

BILLS OF RIGHTS IN AUSTRALIA: HISTORY, POLITICS AND LAW

Andrew Byrnes, Hilary Charlesworth, Gabrielle McKinnon; UNSW Press, 2009; 256 pp; \$34.95 (paperback)

The debate on whether Australia should have a national bill of rights is not new. It remains a debate loaded with polarised and divergent views that highlight the various, and sometimes incompatible, notions of democracy not uncommon in a diverse society. It also remains a debate that benefits from an examination of its historical and political background in order to arrive at an understanding of what it is we're really debating and how best we could move forward.

Bills of Rights in Australia: History, Politics and Law discusses the historical, political and legal issues which frame the debate surrounding the question of whether Australia should have a national bill of rights, and in particular, a statutory bill of rights. The authors are highly regarded in their fields: Andrew Byrnes is a Professor of International Law at the University of New South Wales, Hilary Charlesworth a Professor of International Law and Human Rights in the Australian National University (ANU) and Gabrielle McKinnon is a Research Associate at the Centre for International Governance and Justice at ANU and Director of the project assessing the impact of the ACT *Human Rights Act 2004*.

The book distinguishes itself from other human rights textbooks by offering a more holistic discussion and analysis of the history and political and legal issues which surround the debate. It sets out the history of human rights, how we have come to understand the term 'human rights' as we do today and Australia's relationship with international human rights (Chapter 1). It charts the background to the debate (Chapter 2) and surveys the various versions and models of bills of rights used in the United Kingdom, New Zealand, Canada, South Africa and Hong Kong (Chapter 3).

It also discusses the themes prevalent in the current debate: the adequacy of human rights protection in Australia, the effect

a bill of rights would have on the system of parliamentary democracy and the legal system, and whether a bill would promote the better enjoyment of human rights (Chapter 3). It offers an analysis of the states' and territories' pioneering efforts, most notably the ACT's *Human Rights Act 2004* (Chapter 4) and the Victorian *Charter of Human Rights and Responsibilities Act 2006* (Chapter 5), outlining the relevant history, content and practical application.

In looking towards a national bill of rights, the book offers suggestions for content, proposed consultation processes and an analysis of the issues that would need to be addressed (Chapter 6). It suggests that a national statutory bill of rights would mean that human rights concerns would be less affected by national politics and that it would allow Australia to fully implement its international obligations.

Although the content may date amidst the recommendations made by the National Human Rights Consultation Committee and the emergence of case law from the ACT and Victoria, *Bills of Rights in Australia* is a timely source of information for those who wish to understand the issues and challenges of the bill of rights debate.

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HUMAN RIGHTS ADVOCACY STORIES

Deena Hurwitz and Margaret L Satterthwaite (eds), Foundation Press/Thomson Reuters, 2009; 590 pp; \$83.95 (paperback)

More than any other legal discipline, human rights law is about context. A human rights lawyer who launches into an advocacy campaign armed with legal doctrine alone is as imprudent as a manufacturer who begins production of a new product without any understanding of the market. Most human rights texts discuss the law; *Human Rights Advocacy Stories* considers the market.

Human Rights Advocacy Stories contains 15 stories of human rights cases, norms and enforcement mechanisms. The stories are

told by people who were actively engaged in the cases and issues and are able to offer unique insights into the stories behind the laws and judgments.

Many of the stories are simply good tales. If you happened to find yourself dining with Sir Nigel Rodley, he might well tell you about 'Amnesty International's Efforts to Shape the UN Convention against Torture' (Chapter 1). The conversation would be decidedly less engaging if he were to recite the text of the Convention.

The stories are also a rare and valuable resource for human rights advocates interested in critical analysis of their work. They question the role of the law in human rights struggles, acknowledging the vital importance of informal forms of protest. For example, 'The Story of the TAC Case: The Potential and Limits of Socio-Economic Rights Litigation in South Africa' (Chapter 2) discusses how civil disobedience, community education and constitutional litigation all played a role in the Treatment Action Campaign's efforts to increase access to drugs which limit mother-to-child HIV transmission. It also provides an honest account of the limits of the law to create change in this area.

Other stories include the banning of religious symbols in France's public schools, the recognition of the concept of genocidal rape in the *Akayesu* case in Rwanda and the efforts of community-based organisations in India to oppose the World Bank-backed damming of the Namada River. The stories gain their power from their sophisticated consideration of the interplay of the political, social, economic and highly personal factors in the development and application of human rights law.

It is sometimes said that human rights suffers from a crisis of relevance; that despite its claim to reflect an essential and universal humanity, the framework is so mired in law that it has become meaningless to ordinary individuals and communities. *Human Rights Advocacy Stories* undermines that accusation by anchoring the human rights movement in the realities and challenges of attempts to effect positive change.

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