

## NGO consultation: Feedback mixed

*By Dr Kristine Klugman OAM, President, Civil Liberties Australia*

Report on the Non Government Organisations' Human Rights Forum, hosted by the Department of Foreign Affairs and Trade and the Department of the Attorney-General, 19-20 June 2013

The NGO forum comprises invited representatives from about 40 national organisations and is held annually in Canberra. Presentations and discussion on the first day this year covered domestic human rights issues, and the second day international human rights issues. Both the Attorney General Mark Dreyfus and the Minister for Foreign Affairs Bob Carr addressed the forum and took questions from participants.

This report is not a comprehensive record of all the addresses and discussion held over two days. Instead, it records issues of direct significance and interest to Civil Liberties Australia, including the questions asked by the CLA representative, Dr Kristine Klugman, President, who has attended these forums for the past five years.

As with most conferences, the real value lay in the interaction and networking between participants. Questions raised tended to reflect their particular concerns: for example, refugees, indigenous issues, women with disabilities, Women's International League for Peace and Freedom and Bahai. Other questions were of more general concern, raised by the Law Council, Amnesty and CLA.

In opening the forum, the Attorney General stated: "Access to justice is non-negotiable". Significant issues covered in his address included:

- The Joint Parliamentary Committee on Human Rights scrutinises bills for compatibility with seven core obligations under UN human rights conventions.
- AGs has a program training public servants in human rights compliance.
- Anti-Discrimination laws were consolidated, and a draft released last November, but since withdrawn (following critical submissions that the provisions would too severely limit freedom of speech - ed).
- The appointment of a Children's Commissioner has been announced, and a Discrimination Commissioner will be appointed shortly. An Australian Law Reform Commission inquiry is under-way into people with disabilities, particularly with reference to barriers to work participation.
- The Human Rights Commission is developing an anti-racism strategy for raising awareness.

I asked the Attorney General:

*The time allowed by parliamentary committees for submissions from NGOs is often completely inadequate. Would he agree that there is a need to review of way in which parliamentary committees operate?*

AG Dreyfus conceded this situation was not acceptable.

Day one continued with a domestic human rights theme. The Department of Immigration spokesperson reported the UN High Commissioner for Refugees (UNHCR) agency estimated the number of asylum seekers worldwide had increased to 500,000 a year. Australia gets 4% of these.

The 22 recommendations of the Expert Panel on Asylum Seekers had been accepted. Australia's humanitarian intake has increased from 6000 to 12000 refugees, which is claimed to be the largest per capita in the world.

From Sri Lanka, 12,000 people have arrived this year by boat. Of these, 8500 are in detention, 3000 in community detention. The periods people spend in detention varies greatly. Off-shore detention was the elephant in the room, which was not challenged by refugee organisations present at the forum.

National security: there have been reports by two committees on terror laws: by a Council of Australian Government (COAG) committee and by the Independent Monitor (Independent National Security Legislation Monitor, Bret Walker). A response by the government is expected by the end of 2013. **CLA will be keeping a close watch on this.**

Addresses were given by selected NGOs: the Castan Centre for Human Rights, the Council on the Ageing and the Refugee Council of Australia. Key issues raised included:

- Over-representation of indigenous youth in prisons, with often no facilities for mentally ill offenders.
- Alternative sentencing methods have been shown to be effective, though bipartisan support is necessary for these to succeed.
- Why is investigation of native title by the Australian Law Reform Commission being done by whites, with no indigenous person on the investigating team?

I raised the following questions with the officer of AGs:

*I note the American Civil Liberties Union is suing the US Government for breaches of privacy. The US National Security Agency has now admitted it listens to phone calls and reads emails without warrants.*

*The Australian AG has said intelligence can be gathered on Australians only by the signature of the Minister of Defence or Minister for Foreign Affairs – that is, a politician, not a judge. I find this disturbing.*

*Does the Australian Government access PRISM data? Does the Australian Government obtain information on Australians in this way avoiding the normal warrant process etc?*

*Does the Australian Government gather data on Australians, as is done under PRISM? Is the Australian Government reading our emails, messages, and listen to phone calls without a court warrant?*

The response was that the Australian government has said it will investigate the impact of the PRISM program and the use of the Pine Gap surveillance facility on the privacy of Australian citizens. **CLA will be following up this unsatisfactory answer.**

Questions raised by other NGO participants included:

- re asylum seekers on Christmas Island being denied access to justice
- re slow progress with the implementation of ratifying the Optional Protocol for the Convention Against torture (OPCAT).
- Council Of The Ageing (COTA) - *I questioned its policy on euthanasia (voluntary assisted dying)*. It appears this issue is not being addressed by the council, which pushes palliative care.

Day two covered international human rights issues.

The Foreign Minister's address was received in lukewarm manner. He was antagonistic to criticism about Australia returning asylum seekers to Sri Lanka, at a loss on a question re World Congress on Indigenous Leaders, and avoided answering a question on the Trans Pacific Trade Agreement.

- Senator Carr announced that Australia has nominated for a seat on the Human Rights Council.
- Representations have been made to Papua New Guinea against their intention to reintroduce the death penalty.
- Former Australian High Court judge Michael Kirby has been appointed as head of a new UN Commission of Inquiry probing alleged human rights abuses in North Korea.
- In relation to returning asylum seekers to Sri Lanka, Minister Carr stated there was no evidence of persecution of Tamils. He labeled them 'economic refugees'.

I asked the Foreign Minister a question regarding the Trans Pacific Trade Agreement:

*Why are the negotiations kept secret, when the terms may cause internet censorship and restrict freedom of speech.*

The Minister took the question on notice. It was answered later by a DFAT officer who denied secrecy (!) and said Australia would not be party to an agreement which censored the internet. However the US-based Electronic Frontier Foundation [What's Wrong With TPP](#) has stated:

*The Trans-Pacific Partnership (TPP) is a secretive, multi-national trade agreement that threatens to extend restrictive intellectual property (IP) laws across the globe and rewrite international rules on its enforcement. All signatory countries will be required to conform their domestic laws and policies to the provisions of the Agreement.*

*The TPP raises significant concerns about citizens' freedom of expression, due process, innovation, the future of the Internet's global infrastructure, and the right of sovereign nations to develop policies and laws that best meet their domestic priorities. In sum, the TPP puts at risk some of the most fundamental rights that enable access to knowledge for the world's citizens.*

**This issue is being followed up with the officer concerned.**

Day two covered the UN Security Council and Australia's non-permanent position, country specific human rights situations, and thematic issues (treaty body reform, Universal Periodic Review, Indigenous issues and the death penalty).

The Indonesian military's brutal actions against West Papuans was raised, as was human rights abuses by the military in Burma at a time when the government was pushing business investment.

Question: is compliance with human rights standards required of Australian businesses investing in say Burma?

Response: Australia supports Development Bank human rights standards. Australia does not impose obligations on business but make its expectations known (!)

Re China and the death penalty, I reminded the group that at the inaugural NGOs-China delegation meeting with selected NGOs in July last year, in response to a question from me, a Chinese delegate stated that abolition of the death penalty was China's longer term aim. This had not been stated previously.

Universal Periodic Review: I asked what progress has been made in addressing the criticisms in the UPR of Australia: like off-shore processing of asylum seekers, and the NT Intervention.

Response: Since its UPR appearance, January 2011, Australia has made some progress towards implementing the recommendations that it accepted and the voluntary commitments that it made. In other areas, progress has been slow and much remains to be done.

Note: The Australian Human Rights Commission has continued to express concern, for example, in relation to the ongoing system of mandatory immigration detention and the unacceptable level of disadvantage experienced by Aboriginal and Torres Strait Islander Peoples. UPR recommendations on these issues have been rejected by government.

Under Other issues in the final session, *I raised the issue of the need to review the provisions of the terror laws, and called for the incorporation of the terror laws into the Crimes Act.*

The question on the national anti-association laws (the "bikie" laws, though they do not mention bikies) and the threat to freedom of association of any groups was put in written form but not raised orally. It will be followed up.

– Dr Kristine Klugman OAM  
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