

Talking Terrorism

Castan Centre Hosts Community Leaders for Terrorism Roundtable

By Thea Schwartz & Katie Mitchell

Community leaders from a vast range of backgrounds recently came together at the Castan Centre for a spirited one-day workshop, hosted by Monash Law's Patrick Emerton supported by a Don Chipp Memorial Grant. Participants from politics, police, the community, the legal fraternity and academia discussed the balance between human rights and counter-terrorism and the collaborative nature of the day ensured that the valuable opportunity to build bridges was seized.

The workshop was opened by Labor MP, the Hon Duncan Kerr SC, who suggested that the Howard Government has allowed terrorism to become a "phenomenon of domestic politics", and is using fear to silence criticism of controversial new laws (such as the sedition laws). Mr Kerr, who is a Member of the Parliamentary Joint Committee on Intelligence and Security, also suggested that this environment of fear is making it difficult for Parliament to monitor the Executive, for fear of being perceived as "soft on terror".

Ted Lapkin, Director of Policy Analysis at the Australia/Israel and Jewish Affairs Council then countered by arguing that Australia is on the Jihadist "hit list" and therefore must take military measures to defeat the enemy. He described this enemy as the Jihadist Islamists whose idea of modernity stems from the 7th century, and who see the construction of their own culture as dependent on the destruction of ours. He defended the new terror laws as "vital", arguing that the sooner we accept this as a war, the sooner we can win it.

These presentations instigated a robust discussion from workshop participants, with a number of them countering Mr Lapkin's presentation. Professor George Williams, Director of the Gilbert & Tobin Centre of Public Law, suggested that Lapkin's approach is counter productive, further radicalising those who are already feeling marginalised and undermining our democratic values and systems; Duncan Kerr and Associate Professor Jude McCulloch, from the Department of Criminology, Monash University, both argued that terrorism cannot be defeated by a militaristic approach with Mr Kerr stating that "the language of war is unfortunate" when what is really needed is better law enforcement.

The next session featured a strong debate about the role of bills of rights in protecting people from harsh law enforcement. Professor Williams noted that the current climate of fear laws had led to controversial bills being passed in great haste without proper scrutiny. He argued that a bill of rights would function as a standard against which anti-terror laws can be measured and would create a clear, principled statement upon which to base law and policy.

Joo-Cheong Tham of Melbourne University opposed Professor Williams, stating that a bill of rights is not the only choice for people who support human rights or object to counter-terrorism laws. He outlined three reasons why the

Victorian Charter of Human Rights and Responsibilities may "worsen the disease." First, draconian laws may be categorised as "human-rights friendly" on the basis that they fit within a limitation contained within the Charter. Second, a bill of rights places the human rights debate firmly in the realm of lawyers instead of the public. Finally he argued that Parliament is better placed than the Courts to protect human rights, because it is more able to stand up to the Executive. He concluded by saying that those interested in human rights should focus on revitalising Parliament, rather than advocating for a bill of rights.

In the day's final session, participants debated the role of police in counter-terrorism operations. Assistant Commissioner Luke Cornelius, from the Ethical Standards Department of the Victorian Police, spoke passionately about the desire of the Victoria Police to create a fairer society and to protect human rights. He emphasised the importance of ensuring that discretionary powers are exercised in a way which is cognisant of human rights and spoke strongly against legitimising the use of torture by police. The importance of a two way relationship between the wider community and the police was also emphasised by Mr Cornelius, who said "Victoria Police is of the view that policing is most effective when communities act in cooperation with police."



Patrick Emerton with Assistant Commissioner Luke Cornelius

Vicki Sentas of the Federation of Community Legal Centres Anti-Terrorism Working Group then responded by raising the community's experience of anti terror legislation and policing. She suggested that the emphasis on human rights does not adequately address the problems experienced by Muslim communities. In particular, Ms Sentas stated these communities feel harassed by ASIO and the police, and emphasised the need to establish independent review mechanisms for police. She stated that it was inevitable that there would be problems when police are required to combat "undefined 'extremism'".

As our society grapples with the question of how best to counter terrorism, it is essential that the fundamental issue of human rights protection is recognised and discussed. This workshop provided a valuable and much needed forum for an exchange of ideas and perspectives.