



## **RAR HUMAN RIGHTS DISCUSSION**

### **Introduction**

Seventy years ago the Universal Declaration of Human Rights was declared and Australia was a signatory. Australia is also a signatory to the Universal declaration to the Rights of the Child and the Universal Declaration of the Rights of Indigenous Peoples.

The Declaration of Human Rights states that all human beings are born free and equal and lists 30 articles which the government must respect because we are human. Australia is the only liberal democracy without a national Charter of Bill of rights. It is long past time that we redressed this and modernized our system of government by introducing an Australia-wide human rights law. (Evatt Foundation.)

The ACT, Victoria and Queensland all of Human Rights Charters which cover their states but because the Universal Declaration of Human Rights is not **Australian Law** the **Australian Government** is not bound by it.

Following a presentation by Gillian Triggs at the 2017 RAR National Conference it was unanimously agreed that RAR promote the development and implementation of an Australian Charter of Rights. This would ensure that domestic laws reflect the Universal Declaration of Human Rights to which Australia is a signatory.

### **Why do we need a Charter?**

**Suggested Answer:** Not everyone has the opportunity or ability to fight for their rights for example Aboriginal people, refugees, asylum seekers, religious minorities, the elderly, people facing mental illness, people who cannot vote, young people A Charter must ensure rights for all particularly those who are disadvantaged.

We should all be able to see a doctor, dentist or health professional when needed, without waiting for any length of time and inability to pay. All children regardless of circumstances should have access to free, quality, public school and tertiary education.

Powerful corporations and politicians don't always respect the rights of individual people or communities. We need to create an Australian Charter of Human Rights and Freedoms to help level the playing field.

A Charter of Human Rights will ensure the decisions and actions of our governments are guided by the values of freedom, equality, compassion and dignity.

**Question: What are the Rights which are important to you?**

**Examples:** Health, education, right not to be 'locked up unfairly', right to a fair trial, right to work, right to shelter.

**Australia is a stable, safe, privileged country we should not support policies which allow injustice.**

**Question: Do you have examples of unjust policies?**

**Examples:** English exams for citizenship which many Australians would fail, racial abuse, detention without trial.

**Question: A Charter is not a panacea, what do you think are the tangible benefits of a Charter?**

**Examples:** Making sure all children get a quality education regardless of their postcode. Ensuring that we can see a doctor when we get sick. Having the freedom to come together & speak out.

**Question: What is a Charter?**

**Answer:** A Charter is a set of principles legislated by the Parliament which would be central to all Government decision making regarding the rights and responsibilities of all people living in Australia.

**Question: Why a Charter and not a Bill of Rights such as many countries have?**

**Suggested Answer:** A Charter is achievable. A Bill would have to be enshrined in the Constitution and we know that this is extremely difficult and it would take years to bring about change in the Constitution. (Getting recognition for our First Nations People in the Constitution is an example of this). Nevertheless we can build a movement to work towards a change to the Constitution no matter how long it takes.

**Question: What happens when Rights are violated?**

**Answer:** The Charter will only be able to be changed by an act of parliament. The government of the day when making policy will be bound by the Charter unless the Charter is changed by legislation. Where there is a violation of the Charter then legal action could be taken.

**Question: How would a Charter provide a difference for Refugees?**

**Suggested Answer:** Covid-19 is a great example refugees are locked up in Mantra, Kangaroo Point, Villawood, 'locked in' community housing etc. Their rights are ignored, their rights to health care, health services for example. People on SHEVS who lost jobs under Covid 19 did not have a right to access JobKeeper or JobSeeker.

**Example:** When 'job keeper' was rolled out if we had an Australian Charter of Rights it would provide for the rights of all people in Australia migrants, refugees, asylum seekers.

**Question: What do you think are other weaknesses in Australia because we do not have a Charter?**

**Example:** Health and Education are widely recognized rights. Covid-19 demonstrated weaknesses in the failure of Australia not having a Charter for example in education when remote learning was required many children did not have laptops, dongles etc

In health, there had to be a ‘bailout’ for private hospitals as many private hospitals only dealt with certain types of health needs eg did not have ventilators etc.

Homeless people had to be provided with shelter (hotel/motel rooms). Income security was a widespread problem.

**Question:**

Can you identify groups who did not have income security and how a Charter could address this?

Things that were taken for granted were not so good as we thought once a pandemic occurred.

**A Charter of Rights would provide boundaries and must be understood by all Australians.**

**In the Universal Declaration of Human Rights articles 1 and 3 are important.**

**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 3.**

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

**Discuss:**

No matter who we are or where we are, our lives are better when we all treat each other with fairness and respect and when we can enjoy our rights and freedoms. There are some rights that are referred to as absolute.

**Question:** What do you think is an Absolute Right?

**Suggested Answer:** – for example, the right to be free from torture is an obvious one in that it is never justifiable to torture someone. Other rights can be reasonably limited, for example when my right to free speech crosses a line and starts to cause harm to other people then a Charter of Human Rights would help us define the boundaries of those rights.

The classic example is that I shouldn’t use my right to free speech to run into a crowded theatre and yell “fire” and cause panic. Or I can’t defame someone or print lies about them.

Freedom of speech, freedom of information, freedom of religion, freedom from torture, freedom for a fair trial..... in developing a Charter we need to ensure that rights and freedoms co-exist.

**Question: Is this the case in Australia at present?**

**Suggested Answer:** We already have laws that limit free speech, we are currently arguing about religious rights and freedoms. A Charter would better articulate those limits while also better protecting the core freedom in our laws.

**Question: Do you think people seeking our protection have the same rights as Australians?**

Facilitate a general discussion with key points identified for further research and feedback to Human Rights Group. The conversation needs to be less about legal mechanisms and more about the type of community we want to live in – one that values fairness, respect, freedom and equality.

Encourage conversation about what rights and freedoms people would like to see in an Australian Charter to give a sense that this is something that the Australian community would have control and ownership of. (Don't be limited to existing frameworks.) • Emphasise values like freedom, respect, fairness, compassion, dignity and equality.

### **CITIZENSHIP RIGHTS FOR CHILDREN BORN IN AUSTRALIA**

The United Nations Convention for the Rights of the Child supports the rights of children born in Australia particularly article 22.

**Article 6.** Children have the right to live a full life. Governments should ensure that children survive and develop healthily.

**Article 7.** Children have the right to a legally registered name and nationality. Children also have the right to know their parents and, as far as possible, to be cared for by them.

**Article 8.** Governments should respect a child's right to a name, a nationality and family ties.

**Article 22.** Children who come into a country as refugees should have the same rights as children who are born in that country.

**Article 36.** Children should be protected from any activities that could harm their development.

**Discuss:** Why should all children born in Australia have equal rights?

**Question:** How have the children from Biloele been disadvantaged by the treatment of the Australian Government?

**Look up the Universal declaration of Human Rights.**

<https://www.un.org/en/universal-declaration-human-rights/>