

Editorial

■ Shannon Torrens

This edition of Polemic focuses on the fundamental concept of human rights. Australia is the only developed country in the world without an enforceable Bill of Rights in either its Constitution or as an act of parliament. In today's climate of mandatory detention centres, broad anti-terrorist laws and extended police search powers, more people are raising the question of whether Australia's civil liberties are actually protected.

The problem is that Australians are generally not aware of their basic rights and therefore they are unaware if they are offended, such as when they are banned or charged from photographing in public. For example, there has been much media coverage of a person's right to photograph in a public place and more specifically to use mobile phones with cameras. In situations such as these, the difficulty is drafting legislation that will address the illicit use of photography in public places, such as for child pornography and the genuine desire of parents to photograph their children at a sporting event.

The ACT has recently enacted human rights legislation and Victoria is in the process of enacting a similar document. A strong focus is therefore cast on the NSW and Commonwealth government to follow suit. Whether or not this will eventuate is debatable. The Commonwealth government for one has seen numerous failed attempts at creating a Bill of Rights.

NSW is in an advantageous position to examine Victoria and the ACT's legislation and to see what it should include in its own. Most human rights acts such as these are based partially on the *International Covenant on Civil and*

Political Rights (ICCPR). This is an international treaty, which 152 nations, including Australia, have ratified. These rights include; the right to life; to freedom from arbitrary inference with privacy or family; freedom of religion; freedom of belief and freedom of expression.

Aside from the ICCPR, there are broader social and cultural rights that could be included such as in the *International Covenant on Economic, Social and Cultural Rights* (ICESCR) which include

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the right to education, adequate food and the enjoyment of the benefits of scientific progress. However, these rights would be quite problematic to include in any Human Rights legislation as they raise questions of State and Commonwealth resource allocation. It is likely that the courts would be reluctant to make judgements regarding resource allocation even if they did impact on Human Rights.

It is important to remember that even if Australia were to create an enforceable Bill of Rights or similar document, it does not mean that it will be applied either fairly or consistently. The most vulnerable members of society, who are generally the focus of such legislation, often lack the means to enforce any rights they accrue, whether through lack of funds, legal representation, understanding of the law or support from the community.

The Human Rights and Equal Opportunities Commission have been actively seeking the views of young people on human rights issues, which is part of a research project they are currently conducting. As young Australians and the future leaders whether in law, government or another related profession, it is important that our views are expressed in any legislation that is created. We will live with the creations of the current government and it is for this reason that we should become proactive

about informing both Federal and State government about the Human Rights issues that affect us and those we feel are important to others.

The concept of human rights is loosely woven throughout all of the articles in this edition of Polemic. They illustrate how human rights can touch the most diverse areas of the world; from Rwanda to Iraq and Australia and yet still focus on the same core concepts of justice, equality and accountability. We hope that you enjoy the articles as interesting reading, but more for the chance to open your mind to issues that may not directly affect your everyday life, but are still devastatingly important to those who are affected. We also hope they encourage you to do something to help prevent such problems from reoccurring.