

We need some checks and balances to deal with the mistakes that get made and the practical and tragic human consequences of ill considered policies.

We, Australian citizens living in the Northern Territory are entitled to say to our Governments – let us be secure and let us also enjoy our basic freedoms. Let there be respect for our citizenship. That requires some measured checks and balances. A Human Rights Act for Australia helps provide those checks and balances.

The idea for a Human Rights Act for all Australians is an idea whose time has come.

#### ENDNOTES

1. NSW Council for Civil Liberties “Australia’s Human Rights Violations”. [www.nswccl.org.au issues/hr-violations.php](http://www.nswccl.org.au/issues/hr-violations.php)
2. *Al-Kateb v Godwin* (2204) 219 CLR 562, 581 at paragraph 31.
3. Attorney General’s Department Media Release – 111/2006 dated 15 June, 2006. [www.ag.gov.au/agd/www/Minister-TuddockHome.nsf/Page/Media\\_Releases](http://www.ag.gov.au/agd/www/Minister-TuddockHome.nsf/Page/Media_Releases).
4. *A v Australia* UN D.C CCPR/C/59/D/560/1993 (30 April, 1997).
5. NSW Council of Civil Liberties “Australia’s Human Rights Violations” op cit.p 2.
6. Migration Amendment Regulation 2003 (No. 8) which excised all the islands of the Northern Territory as “excised offshore places”.
7. Transcript of the hearing before Justice Mildren on 7 November, 2003.
8. (2003) 143 NTR 10 at p 12 paragraph 10.
9. (2003) 143 NTR 10 at p 14 paragraph 24.
10. See: Frank Brennan SJ. ‘Tampering with Asylum’. 2nd Edition, ‘Epilogue: More Tampering Some Relief’ for a comprehensive account of the Minasa Bone saga.
11. Law Council of Australia Media Release MR 1606 20 June, 2006. [www.lawcouncil.asn.au](http://www.lawcouncil.asn.au)
12. Frank Brennan SJ op cit.p 6.
13. Frank Brennan SJ op cit.p 6.

## Why Indigenous Australia needs Human Rights Legislation

By Sharon Payne, CEO of the North Australian Aboriginal Justice Agency.

I had not been a fan of having a prescribed set of rules to promote or protect human rights, believing, rather naively perhaps, that ‘we all know what they are’ and can count on learned women and men in the judiciary to uphold them.

I did believe that until I was part of the ACT Bill of Rights consultation process and saw by the many “I’m all right Jack” responses by mainly middle-class white men, my confidence was sadly misplaced.

As Magistrate Terry Higgins said (in his article in *Lawyer’s Weekly* 30 June 2006)

*“...the judiciary is needed more than ever to stand up for individual’s rights against the tide of*

*public opinion”.*

I would argue that not only the judiciary is needed to do this – with more and more of our rights, our liberties and protections being eroded (and who hasn’t been affected by those humourless, fear-driven, power-mad, self-important airport officials), those of us who can see through the hyperbole and nationalist ranting must also stand up.

The truth often lies hidden and in the case of Indigenous Australians

As Martin Luther King said:

*“the ultimate measure of [people] is not where [we] stand in times of comfort and convenience but where we stand in times of challenge and controversy.”*

I would also say that a country’s worth is not measured by its wealth in dollar terms or what is ripped out of the ground or even whether ‘leaders’ get invited to the White House; rather it is measured by how well the most vulnerable and disadvantaged are treated. From the perspective of Aboriginal people, it could be argued then that Australian is not worth much at all.

It may seem a dichotomy that we the colonized should be calling on the colonizers to protect our rights as citizens but really what choice do we have? The conditions for Aboriginal people are worse than anything witnessed in the world, at least according to our volunteer international students from the US and a lawyer from the UK who have worked in Africa and Asia. And it doesn’t need a visit to a remote community to see the disgraceful conditions. Just one mile from the Darwin CBD in a town camp called One Mile Dam, our volunteers witnessed some of the worse human rights abuses in terms of provision of adequate housing, running water or electricity – the only difference between this and other ‘suburbs’ in Darwin is this one has only Aboriginal inhabitants.

So yes I do believe we need a human rights act to protect the vulnerable and disadvantaged in Australia, a human rights act to guide the courts and the lawmakers - I just wish we didn’t.

## Australian Human Rights Bill - Darwin launch

Address by Tony Fitzgerald, Anti-Discrimination Commissioner.

In the context of *New Matilda’s* campaign, I want to share with you why I took on the job of Anti Discrimination Commissioner

I’ve had the job for about three years after practising

law mainly in the NT for 17 years and then becoming involved in mediation

I took job not just because it was on offer but because it involved the promotion of principles of anti-discrimination; principles of equal opportunity for all; human rights principles. I took the job because I'm interested in promoting and retaining those principles.

The "New Matilda" campaign to introduce Human Rights Legislation embraces those principles. That's why I'm interested in it.

## TERRORISM

I suppose it was the Federal Anti-Terrorism Act (2005) that both major political parties rushed through Federal Parliament last year that galvanized me into action.

I see the need to proactively deal with terror.

But not without appropriate safeguards; UN Resolution #1456 of 2003 states that countries still need to honour human rights obligations when addressing terrorism.

The introduction of the Anti-Terrorism Act caused a public outcry because it contained provisions as follows:

- \* Power to detain without reason
- \* No right to legal representation
- \* Variations to rules of evidence
- \* An unstated but sinister threat that minority group would be targeted

As we know, government RELUCTANTLY introduced independent judicial review of decisions taken by police/government under the Act – so there is now a safeguard.

In my view, if a Human Rights Act was operating when they pushed this legislation through:

- \* The debate would not even have arisen
- \* The Parliament would have automatically scrutinized the Act for inconsistencies with human rights; or at least
- \* A remedy for human rights breaches would be available for anyone aggrieved by inappropriate exercise of executive power ; Certainly the government need not have been dragged screaming to the negotiating table.

I want to highlight a couple of features of the proposed Bill that in my view commend its introduction:

1. Parliament is obliged to look at all prospective Commonwealth enactments to see if they comply with human rights principles enunciated under the proposed Bill. Therefore its a Human Rights Audit of all proposed federal legislation .
2. Also the Bill enables scrutiny of existing legislation for human rights violation by a court upon

the application of an aggrieved person.

3. The Bill specifically targets public authorities – in a novel way which I have not seen or heard of before – so aggrieved may bring court proceedings against public authorities (including courts)found to be in breach

Remedies include

- \* Injunction
- \* Damages
- \* Other redress

4. Don't be distracted by that tired old argument that an Act of this nature gives power to unelected judges. Remember that parliaments in all jurisdictions in every one of their sittings enact legislation where we rely on judges to interpret that legislation or impose penalties/sanctions. What's the difference or the problem here?

I offer some additional comments on the Bill

I'd like to see the introduction of the Bill accompanied by the creation of a Human Rights Culture, ie. the Bill should encompass more than just a litigation focus but include public education and training in the fields of human rights, anti-discrimination and equal opportunity – in the same way that the NT Anti-Discrimination Act, from which I derive my powers, provides for public education.

The current culture fostered by the Federal government is definitely anti-Human Rights – evidenced by the treatment of refugees and asylum seekers, failure to observe UN conventions, and detention of children in custody.

Fortunately there is provision in the proposed Bill for community education in the objects – object 3(f), but the Bill is silent about who delivers the education. Perhaps this is a role for the Human Rights Commissioner from HREOC.

An obvious function of the proposed Bill is the protection of rights of minorities. One minority group in Australia clearly in need of protection is Indigenous Australians. Whilst Indigenous Australians make up 2-3 percent of the overall population in Australia they number 28 percent of the NT population – but they are no less vulnerable in this part of the country.

Some Indigenous Australians and others including the late 'Nugget' Coombs have long, but in vain, tried to implement a treaty between the Commonwealth and Indigenous peoples covering a range of issues including the recognition and protection of Indigenous rights.

The treaty has floundered because of disagreement between its proponents upon the form it should take

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# Debtors - Keeping on track with a different approach

**Southern Cross Funding**  
Cash Flow - the nuts and bolts of every business.



By Lorenzo Zanini, Southern Cross Funding  
Collecting debts has long been the bane of many practices, but an innovative approach available through Southern Cross Funding ([www.southern-cross-funding.com.au](http://www.southern-cross-funding.com.au)) offers practices a true alternative debtor management solution.

Southern Cross Funding (SCF) was established in 1997 by company CEO, Jeff Logan. Today the company is represented nationally and in SA / NT, operations are managed by Lorenzo Zanini.

Well known within finance, insurance and law circles via his 18 years within the Insurance Premium Funding industry, Lorenzo has provided funding facilities over many years to Law Members for the payment of Practising Certificates, Professional Indemnity Fees and associated chattel needs.

Based upon Insurance Premium Funding, Professional Fee Funding assists practises with collection of commercial client billings, by offering clients a simple and easy "Pay By The Month" option as an alternative way of settling their account.

Offering flexibility for the payment of a wide range of commercial legal actions, including lengthy litigation matters, establishment of this client payment option is simple, quick and easy. It has no complicated client security requirements, client costs are competitive to traditional bank facilities and monthly repayments can be established to suit the client's cash flow needs.

A once only \$50 application fee is payable by the client at lodgement and upon approval of a client application, the firm receives 100% of its invoiced funds in just 15 days, paid via EFT to the firm's nominated bank account.

Southern Cross Funding is now well established in this market and offers funding to commercial / business based clients. All fee levels can be catered for, from small to very large and with no age limit to outstanding accounts.

Lorenzo says "firms find this service easier as it helps reduce write-offs, negates the need to offer discounts as payment incentive made within the firm's stated terms and importantly, helps reduce debtor administration activities and their associated costs. It also adds another true value proposition to

the 'client / firm' relationship by offering clients another payment alternative".

If the client defaults, the firm must pay back the outstanding principal at time of default, however Lorenzo advises SCF first ensures all is done to resolve any out of order accounts. This process ensures firms sign up clients for the client's convenience and not just to get rid of bad payers.

Fee Funding operations are internet based, operational arrangements are quickly established and Southern Cross Funding will provide the firm with all ongoing operational, promotional and relationship support – all at no cost to the firm.

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## Australian Human Rights Bill - Darwin launch cont...

and because of inactivity and lack of enthusiasm from within government.

Adoption of this Human Rights Bill would have the effect of sidestepping a sometimes emotional debate, yet still providing protection to a significant minority which surely needs it.

As the Federal Government seeks more discretionary power for its Executive then checks and balances in the exercise of that power are desirable to ensure human rights are protected. The tabling of a Private Members Bill – the Human Rights Bill – is an appropriate vehicle to achieve this goal.

Australian Capital Territory, Victoria and New South Wales (nearly) have introduced the equivalent of this Bill. The time is ripe for the NT Government, with its whacking great parliamentary majority, to do likewise.

In conclusion... I commend "New Matilda" on reviving and advancing the debate on this important topic.