AUSTRALIAN POLITICIANS REJECT DEMOCRACY, PREFER IMPORTED UNDEMOCRATIC UN 'SOLUTIONS'

Should Australian Laws & Policies be Determined Democratically By Australians, or Undemocratically by Foreign Entities Such as the UN?

Don't let the politicians continue to shut the debate down!

Graham Williamson
September 2015

National Sovereignty Obstructs Global Governance Goals of the UN – UN Needs more government cooperation in surrendering sovereignty

"The current governance of the global commons through the prism of national sovereignty remains one of the most fundamental obstacles to progress. Whilst global public goods that lie within national boundaries continue to fall under the jurisdiction of the nation state, it is likely that decisions will be made on the basis of national interests rather than global concerns. Nation states continue to be often ideologically opposed to governance arrangements that involve ceding sovereign authority over natural resources to a supranational institution making decisions in the global interest, especially when there is little short-term incentive to do so. This explains the absence of effective compliance mechanisms and enforcement regimes for many global environmental agreements."

A Pocket Guide to Sustainable Development Governance 2nd Edit

Australian Government Wants More Treaties & UN Talkfests

"the most basic reason why, in the view of the Department of Foreign Affairs and Trade, treaties are necessary, is that the process of treaty-making provides numerous officials of that Department with a well-paid career, much of it spent in the gilded salons of Geneva, New York or wherever else international bureaucrats choose to ply their trade at the expense of their respective taxpayers."

John Stone: Setting the Sovereignty Scene: Use and Abuse of the Treaty Power

Only the UN Can Solve Global Problems Deliberately Caused by Globalisation

The process of globalisation and resulting interdependence of nations was always expected to cause global problems which would demand global governance solutions and diminishing power and autonomy of nation states. We have seen from The Earth Charter, which was developed by Maurice Strong and Mikhail Gorbachev, that the loss of national independence caused by globalisation was expected to create deliberate **'global fragility'.** This in turn of course, was expected to create exciting 'opportunities' for those who see themselves as global problem solvers.

This process of globalisation and interdependence is now well advanced, Australia having already entered into more than 2000 international agreements, resulting in considerable erosion of national sovereignty and democracy, and this trend is accelerating. Global interdependence continues to result in an explosion in the ratification of international treaties or agreements as once autonomous independent nations continue the process of surrendering sovereignty and transferring power to foreign entities such as the UN.

According to the late Sir Harry Gibbs, former Chief Justice of the High Court of Australia, in his address, "*The Erosion of National Sovereignty*", this acceleration in signing of international treaties coincided with a fundamental change in society characterised by an abandonment in personal responsibility and an obsession with individual rights:

"The flood of treaties began to flow strongly in the 1960s. That was the time when the transformation of culture – some would say its disintegration – which the wars had set in train began to accelerate. One aspect of the change in society that then occurred was the tendency to insist on individual rights and to indulge individual wishes, without at the same time recognizing the co-relative obligations of individuals to society. The treaties that were made were in tune with this sentiment and some of them reflected the ideas that became regarded as politically correct. They covered a field including Civil and Political Rights, Economic, Social and Cultural Rights, Refugees, Torture, the Rights of the Child and The Elimination of All Forms of Discrimination against Women as well as the protection of the Environment. There is hardly an area of governmental activity which these treaties do not touch....."

As Sir Harry Gibbs emphasises, "*A nation is not sovereign unless it is independent from control from outside its own borders":*

"*It has been frankly said, by supporters of the system, that the promotion and protection of human rights is a modern tool of revolution. That revolution has already been successful in Australia. We already have laws that have created new rights at the expense of rights that we took for granted. We should not allow a revolution that affects us to be under the control of others. There is no good reason to allow rules that govern the rights of individuals and shape the nature of society to be interpreted by foreign bodies which have plainly shown an intention to give effect to their own modish notions.....A nation is not sovereign unless it is independent from control from outside its own borders. In practice we have lost some of that independence. This erosion of our sovereignty was our own Doing.....Whether future Parliaments will prevent the further erosion of our national sovereignty must be regarded as doubtful, having regard to the difficulty which even the wisest of men and women find in trying to free themselves from the prejudices of the times."*

Many nations are however in the view of the UN, slowing down the global governance goals of the UN by surrendering national sovereignty too slowly.

As the United Nations points out in their report, "*Global Governance and Global Rules for Development in the Post-2015 Era*, the success of their post-2015 agenda is at stake. Countries must surrender sovereignty to the UN if the UN is to have the power to deal with global problems.

"For the United Nations to utilize its distinct advantages, it must strengthen its position in global governance……Implementation of the post-2015 development agenda ultimately depends on the political will of Member States to carry it through. Therefore, success will depend on whether all countries contribute to the reform of global governance and use their policy space to implement policies that promote the three dimensions of sustainable development in an integrated manner. However, national States have tended to commit themselves to those solutions that are in their narrow national interest or do not interfere with what they perceive as their national sovereignty, and/ or those from which they are expecting to maximize their national interest at the expense of others, either by domination or by free-riding (Kaul, 2013). While global challenges continue to be viewed from this narrow perspective, the probability of failing to address them will remain high. The need for responsible sovereignty, one of the five principles presented in Section II above, is more than relevant in this context. In this regard, ECOSOC should take an initiative on how to operationalize this principle. Responsible sovereignty is, no doubt, a necessary condition for States to cooperate in creating the conditions for the realization of internationally recognized rights and freedoms and to act according to the other key principles of global governance put forward in this report: common but differentiated responsibilities, inclusiveness, transparency, accountability and coherence. Likewise, the relevance of the United Nations in global economic governance largely depends on how much Member States are willing to strengthen the Organization, so that it may become a more effective factor in global economic governance for implementing a post-2015 development agenda for the benefit of all."

As **Ban Ki-Moon, Secretary-General of the United Nations**, emphasised recently, "***in today's world, the less sovereignty is viewed as a wall or a shield, the better our prospects will be for protecting people and solving our shared problems."*** The shared problems he referred to of course, are those predominantly caused by deliberately making countries so weak they are no longer capable of independent existence.

Surrender of Australian Sovereignty to UN Particularly Popular with Globalists & those on the Left of the Political Spectrum

Peter Faris QC, has summarised the problem from an Australian perspective, drawing attention to the fact that the whole process of surrendering sovereignty and exporting control to the UN is particularly attractive to those on the left of the political spectrum:

"We are preparing to abdicate our Australian sovereignty to "law" made by the United Nations. Since the election of Mr Rudd as Prime Minister last November, Australia has emerged as a World Leader in numerous matters of high principle: global warming, whales, human rights in China, freedom for Tibet, the end of nuclear weapons and a European Union-style community for South-East Asia…..
But some people are not satisfied with sovereign democracy. They want every state in the world to be governed by some sort of international law. This international law is to come from NGOs (non-government organisations) like the UN. A greater attack on national sovereignty is hard to imagine. A prime and current example is global warming. The propagation of this fraud by the Left constitutes a major attack on capitalism. Rich countries will be obliged to bankrupt their industries and economies, to the great benefit of so-called poor countries like China and India. In the end, the aim is to bring the US to its knees……..
The Left do not want to have Australian laws for Australia. They want UN laws. This, of course, removes Australian sovereignty. Instead of Australians making their own laws, the laws are imported (as some sort of universal truths) from the UN.
The ultimate aim, which will be achieved, is that every UN covenant is legislated into law in Australia. The practical effect is that the UN becomes our supreme legislative body. And these laws will be supervised by the unelected judges who can effectively strike down any legislation of the duly elected Parliaments……

From the point of view of sovereignty, the United Nations has no legitimacy---in fact, it is in direct contradiction to the concept of sovereignty. It is one thing for Australians to make their own laws, it is quite another for the UN---an unelected body, a collection of states including some of the worst in the world---to be deciding what laws are so universal that they should be imposed upon the Australian people. Yet such is the perceived moral authority of the United Nations; whatever they say is, quite literally, the law.
There are many excellent analyses of the dysfunctional nature and corrupt practices of the UN. Despite all of this, some people believe that the UN speaks like the Pope---infallibly on the questions of faith or morals.
Today in Australia, Political Correctness is so strong that it is no more possible to challenge the moral authority of the UN than it is to deny global warming. And we can be absolutely certain that our socialist federal Government, in the great tradition of socialists and communists, will seek to destroy our Australian sovereignty in favour of UN dogma……
In summary, my complaint is this. We will have introduced into Australia, as legislated domestic law, various UN Covenants. These will replace parts of our own law as we know it. The introduction of these laws acknowledges their moral superiority---they are universal laws and must be obeyed. Our sovereignty is diminished by the fact that these superior laws are the product of an unelected body outside of Australia. Australia and Australians have demonstrated that they are perfectly capable of creating a just legal system arising from our national sovereignty. This is now denied. The acceptance of UN Covenants is an acceptance of the correctness of that denial."

As Richard Glover notes, the global "***communal***" enforcement action made possible by UN involvement in the climate change debate was always going to guarantee the enthusiastic support of those on the left of the political spectrum:

"People on the left instinctively believe in communal action, the role of government and the efficacy of international agencies such as the UN. They were always going to believe in climate change; it's the sort of problem that can best be solved using the tools they most enjoy using. The right tended to be sceptical about climate change from the start and for exactly the same reasons. It's the sort of problem that requires global, communal action, with governments setting rules. It is a problem that requires tools they instinctively dislike using."

Common Arguments Used By Government, Globalists, & Those on the Left, to Justify Surrender of Sovereignty & Democracy to Foreign Entities

Difficult though it is to believe, there are still some who seek to dismiss concerns about the threat posed to sovereignty and democracy from international agreements and treaties. Let us consider their arguments.

1. Possible Costs Always Outweighed by 'Benefits'

According to the Australian government: *"Implicit, however, in any Australian decision to ratify a treaty is a judgement that any limitations on the range of possible actions which may result are outweighed by the benefits which flow from the existence of a widely endorsed international agreement."*

Of course it is ridiculous to make the assumption that a "*widely endorsed international agreement"* will automatically have advantages which outweigh its disadvantages. Australian decisions should be the result of democratic consideration by its people, not imposed undemocratically by a foreign agency which does not have Australia's best interests at heart. As noted by Sir Harry Gibbs, it is certainly not desirable when the internal affairs of a country are *"determined by committees constituted by people of no particular qualifications, none of whom will necessarily be representative*

of the nation affected by the determination, and some of whom may be chosen from nations whose practices and culture are regarded as inferior or abhorrent." The suggestion by the Australian government on their web site that such foreign interests are better placed to decide what is best for Australians should be treated with the contempt it deserves.

2. International Treaties are Voluntary, In Australia's Interest, do not Involve Ceding of Sovereignty, & Government has Power to Reclaim Sovereignty by Withdrawing from Treaty

> According to the Australian government: *"The Government also retains the right to remove itself from treaty obligations if it judges that the treaty no longer serves Australia's national and international interests."*
> According to former Attorney General and Foreign Minister, Gareth Evans:
> *"Nation states, i.e. individual countries, enter into treaties of their own free will and on the basis that the terms of those treaties serve their national interest. This is certainly the basis on which Australia enters into treaties. The United Nations has absolutely no power to impose treaty obligations on nation states. Governments negotiate treaties among themselves and, once they have agreed upon a text, each government decides whether or not it will become a party to the treaty. Treaties thus represent an agreed position between nations. By becoming a party, nations freely accept the obligations imposed by the terms of the treaty. It is always open to them not to become a party, or to become a party with reservations where this is not excluded. The process is entirely voluntary. Indeed, becoming party to a treaty is an exercise and an affirmation of a country's sovereignty - a point that is lost sight of in the often confused debate about the impact of treaties on sovereignty……There are those who will go on expressing the view that by participating in the treaty system we are somehow ceding national sovereignty to the international community. But there is no frightening 'new world order' telling us what to do. We are an active and successful player in the multilateral game and any concessions we make are met by concessions from other parties for the common good. Each decision to become a party to a treaty is taken after extensive consultation with States and Territories, with industry groups and other non government organisations and with Australia's national interest clearly in mind. We enter treaties freely as a sovereign nation state and with our eyes wide open."*

There are two parts to this question.

Firstly, the suggestion that governments only have what they perceive at the time to be the 'national interest' at heart when entering into treaties or international agreements, is clearly nonsense. Governments may be motivated by many factors apart from the 'national interest', one of which is 'global interests' as outlined above. As Kevin Rudd & Wayne Swan both pointed out, governments must be prepared to work against Australian Interests for what is perceived to be the 'greater global good'. The fact that the people are denied any democratic say in this process clearly proves such agreements are not in the best interests of Australia.

As John Stone summarises in Setting the Sovereignty Scene: Use and Abuse of the Treaty Power:

"it is in Australia's national interest to enter into a treaty (a) when doing so provides us with something that we need; and (b) when we cannot provide that "something" solely by our own actions……

For example:

- *As noted earlier, do Australians need the United Nations to instruct us not to torture each other (or anyone else, for that matter)?*[10]
- *Again, do we need the United Nations to instruct us not to discriminate against our fellow Australians but rather to treat them equally? There can be few more genuinely egalitarian countries than Australia in the world.*
- *Again, do we need the United Nations to instruct us in how to bring up our children? I defy anyone to advance a single instance of the beneficial effects upon Australians of our adherence to the UN Convention on the Rights of the Child."*

The 'national interest' argument is fabricated predominantly by those who have anti-Australian global interests.

Secondly, the suggestion that "*The process is entirely voluntary…. It is always open to them not to become a party, or to become a party……becoming party to a treaty is an exercise and an affirmation of a country's sovereignty…."* is often used in an attempt to counter allegations that international agreements involve ceding of national sovereignty to a foreign entity. According to this line of thought, the national government is always in complete control and can choose to withdraw from the treaty process at any time. As John Stone points out, "*This is precious close to saying that we retain our sovereignty because we retain the power to reclaim it after having surrendered it!..... In those (limited number of) cases where Australia has formally denounced treaties into which it had previously entered, it has restored that part of its sovereignty which it had previously yielded up"*

The difficulty is of course, that such an analysis completely ignores the considerable international pressures that may be applied to coerce countries into cooperating with treaty obligations. It also ignores the fact that international agreements are often the forerunner of binding international laws.

In "*An Overview of Enforcement and Compliance Mechanisms in International Environmental Agreements*", Hajost and Shea note that a range of formal and informal compliance mechanisms are commonly used to 'enforce' 'non-binding' treaties:

"Before turning to the formal panoply of tools for facilitating compliance with international environmental agreements, it is worth noting the informal means that states use to seek compliance from other parties to agreements. These means include inform, persuasion, and consultation, as well as what has been termed the "mobilization of shame" – the public identification and dissemination of specific acts of noncompliance or questionable compliance. States generally prefer to settle their differences through dialogue and quiet diplomacy, and usually resort to more formal and public means only after all other methods fail……. compliance mechanisms such as reporting requirements can come into play as forms of reparations"

As noted by Hajost and Shea, one popular mechanism of ensuring compliance is the monitoring of progress by building definite reporting requirements into the agreement:

"International environmental agreements generally incorporate reporting requirements which affect specific aspects of the agreement's implementation including the collection of data, record keeping, and other activities, such as the reporting of national legislative actions previously discussed. In general, reports are prepared and submitted by states at specified internals and in a specified format for distribution to other parties. Not only does the information provide assurances as to the compliance statues of states, it promotes future effective implementation by virtue of access to an expanding database."

This mechanism has been very popular and effective in Australia due to the monitoring of Agenda 21

implementation by the UN and Australia's willingness to use extensive public resources to compile and submit regular detailed reports. As noted by Richard Gardner:

"The new "high-level" Commission on Sustainable Development that Rio recommended is supposed to ensure that countries and international organizations like the World Bank will carry out their responsibilities in the Agenda 21 program."

In fact , according to the ICLEI Agenda 21 Implementation Survey of 1997, two essential criteria for defining an Agenda 21 process include:

"It must establish a monitoring and reporting framework", and,

"It must establish indicators to monitor progress."

The supposedly 'non-binding' Agenda 21 program is therefore a UN program which requires, as one of its core features, compulsory reporting and monitoring to permit effective control by the UN. According to Greens Senator Ian Cohen, NSW Parliament, 21st October 1997:

"Agenda 21, a program of action for sustainable development worldwide,……Agenda 21 stands as a comprehensive blueprint for action to be taken globally from now into the twenty-first century by governments, United Nations organisations, development agencies, non-governmental organisations, and independent sector groups in every area where human activity impacts on the environment…….While the agreements lack the force of international law, the adoption of the texts carries with it a strong moral obligation to ensure their full implementation. Therefore, it can be argued that Australia, and hence New South Wales, is under a strong moral obligation to ensure their full implementation. In fact, some of the obligations set out in Agenda 21 and the Rio declaration have found their way into national law; namely, the Intergovernmental Agreement on the Environment, which is annexed to the National Environment Protection Council (New South Wales) Act 1995."

Although also not necessarily backed by enforceable hard law, various pressures are applied to ensure compliance with formal international treaties, as is confirmed by the *IUCN Environmental Law Programme (2010) Draft International Covenant on Environment and Development:*

"In the Pulp Mills judgment of April 20, 2010, the International Court of Justice recalled that, according to customary international law as reflected in Article 26 of the 1969 Vienna Convention on the Law of Treaties, "[e]very treaty in force is binding upon the parties to it and must be performed by them in good faith". That norm applies to all obligations established by a treaty, including procedural obligations which are essential to co-operation between States."

Not only are considerable international pressures applied to 'enforce' non-binding international agreements, but further, as indicated above, such agreements are often the first step on the pathway to eventual enforceable global laws. According to Ms. Annebeth Rosenboom, Chief of the UN Treaty Section Office of Legal Affairs, in an Overview of International Treaty Law, United Nations, international agreements or treaties provide the foundation of international law. UN Secretary General Ban Ki-Moon states in an Overview of International Treaty Law:

"Together, by participating in the international treaty framework, we can succeed in advancing our mission of building a global society based on respect for the rule of law."

Further, according to Jane Stratton in "International Law", 69th edition of *Hot Topics Legal Issues in Plain Language*:

"Treaties are binding – *the principle of pacta sunt servanda (from Latin, meaning 'agreements are to be kept' or 'treaties are binding') asserts that:*

> when treaties are properly concluded, they are binding on the parties, and must be performed by them in good faith;

> the obligations created by a treaty are binding in respect of a State's entire territory;

> a State cannot use inconsistency with domestic law as an excuse for failing to comply with the terms of a treaty.

Reservations to treaties – *once a treaty comes into force, a State cannot decide which parts of a treaty it chooses to be bound by. However, upon signing a treaty, a State may lodge a formal* ***reservation*** *to it which may modify the scope of the legal obligation owed by that State under the treaty."*

The enforceability of treaties is further confirmed by Chris McGrath in "Synopsis of the Queensland Environmental Legal System",

"Article 38 of the Statute of the International Court of Justice recognises four sources of international law of which the two principal ones are:

- *custom (the general practice of nations based on a belief of being legally bound);*
- *treaties / conventions (formal agreements between nations).*

McGrath summarises, "*by far the greater source of international legal obligations is treaty law*."

In summary, even if not enforced by domestic legislation, international pressures are utilised to ensure compliance so it makes no sense whatsoever to say 'sovereignty is not affected because we can reclaim sovereignty when we withdraw from the treaty'.

3. The Treaty Process Involves the Public & is Democratic

According to the Australian government: *Perhaps the most important constraint upon the Commonwealth is the fact that treaty making processes in Australia operate within a democratic context. This includes, ultimately, the knowledge that action by the Commonwealth Government which was widely perceived as contrary to Australia's interests could result in its defeat at the next election.*

According to former Attorney General and Foreign Minister, Gareth Evans:

The fact is that it is the Constitution itself which grants power to the executive government to enter into treaties and grants the legislative power to the Federal government to implement them. It is important to keep in mind that treaty making is not a process carried on in secret or behind closed doors.

This is a strange claim indeed given the refusal of successive governments to give the people a democratic choice regarding the implementation of Agenda 21, and to do so for an astonishing period of 23 years. For 23 years they employed multiple complex mechanisms to bypass democracy and shut the people out of the democratic process and yet Gareth Evans claims "*It is important to keep in mind that treaty making is not a process carried on in secret or behind closed doors."*

This matter has been dealt with in detail by John Stone in Setting the Sovereignty Scene: Use and Abuse of the Treaty Power:

"Protestations to the contrary notwithstanding, it is clear that treaty-making does have implications for Australia's domestic democratic processes, and that those implications have been seriously malignant. First, there is the fact that the process of treaty-making has resulted, when taken in conjunction with the enormously expanded interpretation which the High Court in the past twenty years or so has given to the "external affairs power",[15] in a huge expansion in the powers of the Commonwealth at the expense of those of the States…….There is however another way in which this "democratic deficit" between the decision-makers and the people has been widened via the treaty-making process. It derives from the fact that, increasingly, activists among the ranks of our judiciary, both State and federal, are disposed to seize upon the fact that Australia has ratified a treaty[16] in order to rule for (or against) certain outcomes. The most notorious example of this proclivity to date has been the High Court decision in the Teoh Case in 1995;[17] but there is a growing list of other examples.

It was the President of this Society, the Rt Hon Sir Harry Gibbs, who said that the High Court's widening of the interpretation of the "external affairs" power of the Constitution had now advanced so far that one could almost replace the two words "external affairs" in s.51(xxix) by the single word "anything".[18] The seriousness of that statement -- and more fundamentally, the seriousness of the situation to which it referred -- can hardly be overstated. As Dr (now Professor) Greg Craven has pointed out in several of his papers to this Society analysing the performance of the High Court of Australia,[19] there is probably no single aspect of judicial activism on that body's part which has done more to bring into disrepute the highest court in our land.[20]

The results are obvious. First, government from Canberra has now intruded into almost every facet of peoples' lives. Powers which, at the time of federation, were carefully withheld from the Commonwealth by the framers of our Constitution, are now exercised almost daily by Ministers in Canberra on the basis that, legally, to do so is necessary for the implementation of some treaty or other into which the Executive has entered and where, according to the High Court, that now means that the Commonwealth's writ must run……..

There has been anger at the way in which the federal compact has been almost conspiratorially eroded, and without reference (in those respects) to the people via the referendum mechanism of s.128.[21] There has been a growing sense of betrayal. Above all, and most dangerously of all in terms of the long-term health of the nation, there has been a growing loss of faith both in the system and in those who administer it (Commonwealth Ministers, their officials, and the federal judiciary -- not excepting even the High Court of Australia). Is it any wonder that this growing sense of despair should give rise to such phenomena as the rise of Pauline Hanson? Or that the seeds of Hansonism should still be there, waiting to be tilled anew, even though that lady herself may have effectively disappeared from the political scene?

Gareth Evans defence of international agreements must be seen in the light of the monstrous betrayal of the Australian people by all those governments and politicians who were involved in implementing the UN Agenda 21 program in Australia while bypassing normal democratic procedures. Gareth Evans of course, was part of the government that introduced Agenda 21 to Australia. In 1994 Gareth Evans addressed the 49th General Assembly of the United Nations with his speech, "Reintegrating the United Nations", in which he advised the UN that they must 'monitor' Australia effectively to ensure the implementation of Agenda 21:

"For its part, the Committee on Sustainable Development must develop a genuine capacity to monitor the implementation of Agenda 21, using its political influence to bring about an observable difference in approaches to environment and development."

If Gareth Evans was concerned about democracy and ensuring *" treaty making is not a process carried on in secret or behind closed doors",* then why not address the Australian people, not the UN?

4. International Agreements & Treaties are 'Non-Binding' & are Unenforceable Under Australian Law.

According to the Australian government: *In the absence of legislation, treaties cannot impose obligations on individuals nor create rights in domestic law. Nevertheless, international law, including treaty law, is a legitimate and important influence on the development of the common law and may be used in the interpretation of statutes.*
According to former Attorney General and Foreign Minister, Gareth Evans: *The impact of treaties on Australian domestic law has received a good deal of attention lately. The basic point to be noted here, again, is that the terms of treaties do not create rights or obligations in Australian law in the absence of legislation. Creating such rights and obligations is a role reserved for Parliament under the Australian Constitution. That is not to say that treaties to which Australia is a party do not affect Australian law at all. The courts have traditionally used treaties to which Australia is a party in a limited way - to resolve ambiguities in legislation, and as a guide in developing the common law (i.e. judge-made law - where there is no legislation), particularly where a treaty declares universal fundamental rights. In addition, treaty provisions could quite properly be taken into account in the exercise of a discretion by an administrative decision maker: decision makers did not have to take a possibly relevant treaty into account, but if they did, they would not be taken to be in error.*

There is possibly no better example of the elaborate schemes used by governments to undemocratically introduce laws to force Australians to comply with the dictates of the UN than the UN Agenda 21/ sustainability program. As the Australian government admits in their "Road to Rio+20" fact sheet:

"Australia has participated in sustainable development discussions for more than four decades. We have signed international treaties, supported regional initiatives and enacted international commitments through new laws and policies at home……."

This is in spite of the fact that successive governments pretended for 23 years that Agenda 21 is "non-binding".

In their study, "*An Overview of Enforcement and Compliance Mechanisms in International Environmental Agreements*", Hajost and Shea note that incorporation into domestic law is frequently a requirement of international agreements:

"parties to international agreements are bound by general international law to carry out their treaty obligations, which include the adoption of appropriate and necessary domestic legal measures. This helps to assure other parties that each state has taken the required domestic steps to review and implement obligations. Many agreements contain explicit language obligating states to adopt national legislation aimed at preventing and punishing violations of the agreement."

According to Chris McGrath in "Synopsis of the Queensland Environmental Legal System":

"International considerations may also influence the Queensland environmental legal system through international debate and policy documents (sometimes called "soft law") such as Agenda 21 and The Earth Charter forming the basis for government policy…… The Queensland Parliament has enacted over 30 pieces of legislation that directly regulate activities impacting on the environment……. The Sustainable Planning Act 2009 (Qld) (SPA) recently replaced the Integrated Planning Act 1997 (Qld) (IPA) as Queensland's principal planning legislation…….. SPA is a complex

piece of legislation but a conceptual structure of it is shown in Figure 4. Its overarching purpose is "ecological sustainability"

Chapter 2 of The Environmental Law Handbook, a publication of the Environmental Defenders Office of Tasmania, also highlights the fact that international agreements are commonly a source of domestic legislation:

"Australia is signatory to over 90 international environmental agreements, (on issues such as World Heritage, climate change, protection of wetlands and endangered species, marine pollution, and biodiversity). To give effect to these treaties, the Commonwealth has put into effect a range of national Acts and agreements to attempt nationwide compliance."

Although the then Foreign Minister Gareth Evans was advising the UN in New York in 1994 that the UN must 'monitor' Australia effectively to ensure the implementation of Agenda 21, the same message was not being communicated to the Australian people, especially during election campaigns. To the contrary, Australians were being told Agenda 21 is voluntary or non-binding.

The disgraceful undemocratic anti-Australian tactics which have been utilised by successive Australian governments to force Australians to obey the UN represents the most shameful period of Australian politics.

The Way Forward – should Australia's laws & policies be decided democratically by the people, or should they be decided undemocratically by foreign entities such as the UN?

The UN is besotted by issues that involve the transfer of power from sovereign nations to the UN. Conversely of course, issues which may result in the UN surrendering power to sovereign nations, are generally not popular in the corridors of power at the UN

Alarmingly, 'democratic' national governments are often willing partners in this surrender of power and independence, readily assisting the UN by acceding to international agreements and treaties and transferring funds. International agreements are legally binding if incorporated into domestic laws, or may be considered 'non-binding' if enforced only by pressure and coercion from the UN or the international community. In either case, countries are expected to be good 'global citizens'.

The fact that Australian governments are increasingly exporting governance power to the UN and forcing Australian citizens to comply with imported UN derived 'laws', is abundantly clear. Also clear is the fact that this process is completely open ended, with no government seeking to introduce constitutional reforms to safeguard sovereignty and limit domestic interference from foreign entities. These changes are all in one direction, with no end in sight, and certainly no move to include the people in this process. Successive Australian governments are increasingly calling upon the UN to:

- Control the human rights of all Australians
- Control the environment within Australia, including native vegetation and private property rights
- Control the climate, greenhouse gases, and energy production in Australia
- Control 'sustainability' in Australia
- Control immigration and open Australia's borders

But especially given the UN's reputation is such that it has been described as a dictator's club, ruthless tyrants, or a democracy of dictators, why are successive Australian governments so determined to undemocratically surrender the rights of Australian citizens to the UN? Why indeed are Australian politicians, on both sides of the house, so convinced that Australians should NOT exercise democratic control of their own human rights, environment, borders, etc?

We have seen for instance, the eagerness of successive governments to respond to the dictates of the UN Agenda program by attacking the private property rights of Australian citizens. According to Lorraine Finlay:

"Farmers whose properties are then reclassified for conservation effectively lose the productive capacity and, therefore, the value of their land. As the land itself has not technically been acquired, there is no requirement for compensation to be paid, notwithstanding that the farmer has effectively lost control of his own property and that his property rights have clearly been significantly curtailed"

Lorraine Finlay cites the Institute of Public Affairs:

The dilemma faced by farmers in this highly regulated and bureaucratic environment was clearly outlined in the following example provided by Jim Hoggett from the Institute of Public Affairs:

> *Farmer Jim is thinking of felling one of the 20,000 trees on his property for fenceposts. He has used up his 30 tree (0.15 per cent) exemption. He looks alone of the 19,970 trees. He has to consider: what slope it is on; whether it has a rare species; whether it has any hollows or is on the way to having hollows; what native animals or birds are feeding off it or are likely to do so; what effect it has on the forest canopy; whether it is near a stream; whether it is of aboriginal significance; etc., etc. Then he will be in a position to make a lengthy submission to government seeking permission to fell. Welcome to the world of tree-by-tree approvals.*

The fact that this process is entirely undemocratic and open ended, with no politician expressing any interest in imposing any limitations, is alarming.

Another example is the UN push for open borders and Australia's immigration/refugee policies. As John Stone disturbingly points out in Setting the Sovereignty Scene: Use and Abuse of the Treaty Power:

"*Take, for example, the UN Convention on Refugees, which will be the subject of the Hon Peter Walsh's immediately following paper. If only for that reason, I shall not refer to that treaty in detail. Suffice to say however that, to the average Australian, the obligations under which Australia apparently labours as a result of our accession to that Convention are as amazing as they are, simply, democratically unacceptable. The pass to which we have been reduced -- and which must make Australia's name a laughing stock wherever any group of people smugglers is gathered together -- is nothing short of extraordinary, as I am sure Mr Walsh will be telling us. It simply does not make sense, under such circumstances, to assert that, those facts notwithstanding, our sovereignty has been in no way impaired merely because the Convention in question contains provisions for us to withdraw from it! That seems to me to verge on doubletalk."*

Constitutional Solutions Needed

There is no doubt that all these issues deserve nothing less than to be protected by the Australian Constitution. According to John Stone:

"*As that comment suggests, there is in truth only one conclusion to be drawn -- namely, the need for a constitutional amendment to hobble the Commonwealth's use of the treaty power for purposes for*

which, clearly, it was never intended. Such an amendment was drafted some years ago by another speaker to this Society, Dr Colin Howard.[24] Not surprisingly, it has not found favour with even the so-called "conservative" side of Canberra politics -- which, when the chips are really down, is just as power-hungry as those who sit opposite it. But, as the recent public utterances of the Chief Minister of the Northern Territory may suggest,[24] its time, I believe, is coming."

As noted by Stephen Donahue, better separation of the powers of the Executive and the Parliament is needed:

"A better approach would be to radically re-define the respective powers of the executive and legislature, removing the power to ratify treaties from the executive until approval to ratify has been granted by the legislature. Such a system would have a number of advantages. First, it would ensure that Parliament was not placed in the position of putting Australia in breach of its international obligations if it refuses to pass implementing legislation. This gives the Parliament much greater freedom to assess the merits of any particular treaty. Second, it would reduce the ability of the executive to make profound changes to Australian society without the assent of Parliament."

Any politician who has democracy and the welfare of Australian citizens at heart will give top priority to constitutional amendments to restore democracy, strengthen sovereignty, and benefit ALL Australians. Attempts to amend the Constitution to divide Australia and benefit certain racial groups must be rejected. Likewise, attempts to strengthen the role of Councils instead of protecting democracy, should also be rejected.