

JustComment

www.erc.org.au

A joint publication of Edmund Rice Centre for Justice and Community Education &
The School of Education, Australian Catholic University

Voices in the wilderness: dissent under threat

"The dissenter is every human

being at those moments of his life when he resigns momentarily from the herd and thinks for himself"

Archibald MacLeish, poet and three-time Pulitzer Prize winner

Dissent is about thinking, questioning and challenging the status quo. It involves taking action to stand up for what one believes is 'right', whether that means voicing an opinion, petitioning, whistle-blowing, boycotting or protesting. Indeed, some of the most positive instigators of positive social change – Mahatma Ghandi, Nelson Mandela, Martin Luther King Junior – have been regarded as dissidents by authorities. In this issue we explore the suppression of dissent, a phenomenon which appears to be spreading through all levels of government and sectors of society, and which poses a serious threat to the health of our democracy.

Attempts to Tame Non-Government Organizations

Non-Government Organisations (NGOs) act as an intermediary between community groups and the government, and are able to represent the interests of the marginalised. Recently, however, their functioning has been compromised: many charities reliant on government funding are now cautious of criticising or lobbying the government, fearful they will lose their funding. This comes after the draft Charities Definition Bill 2003, in which the official 'charity' classification was to be re-defined so those organizations whose purpose was to change a law or government policy, or for whom advocacy played a role that was more

than 'ancillary or incidental', would no longer be entitled to official 'charity' status.¹ Only charities are able to issue tax-deductible gift receipts or access Goods and Services Tax and fringe benefits concessions; for many smaller NGOs this would have led to their indirect de-funding, and hence limited (or terminated) their operations. Although the Bill was eventually rejected, many NGOs remain cautious about engaging in political advocacy or criticizing Government policies, fearful that their charitable activities will be compromised.²

In April 2004 the Federal Government released a report commissioned by the conservative think-tank, The Institute of Public Affairs (IPA), titled *The Protocol: Managing Relations with NGOs*. Gary Johns, who co-authored the paper with John Roskam, has been publicly critical of NGOs in the past, claiming that they "consist of mail-order memberships of the wealthy left, content to buy their activism and get on with their consumer lifestyle."³ There has been much criticism from the NGO sector over the Government's choice of the IPA to review the relationship between government and charities. It is perhaps not surprising that the IPA's report was critical of NGO involvement in the policymaking process, and urged the Federal Government to withdraw financial support for NGOs involved in advocacy.⁴



Opinion in the Media

The stifling of dissent is present in many aspects of social life, including the media. Conservative commentators in the Australian media frequently use pejorative terms to silence those critical of the Federal Government. Recently, critics of the Government have been dismissed as 'Howard Haters', their concerns about the Government rejected as a petty, personal dislike of the Prime Minister⁵ from 'slick inner-urban elites'.⁶ In fact The Australian columnist Janet Albrechtsen has labeled those frustrated with Prime Minister John Howard's governance as 'feral sledgers'⁷, and Paul Sheehan has termed individuals concerned with the environment and matters of social justice as 'the Permanently Outraged'.⁸ Such terms grossly simplify genuine concern about government policy, and threaten ridicule for individuals with dissenting opinions.

Revised Sedition Laws

Traditionally Australia has had a history of allowing all ideas to be publicly debated, contested and exposed.⁹ The recent revision of Sedition laws endangers this environment, and may now encourage creative and academic self-censorship.

Sedition laws have been part of Commonwealth legislation since 1920 – though historically they have rarely been invoked.¹⁰ Under the Anti-Terrorism Act 2005, an individual commits sedition if they urge the overthrow of the government or constitution, interference in parliamentary elections, or violence within the community.¹¹ Further, if an individual urges disaffection against the Government or brings the Sovereign into contempt, they are considered to have ‘seditious intent’. The penalty for acts of sedition is now seven years imprisonment (increased from three).

Sedition laws have faced much criticism, not least because of the vague language used throughout the Bill. Individuals can now be charged with ‘urging’ violence or disaffection, despite there being no description of what ‘urging’ means.¹² The cartoonist Bill Leak believes that sedition is a basic component of satire, and Australia has a history using humour to express political discontent.¹³ These revised laws are worrying because even popular and seemingly-benign commentary, such as The Chaser’s War on Everything, could well be accused of ‘urging disaffection’. To allay fears, the Government has stated that individuals will not be charged with sedition if they were acting ‘in good faith’ (although the onus is on the individual to prove this was the case).¹⁴ The Australian Law Reform Commission has deemed the ‘in good faith’ defense as “inappropriate” and “inherently illogical” because, in reality, this defense only protects a very limited form of political expression; there are no special provisions to protect artistic expression or academic and scientific discussion¹⁵.

Never doubt that a small group of thoughtful, committed citizens can change the world. Indeed, it is the only thing that ever has.

Margaret Mead

Further, the Australian Law Reform Commission stated that such a law may “unduly impinge on freedom of expression, to the extent that it captures merely dissenting opinions about government policy.”¹⁶

Gag Orders: Freedom of Speech Threatened

David Hicks, recently convicted of supplying material support to terrorists, declared that he has “never been illegally treated by a person or persons while in the custody of the U.S. government” as part of his plea deal. This is despite lodging an affidavit in December 2004 alleging that he had been tortured and severely mistreated, including having been tortured, beaten and deprived of sleep.¹⁷ In a surprising turnaround, his statement read by Major Mori thanked U.S. service members for their professionalism during his imprisonment.¹⁸

As part of his plea bargain, David Hicks was issued with a year-long ban from speaking about his activities in Afghanistan, the conditions of his capture and detention, or his alleged mistreatment while detained in Guantanamo Bay.¹⁹ Australian Constitutional Law experts believe that this breaches Australian guarantee of free political discussion.²⁰ While the Australian Attorney General, Phillip Ruddock, agreed that the gag order would be near impossible to enforce in Australia, Hicks’s lawyer Major Michael Mori stated that if Hicks was to violate the terms of the pre-trial agreement, he may be forced to serve out the remainder of his seven-year sentence at Guantanamo Bay.²¹ This is a threat which stifles not just free speech, but justice.

Banning of Boycotts

Boycotts allow people the opportunity to demonstrate their ethical convictions, draw attention to situations of injustice and contribute to positive social change in a democratic way. An example is the mass demonstrations against South Africa’s apartheid regime and its all-white sports teams. Throughout the Springbok’s 1971 tour of Australia, a number of Australian airlines refused to transport the South African team, seven Wallabies refused to play the Springboks, crowds viewing the game were dramatically reduced and there were mass public protests.²² Such action caused the Prime Minister, Gough Whitlam, to call a national boycott of South African sport.²³ It is thought that international boycotts of South-African sport played a significant role in the country’s abolishment of its apartheid regime.

Australia’s history of effective boycotts may now be jeopardised as the Treasurer, Peter Costello, plans to make it easier for the Australian Consumer Competition Commission (ACCC) to take legal action and sue organizations over boycotts. The shift comes after PETA (People for the Ethical Treatment of Animals) announced an international boycott on Australian wool, as a protest against the practice of mulesing (removing the skin of young sheep’s hind legs and backside – without any painkiller – to prevent painful death by fly-stroke). Mr Costello believes that the Australian Wool Industry has a right to sue PETA for any financial losses that resulted from the boycott.²⁴ This is an extension of an existing law that can penalize unions for hindering or preventing the supply of goods and services to or from a company.²⁵ However such a move raises concerns about the stifling of organized, lawful protest in Australia.

A healthy society values freedom of speech, politically engaged citizenry, and safeguards on power and authority. A healthy society, in short, will value dissent.

Full references on the ERC website.



Edmund Rice Centre
AWARENESS • ADVOCACY • ACTION

9 Alexandra Ave, Croydon 2132
Phone (02) 9745 9700
Fax (02) 9745 9770
Email zeena@erc.org.au
Web www.erc.org.au



179 Albert Rd, Strathfield 2135
Phone (02) 9739 2100
Fax (02) 02 9739 2105

This material is the sole property of the Edmund Rice Centre for Justice & Community Education and the School of Education of the Australian Catholic University. Reproduction is not permitted without the permission of these organisations.