

A Charter of Rights for Australia

by George Williams

By Ranjini Acharya

Australia is the only democratic country in the world that does not have a national charter or bill that protects basic human rights. In his new book, *A Charter of Rights for Australia*, George Williams (Anthony Mason Professor and Director of the Gilbert+Tobin Centre for Public Law at the Faculty of Law, University of NSW) argues that the Australian parliament should create such a charter of rights, drawing on the successful examples of New Zealand and the United Kingdom.

This is the third edition of Williams' book, and it is published under a different title from previous editions, reflecting a change in his focus. Whereas the previous editions, *A Bill of Rights for Australia* and *The Case for An Australian Bill of Rights: Freedom in the War on Terror*, focused on the case for the introduction of a constitutional bill of rights in Australia, the current edition argues instead for legislative reform to create a charter of rights as an ordinary Act of Parliament.

Williams' thesis is that fundamental human rights are not adequately protected under Australian law, and that the best way to protect these rights is to enact legislation that clearly sets out the fundamental rights and responsibilities of Australians.

The greatest strength of Williams' argument lies in his concise presentation of the debate surrounding human rights in Australia. The book opens with a chapter that gives examples of the problems that people – including children in detention – face in the absence of such a charter. A particularly strong argument is the symbolic power that a declaration of universal human rights could have for those who have been denied their basic freedoms.

Williams then sets out the rights debate in the context of Australia's political history, and outlines the reasons why we don't have an express constitutional bill of rights in this country. Reviewing the express and implied rights as set out in several landmark High Court cases, he highlights several areas of concern where courts have been unable to find protection for so-called 'fundamental' human rights. Drawing on examples such as the unlawful detention of Australian

citizens, and the curtailment of the rights to free speech and to vote, Williams argues against entrusting our fundamental freedoms to the 'wisdom and good sense of our elected representatives'. He points out that the real beneficiaries of legislative reform will not be the middle-class majority, but the more vulnerable and disadvantaged people from minority groups.

Williams then traces how the case for reform has recently grown stronger, and how the momentum for change has accelerated with the creation of charters of rights in the ACT and Victoria. This is where the real strength of this book lies: Williams does not simply outline the problems stemming from the lack of express protection of rights in Australia – he also suggests a blueprint for the form that a local charter could take. Starting from the position that a charter is desirable over a constitutional bill of rights, Williams describes how the Victorian charter was developed, and argues that the community processes used in the development of the ACT and Victorian charters should be adapted to create a national charter of rights and responsibilities for all Australians.

Williams' clear and succinct style makes this an accessible text for both lawyers and non-lawyers interested in the human rights debate. There is good coverage of the major issues surrounding the case for legislative reform, backed up by some truly worrying examples of how easily fundamental human rights can be overridden if they are not protected. A bibliography is included for those who want more information, which provides a good starting point for further reading. *A Charter of Rights for Australia* is both an excellent introduction and a well-written summary of recent developments in the human rights debate in Australia. ■

Ranjini Acharya is a law student currently studying at the University of Sydney. EMAIL ranjini@lawyersalliance.com.au

