

SUBMISSION

RIGHTS?

Human rights can be said to be an exercise in self discipline by a people. They are a number of values that the people hold dear and agree to restrict their own behaviour or complete certain tasks for their collective or individual benefit.

So who gives us these rights? We do. We give them to ourselves by modifying our behaviour.

BORN OF NEED

Most comparable countries that have a Human Rights Bill enacted it because they perceived they were being oppressed by authorities. People went into the streets, blood flowed and the pollies were dragged kicking and screaming to the Human Rights Bill table, eg King John and Magna Carta, French Revolution, etc. In other words, the people felt such a bill was desperately needed, and challenged authority to get it.

You could therefore argue that Authority is the natural enemy of human rights and that every year our rights have been nibbled away by legislation, and that we have less rights than in previous years. Without a Human Rights Bill there is no mechanism in place to moderate this process.

The Articles put in the Human Rights Bills in other countries were a direct reaction to the perceived needs of the people. For example, the English did not allow the Americans free speech, free assembly, or the right to bear arms, so when it came time to draw up their Bill of Rights the Americans made sure those rights were named and included. Arguably these items have caused their share of problems, but Americans still swear by their inclusion.

So we will probably name those rights that we feel are most at risk.

TEETH?

Can you imagine The Minister of Police taking powers away from his policemen and giving them to the accused? Or The Minister of Health giving patients more clout when they deal with hospital administration?

In fact no politician I know will be prepared to sign away or reduce his/her power. If there is one then I may be prepared to call that person a statesman, but sadly, we don't seem to have any statesmen.

It follows, therefore, that any Human Rights Bill endorsed by both sides of the two houses of Parliament will be so emasculated that it will have no teeth and be only tokenism.

I believe that Parliament (ie The People) should be **bound** by the principles in the Human Rights Bill, so that Parliament **cannot** make laws that are abusive or contravening our rights, even if the people so wish. For example, Parliament might not be able to bring in the death penalty even if the majority wanted it, as the 'Right To Life' provision in the Human Rights Bill might prevent it.

CHALLENGING AUTHORITY

It should be remembered that the main purpose of a Human Rights Bill is to challenge authority (of one sort or another), and force it to do something different to what it is currently doing. For example, it could be used to force authorities to improve the lot of children, but, since authorities already accept that children have rights, it is more likely to be used by the criminal in jail to improve his living conditions, simply because his rights are more likely to be at risk.

It is doubtful that criminals on the outside would change their habits simply because there is a Human Rights Bill.

CONTENT

I believe that it may be a mistake to be too specific in The Bill. For example, if we name all the rights a person is entitled to, then it may mean that they are not entitled to any other rights.

The right to privacy may force authorities to cut people off from others unless there is a corresponding right to unity and inclusion in the community.

The right to freedom of religion might allow the Jew to wear his kippah, but will it allow the neo-nazi to wear his swastika?

The legal fraternity will be pleased.

Also it should be remembered that every right we give ourselves is actually an obligation to someone else, usually government, and implementing such obligations cost money, that is, cost us money, eg the right to an education means we, the people, have to fork out for schools, teachers, etc, even if the students are on an outback station, a nearly deserted island, or whatever. The right to decent living conditions would probably mean we would have upgrade most prisons.

The point is that any rights are obligations on us to fund those rights. We taxpayers are, after all, the only source of cash!

SOLUTIONS

I would like us to give ourselves a Human Rights Bill, and in it to state our core values and aspirations, to name, in very general text, our prized rights, how we believe we should treat others and how we feel they should treat us.

We can talk of our belief in:

our identity as an individual, yet our combined identity as a people.
our love of personal and collective freedoms.
our obligations to each other and our expectations from each other.
the rights/obligations we grant/impose on ourselves.

How do we word the Bill so that we incorporate all the rights that we love? Rights like the right to:

- Life
- A presumption that I am entitled to be free

- Protection from torture and cruel, inhuman or degrading treatment
- Freedom from forced work
- Right to liberty and security of the person
- Protection from cruel, unusual or capital punishment
- Humane treatment when deprived of my liberty
- Freedom from any unfair discrimination
- The right to information
- A presumption of innocence until proven guilty
- A fair and just trial by my peers
- Fair compensation for a wrongful conviction
- To be treated with respect
- Freedom from being tried or punished more than once
- Recognition and equality before the law
- Privacy
- Unity with my community
- Marriage and cohabitation
- Protection of the family
- Freedom of thought, speech, conscience, religion and belief
- Peaceful assembly and freedom of association
- Freedom of expression
- Freedom of movement
- Taking part in public life
- Voting in periodic elections held in accordance with universal and equal suffrage
- Freedom of culture and language
- Asylum
- Protection in the event of my removal, expulsion or extradition
- To be protected by Writs of Habeus Corpus and Mandamus
- Right to own property

- Just and favourable conditions of work
- Collective bargaining
- Striking from work
- Physical well-being and health
- Social Security
- Inclusion in the community

And I like the Americans' 'The right to pursue happiness'.

GOOD LUCK TO US ALL ON THIS EXCITING VENTURE!

(signed) Dennis Nestor JP (Qual)

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