

28 December 2011



There is continual pressure from law enforcement authorities to be given increased powers. Such powers would typically involve increasing restriction of citizens' rights. This may involve: longer periods of arrest without charge; an increased number of offences; a broader definition of offences. There is also an increase in the number of offences for which the onus of proof has effectively shifted from the state (the prosecution) to the defendant (the person charged).

The normal situation in criminal matters is that the state has to convince the judge or jury that the defendant did what s/he is charged with, beyond a reasonable doubt. In other words, if there is any doubt, a finding of 'not guilty' should be returned.

There is an increasing number of offences in which all that is needed is for the state to provide a strong case against the defendant and the defendant has to prove that s/he is not guilty. There is an increasing number of offences for which the right to appeal has been reduced or restricted.

In matters defined as involving terrorism or potential terrorism, the accused person: may be held for a long period without charges being brought; hearings may be held in secret; the accused may be denied access to the evidence the state is relying on; there may be restricted access to appeal against outcomes.

Under the new laws relating to terrorism, a person suspected of having links with a terrorist organisation may be placed under effective house arrest without ever being found guilty of an offence by a court.

The Federal Government, which has been the main proponent and initiator of anti-terrorism laws, has argued that these more restrictive laws are necessary in order to protect 'law-abiding' citizens and that we need to trust that it will not use its greater powers in inappropriate ways. However, we have witnessed a number of instances of potential abuse – for instance, the incarceration in a migrant detention centre of Dr. Haneef, after a magistrate had seen fit to release him on bail.¹ In other words, the government overrode the courts. The security authorities later admitted that Dr Haneef was not a threat to the country.

If you are not healthy and relatively financially secure, are you still important? Does our society adequately look after those who have difficulty looking after themselves?

People with sub-optimal mental ability used to be kept in institutions. There they were sometimes ill-treated and occasionally even abused. Existence in any institution tends to dehumanise people. The modern trend is to deal with this dehumanisation by closing institutions for the mentally ill and housing them in the community. Potentially, this would facilitate a more individual caring for these people. However, many of them now have no proper care and end up wandering the streets and even sleeping in the streets.

There have been recent instances of Australian citizens who were found wandering and not able to explain themselves, being extradited on the assumption that they were illegal immigrants.²

When did these people stop being important?

Australia had an international reputation for welcoming refugees and they came here in their tens of thousands. Something changed in our national attitude (led by the Federal Government) and many refugees are now regarded and treated as if they are criminals. When people come to this country seeking asylum, but not through ‘official’ channels, they are likely to be incarcerated in detention centres. They are often there for years before any decision is made about their future. Their children are locked up with them. The adults and children often develop emotional and psychological problems from their detention. When did they stop being important?

Australia is the only democratic country that has no national Bill of Rights or Charter of Rights.³ Victoria and the ACT have enacted legislation guaranteeing the protection of individuals’ rights and some other states are making moves to do the same. But, even if all states and territories enacted such protection, there would still be a gap at a national level when it involves federal laws. A Bill of Rights or Charter of Rights is an indication that a country values its citizens – that it finds them important.

For more than one hundred years, workers in this country have had basic entitlements protected. They are often represented by unions, which can bargain collectively on their members’ behalf. With the introduction of changes to workplace relations laws, workers are now more expected to negotiate individually with their (potential) employer, on the assumption that this is a negotiation between equals. But employers usually have large resources at their disposal and the services of lawyers. Workers can rarely match this. Many workers have been forced to fend for themselves. If you are a worker, when did you stop being important?

Almost everywhere you look, you see the idea of individual importance being eroded in favour of some questionable ideology.

1. See, for instance, [Sydney Morning Herald](#) article on 17 July 2007.
2. See, for instance, [Sydney Morning Herald](#) article on 4 May 2005.
3. “Thawing the frozen continent.” by George Williams, *Griffith Review* 19, Autumn 2008, pp 13-37.