

May 2007

# Libertynews

## From the President

Free speech and the right to dissent are fundamentally important to a healthy democracy.

The ability to expose deficiencies in the behaviour of government or big business is an essential first step in ridding the system of abuses, exposing corruption and advocating better ways of doing things. The Cash for Comment scandal of 1999 showed plainly how the misuse of influence thrives when it happens in secret and diminishes when it is publicly exposed. The AWB scandal in 2006 showed how abuses of office can be ended by public disclosure.

Unfortunately, government and big business show an increased desire to hide behind claims of 'commercial in confidence' and narrowing of the scope of Freedom of Information laws. The inevitable result is an increase in the scale and frequency of abuse of power.

While whistleblower legislation is designed to protect those who expose abuses, two journalists were recently convicted of contempt of court for refusing to identify their source of information about misconduct in a government department. They did this in order to prevent a whistleblower from being successfully prosecuted for revealing what he knew. The conviction of the journalists will likely have a chilling effect on conscientious public servants

who are aware of bureaucratic or political misconduct, but fear the consequences of blowing the whistle.

It takes courage to speak uncomfortable truths. It takes courage to risk your house or your job by speaking out about abuses or corruption which would otherwise remain hidden.

Of course, the right to speak freely is not unlimited; it carries with it some serious responsibilities. Recent examples about which different opinions can legitimately be held include the statements made on air by Alan Jones in connection with the Cronulla riots: statements which were found by the Australian Communications and Media Authority as 'likely to encourage violence or brutality'. Jones claimed simply to be exercising his right to free speech.

**"It takes courage to speak uncomfortable truths."**

There is another aspect of free speech which is not often considered. It is this: if minority views have inordinate difficulty getting exposure in the 'marketplace of ideas' then the right of free speech is illusory: without the ability to be heard, the right to speak is meaningless. The present government is skilled at grooming the media so that many journalists see their own interests served



by giving disproportionate coverage to the dominant message and little or no coverage to dissenting views. Andrew Bolt and Alan Jones have voices which reach much wider audiences than their shallow thinking deserve; others with views which are backed by facts and thought find it much harder to have their views heard.

Australia is not well served by the press. Anyone who has spent time in England will see just how narrow our diet of news and opinion is in Australia. We should all consider subscribing to New Matilda ([www.newmatilda.com](http://www.newmatilda.com)): it is one of the few media sources which carries a balanced range of views.

**Julian Burnside**

**Liberty**

VICTORIAN COUNCIL FOR CIVIL LIBERTIES

### Also included

- Photographs for sale
- Dissent under threat
- Forthcoming events

## New honorary secretary

Liberty Victoria welcomes its new honorary Secretary, Georgia King-Siem.

Georgia is a member of the Victorian Bar, and has been actively involved in human rights work for several years. Before going to the Bar, Georgia worked at the Privacy Commission.

She has impeccable credentials for her role as honorary Secretary, and is an efficient and tireless worker. We are grateful to her for taking on this new role.

## Farewell and thank you

We farewell and thank Karina Geddes who has worked on staff with Liberty for over a year. During this time, she has responded to countless civil liberties inquiries, assisted at many events, and regularly provided support to the organisation.

We also farewell Dr Joo-Cheong Tham and Jonathan Wilkinson from the Committee due to work commitments. Both have been tireless ambassadors for Liberty and we wish them well.

# Taking a stand

## Forensic procedures – review of investigation powers

In a submission to the Victorian Department of Justice regarding current forensic procedures Liberty argues that the legal framework contained in the *Crimes Act 1958* breaches the *Charter of Human Rights and Responsibilities Act 2006* (the "Charter"). It argues that the continued review appears to be driven solely by the interests of the police and prosecution authorities. Liberty submits that until and unless the forensic procedures legislation provides for an independent forensic services centre dedicated to the use of accused persons, the existing scheme cannot meet the requirements of the Charter nor of Article 14 of ICCPR. The full submission is available from [www.libertyvictoria.org.au](http://www.libertyvictoria.org.au)

## Gay rights

Liberty has commended the State Government on its proposal to investigate a relationships register for Victoria.

Following the launch of the Melbourne City Council's relationship register, the Attorney-General Rob Hulls announced he would investigate a relationship register for Victoria. A relationship register would allow couples, irrespective of their gender, to register their relationships and have formal recognition at law.

The relationship register would build on the important legislative reform undertaken by the State Government in 2001, with the passing of the Relationships Acts.

That law reform provided same-sex couples the same rights as de facto couples under Victorian law. This new initiative will provide couples with certification of their relationship and improve people's access to justice.

# Buy a piece of photographic history as a Liberty fundraiser

## By Julian Burnside

Wolfgang Sievers was born in Germany in 1913 and came to Australia as a refugee in 1938. He trained at the Bauhaus until the Nazis closed it.

In Australia he established a pre-eminent reputation for industrial and architectural photography. His most famous image was taken at the Vickers Ruwolt factory in Richmond, in 1967. It was used on a postage stamp in 1994.

Earlier this year, Wolfgang approached me and asked me to take possession of all his remaining photographs, in order to sell them to raise money for human rights causes, including Liberty Victoria.

These magnificent photographs span his entire career, from 1933 in Germany through to his retirement in 1985 in Australia. Although he is famous for his industrial and architectural photographs, his work also includes some marvellous surprises: advertising photographs from the 1930s; photographs of aborigines at Weipa in 1956; landscapes of the Kimberleys and many others.

If any Liberty member is interested in buying a photograph – the proceeds will go entirely to Liberty Victoria, contact me on [burnside@vicbar.com.au](mailto:burnside@vicbar.com.au)



## Welcome to new members

Liberty Victoria welcomes the following new members who have joined since January 2007: John Byrne, Bonnie Einsiedel, Angelique El-Asmar, Rys Farthing, Marcus Finlay, Alan James Gobl, Trudy Hairs, Alison Hardacre, Francis Hardingham, John Herbert, John Kerr, Jodie Kewley, Georgia King-Siem, Matthew Kwietniak, Aaron Lane, Helen Lewers, Roderick McPherson, Kate Oldaker, Bronwyn Polson, Rhonda Pryor, Simon Sadedin, Irene Scott, Lindy Smith, Victoria Steggall, Halina Strnad, Mary Walsh and Helen Wanless.

## Reichstein Foundation

Liberty and the 45 Downstairs are filing a joint application to the Reichstein Foundation for funds to present a series of talks on civil liberties. The series will cover a range of issues from privacy, freedom of speech, human rights laws and much more. We'll let you know how we go.

# Dissent under threat

By Anne O'Rourke

Freedom of speech is one of Liberty Victoria's chosen priorities to campaign on during 2007.

Liberty Victoria is deeply disturbed by Governmental, bureaucratic and elite media commentators' attempts to squelch dissent and silence alternative views. There is a palpable fear in many sectors that if one disagrees with populist views their employment or funding will be put at risk or their reputation besmirched by governing elites.

Why should this disturb us? Because, as the American Civil Liberties Union states, 'democracy is not a quiet business'. Freedom of expression and open debate gives life to the exchange of ideas and views underpinning the democratic process. Freedom to dissent, argue and propose – even in robust insulting language or by marching in rallies – makes possible the process of election, representation and implementation. Conformity, censorship and silence undermine democracy.

Over the past couple of years a number of individuals and groups have expressed growing alarm at attempts by the Howard government to silence critics.

Writing in the Griffith Review in 2006, Frank Moorhouse, writer and NSWCCCL committee member, said that 'since the threat of terrorism manifested itself in our lives', he realised that 'some things were becoming unsayable', that we are caught up in a world 'where we no longer

know what we are allowed to know and what we are allowed to say'. Moorhouse provides a chronological list of actions by the Howard Government that pose severe threats to freedom of speech and freedom of conscience.

These actions cover the censorship of both films and books, the silencing of scientists in relation to climate change, the shutting down of Richard Neville's satirical website in March 2006, the cleansing of computers at Black Publishing Inc in June 2004, and attacks on the ABC and the appointment of personal friends and Liberal party members to the board of the ABC. In addition to these attacks, government critics also face constant disparaging comments and personal attacks by government media supporters.

Liberty Victoria believes that democracy cannot exist without dissent and debate. These are the lifeblood of a democracy. Any system that seeks direction of all aspects of public and private opinion through fear and ridicule is incompatible with the democratic ideal. Indeed, attempts at such control bear the hallmark of totalitarianism.

This is especially so in times of war or crisis. It is precisely in such times that Australia needs intelligent, vigorous, and passionate public debate about how to respond to terrorism or other threats. It is not disrespectful to evaluate and dissent from the policies of our government; indeed, the exercise of democracy demands it

## What you can do

It is important that Government know that the public is concerned about encroachments into fundamental rights.

1. Contact your local MP voicing your opposition to government actions.
2. Contact the Prime Minister at: <http://www.pm.gov.au/contact/index.cfm>
3. Leader of the Opposition: Kevin.Rudd.MP@aph.gov.au
4. It is important that you register your concerns with the Opposition as well as the Government.
5. Inform family and friends, organise a speaker from Liberty Victoria to discuss the topic.
6. For more information see Clive Hamilton, *Silencing Dissent*, (2007) Allen&Unwin; Frank Moorhouse, 'The Writer in a Time of Terror' *The Griffith Review*, (2006) Summer.

## Access card win for Liberty

By Michael Pearce SC

Civil liberties and privacy interests had a rare win with the report in March by the Senate Standing Committee on Finance and Public Administration of its inquiry into the introduction of the so-called Access Card.

Liberty Victoria and a number of other civil liberties, privacy and welfare bodies had opposed the legislation because it would create a de facto national ID card.

The Senate Committee, in a rare display of independence, accepted most of Liberty's criticisms of the legislation and recommended that it be withdrawn. It criticised the Government for introducing the proposal in stages. It recommended that, if the proposal is to proceed, it should be by a single Act.

The Senate Committee also accepted Liberty's argument that the Access Card was likely to become a de facto national ID card. It recommended that the photo, signature and number not be included on the face of the card to reduce the risk that the card will be used as a general ID card.

While the Government has now withdrawn the Bill, new legislation will be presented to Parliament in June.

The Government has also indicated that it will not accept the March report's recommendations about the details and in particular on such things as the inclusion of photos, signatures and names on the card.

There is still a long way to go in the fight to prevent the introduction of a national ID card. It will be vital for all those opposed to a national ID card to take every opportunity to voice their opposition to it and make it a key issue in the election.

Act Now!

# Forthcoming Liberty events

## The Annual Alan Missen Oration and Dinner Saturday 11 August

Anna Funder, author of Stasiland, will be the keynote speaker at Liberty's annual dinner on Saturday 11 August.

Anna is a lawyer by professional training, a multi-lingual government negotiator by previous employment and a writer by inclination.

Her first book Stasiland was about the operation of the East German secret police up to the fall of the Wall in 1989. Told from the point of view of victims of Stasi and also from the standpoint of former Stasi agents, it is also about human nature and our veneration for law, our craving for law and order and our willingness to obey.

Final details are now being organised, including venue and price. However to

register your interest in attending this fascinating evening, please email the office on [vccl@iosphere.net.au](mailto:vccl@iosphere.net.au)

## Melbourne Writers Festival Friday 24 August to Sunday 2 September

Liberty will again join with Melbourne Conversations, a City of Melbourne initiative, to discuss freedom of speech during the Melbourne Writers' Festival.

This year's presenter will be author Eli Shafak who, in September 2006, was acquitted of charges of "insulting Turkishness" under Article 301 of the Turkish Penal Code for comments made by fictional characters in her best-selling novel Baba ve Pic (The Bastard of Istanbul). At least 18 other writers, publishers and journalists are on trial in Turkey on charges of "insult", and many more under other laws that have been

used to stifle legitimate comment in Turkey.

Elif Shafak says these laws are "used as a weapon to silence people - journalists, intellectuals, publishers and editors" by a reactionary faction within the Turkish establishing whose goal is to "curb the domain of art and literature".

An outspoken intellectual and activist, Elif Shafak continues to write for various daily and monthly publications in Turkey.

Details about the Liberty event are yet to be finalised and will be posted onto [www.libertyvictoria.org.au](http://www.libertyvictoria.org.au)

## Human Rights Festival 27 November – 2 December

Liberty is a major sponsor of Australia's first-ever Human Rights Arts and Film Festival to be held at RMIT Capitol Theatre and 45 Downstairs.

**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 Georgia King-Siem 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, Penny Underwood, 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.