LDP Policy Suggestions

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# Human Rights

### The Right to Life

#### Decriminalise pre and post-mortem mercenary organ trading

In 2008 Canberra nephrologist Gavin Carney suggested permitting the organ trade, which “would ***save thousands of lives*** and billions of dollars in care for sick patients who have to wait up to 10 years for a donor kidney.[[1]](#footnote-1)”

What better policy for libertarians to embrace, and be identified with, than one that:

* defends a person’s right to treat their body as they so choose;
* saves lives by utilising the market to encourage more people to offer an organ to terminally ill patients.

The LDP’s current policy on immigration, “Replace the current points-based quota system with a tariff system where immigrants pay for the right to become a permanent resident” was first developed by Nobel Prize winner and University of Chicago professor of economics, the late Gary Becker. Like Ron Paul[[2]](#footnote-2), he also advocated organ sales as a solution to the problem of so many dying from organ failure when the rate of replacement from untimely deaths was never enough to fulfill the shortfall.

<https://www.huffingtonpost.ca/peter-jaworski/organ-trade_b_5267905.html>

<https://www.wsj.com/articles/SB10001424052702304149404579322560004817176>

<https://www.becker-posner-blog.com/2006/01/organ-sales--posners-comment.html>

<https://www.onlineopinion.com.au/view.asp?article=15557>

### The Right to Liberty

#### The right to leave the country

During Covid lockdown an Australian, not under any criminal investigation or other government inquiry or summons, did not have the arbitrary right to leave the country, but first had to prove they had “good reason” to leave, due to return Covid quarantining.

As long as one is made aware of the costs and inconvenience of returning, a person must always have the right to leave without requiring permission.

#### The prohibition of compulsory military or any other service.

With the obvious exceptions of petty service such as jury duty.

### The Right to Property

#### The prohibition of the law of Adverse Possession

Adverse possession is an Australian law that grants a person legal title to a property on no greater claim that he has lived on it, without permission, for a set period of time (usually around 14 yrs).

<https://en.wikipedia.org/wiki/Adverse_possession>

<https://www.theaustralian.com.au/weekend-australian-magazine/finders-keepers-how-a-squatter-can-claim-a-house/news-story/57e5c8c7ff503bde38127ea45ac7ebab>

#### The right to manage your own land

Subject to potential harm done to your local and regional neighbours, a landowner, urban or rural, should have the right to treat his real property as he/she so chooses. In 2002 and 2017 landowners in Victoria and Qld[[3]](#footnote-3) respectively, were fined for cutting firebreaks too large on their own land.

<https://www.dailymail.co.uk/news/article-7678955/Black-Saturday-survivor-fined-cutting-trees-supports-hazard-reduction.html>

### Recognition of possession of your own person

#### Decriminalise Voluntary Euthanasia

#### Decriminalise Price Based Surrogacy

A 2016 [study](https://www.abc.net.au/news/2016-12-01/commercial-surrogacy-legislation-push-the-price-of-life/8077862) published in the Australian and New Zealand Journal of Obstetrics and Gynaecology found almost 60 per cent of the people who had a view of mercenary surrogacy thought the current ban against it unjustified. Of those, some thought the price should be determined through negotiation, while others thought $15,000 a reasonable figure.

The Australian blanket prohibition is not replicated everywhere. Not only the Ukraine and Russia, but also the US states of California, Texas, Florida, Arkansas, Wisconsin, New Hampshire and Vermont tolerate mercenary surrogate births.

<https://www.onlineopinion.com.au/view.asp?article=20284>

### The Rule of Law

##### Current Law

Incredible as it may sound, in Australia judges and magistrates retain immunity to commit crimes in the performance of their official duties. (*Fingleton v R (2005) HCA 34*). Also, in 2020 West Australian Premier Mark McGowan introduced legislation to retrospectively and unilaterally change some details of a contract made six years earlier with a mining magnate. The legislation also included the removal of all rights of appeal over the new contract as well as criminal immunity for the state and its agents with regards to any prosecution or litigation that may arise from the repercussions of the legislation[[4]](#footnote-4).

##### Suggested Reform

Constitutional Amendments:

* No person can be prosecuted, fined, taxed or suffer a disadvantage due to an action that occurred prior to the creation of the law covering that action.
* Unless in exchange for a benefit to the people, no person can be granted immunity for any crime committed.
* Where legislative or executive action by a federal, state, or local government causes financial loss, or otherwise prevents legitimate financial gain to a person or organisation, or small group thereof, and the action is not in consequence of a wrong done, then that government must compensate the entity or entities to the best estimated market value.

### Democracy

#### Citizens’ Initiated Referenda

<http://www.austlii.edu.au/au/journals/GriffLawRw/1998/15.pdf>

#### Voluntary Voting

<https://www.compulsoryvoting.org/>

#### Proportional Representation

<https://www.proportional-representation.org/>

#### Jury Sentencing

#### <http://www.lawreform.org.au/sentencing.html#jurysentencing>

#### Voter appointment of the judiciary

Let the public have an input in the appointment and removal of judges as done in Japan and many jurisdictions in the United States.

* A Judicial Appointments Board (state or federal) of seven to be elected concurrently at parliamentary elections.
  + The board being the sole body to appoint and remove judicial officers of respective jurisdictions.
  + Also responsible for bias hearings and litigations and prosecutions where a judicial officer is a party.

#### <http://www.lawreform.org.au/seppowers.html>

#### Abolish abuse in government advertising

A constitutional amendment to entrench that ‘any tax payer funded information program legislation would need a super majority of 80%’ to become law, rather than the normal 50.1%.

* + <https://www.theaustralian.com.au/nation/politics/victorian-bureaucrats-referred-to-corruption-watchdog-over-andrews-ads/news-story/50f9eef6705fef7e79fa5dff0d1b2e74>
  + <https://www.theguardian.com/australia-news/2019/mar/30/infrastructure-department-has-250000-a-day-for-ads-before-election>
  + <https://www.theguardian.com/australia-news/2019/jan/31/morrison-defends-36m-for-two-ads-before-election-as-entirely-appropriate>
  + <https://www.businessinsider.com.au/the-government-is-running-new-security-ads-just-before-the-election-2016-4>
  + <https://www.smh.com.au/politics/federal/turnbull-government-to-run-8m-national-security-ad-blitz-during-election-campaign-20160429-goiko0.html>

# The Economy

### Abolish minimum wage

* Approximately 20 countries don’t have a minimum wage, including: Denmark, Norway, Singapore and Austria.
* The dole would still exist, but what would go would be the ridiculous situation where an unskilled person on the dole at $20,000 can’t by law accept a job at $25,000, because the mandated minimum wage is $30,000[[5]](#footnote-5).

<https://en.wikipedia.org/wiki/List_of_minimum_wages_by_country>

### Abolish most government grants

**Business, research, arts, academic, advocacy, “community”, and identity based.**

<https://www.theaustralian.com.au/arts/brisbane-circus-troupe-circa-to-share-in-arts-funding/news-story/9656c9489a5d3a0e0a49f2356822d835>

<https://www.theaustralian.com.au/commentary/opinion/grantgetters-make-easy-work-of-applying-for-government-funding/news-story/3f90036c37769c5e861e9beb54ffc60b>

Google “apply for a government grant” and note how it has become an industry for the cognoscenti.

#### Abuse of Process

Unlike the dole, where if you fit the criteria you can’t be rejected, the process to authorise taxpayers’ money for practically all grants is subjective.

Due to the manifest potential for abuse of process where decision makers let their own personal beliefs, attitudes and biases cloud their judgment, the only legitimate manner for organisations and individuals to receive grants is to directly approach citizens or private organisations themselves.

The most egregious aspect of this state funding is when it goes towards political advocacy groups, such as, but not limited to, ACOSS.

Where we have Prime Minister’s and Premier’s literary awards etcetera, take the funding directly from the Prime Minister’s or Premier’s government salary or pension.

The only probable exception to abolishing state grants could be sporting grants, judged strictly on performance and not on the identity of the applicant, where it is hard to see where personal political opinions could influence a decision.

#### Scientific Research

Scientific research falls under two categories:

* Applied research
  + Advancing agricultural, engineering, chemical, pharmaceutical theories etc., for the betterment of mankind
* Pure research, a.k.a. Basic research
  + Research for its own sake to improve scientific theories such as black holes, bending space time, or discovering why pi is not a finite number.

For reasons of profit, the R&D divisions of large corporations would finance applied research, and regarding pure research, taxpayer funds should be spent on more worthwhile interests than the hobbies of scientists.

There is an argument that beneficial discoveries have been made via pure research. This is true, but a discovery worth $100 million to mankind is not worthwhile if it comes after $200 million of pure research funding. Besides, if the motive for pure research is to hopefully discover beneficial advancements, then it actually comes under the heading of applied research, and thus best left to private R&Ds who would be a far better judge of the feasibility of success when approached by a grant claimant.

### Abolish (govt.) Foreign Aid

* Chris Kenny *The Australian* March 30, 2013 12:00AM
  + Overseas aid agency, AusAid, has become a "behemoth" with 1500 staff working on ways to spend their expanding budget.
  + Our annual expenditure on foreign aid has almost tripled in less than 10 years to more than $5 billion and it is projected to reach almost $9bn in 2016.
  + Both the government and the Coalition are currently committed to an extraordinary aid spending target - increasing it to 0.5 per cent of GDP.
* ‘Foreign Aid Fat Cats’, Herald Sun, 24/April/2013
  + AusAid, the federal govt. foreign aid agency, has more than doubled its staff in just five years.
  + 56% of its 1,528 staff are classified as executive level on salaries from $92,249 to $475,000 (2013 rate)
  + The agency has more senior executives, pro rata, than the agencies of Prime Minister & Cabinet, Treasury or Finance.

<https://www.dfat.gov.au/aid/who-we-work-with/ngos/list-of-australian-accredited-non-government-organisations>

According to the above DFAT site there are over 40 Australian privately run overseas aid organisations.

These organisations succeed or fail in funding by how worthwhile they are viewed by Australians who are interested in foreign aid.

Surely there must be a better way to organise overseas aid than by a politician who may have been recently appointed to his DFAT position and may be tempted to grant aid to countries who offer support for votes in the United Nations.

### Vehicle accident insurance follows driver

* TAC insurance & Greenslips etc
  + Allow option of driver carrying insurance rather than vehicle
    - Tailored insurance would make it cheaper for good drivers
    - Multiple cars owner would not be hammered with multiple insurance
    - Car owner might then be induced to also buy a motorcycle (no 2nd insurance) leading to less road congestion.

# Education

### School vouchers – means tested

One of the most common argument against vouchers is “you want to take money from poor state schools to give to the rich private schools?”

A simple method to neutralise that is to make vouchers means tested according to income or wealth, where **all** eligible students, whether state or private school, receive vouchers of the same value, and state schools only means of taxpayer funding is through the vouchers received from attending students.

### Abolish Government Set Education Curriculum

As much as government would not have the right to deny a licence to a school, subject to all staff possessing police issued “Working with Children” certificates, and other prerequisites associated with an average business, it would have the right to undertake random school inspections, and perhaps give general knowledge tests to randomly selected students. The results of such would be make public so as to give an indication to existing and possible future parents of the merits of the school.

# Law

### Legal Procedure / Due Process

#### Innocent until proven guilty/liable

##### Current Law

Section 361 of the Cmlth Fair Work Act

“it is presumed, in proceedings arising from the application, that the action was, or is being, taken for that reason [discrimination/unfair dismissal], unless the person [accused] proves otherwise.”

<https://fairworklegaladvice.com.au/the-reverse-onus-of-proof-in-general-protections/>

Part 4A Division 1 and Division 2 of the Confiscation Act 1997 Vic (No. 108) declare that the government can place a restraining order (prohibiting sale) on property it suspects was proceeds from a crime or acquired from proceeds of a crime, and after six months, seize it if, by then, the owner cannot prove its acquisition was without taint.

##### Suggested Reform

Contrary to the above laws, a perennial concept in our Anglo-American legal system is that in any proceedings in court, the presumption of innocence shall always fall upon the accused and the onus of proof of wrongdoing of the accused must always fall upon the plaintiff / prosecutor.

Note: There is the obvious exception with regard to defences against a criminal charge when the accused might plead what is called an affirmative defence, whereupon they claim ‘self-defence’ or ‘insanity’, etc, and in such a case, as the accused introduces the excuse, it is up to he/she to prove it.

With regards to the above mentioned Confiscation Act, it would justifiably aid in the prosecution of crime for authorities to have the power to restrain property for a limited period of time, but only to allow the state to prove malfeasance, and not the alternative.

### Criminal Law

#### The punishment fits the crime

##### Current Law

Confiscation of property **used** in a crime.

An objective of the Confiscation Act 1997 (Victoria) is:

“…to deprive persons of the proceeds of their crime **and of property used in the commission of crime**” <https://www.opp.vic.gov.au/Our-Work/Proceeds-of-Crime>

This does not merely mean confiscating a knife, gun or burglary tools used for nefarious purposes, but to confiscate the car used to carry away the stolen 75” TV, and even much more expensive items than that.

The Act itself, at Section 34B, gives an example of a crime occurring in the felon’s rented flat. As the landlord cannot be expected to lose his property, the Act allows another dwelling, owned by the felon, to be confiscated in its place.

Note: the property is not confiscated as a bond to help pay the felon’s fine, but as a punishment in itself, in addition to whatever punishment the culprit may receive.

So if villain A lures a woman into his house to sexually assault her and villain B follows an unaccompanied woman into the park at dusk to commit the same crime, B pays for his crime with a three year non-parole jail term, while A gets the same term as well as losing his $500,000 home.

Section 3 Confiscation of Proceeds of Crime Act 1989 NSW

“The principal objects of this Act are:

(b) to provide for the forfeiture of property **used in or in connection with** the commission of such offences against certain laws of the State,”

##### Suggested Reform

Not only should the suffering of punishment for a felon not exceed the suffering by the victim of the original crime, but the degree of suffering cannot be decided by happenstance, but as much as practically possible be equivalent for all others who commit the same crime.

#### History of witness’s dishonesty cannot be withheld

##### Current Law

In a 2019 rape trial in NSW, the defendant was not allowed to present evidence pertaining to the fact that the claimant had a criminal record of perjury, in fact relating to an earlier claim that she had been raped by another male.

The denial was allegedly due to an existing law that prevents disclosure of a rape claimant’s sexual history.

*Judge calls rape case evidence law an ‘affront to justice’*

<https://www.theaustralian.com.au/nation/judge-calls-rape-case-evidence-law-an-affront-to-justice/news-story/a0a3c792d9fd0d1263847f7d57c330b7>

##### Suggested Constitutional Reform

In a rape prosecution, or any other criminal prosecution, or any other judicial hearing such as civil or family law, evidence of perjury or other acts of dishonesty of a witness or the accuser, cannot be withheld from the jury or decision maker.

#### Costs awarded if not guilty

##### Suggested Reform

In a criminal trial where the accused has been found not guilty, the jury would have the discretion to award full or partial court costs to the state, meaning the defendant would be compensated for legal expenses.

Philip Lillingston

Melbourne

1. ‘Sale of Organs should be legal: doctor’, The Australian, 5th May 2008 [↑](#footnote-ref-1)
2. <https://blog.chron.com/txpotomac/2013/07/ron-paul-end-government-control-of-organ-transplants-and-compensate-donors/#4127101=0> [↑](#footnote-ref-2)
3. https://www.beefcentral.com/news/qld-landholder-hit-with-record-1m-penalty-for-making-fire-breaks-too-wide/ [↑](#footnote-ref-3)
4. https://www.theaustralian.com.au/nation/mark-mcgowan-warns-clive-palmer-legal-action-could-bankrupt-wa/news-story/33c3f01fc834f88e8c2de66f32d8796e [↑](#footnote-ref-4)
5. Actual figures may vary, but for a person without dependants there is a gap between the dole and the minimum wage. [↑](#footnote-ref-5)