



Citizen's rights under attack

"Over the next year we must redouble our efforts to preserve our client's rights and their access to justice."

I am writing this on September 11 2002. It is inevitable that my reflections today are consumed by the significance of this date on recent events.

Over the last twelve months the major Australian political parties have undergone a subtle shift to the right. The change in the political landscape has received impetus from the tragedy of September 11 2001.

The media focus on the human dimension of that tragedy, the resulting impact on global stock and insurance markets, and the more recent 'war on terrorism' have all primed our society to accept restrictions on civil rights that would have been unthinkable a year ago.

In a sense, the political herd has been rattled and are galloping around the paddock seeking solutions to the incomprehensible and the uncontrollable.

This has enabled cynical business and political interests to repackage and advance their agendas in ways that pander to superstition, irrational fear and myth, rather than cool logic or common sense.

'Trust us' they say, 'we have the answers'. Their answers have been to reduce the rights of citizens, diminish power of the courts, undermine commitment to the rule of law and concentrate more power in the hands of those with executive authority. All snake oil placebos designed to hoodwink ordinary citizens into giving up rights for the benefit of powerful vested interests.

Our nation's past vision of a tolerant multicultural society grappling to deal frankly with the errors of our past have now been replaced with images of women and child refugees confined in concentration camps behind razor wire at Woomera.

Federal legislation now seeks to prevent courts reviewing irrational and unjust administrative decisions of public servants in immigration cases. Attempts are also under way to expand the power of ASIO to detain ordinary Australian citizens suspected of having views that are against some faceless bureaucrat's notion of Australia's security interests.

Meanwhile the federal government has sat by and silently permitted

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Australian citizens suspected of links with terrorist groups to be detained indefinitely at a US base in Cuba without access to due process or legal rights. Who tests whether these people are innocent or guilty of any offence?

The right of all citizens to legal protection against the negligent conduct of others is also under threat. The recent 'Eminent Person's Committee' has recommended a draconian restriction on common law rights of all Australia's citizens.

This committee has recommended all legislative 'reform' that includes:

1. grant negligent adventure operators immunity against injury they cause from foreseeable and preventable risks;
2. exempt the most highly paid, best trained and skilled occupations (read 'professions') from the same standards of care that apply to the consumers of their services;
3. barring the claims of three-year-old infants with negligently caused injury resulting from medical

incompetence because their parents are too timid to sue through fear that the medical establishment will deny proper treatment;

4. enabling businesses to contract out of liability for care and skill by engaging, with impunity, in conduct that is misleading or deceptive.


NSW has already moved to implement many of these 'deforms' to the rights of citizens. I expect their legislation will have become law by the time this article is published.

In time the silent majority will again reassert influence over the purveyors of populist twaddle. Until then, APLA has to do whatever it can to ensure that citizens don't lose too much of value. Our strength lies in the commitment and resources of our members. Over the next year we must redouble our efforts to preserve our client's rights and their access to justice. We look forward to your continued support.

Finally, it is with great regret that I must report that APLA's CEO, Jane Staley, will soon be leaving us. Jane has guided the operations of APLA for the

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last four years. In that time we have grown from a parochial state based coalition of lawyers into a powerful and well-run national organisation. Our success has been due, in a large measure, to the work of Jane and the talented team she leads.

APLA is currently undertaking a national search for a new CEO. Whoever finally gets the job will inherit a strong and committed membership serviced by a talented and enthusiastic team. While I look forward to the future of APLA with optimism I know that APLA will lose something irreplaceable with Jane's departure. Jane, we will all miss you and wish you well for the future. 

Rob Davis