

Operating in a harsher world

By Eva Scheerlinck

A few events in May made me stop and think about what sort of country we live in and what role we, as lawyers, play in our democracy. I would like to think that lawyers, along with all other Australians, are fit to comment publicly on our country, its leaders and its achievements. That is our right in a democracy.

Sydney Institute executive director, Gerard Henderson, recently wrote an editorial in *The Sydney Morning Herald*, taking issue with comments made by Amnesty International secretary-general, Irene Khan, who recently told ABC Radio's AM program that the Howard government had a poor human-rights record.

Henderson admitted that Howard and his government had been 'too tough on asylum-seekers circa 2001, but many of these issues had been resolved'. He then said that, 'Contrary to Amnesty's claim, there have been no human rights abuses under the Howard government.'

To say that the Howard government has not been responsible for human rights abuses is extraordinary and, quite frankly, ignores many prominent events in Australia's recent history. Two human rights violations that spring to mind are the government's continued mishandling of asylum-seekers – which Henderson himself acknowledges – as well as the abandonment, for over five years, of David Hicks.

Just a few days after Henderson's denial of any official abuses, John Howard himself demonstrated his compassion when he said that he would ban refugees with illnesses

including HIV and leprosy from coming to Australia, saying 'My view is the best result is that no one with those sort of ailments is allowed into the country.' Apart from being indefensible morally, and probably unworkable practically, this stance directly contradicts our obligations under the *United Nations Universal Declaration of Human Rights* (Article 1). This states that 'All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood [my emphasis].'

Also being chastised for his views by Henderson was prominent Melbourne silk and Australian Lawyers Alliance member, Julian Burnside QC, following his unfavourable comparison of Howard with the Liberal Party founder, Robert Menzies. Mr Burnside said, 'I think Menzies would be excluded from John Howard's Liberal Party, and he would probably not wish to join it.'

I recently met the vice-president of the NSW Council of Civil Liberties (CCL), Pauline Wright, to discuss a jointly organised event to take place later this year. During our discussion, she pointed out that the CCL is now perceived to hold left-wing beliefs, despite the fact that it is saying more or less the same sorts of things that it was saying 30 years ago, when it was considered to occupy the middle ground between the two major parties.

The arguments put forward by both Julian Burnside and Pauline Wright show how far Australian society and politics have hardened their beliefs over recent years, and created a context in which human rights abuses might



not stand out as much as they did 30 years ago. As a result, lawyers now need to work even harder to have their concerns heard in the community.

The rights of the individual are at the core of our beliefs, and our role is constantly to ask others to be responsible for their actions, whether they are insurance companies, big business, the criminal justice system or government. Having said that, it is also Mr Henderson's right to be heard.

In the words attributed to 18th century French philosopher, Voltaire, "I do not agree with what you have to say, but I'll defend to the death your right to say it." ■

Notes: 1 G Henderson, 'Amnesty, from the Practical Truth', *The Sydney Morning Herald*, Tuesday 29 May 2007, p11.

Online version at <http://www.smh.com.au/news/opinion/amnesty-from-the-practical-truth/2007/05/28/1180205157472.html>.

2 <http://www.smh.com.au/news/national/ban-refugees-with-hiv-pm/2007/06/01/1180205464345.html>.

3 *Adopted and proclaimed by General Assembly resolution 217 A (III) of 10 December 1948* at <http://www.un.org/Overview/rights.html>.

4 <http://www.news.com.au/dailytelegraph/story/0,22049,21781452-5006009,00.html>.

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