

By George Williams

Australians like to think that fundamental human rights are breached only in other countries or in our past when the white Australia policy applied and Indigenous people were denied the vote. Unfortunately, the reality is different and today some of our most important freedoms are under challenge.

Recent controversies demonstrate the weaknesses in Australia's human rights record and in our legal system. The debate over the detention of asylum-seekers is probably the best known, but there has also been heated debate about censorship of films and even – in the case of Pauline Pantsdown's satirical song, 'I'm a Backdoor Man' – music. In 1998, members of the High Court found that it remains possible for the federal Parliament to pass laws under the Constitution that discriminate against people on the basis of their race.

This does not sit well with Prime Minister John Howard's statement in 2000 that "Australia's human rights reputation compared with the rest of the world is quite magnificent." After all, this statement even coincided with the national debate over mandatory sentencing, during which a 15-year-old Aboriginal boy committed suicide in jail after serving 24 days of a 28-day sentence for stealing texta colours and a can of spray paint valued at under \$50.

While Howard expressed the commonly held view that our basic rights are well protected, and we are fortunate that the rule of law is firmly entrenched in our political culture, there are too many examples of our legal system failing to protect Australians from the violation of their civil liberties.

Recognition of this has produced Australia's first Bill of

Rights, the *ACT Human Rights Act*, which came into force on 1 July 2004. The Act is based upon the Bills of Rights operating in the United Kingdom and New Zealand, and gives voice for the first time in Australian law to many basic freedoms.

While the Act is limited in whom it protects and the rights it covers, it is an important first step forward. Indeed, Victoria is now also considering whether to adopt a Charter of Human Rights. Attorney-General Rob Hulls has established a committee, which I have been asked to chair, to consult with the community and report on 30 November 2005 on what changes, if any, are needed in that State to better protect human rights. A discussion paper and further information can be found at www.justice.vic.gov.au/humanrights.

As the only western nation without a national charter of rights, these processes are especially important. They are also a much-needed counter to the thinking and rhetoric that has come to pervade Australian politics and public life after September 11. Indeed, what had seemed the unthinkable has apparently become the possible. Today, we live in a world where 'illegal non-combatants' are detained for years without trial, asylum-seekers can be detained indefinitely and torture has emerged for some as a legitimate tool in the fight against terrorism. ■

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