

# Libertynews

February 2007

## From the President

In my first column as President of Liberty Victoria, it is appropriate to acknowledge Brian Walters' outstanding term as President. He consistently maintained Liberty's public presence and was calm but resolute in advancing Liberty's message. Following Brian I hope not to disappoint.

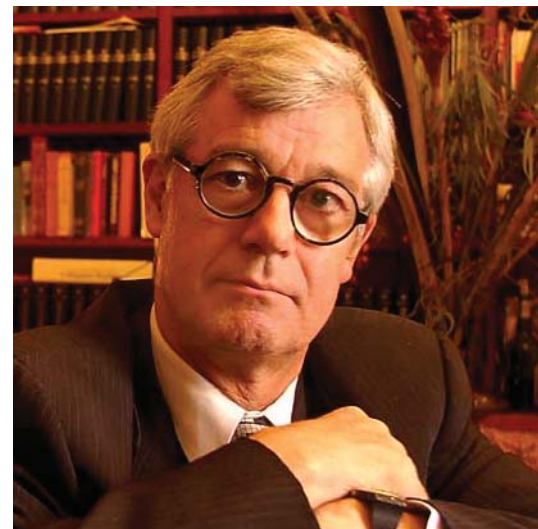
I come to the position at a fortunate time: the Victorian Charter of Human Rights and Responsibilities has just come into operation. The next two years will be interesting as we watch, expectantly, the development of this new child so keenly anticipated. I expect Liberty Victoria will play a significant part in shaping the Charter's early life. However this will depend on the chance occurrence of cases in which the Charter may have a role to play. I hope Liberty Victoria will work co-operatively with PILCH and the

Human Rights Law Resource Committee when those cases arise.

I have two more immediate objectives in my term as President. The first is to increase the involvement in Liberty's activities of members of Gen-X and Gen-Y: namely, people aged from about 18 to 35. My involvement in refugee cases over the past six years has convinced me that there are many in that group who are smart, articulate, motivated and deeply concerned about human rights and civil liberties. They feel they have not been "invited to the party" yet. Liberty's present membership is relatively small and weighted to the grey end of the baby boomers.

I propose to establish a new form of participation in Liberty Victoria – e-membership – which will attract Gen-X and Gen-Y and enable them to engage fully in the issues which concern Liberty Victoria. My objective is to attract up to 10,000 e-members, who will help take Liberty's message into the public arena and who in turn will benefit from involvement in Liberty's campaigns.

The second objective is to help establish a truly national Council for Civil Liberties. The ACCL does an excellent job, due to the tireless work of Terry O'Gorman and a handful of others. However, it does not have true national reach, and does not fully harness the energy and resources of the other Councils for Civil Liberties in Australia. Most human rights abuses



in Australia today are a consequence of Federal Government policies and the scorn for human rights values shown by senior members of the Federal Government. A truly national Council for Civil Liberties – one with the authority of the ACLU in America – is much needed in Australia today.

Two years may not be long enough to achieve these objectives, but I will do my best. Of one thing I am sure: I will not be able to rival Jamie Gardiner's heroic 25 years of service to Liberty Victoria. Jamie has been a champion of civil liberties for a very long time. His contribution is beyond measure. To him, and to Brian Walters, I offer my thanks and admiration.

**Julian Burnside QC**

### Fundraising film night – Tuesday 27 March at 7pm

*"The Lives of Others"* at the  
Nova Cinema, Lygon Street, Carlton.

At once a political thriller and human drama, *THE LIVES OF OTHERS* begins in East Berlin in 1984, five years before Glasnost and the fall of the Berlin Wall and ultimately takes us to reunited Germany.

More details to be emailed later.

*Book it in your diary now and encourage your friends to come along!*

**Liberty**

VICTORIAN COUNCIL FOR CIVIL LIBERTIES

#### Also included

- Priorities for 2007
- Taking a stand
- Smart card?

## Priorities for 2007

In February Liberty's Committee set priorities for 2007. Four issues were singled out – Australian values, national/state human rights, silencing dissent (including censorship and freedom of speech) and democracy – plus a continued watching brief over David Hicks.

Position papers for each issue will be prepared and a series of actions planned so Liberty members may become involved. The position papers and actions will be posted on the website and sent to members.

## Thank you!

Thank you to members who responded to Liberty Victoria's survey. The replies are helping to formulate our future marketing and PR efforts. The majority of members were satisfied with what Liberty is doing. Most join because of Liberty's leadership on civil liberties and human rights issues and are concerned about freedom of speech in Australia, the Federal government's attitude to refugees and migrants and the anti-terrorism legislation.

## Handing Over

### Brian Walters SC

Every generation faces its own challenges. Here in Australia, in a remarkably short time, we have moved from a society where the protection of human rights was a political "given" to a body politic where human rights are routinely violated and even ridiculed. Asylum seekers, terror laws, Guantanamo Bay, the ID card, control orders, sedition laws – the challenges to human rights are assailing the Australian community thick and fast.

In the face of an unprecedented assault on human rights, it has been an immense privilege to oversee the response by Liberty Victoria for the past two years. In some cases, we know we have made a difference. But the need for the voice of Liberty to be heard has never been greater.

What a privilege it is to be able to hand over to Julian Burnside QC. Julian has a proven record as a campaigner for human rights, especially in his advocacy for asylum seekers. When Liberty Victoria took the Tampa litigation in the Federal Court, it was Julian who led the legal team. And he has conducted many other civil liberties cases. Julian has spoken and written widely on rights issues. It is very timely that he should now be the president of Liberty Victoria.

The challenge for our generation is to build an Australia which is governed by the rule of law, not the whims of men; to build a nation which recognises that the greatest security of all lies in the protection of human rights – our bulwark against tyranny; to build an Australia which includes all sections within the community – a nation whose generosity and tolerance allows the creativity of our community to flourish and find its full expression.

## Taking a stand

### Charter of Human Rights

Liberty Victoria welcomes the Government's Charter of Human Rights and Responsibilities legislation. Victoria is the first State to legislate adherence to the civil and political rights treaties Australia has promised to uphold. The Charter is a great achievement but needs to cover economic, social and cultural rights.

### David Hicks

Liberty joined forces last year with Amnesty International and Civil Rights Defence to organise the highly successful Bring David Hicks Home rally. Over 3,000 people attended the rally and speeches.

### Anti-money laundering bill

Liberty outlined its concerns on the Anti-Money Laundering and Counter Terrorism Financing Bill. Joo-Cheong Tham's submission argued the bill was discriminatory, eroded the rule of law and undermined privacy. The submission, along with others, is on [www.libertyvictoria.org.au](http://www.libertyvictoria.org.au)

### "Right Now"

Right Now is a new human rights magazine produced by university students in Melbourne. The first issue will be released in March 2007 and is available in all Australian university libraries. Contact the editor Henrietta Zeffert at [zeffert@unimelb.edu.au](mailto:zeffert@unimelb.edu.au)

### Liberty turns 70 and celebrates the centenary of Brian Fitzpatrick

Mid last year Liberty Victoria held a dinner to honour the life of Brian Fitzpatrick and the 70th anniversary of the Victorian Council for Civil Liberties (Liberty Victoria). Fitzpatrick was a leading economic historian and Australia's most prominent and resolute civil libertarian. He campaigned on behalf of Jewish refugees in the 1930s and 40s, and against the banning of the Communist Party in the 1950s.

### Death penalty

Saturday 3 February 2007 was the 40th anniversary of Ronald Ryan's death by hanging, the last execution in Victoria. Liberty is gravely concerned the Australian Government's tacit, if not blatant, approval of the execution of Saddam Hussein and death sentences imposed on the Bali bombers has put the Bali 9 and other Australians at grave risk and severely compromised our ability to eradicate the death penalty.

### Kurdish Workers Party

Liberty Victoria has called on the Senate to overturn the Attorney-General's decision to list the Kurdish Workers Party (PKK) as a terrorist organisation. Liberty says the decision undermines the negotiations for peace.

# Smart card? Not at all

By Michael Pearce SC

The Federal Government, by introducing into Parliament the newspeak-inspired Human Services (Enhanced Service Delivery) Bill 2007, has embarked on the first legislative phase of its proposal for a national ID card.



The proposal is based on a number of deceptions.

The first and greatest of which is that the card, styled an "Access Card", will not be an identity card. The Government says the card will only be used to enable holders to have access to Government services, hence the benign misnomer. Yet the Government's own propaganda for the card promotes its main virtue as being to enable more rigorous identification of benefit recipients.

This is then said to lead to a host of other positives in combating fraud, identity theft and other crime. This is part of the Government's standard blanchmange of rhetoric supporting all its recent encroachments on civil liberties and privacy.

Instead of promoting an open public debate on whether its proposed card will have the promised benefits and whether those benefits will outweigh the disadvantages, the Government in April last year simply announced its intention to introduce the card.

The announcement was supported by a report from accountants KPMG which the Government has used to project billions of dollars of savings for the Government from such a card. It has been impossible to scrutinise properly the KPMG report because key parts of it have not been publicly released.

Even if the savings projections are accurate there is still a serious question whether they justify the non-monetary costs of the card. The Government has shown no interest in a debate of this kind. Instead it released a draft exposure Bill shortly before Christmas and called for public comment by 12 January. Less than a month later it has introduced legislation into Parliament which takes little or no account of the public submissions on the exposure draft.

A group called "No ID Card", whose members include the Australian Privacy Foundation and Liberty Victoria, has been formed to agitate for a proper public debate to bring out the following important issues the Government refuses to face. They are:

- This will be an ID card even if the legislation seeks to prohibit its use as such. The very strength of the card will be its enhanced identification integrity.
- The premise that there will be no 'function creep' – the Government cannot guarantee this because it cannot fetter the powers of future Parliaments.
- The Government's promise of data protection is no more credible than its guarantee that there will be no function creep. The Government can create a data protection regime by legislation and other prescription but cannot ensure compliance.
- If the Government is so sure of the billions of dollars savings from the card, why not release the KPMG report in full and permit independent scrutiny?

One thing is certain, though. The Government will not be dissuaded from its course of introducing the ID card. There is little point in seeking to engage it in debate over the precise form of its legislation. The campaign must look beyond that to ways of frustrating its implementation. That, by the way, is what stymied the last attempt to introduce a national ID card.

*A complete copy of this article appeared in The Age, 14 February 2007, and can be seen on [www.libertyvictoria.org.au](http://www.libertyvictoria.org.au)*

## Thank you Jamie Gardiner

Liberty Victoria congratulates Vice President Jamie Gardiner on more than a quarter of a century service on the committee.

Jamie joined the Liberty Committee in 1980 at a time of crisis for the organization. He came to the committee after campaigning for several years for homosexual law reform. The campaign resulted in legislation later in 1980.

Jamie was involved in the establishment of the Equal Opportunity Commission in Victoria. Following the World Conference on the Status of Women held in Mexico in 1975, Liberty committee member Julian Phillips, and others, lobbied for an Equal Opportunity Act in Victoria, and this was enacted in 1977.

Jamie was appointed treasurer in 1983, and helped steer Liberty through the then difficult and complex process of incorporation in 1984.

That year also saw Liberty preparing detailed submissions in relation to the Bill of Rights proposed by Gareth Evans, who was then Federal Attorney-General. Liberty engaged Rob Hudson (now a state member of parliament) to carry out research for its submissions.

Although that Bill of Rights did not go forward, the experience and research was used successfully in the campaign for Victoria's Human Rights Charter which has now been enacted.

After a career in mathematics and computing, Jamie returned to university to complete a law degree, so he could better operate in the human rights area.

In June 2000, after a long involvement with the Commission – including serving as a conciliator in the 1980s, Jamie was appointed an Equal Opportunity Commissioner.

A long involvement like Jamie's provides Liberty with a valuable corporate memory, and a wealth of wisdom and contacts. Thank you Jamie.

# Irreversible Consequences

By Andrew Hudson, New York University

In a recently released report, the Center for Human Rights and Global Justice (CHRGJ) reviews the so-called "shoot-to-kill" policies that have been implemented around the world since September 11 2002, including the UK and USA.

The CHRGJ report describes how these policies discriminate against minorities and violate the legal norms on the use of lethal force.

The report discusses how the International Association of Chiefs of Police (IACP) draft guidelines promote the use of lethal force even when the threat of harm is not imminent and where the very existence of a bomb has not

been confirmed. The guidelines mandate police to look for specific behavioural and physical characteristics to identify threats and then aim at the suspect's head and shoot-to-kill.

Officers are encouraged to infer such a threat on the basis of broad and conflicting physical and behavioural characteristics that will in the overwhelming number of case target Muslims, Arabs and South Asians or those perceived to fit into these categories.

In the war on terror, individuals profiled on the basis of their race, religion, ethnicity or nationality have been subject to stops and searches. They have also been illegally detained, deported, "disappeared" or extraordinarily rendered. Such profiling sends the

problematic message that the security of some is worth more than the security of others; or worse that human rights abuses against those who fit into this ill-defined category of "terrorist" are a necessary pre-condition to ensure the security of a nation.

**Fact:** Victoria considered a similar policy in its recently passed anti-terrorism laws.

**Fact:** In 2005, in the UK and the US, the police shot dead individuals who had been mistaken as potential terrorists, according to shoot-to-kill policies.

Further Information: Center for Human Rights and Global Justice, Irreversible Consequences: Racial Profiling and Lethal Force in the "War on Terror" (May 2006) available at: <http://www.nyuhr.org/docs/CHRGJ%20Irreversible%20Consequences.pdf>

**Who's who at Liberty** Liberty Council President Julian Burnside QC Immediate Past President Brian Walters SC

Vice Presidents Jamie Gardiner, Anne O'Rourke, Michael Pearce SC, Spencer Zifcak

Treasurer Robert Niemann Secretary Jonathan Wilkinson Assistant Secretary Sean Huggins Committee Damian Abrahams, Melissa Castan, Greg Connellan, Liz Curran, Kristen Hilton, Mary Lou Jelbart, Phil Lynch, Urfa Mahsood, Lucie O'Brien, Tony Pagone QC, Diane Sisely, Marion Steel, Larry Stillman, Joo-Cheong Tham, Penny Underwood, Stan Winford, Melanie Young.



## Become a member of Liberty Victoria

The price of liberty is eternal vigilance, but for you, it is only \$55 per annum.

### Application for membership

I \_\_\_\_\_  
NAME OCCUPATION

wish to become a member of the Victorian Council for Civil Liberties Inc. (Liberty Victoria).

Address \_\_\_\_\_  
Postcode \_\_\_\_\_

Tel (BH) \_\_\_\_\_ (AH) \_\_\_\_\_

Email \_\_\_\_\_

In the event of my admission as a member, I agree to be bound by the Rules of Liberty Victoria.

Signature \_\_\_\_\_ Date \_\_\_\_\_

### Membership type

- \$55 individual  \$25 student/senior/unwaged  
 \$150 organization  \$90 voluntary organisation  
 \$90 joint membership (2 adults, same address)

### Donation – Liberty needs your support!

- \$25  \$80  \$200  \$other

### Method of Payment

I enclose a cheque for \$ \_\_\_\_\_ payable to Liberty Victoria.

Please debit \$ \_\_\_\_\_ from my credit card.

- Visa  Mastercard  Bankcard

Card Number \_\_\_\_\_

Name on card \_\_\_\_\_

Signature \_\_\_\_\_ Expiry Date \_\_\_\_\_

### Please return this form with payment to

Liberty Victoria, GPO Box 3161, Melbourne 3001.  
Telephone: (03) 9670 6422 Fax: (03) 9670 6433  
[www.libertyvictoria.org.au](http://www.libertyvictoria.org.au)  
[info@libertyvictoria.org.au](mailto:info@libertyvictoria.org.au)

Liberty Victoria is one of Australia's leading human rights and civil liberties organisations. Liberty works to defend and extend human rights and freedoms in Victoria.