

# Domestic Human Rights

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AUSTRALIAN DEMOCRATS ACTION PLAN  
DOMESTIC HUMAN RIGHTS  
ATTORNEY GENERAL & JUSTICE

*In recent years, the Howard Government has used a 'culture of fear' to balance the protection of human rights and civil liberties against the need to keep Australians safe from terrorist attacks. The Democrats believe that the scales have tipped too far in favour of national security at the expense of the fundamental rights of Australian citizens.*

*"Without a Bill of Rights to serve as a principal basis for decision making, the judgments of Australian courts are now of less consequence in the world."*

**Geoffrey Robertson, QC**

The Democrats consider that human rights and civil liberties should not be unduly sacrificed in the fight against terrorism. On the contrary, we believe that a strong culture of respect for human rights will help to address the root causes of terrorism – not just its devastating effects. Evidence shows that terrorism is more likely to breed where poverty and injustice abound and there is little respect for human rights.

If we want to prevent terrorism, we must not only address terrorist threats when they arise, but we must also invest in good governance, human rights and the elimination of poverty.

## **The Howard Government's Record on Human Rights**

Over the past eleven years, the Howard Government has consistently chipped away at long-established human rights and civil liberties.

Since 9/11, the Government has passed almost 40 pieces of security-related legislation, many of which have curtailed fundamental human rights and broadened the powers of Australia's law enforcement and security agencies.

In August 2007, the Government rushed its urgent Indigenous intervention legislation through parliament, despite evidence that the legislation was discriminatory and in breach of Australia's international human rights obligations.

The Government's disregard for human rights has also been evident in its funding decisions, its pursuit of new powers and its refusal to ratify important international human rights agreements.

These moves have particular significance because Australia is the only common law country which does not have a Bill of Rights to provide basic protection for human rights.



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## A Bill of Rights

Australia is the only common law country without a Bill of Rights. The Australian Democrats are committed to rectifying this situation. We have long advocated the introduction of a Bill of Rights to provide a basic safety-net for the protection of human rights.

A Bill of Rights is vital to guard against encroachment upon the basic rights of all Australians. While the current Government has taken an incredibly regressive approach on human rights, it is possible that future Governments could be even worse. The absence of a Bill of Rights leaves the rights of Australians exposed. Provided that the Parliament makes its intention clear, it can pass legislation violating almost any human right, with the exception of a few rights impliedly protected by the Constitution.

The Democrats believe it is particularly important to provide protection for core human rights recognised in international treaties to which Australia is a signatory. These include equality before the law, freedom of speech, religion and political protest, as well as freedom from discrimination on the basis of gender, race, age, religion, sexuality, disability, or pregnancy.

Although the Democrats would ultimately prefer a Bill of Rights to be enshrined in the Australian Constitution, we will initially work towards a statutory Bill of Rights as a first step towards constitutional change.

The Democrats introduced a Parliamentary Charter of Rights and Freedoms in Federal Parliament in September 2001. That Bill was the result of a year-long community consultation process. We have consistently raised the need for a Bill of Rights both in and outside of Parliament, including in 2002 during debate on the Government's original package of anti-terrorism legislation. An updated version of the Bill was tabled by the Democrats in November 2005.

The Democrats are committed to pressing forward with our campaign for an Australian Bill of Rights and we will introduce our Bill to the Parliament once again following the election.

The underlying purpose of our Bill is to provide a human rights safety-net, which operates as a shield not a sword. As well as enabling citizens to challenge legislation in the courts, the Democrats' Bill will empower the Human Rights and Equal Opportunity Commission to inquire into Government activities that may infringe fundamental rights.

## Our Action Plan

In addition to campaigning for the enactment of a charter of rights, the Democrats will:

- Establish a Senate Rights and Freedoms Committee to scrutinise all legislation coming before the Senate. It will work closely with HREOC to ensure that the Senate is properly advised in its role as the final defender of freedom;



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- Increase the resources of HREOC and of the United Nations High Commissioners for Human Rights and Refugees to ensure the Government is complying with its human rights obligations;
- Work hard to ensure that Australia ratifies significant human rights treaties and honours its obligations under those treaties;
- Oppose legislation which violates fundamental rights and liberties; and,
- Push for the enactment of a range of Democrat-initiated bills, including the Anti-Genocide Bill, the Genetic Privacy and Non-Discrimination Bill, the Sexuality and Gender Identity Discrimination Bill, the Sexuality Anti-Vilification Bill and the Same Sex: Same Entitlements Bill.



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