

Lest we forget — freedom of expression

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Writing this on Anzac Day 2000, a few hours after the Dawn Service, my thoughts turn to what the national legend means for our libraries. It is a legend of the best of two young nations volunteering to contribute to a war on the other side of the world, to fight for freedom as they knew it.

We remind ourselves, through the thousands of words published each Anzac Day, of the independent spirit of the Anzacs, their larrikinism which both irritated the British High Command and was so useful to it. They assumed the licence to say what they thought — even if it offended the top brass! But it was a broader commitment to freedom 'that led Australians to enlist ... the principle of protecting their homes and their freedom by sustaining a system of law and order between nations' as was noted by the chronicler of Australia's participation in the First World War, CEW Bean [*Anzac to Amiens*, Canberra, Australian War Memorial, p533].

Both in their individual behaviour and in the cause for which they were fighting, the Anzacs demonstrated their commitment to the fundamental freedom, intellectual freedom. It is the essence of liberty because, in Bean's words, 'only in conditions ensuring freedom of thought and communication can mankind progress'. Its innate importance was caught in Article 19 of the *International Declaration of Human Rights*:

Everyone has the right to freedom of expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

The Article translates the principle into the 'system of law and order between nations', the system which we must defend in order to defend freedom. We must defend it by resisting censorship, even when it is well intentioned as are the requirements imposed under the *Broadcasting Services Amendment (Online Services) Act 1999*. That legislation is based on a

combination of industry codes of practice, community education and administration by the Australian Broadcasting Authority, which applies a classificatory system to materials which are the subject of complaints.

The Minister's Office has stated that in devising the current Commonwealth regulatory scheme, the Government intended to implement:

...a national, uniform ... framework to meet the legitimate concerns and interests of the community while ensuring that industry development and competitiveness are not stifled by over-zealous laws ... [and] apply those standards of content control as apply to conventional media.

The Office added that:

Definitions of prohibited internet content ... are not concerned in any way with limiting freedom of speech by restricting political or other discourse on matters of public interest...

and noted that, while it is too early to assess the operation of the Act, the Government is pleased with the response of industry to date.

Notwithstanding these good intentions and recognising that the legislation has been in force for only four months, it is a matter of concern that an Australian government would feel it necessary to prevent Australians reading or expressing their views, even on matters which the general community may find offensive. In fact, as has been recognised in evidence given to the Senate Legal and Constitutional Legislation Committee by the writer Linda Jaivin and sex researcher Katherine Albury, the legislation bans the representation of acts which are not in themselves illegal. Further, the line between censorship of material which offends against community standards and the restriction of 'political or other discourse on matters of public interest' is very thin — who is to say what is legitimately of public interest?

The recently released Freedom House report *Censor Dot Gov: the in-*

ternet and press freedom 2000 [<http://www.freedomhouse.org>] identifies Australia as free but is critical of attempts to restrict internet access in other nations. It notes that governments may require special licensing and regulation of internet use, may limit internet traffic to filtered government servers, remove controversial pages from web-sites, and even [sic] apply existing press laws to internet content. None of this sounds very different to the Australian scheme, except the stated intent.

Some examples identified in the report illustrate the dangers of introducing censorship, particularly in the absence of constitutional guarantees of freedom of expression as is the situation in Australia:

- Last year in Russia, the successor to the KGB began forcing Internet Service Providers (ISPs) to install surveillance equipment.
- Burma's 'cyberspace warfare center' hacks into computers that receive or send forbidden messages.
- Chinese 'cyber-dissidents' have been imprisoned.
- In many Middle Eastern countries, where official censorship of traditional media still largely applies, access to the web is restricted to government servers, and thus subject to surveillance.

This may of course be seen as another episode in Australia's long history of tension between conformity and liberty, between government control and individual initiative. We may say that Australia is not that kind of country. But the law already inhibits our freedom and the danger of its extension is real.

We need to remember the Anzacs' spirit of individual freedom and their desire to sustain a system of law and order between nations. Australia is a party to the *Universal Declaration of Human Rights* and other relevant conventions. Both legally and philosophically our nation upholds freedom of expression. Each of us must maintain the Anzac love of liberty by resisting censorship — even of material we find objectionable. ■