

What are human rights? Where do they come from? Why do we have them?

Civil Liberties Australia's PERSPECTIVE

Human rights are rights inherent to all human beings, regardless of race, sex, nationality, ethnicity, language, religion, or any other status. Human rights include the right to life and liberty, freedom from slavery and torture, freedom of opinion and expression, the right to work and education, and many more. Everyone is entitled to these rights, without discrimination.

International human rights law lays down the obligations of governments to act in certain ways or to refrain from certain acts, in order to promote and protect human rights and fundamental freedoms of individuals or groups.

– The United Nations



When a lot of people think about rights, they think in terms of protecting themselves against bad behaviour by other people or by the government. In other words they think that rights just protect the individual.

You have a right to life, so other people can't kill you, you have a right to be treated just like anyone else, regardless of your race, colour, sex, language, religion or your political opinions so these distinctions are not disadvantages when it comes to being treated as a person.

Arguing that rights just focus on the individual is all very well to a point – but when people take that argument to its logical conclusion, you wind up in a world of pseudo law with very odd consequences.

A world where anti-vaxxers claim the absolute right to exempt their children from compulsory vaccination and religious organisations discriminate against their employees for no reason other than their sexuality.

A world where shock jocks and conspiracy theorists claim their right to free speech means that they can say anything without regard to the truth or the consequences.

A world where movements like "Sovereign Citizens" claim their members cannot be subject to any law they did not freely consent to – meaning that they don't have to do anything a government tells them to – like pay tax, follow police orders or accept the verdict of a court.

People who think of rights as the final and absolute justification for the protection of the individual are obviously missing the point of the Preamble to the Universal Declaration of Human Rights (UDHR), concluded by the United Nations in 1948¹. Paragraph 3 says:

“Whereas it is essential, if man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by rule of law.”

In other words – It doesn’t matter whether your country is a democracy, a monarchy or a communist dictatorship, it is only economically, culturally and socially sustainable if it respects the human rights of the people who live in it.

And countries respect those rights by building all of the rights covered by the Universal Declaration of Human Rights and its family of human rights instruments into domestic law and giving everyone equal access to an effective remedy by a competent independent tribunal for acts that violate those rights.

So rights are not just about protecting the individual: they are the universally accepted recipe for an economically and socially sustainable society.

As signatories to the UN family of human rights instruments, governments are obliged to promote and protect those rights by treating citizens fairly and equally. This means that governments need to balance the way rights are policed so that claims made in relation to one right are balanced fairly and objectively against the rights affected by that claim.

- So the right of an anti-vaxxer to refuse a vaccination is balanced against the broader social good of preventing a disease;
- Or the right of one group to practise their religion as they see fit is balanced against another’s right to their sexuality;
- Or claims made by a US shock jock that the mass murder of Sandy Hook elementary school students and staff was faked by a government keen to restrict the rights of Americans to own guns is balanced against the suffering of the victims’ relatives and friends caused by what he said.



So to put human rights in context – they are a treaty obligation for 173 countries, including Australia, aimed at maintaining their economic and social stability by balancing the rights of their citizens and ensuring there are consequences for decision makers if citizens are not treated fairly and equally.

ENDS

¹ Australia and Australians played major roles in creating the Universal Declaration of Human Rights: [https://en.wikipedia.org/wiki/H. V. Evatt](https://en.wikipedia.org/wiki/H._V._Evatt) [https://en.wikipedia.org/wiki/Jessie Street](https://en.wikipedia.org/wiki/Jessie_Street) and, see particularly: <https://www.cla.asn.au/News/dead-to-rights-how-an/> <https://humanrights.gov.au/our-work/publications/australia-and-universal-declaration-human-rights>