect citizens from discrimination and grant certain freedoms, like free speech, anti discrimination, equal protection under the law, the right to privacy, the right to protest, liberty and so forth. Broadly adopted in the UK and USA but, without a Bill of Rights or Constitutional support, is severely restricted in Australia.

Unlike other countries the Australian Constitution has limited legal mechanisms for human rights or civil liberties protection. Also, the (ICCPR) is a mechanism for Government and is structured in support of Government control [1]. Subsequently, Australian Governments have taken full advantage of this opportunity at the expense of our universal human rights, the ones outlined in this report, in favour of blanket control of the population.

[1] Extract from (ICCPR) Article 11 - 3. *The above-mentioned rights shall not be subject to any restrictions 'except' those which are provided by law, are necessary to protect national security, public order (ordre public), public health or morals or the rights and freedoms of others, and are consistent with the other rights recognized in the present Covenant.*

HUMAN RIGHTS: Universal Declaration of Human Rights 1948 (UDHR) A declaration carries moral weight in the strength of its legal adoption by the international community - *Cannot be manipulated so ignored by our Government*

The Universal Declaration of Human Rights is an international document that states basic rights and fundamental freedoms to which all human beings are entitled. No nation may rightfully deprive a person of a human right. Human rights are fundamental rights universal to all human beings and are considered to be the necessities of human existence. They are internationally recognised personal guarantees and freedoms that the Government cannot abridge, either by law or by judicial interpretation. The *UDHR* is generally agreed to be the foundation of international human rights law and yet, our Public Servants blatantly ignore them.

Since there is no mechanism for civil rights protection in Australia and since the Universal Declaration of Human Rights is written into international law then, this is where we must turn for protection of our rights. Australia was a key player and one of 8 nations involved in the drafting of the Universal Declaration of Human Rights adopted by the United Nations General Assembly on 10 December 1948.

We would be seen as hypocritical not to fully embracing something we helped create.

HUMAN RIGHTS v CIVIL LIBERTIES

Even though the International Covenant on Civil and Political Rights acknowledges the Universal Declaration of Human Rights, it remains a watered down version. The *ICCPR* gives power to the State rather than the people. On the other hand, the *UDHR* keeps State power in check in favour of the rights of the people. This ongoing battle, in a free and democratic society, can only be settled in favour of acknowledging and embracing the Universal Human Rights of every Australian and being seen to do so.

HUMAN RIGHTS VIOLATIONS IN AUSTRALIA (Some)

(1) Anti Protest Laws: UN experts urged WA Government to reconsider anti-protest laws legislation which they say would contravene international human rights laws. Also, a High Court challenge has been made to the Tasmanian Government's anti-protest laws. "The laws will, if not challenged, trap everybody who wants to take a stand against something that's manifestly wrong going on in our country."

+ NSW anti-protest laws passed the upper house on 16 March 2016. NSW Law Society concerned will interfere with human rights and liberties. Described as jack-boot police crackdown on democratic rights resulting in CBD protests and High Court challenge.

Violation of UDHR Article 20 - 1. Everyone has the right to freedom of peaceful assembly
Violation of UDHR Article 13 - 1. Everyone has the right to freedom of movement.

(2) Random Breath Testing: In UK and US law police need a reason to suspect that a driver is intoxicated, before requesting a breath and/or sobriety test. i.e. (Due cause). Re: https://en.wikipedia.org/wiki/Drunk_driving_law_by_country#Australia Not so in Australia where the human right to privacy and bodily integrity are violated. Note: There are other effective deterrents to drink driving that don't violate human rights.

Violation of UDHR Article 12 - No one shall be subjected to arbitrary interference with their privacy. Violation of UDHR Article 3 - Everyone has the right to security of person. Violation of UDHR Article 5 - No one shall be subjected to inhuman or degrading treatment. Everyone has the right to the protection of the law against such interference.

(3) Freedom of Press: Section 35P of the ASIO Act 2014 - Provides for 5 years in prison for any person / journalist who discloses ASIO officers who engage in unlawful conduct during the course of specially approved undercover operations. Also, the Discrimination Act blocks free speech.

Violation of UDHR Article 19 - Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

(4) Right to Liberty and Assembly: Is the state of being free within society from oppressive restrictions imposed by authority on one's behaviour - This includes "Lockout Laws" resulting in keep our cities open protests.

Violation of UDHR Article 13 - 1. Everyone has the right to freedom of movement. Violation of UDHR Article 3 - Right to liberty - the right to be free. A human right - (International law) Liberty is any basic right or freedom to which all human beings are entitled and in whose exercise a government may not interfere.

(5) Anti Association Law: Within the Criminal Organisation Act where associating with members of declared organisations will be illegal. This has been described as a "anti association law rather than a anti-bikie law," and therefore violates ones human rights.

Violation of UDHR Article 20 - 1. Everyone has the right to freedom of association

HUMAN RIGHTS VIOLATIONS IN AUSTRALIA cont'd

(6) Drug Driving Laws: It is held that random cannabis swabbing violates human rights in terms of right to privacy and bodily integrity. Also, zero tolerance means you will be criminalised, may lose your licence and be heavily fined even though you are not physically or mentally impaired. Again, this is happening without due cause.

Violation of Article 12 - No one shall be subjected to arbitrary interference with their privacy. Violation of UDHR Article 3 - Everyone has the right to security of person. Violation of UDHR Article 5 - No one shall be subjected to inhuman or degrading treatment. Everyone has the right to the protection of the law against such interference.

(7) Age Discrimination: When you reach 75 years old, you'll need to have a medical review every year, to keep your licence. If you wish to keep your unrestricted licence, you'll need to successfully pass a practical driving assessment, every second year blanketing every senior over 85 for a driving test, when they have done nothing wrong i.e. without due cause. "The correct response would be to ticket a person for a medical and/or driving test who is seen to be driving poorly and is over 85 years old".

Violation of UDHR Article 7 - All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.

(8) Migration Amendment Bill 2015: (Maintaining Good Order of Immigration Detention Centres) This Bill allows authorised officers to act outside the laws and removes the power of the courts to hold those responsible to account. This law increases the likelihood of further deaths and injuries in refugee detention centres.

The Commonwealth and Immigration Ombudsman in submission 6 to the Legal and Constitutional Affairs Legislation Committee dated 31 March 2015 Ref: A297741 suggests that the proposed legislation should be expanded to include refugees in transit and those in medical facilities.

One of the most despicable act of human indecency is abuse of the disadvantaged and this is a perfect example of the mind set of some public servants when it comes to violation of human rights. The first response is for more oppression.

Violation of UDHR Article 5 - No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. Violation of UDHR Article 7 - All are equal before the law and are entitled without any discrimination to equal protection of the law.

(9) Protection of the Family: The Family Law Court will only sanction what the woman wants opening the door for unscrupulous women to use innocent children as a weapon to acquire money, assets and control. The family is the foundation stone of society and yet here it is being willfully destroyed with the blessing of the State. This type of entrenched thinking is dark, destructive and primitive and the worst possible violation of human rights towards children and the families of those children.

Violation of UDHR - Article 16 (3) The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.

(10) Australian Children In Detention: Northern Territory laws passed 2006 and 2014 allows for weeks of solitary confinement, tear gassing and the use of mechanical restraints and hooding of children in detention. Including stripping and fire hosing described as torture. (See ABC 4 Corners report dated 26th July 2016 "Australia's Shame".) Also, laws passed in Queensland allows for incarceration of 17 year old (children) in adult prisons leaving them vulnerable to violence and sexual assault.

HUMAN RIGHTS VIOLATIONS IN AUSTRALIA cont'd

(10) Australian Children In Detention: cont'd

As a progressive and modern society we have an overriding obligation to protect and care for our children. Federal and State laws that promote child abuse is another shocking example of the penal colony mentality in both State & Federal jurisdictions and show a total disregard for United Nations conventions. Again, one of the most despicable acts of human indecency is abuse of the disadvantaged and in this case it's institutionalised abuse of our children. It leaves me saddened, shocked and outraged and, embarrassed for Australia.

Violation of UDHR Article 5. - No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. Violation of UDHR Article 25.- 2. Motherhood and childhood are entitled to special care and assistance.

UNITED NATIONS GENERAL ASSEMBLY PROCLAMATION

The United Nations General Assembly proclaims the Universal Declaration of Human Rights 1948 (*UDHR*) as a common standard of achievement for all peoples and all nations, to the end that every individual and every organ of society, keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and freedoms and by progressive measures, national and international, to secure their universal and effective recognition and observance, both among the peoples of Member States themselves and among the peoples of territories under their jurisdiction. As a member state, this includes Australia.

WHAT DRIVES 'ANTI - HUMAN RIGHTS' LEGISLATION

There are three levels of law making in Australia: Federal, State and Local Council. We will concern ourselves with State & Federal and focus on how and why a Bill is proposed rather than the process for that Bill to pass into law.

History tells us that religious wars are not fought for higher ideals, that's just an excuse to rally support. Religious wars are fought for the same thing that drives the basic human condition. And, that's money, power and control.

Keeping this in mind, what drives legislation that violates human rights? Where does it come from? From a pressure group, a public servant, an elected representative, who? What you need to do is go back to before the Bill was presented to Parliament. Whoever has the most to gain is the source of that legislation. That comes back to money, power and control but, that's not what's important...

What's important is that the Bill proposer was so intent on getting legislation passed that they completely ignored the human rights of an entire free nation. The driving force was the power to control and the power to enforcing that control. This is how abuse of our human rights arises. Through ignorance and arrogance.

You can't use 'protecting society' as an excuse for legislation if you violate human rights. By violating human rights you are oppressing all of society. You are not protecting society. Also, you can't use 'morals' as an excuse either. Universal human rights are internationally recognised as the higher moral ground and must be protected above all else.

WHAT DRIVES 'ANTI - HUMAN RIGHTS' LEGISLATION cont'd

So, it's money and power or control driving 'anti human rights' legislation. All this for the singular interest of a lobby group or a multinational corporation, or money and power to a Government Department or, more power and control to a State Government over the people who pay their way.

As of 2012, in Federal Government, the Joint Human Rights Committee examines all bills for compatibility with human rights and reports to both Houses. This is a step in the right direction and our States Governments need to take note.

In a free and democratic society human rights, for the entire population, must be the first consideration when proposing any Bill. Also any existing legislation, that violates human rights, needs to be amended as a first priority. Anything less can only be seen as treating the entire Australian population with contempt.

Our politicians are elected to speak for us and stand up for the rights of all Australians. If you have a rights issue petition your elected representative and quote the *UDHR*.

WHERE WE STAND IN 2016

Politics of Australia incorporate elements from the UK Westminster system (State) and United States Congress (Federal). Yet, international human rights embraced by both the UK and USA are ignored in Australia? Are we a free and democratic society, who respect international law, or are we still a penal colony being abused and oppressed by our own public servants?

Any excuses put forward by those same public servants, for their oppressive actions, are pathetically disproportionate, and pale into insignificance, compared to the internationally recognised freedoms and human rights of an entire nation. What's lacking in the Australian Constitutions is also no excuse and is, in fact, more reason to embrace the UN Universal Declaration of Human Rights.

We can't let any person or group or any government department be a law unto themselves? These are the people who feed off us. The bullies, the oppressors and controllers who undermine and drag down all of society to justify their own existence. The alarmists with police state and totalitarian mentalities intent on a dark future.

Prime Minister Malcolm Turnbull is correct in saying that for Australia to flourish we need to be seen as the innovation nation and this suggests being ahead of the times. To hold our heads up high, on the international stage, first we need to step out of the dark ages and loose the penal colony mentality.

Going on a witch hunt for those responsible, for lost human rights, is a negative response. The positive response would be to follow the lead of the UK and the USA and change the mind set from control and oppression to freedom and liberation. If they can do it with populations of 65 million and 326 million respectively, we can do the same thing for 24 million Australians. The *UDHR* mechanism is already in place.

A starting point, for change, would be to amend oppressive legislation and reinstate the lost human rights referred to in this document. And again, this is where we need to engage our politicians. Those who speak for us and those who will stand up for the rights of all Australians. Petition your elected representative...

WHERE WE STAND IN 2016 cont'd

UDHR Article 21 - 1. Everyone has the right to take part in the government of their country, directly or through freely chosen representatives.

Also, it follows that there needs to be an amnesty for any Australian imprisoned, directly or indirectly, as a result of abuse of their human rights. As an example that would be a person imprisoned as a result of a RBT violating their right to privacy without reason to suspect that the driver was intoxicated. i.e. Without due cause.

Violation of UDHR Article 12 - No one shall be subjected to arbitrary interference with their privacy. Everyone has the right to the protection of the law against such interference.

CONCLUSION

The Universal Declaration of Human Rights is a declaration of freedom and, in the words of Malcolm Roberts "You can only have human progress if you have freedom".

We should not have to battle through the High Court of Australia for fundamental human rights or the civil liberties embraced by our contemporaries, they should be automatic. To stop the abuse our rights need to be acknowledged by Government and then written into Australian law either through amendments to the Australian Constitution or an Australian Bill of Rights. As a Nation, maybe then, we can rejoice.

Australians all let us rejoice,
For we are young and free;

Keep in mind that our forbearers fought and died for freedom. 62,000 young Australian men and women. We have an obligation to respect and protect that freedom and our Public Servants and Politicians need to focus on that.

We should be seen as the country who leads the world in human rights issues and yet here we are... Until we change Australia will continue to be looked upon as the Country that abuses its children, has no regard for human rights and has a disregard for international law. Besides being oppressive, it's shameful. We need to step up.



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THE UNIVERSAL DECLARATION OF Human Rights

Whereas recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

Whereas disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind, and the advent of a world in which human beings shall enjoy freedom of speech and belief and freedom from fear and want has been proclaimed as the highest aspiration of the common people,

Whereas it is essential, if man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law,

Whereas it is essential to promote the development of friendly relations between nations,

Whereas the peoples of the United Nations have in the Charter reaffirmed their faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women

and have determined to promote social progress and better standards of life in larger freedom,

Whereas Member States have pledged themselves to achieve, in co-operation with the United Nations, the promotion of universal respect for and observance of human rights and fundamental freedoms,

Whereas a common understanding of these rights and freedoms is of the greatest importance for the full realization of this pledge,

Now, Therefore THE GENERAL ASSEMBLY proclaims THIS UNIVERSAL DECLARATION OF HUMAN RIGHTS as a common standard of achievement for all peoples and all nations, to the end that every individual and every organ of society, keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and freedoms and by progressive measures, national and international, to secure their universal and effective recognition and observance, both among the peoples of Member States themselves and among the peoples of territories under their jurisdiction.

Article 1.

All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.

Article 2.

Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty.

Article 3.

Everyone has the right to life, liberty and security of person.

Article 4.

No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms.

Article 5.

No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

Article 6.

Everyone has the right to recognition everywhere as a person before the law.

Article 7.

All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.

Article 8.

Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law.

Article 9.

No one shall be subjected to arbitrary arrest, detention or exile.

Article 10.

Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him.

Article 11.

(1) Everyone charged with a penal offence has the right to be presumed innocent until proved guilty according to law in a public trial at which he has had all the guarantees necessary for his defence.

(2) No one shall be held guilty of any penal offence on account of any act or omission which did not constitute a penal offence, under national or international law, at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time the penal offence was committed.

UNIVERSAL DECLARATION OF HUMAN RIGHTS cont'd**Article 12.**

No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks.

Article 13.

(1) Everyone has the right to freedom of movement and residence within the borders of each state.
 (2) Everyone has the right to leave any country, including his own, and to return to his country.

Article 14.

(1) Everyone has the right to seek and to enjoy in other countries asylum from persecution.
 (2) This right may not be invoked in the case of prosecutions genuinely arising from non-political crimes or from acts contrary to the purposes and principles of the United Nations.

Article 15.

(1) Everyone has the right to a nationality.
 (2) No one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality.

Article 16.

(1) Men and women of full age, without any limitation due to race, nationality or religion, have the right to marry and to found a family. They are entitled to equal rights as to marriage, during marriage and at its dissolution.
 (2) Marriage shall be entered into only with the free and full consent of the intending spouses.
 (3) The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.

Article 17.

(1) Everyone has the right to own property alone as well as in association with others.
 (2) No one shall be arbitrarily deprived of his property.

Article 18.

Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.

Article 19.

Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

Article 20.

(1) Everyone has the right to freedom of peaceful assembly and association.
 (2) No one may be compelled to belong to an association.

Article 21.

(1) Everyone has the right to take part in the government of his country, directly or through freely chosen representatives.
 (2) Everyone has the right of equal access to public service in his country.
 (3) The will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures.

Article 22.

Everyone, as a member of society, has the right to social security and is entitled to realization, through national effort and international co-operation and in accordance with the organization and resources of each State, of the economic, social and cultural rights indispensable for his dignity and the free development of his personality.

Article 23.

(1) Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment.
 (2) Everyone, without any discrimination, has the right to equal pay for equal work.
 (3) Everyone who works has the right to just and favourable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection.
 (4) Everyone has the right to form and to join trade unions for the protection of his interests.

Article 24.

Everyone has the right to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay.

Article 25.

(1) Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.
 (2) Motherhood and childhood are entitled to special care and assistance. All children, whether born in or out of wedlock, shall enjoy the same social protection.

Article 26.

(1) Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit.
 (2) Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace.
 (3) Parents have a prior right to choose the kind of education that shall be given to their children.

Article 27.

(1) Everyone has the right freely to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits.
 (2) Everyone has the right to the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author.

Article 28.

Everyone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realized.

Article 29.

(1) Everyone has duties to the community in which alone the free and full development of his personality is possible.
 (2) In the exercise of his rights and freedoms, everyone shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society.
 (3) These rights and freedoms may in no case be exercised contrary to the purposes and principles of the United Nations.

Article 30.

Nothing in this Declaration may be interpreted as implying for any State, group or person any right to engage in any activity or to perform any act aimed at the destruction of any of the rights and freedoms set forth herein.

UNITED NATIONS & UN REPRESENTATIVES**UNITED NATIONS****Human Rights**

Promoting respect for human rights is a core purpose of the United Nations and defines its identity as an organization for people around the world. Member States have mandated the Secretary-General and the UN System to help them achieve the standards set out in the UN Charter and the Universal Declaration of Human Rights. To do so, the UN System uses all the resources at its disposal, including its moral authority, diplomatic creativity and operational reach. Member States, however, have the primary responsibility for protecting human rights of their populations.

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