

Features

**LETTERS TO THE EDITOR**

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English

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MOST TALKED ABOUT

CHARTER OF RIGHTS

To codify citizen rights without responsibilities is absurd

BOB Carr ("Lawyers are already drunk with power", Opinion, 24/4) is spot on in his objection to a charter of rights. Such documents are oxymoronic absurdities out of the same stable as "people's democratic republics", etc.

The reason they are absurdities is simple. Any constitution or body of law has as its fundamental purpose the creation of a common good, a shared benefit. A communal benefit is the result of individuals sacrificing some of their immediate interests in order to foster a community benefit. This ranges from simple neighbourliness and civility to observing speed limits and paying taxes through to doing community service, etc, all of which involves the forgoing of what are immediate personal interests which, as "human rights", might otherwise be pursued.

The point being that there can be no effective community without its members accepting the responsibility to forgo some of their notional individual freedoms. To create only a charter of human rights is for a community to begin dismantling its own basis.

To create a charter of so-called human rights without simultaneously establishing a balancing codification of human responsibilities is absurd. It is as absurd as the argument that we would all be safer in our community by all being armed to the teeth with the best weapons money can buy.

The commercial interest of the legal industry (I think they are beyond the honorific of "profession") is naked in this. Put crudely, we all have the basic human right to behave like arseholes. Do we really need to document that?

M.Seward

Launceston, Tas

BOB Carr seems to overlook several important points in the process of justifying the rejection of a charter of rights. To begin with, an enacted charter of rights would not be the product of unelected lawyers but elected politicians acting consistently with parliamentary rules and conventions after due consultation with constituents and community interest groups. If a charter were to be enacted, it would probably be because of a perceived need by a government for an expression of basic rights for the benefit of citizens as a whole and not for the benefit of lawyers.

If a charter of rights or a particular "right" was to be expressed in general or broad terms, such expression is not necessarily the same thing as the expression of "abstractions". Trial by jury, thought of as a basic right since Magna Carta in 1215 is entrenched in Section 80 of our

Constitution. It's expressed in fairly broad terms but few could seriously contend that it is an ``abstraction". Jury trials take place every working day in Australia. They are not an abstraction.

Furthermore, if the suggestion by Carr is that judges will interpret the ``abstractions" with a view to broader rights than intended, there is at least one readily available safeguard that can be utilised to good effect. In seeking to understand a piece of legislation, judges can and do refer to ministerial second reading speeches to determine the scope of an enactment. There is no reason in principle why such documents would not be used with a charter of rights in order to better understand and apply the ``rights".

Moreover, there is, in our adversarial legal system, usually an opponent arguing for a narrower rather than broader reading of the right in question based on such second reading speeches.

Andrew Tokley

Hyde Park, SA

BOB Carr is right to indicate there are concerns for churches in the latest push for an Australian bill or charter of rights. Already in Victoria we are having to argue why Christian schools and churches should be allowed to continue to only hire Christians -- all courtesy of that state's new charter of rights. It seems that freedoms Australians once took for granted can quickly come under threat once a bill or charter of rights is introduced. Ironic, perhaps, but extremely worrying.

But it goes further than this. As Janet Albrechtsen (``Beware the galloping imperialist judiciary", Opinion, 23/4) aptly put it, a charter can vest power to decide major social issues in an unelected group of guardians of the greater good: the judiciary. It can be a Trojan horse for minority agendas which have failed to make the grade with voters. Many rights are conflicting and contentious, and why should judges be left to prioritise them? There is good reason to suspect that one of the flow-on effects will be the eroding of family and Christian values. And there is no redress at the ballot box for those who don't like it.

Jim Wallace

Managing director, Australian Christian

Lobby, Barton, ACT

THE High Court's judgment on native title addressed a profound injustice, and has led to closer ties between indigenous and non-indigenous Australians. Yet it was strongly opposed by politicians, perhaps reflecting the attitude of the general population. Janet Albrechtsen continues her opposition to a federal charter of rights, but such a charter would have obliged parliament to acknowledge a long-standing injustice. The High Court would not have had to intervene.

R.Allen

Karrinyup, WA

THE overriding threat of any charter of rights resides in its ability to define the limits of our liberty. We should, therefore, resist its introduction with all the vigour and determination that our present level of liberty allows.

Bill Cranny

Kalamunda, WA