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## Justice Hijacked - National Community Legal Centre Conference in Adelaide

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**The National Community Legal Centre Conference was held in Adelaide in September. The theme was ‘Justice Hijacked’, looking at how in the current climate, the fundamental principles of a democratic system of justice are being undermined. Keynote speakers included Brian Deegan (South Australia) and Professor Angela Davis (US)**

Over 400 delegates from around Australia attended. Youth Lawyers from each state had a full day network meeting where many issues were discussed. There were several conference sessions on young people and legal issues, with workshops examining juvenile offenders in detention and children and young people as clients and how they access legal services. Unsurprisingly it was apparent most states experience the same legal issues when it come to the interface between young people and the law.

A session on *Legal Issues in Schooling* examined issues in schools such as bullying, and bringing claims against the school and bully such as victims compensation, discrimination and other civil actions. It also looked at the area of duty of care, how this applied to schools and some current case law on this in Australia and overseas. The session also covered decision making in school and procedural fairness.

A session titled “Not Seen and Not Heard” was also held, with discussion around the issues of the legal and social exclusion of Young People in our society. A paper was written to present a picture of the South Australian scene, and an excerpt is below:

“(The) judgement of young people is something that is carried through in some recent changes and suggestions in the way that public space should be made deliberately ‘un-youth-y’. The Advertiser had an article on the 28<sup>th</sup> of July 2004 entitled ‘Classic move to stop young from going off the rails’. It details the music that is being played at the Noarlunga and Adelaide railway stations ‘in an attempt to reduce

criminal behaviour’. This is an initiative of TransAdelaide and the music being played is Mozart and Kenny G, among others.

Apparently ‘nuisance behaviour’ has reduced around the train stations, and the music has made people less aggressive. The local Council’s general manager who says that it is a good initiative to prevent young people from gathering at the station shows the real thoughts behind the move. The concern for us needs to be the wholesale imposition of a certain group’s view, or attitudes, on public space. Why is it that train stations should be deliberately made unattractive to young people? Young people have as much right to freely use a train station without prejudice as anyone else.”

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## Government Gags Community Voice

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### Report by the Australia Institute: *Silencing Dissent*

Ninety per cent of charitable and community organisations in Australia believe the Federal Government is determined to gag their right to free speech, according to a leading public interest think tank.

The finding was made in a survey conducted by The Australia Institute for a study of nongovernment organisations and Australian democracy. The report, titled *Silencing Dissent*, has been written by Sarah Maddison, Richard Denniss and Clive Hamilton.

On releasing the report, the Institute Executive Director Dr Clive Hamilton said:

“Responses from the 290 organisations which took part in the survey indicate that community groups reliant on government funding are experiencing unprecedented levels of intimidation, particularly from the Howard Government. The message is strong and clear - don’t bite the hand that feeds you.”

There has been a serious deterioration in relations between the Federal Government and NGOs to the point where many believe they have been ‘frozen out’ and fear they will have their funding withdrawn. The concerns of the NGO sector were heightened by the proposal by Treasurer Peter Costello to disqualify a charity that engages in advocacy that is other than ancillary or incidental. Dr Hamilton said the crudest example of Government efforts to silence critics was Treasurer Costello’s proposal to disqualify any charity that engaged in advocacy. “This draconian proposal was withdrawn but its intent has permeated the Government,” Dr Hamilton said. “Survey respondents identified a variety of tactics, including bullying, being used to warn NGOs that they question the Government at their peril.

Despite the recent announcement that the Government will not proceed with most of the draft Charities Bill, and will retain the common law definition of charity, the Tax Office has indicated that if it finds that a charity has a dominant advocacy role then it is likely that its charitable status will be revoked. Charitable status under tax law is an important, and in some cases indispensable, support for NGOs.

## NGOs and democracy

The report argues that debate is fundamental to the development of good public policy and a wellfunctioning democracy. “Governments that are open to policy debate enhance their own legitimacy and strengthen the democratic credentials of the nation. Dissenting views are an essential aspect of public debate. NGOs serve several important functions in the democratic polity. These include:

- creating deliberative forums;
- representing marginalised and stigmatised groups that otherwise have no public voice;
- providing for those most affected by government decisions to be involved in policy formation and evaluation;
- providing a cost-effective channel for consultation;

- promoting a richer public debate by providing information and opinions that would otherwise not be heard;
- helping keep government accountable to the wider community through their connection to NGOs’ broad constituencies; and
- counterbalancing the influence of corporate organisations over government decision making.

These functions do not detract from other institutions of representative democracy but complement and enhance them. Some political scientists have argued that the declining levels of trust and participation in democratic institutions have given rise to a renewed interest in forms of community participation. The legitimacy of NGOs is granted by the communities they represent and it is to these same communities that they must be accountable. Other groups active in policy debates, notably business interests, escape the tests of ‘representativeness’ demanded of NGOs, despite the fact that they are clearly self-interested.”

“NGOs represent the disadvantaged and unprotected. Silencing them robs the most vulnerable groups in our society of a voice.”

Asked whether dissenting voices are valued by the Government as part of a robust democracy, 92 per cent of survey respondents disagreed.

“NGOs are an essential component of a healthy and robust democracy,” Dr Hamilton said.

“Attempts to silence their criticisms and stifle their right to public comment will seriously diminish our democratic processes.”

*The Institute’s report can be read under What’s New on its website - [www.tai.org.au](http://www.tai.org.au)*

*Silencing Dissent Non-government organisations and Australian democracy*  
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