

The Sydney Morning Herald

News and Features - Letters

Letters

1272 words

10 October 2008

[The Sydney Morning Herald](#)

First

12

English

© 2008 Copyright John Fairfax Holdings Limited. www.smh.com.au

Failing benchmark of rights and representation

It is difficult to argue with John von Doussa's proposition that Australia needs better human rights protections. This is particularly so since the Labor Party under Kevin Rudd has allowed legislation for a charter of human rights and responsibilities to slip quietly from the Labor policy platform.

What is not so clear is why judges such as Mr von Doussa have their road-to-Damascus experience about human rights protections after they leave the bench and not while they are serving judicial officers. As Justice Michael Kirby frequently demonstrates, there are plenty of precedents for finding that breaches of human rights are against the law if judges have the courage of their convictions.

In the al-Kateb case, which Mr von Doussa mentioned, a majority of the judges of the High Court found that the indefinite detention of a stateless refugee was not to be regarded as punishment and therefore it did not offend human rights principles.

This kind of reasoning is somehow to be distinguished from the otherwise noble principles espoused by the judges in their extrajudicial assertions. Give me a break.

Peter Breen Woolloomooloo

John von Doussa's view that Australia needs a bill of rights is hardly unexpected, given his mates in the Federal Court would gain unprecedented power by the introduction of such a bill.

A bill of rights would take the power away from democratically elected members and senators, and hand it to the courts.

Mr von Doussa shows a disturbing lack of confidence in our democratic system. His view that our rights are not best protected by common law and the Parliament is a thinly veiled attack on the intelligence of ordinary Australians.

There is talk that the United States Supreme Court may overturn the 1973 Roe v Wade decision simply because the composition of the court may shortly change. This highlights the American experience, where laws are interpreted and implemented based on the moral leanings of the Supreme Court justices, rather than on the opinion of a majority of citizens.

I would prefer that my local MP continue to represent me, in the knowledge that his job is on the line every three years.

Jesse Young Coffs Harbour