

Submission
No 7

**INQUIRY INTO CRIMES (APPEAL AND REVIEW)
AMENDMENT (DOUBLE JEOPARDY) BILL 2019**

Name: Name suppressed

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Partially
Confidential

Double jeopardy is a procedural defence that has a long history in many sovereign nations around the world as a constitutional right or a statutory right. It is also present as an aspirational right on the level of international law, and has long history even back to Roman times.

It is very clear why. Once an issue is dispensed it cannot be dispensed again, a decision of a court must be final; this is what judicial independence is and double jeopardy non-prohibition is a mild violation of this. In this submission I shall not harp about it's history or it's elevated status as a human right, but simply give you a contrast on double jeopardy.

As a concept, it is very close to ex post facto laws, laws that have legal effect before they were enacted, these laws criminalise persons who never knew they were committing a crime at the time, similarly double jeopardy, makes it possible after the acquittal of a person, the possibility of them becoming later criminalised. If we allow issues to be constantly reassessed for no good reason, our criminal process have no certainty we will ultimately undermine our trust in it, and inevitably become a state where nothing is permanent and guaranteed.

It also serves an important safeguard against tyrannical applications of the judicial system. Although Australia seems to be a country that heralds itself in transparency and equal justice, there may come a time when retrials may occur for ulterior motives and not for the crime itself; reversing previous acquittals, rightful acquittals, maybe even for political purposes, even to the point of convicting people for the sole purpose of disqualifying them from things like Parliament or limiting their options to travel overseas, etc. This is the contrast to ex post facto laws that I am speaking about, the same potential for abuse is present here and must be mitigated, and the only way to mitigate this in a country as developed as Australia is for a very strong prohibition of double jeopardy, and even outrightly prohibiting it. We have the resources to bring someone to trial for once and for all.