

Lawyers

for the People

AUSTRALIAN
LAWYERS
ALLIANCE

The Year in Review 2009-2010

www.lawyersalliance.com.au

1. **Let a hundred flowers bloom; let a hundred schools of thought contend.**
2. **To see what is right and not to do it is want of courage.**



During my year as national president, I've tried to adhere to the two bits of philosophy quoted above in whatever leadership I've provided.

The first idea is to encourage the members, the directors, the state presidents and committees, to speak out on things about which they know. Thus, ALA's voice would be diverse, decentralised, rich in texture and harder for other contestants in the field of ideas to predict or contain. At the same time, those voices are supported and marshalled by 'head office'. I think this strategy is working. We are being heard widely and, quite often, listened to. We have many voices.

The second idea is one that has characterised our organisation and its members from the beginning: to speak out for the voiceless and the vulnerable, and to put our knowledge and skill to work on behalf of the powerless. This is not an easy task. It is something that is treated with derision by those who wish to hold on to power. It is not profitable. It sometimes makes us feel ridiculous – perhaps I am speaking mostly for myself here. It is hard to know what is right and wrong and, having worked that out, where to insert yourself into the chain of causation to have a beneficial effect. To have the courage to act, when we think that we know *what is right*, is our whole reason for existing.

Highs and lows of this year for me include:

- The federal government deciding to ignore the recommendations of the Brennan Inquiry to legislate for a Charter of Rights.
- The Queensland government deciding to retain wide access to common law in its workers' compensation system.

- The South Australian government coming very close to losing power, despite its ‘tough on crime’ rhetoric reaching new lows, while sitting on one of the worst workers’ compensation regimes in the country.
- Tasmania choosing a Labor/Green government, giving some hope for the introduction of the Human Rights Act recommended by the Tasmanian Law Reform Commission.
- Western Australia introducing mandatory sentencing for assaults on police officers and others, preventing judges and magistrates from considering individual circumstances.
- Victoria’s and the ACT’s human rights legislation continuing to provide an example for other states as to how moderate and beneficial the effect of this type of legislation can be.
- Indigenous people continuing to be incarcerated at a rate about 13 times higher than the rest of the population, with the worst states being Western Australia, New South Wales and South Australia. The national average daily Indigenous imprisonment rate increased by 10 per cent in the year from September 2008 to September 2009. The NT Intervention has been continued by the Labor government.
- Team ALA is working well and our budget is more or less under control.

It has been a privilege to be your president for 2009 – 2010.



Mark Blumer

MEDIA REPORT

The 2009-2010 financial year saw an increase in media coverage for the Australian Lawyers Alliance, particularly post-restructure with the implementation of a media portfolio holder to guide the public affairs manager in complex legal areas surrounding personal injury and human rights issues. Individual presidents, directors and specialist members in each jurisdiction have also assisted to ensure regular appearances by the Alliance in all areas of the media.

The Alliance kicked off the new financial year in 2009 with a double-page spread from outgoing president, Clara Davies, in the *Lawyers Weekly* challenging the notion of the lawyers' picnic and articulating the complexity and importance of work done by all lawyers including probably the most poorly paid human rights lawyers – to improve access to justice and, in so doing, making society a better place for all.

The presidential baton was then picked up by new national president, Mark Blumer, who appeared on Channel 7's *Today Tonight* program discussing the plight of Peter Gray, a businessman trapped in Mauritius having waited for more than three-and-a-half years to face drugs charges and the Australian government's response in cancelling his passport rather than presuming innocence and offering adequate assistance to an unconvicted man.

The Alliance continued with its campaign for a federal human rights Act, highlighting injustices that could be challenged if such a protective document were in place. When it became evident that this was not to be, the Alliance set its sights on raising awareness, via press releases and interviews, of the importance of those remaining states and territory without such protections – NSW, South Australia, Western Australia, Tasmania, Queensland and Northern Territory.

Prison privatisation and the alarming incidence of deaths and assaults in such institutions, where the profit motive creates clear conflict of interest, was also prioritised, along with the potential abuse of police powers in a country that is becoming increasingly draconian, with anti-association, mandatory sentencing and the Northern Territory intervention laws.

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Other topics publicly discussed by the Alliance in the media included: the need for accused people to have free access to police evidence against them; for courts to be more user-friendly and accessible; and for the church to be made accountable for physical and emotional damage to children in its care.

More than eight years of parliamentary door-knocking by the Alliance also came to fruition with the Tasmanian government approving workers' compensation reforms to ease the burden on injured workers' pain and suffering.

And while the reforms did not go as far as the Alliance would have liked, particularly in improving access to common law, the reduction of the whole person impairment from 30 to 20 per cent was still considered a definite gain.

Children's rights were also questioned and publicly debated in the media, following the announcement by the Rudd government that it was committed to ensuring that all children live in safe and supportive environments, free from neglect.

Alliance WA director, Tom Percy QC, drew attention to children being locked up mandatorily in Western Australia for assaulting police officers; the injustice of property confiscation laws for spent convictions and the unjust approach of seizing family assets, which punishes innocent occupants as well as criminal perpetrators.

And when Queensland politicians endorsed the WA approach as a good idea, Queensland criminal member, Peter Russo (who acted for a man falsely

accused of terrorism charges, Dr Mohamed Haneef), was quick to question the government motive and its potential to undermine justice in the state.

The retrospective aspect of WorkCover legislation changes was also raised by Queensland Alliance president Justin Harper, who sensitively lobbied the government about the issue and then publicly discussed the Alliance's concern that the change was unfair, as it abolished the right, for those injured at work, to seek damages from those shown to breach workplace health and safety rules.

Threats to workers' rights also saw a resurgence of ALA involvement and assistance for the Workers' Rights Coalition campaign to put pressure on the government to be more responsive to the needs of injured workers.

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In Victoria, the Alliance spoke out about the suffering of stress-injured workers and the introduction of a parliamentary Bill that would significantly limit their ability to claim compensation. The Victorian branch committee also worked with the Law Institute of Victoria to provide an extensive and detailed submission to the state government regarding the

impact of "tort law reforms" and submitted for an alteration to the *Wrongs Act* threshold. Victorian members also worked on the consultative committee and provided extensive submissions regarding all aspects of the *Civil Procedure Act*. It continues to work with the Transport Accident Commission, in reviewing the TAC Protocols and Section 93 pre-hearing conference processes. It also worked with TAC on issues of legislative reform and amendment and represented the ALA through out the Hanks Review of the *Accident Compensation Act*. The committee has also provided various submissions to government regarding the proposed fixed costs model for WorkCover injuries and provided submissions to the Opposition regarding the *Civil Procedure Act* and the *Transport Accident and Accident Compensation Legislation Amendment Bill*.

With the onset of 2010, the Alliance increased its pressure on the government to withdraw plans for anti-association laws, with Tom Percy QC speaking out at a rally of 500 people opposing the new laws and standing side-by-side with bikies to defend their rights to freely associate.

Early in 2010, the Alliance also raised its voice on issues relating to access to justice for isolated and marginalised Indigenous communities across Australia.

South Australian president, Tony Kerin, issued press releases and spoke in the media about government failures to recognise and address the needs of Indigenous people when dealing with the court process. Fifty years after a young Indigenous man, Rupert Stuart, was sentenced to death based on a confession written in upper-class English, rather than his native tongue, Indigenous people are still being denied their right to a fair trial, are incarcerated for longer and forced to endure lengthy proceedings that continue to clog the court system because of poor communication.



Barrister, Julian Burnside QC, discusses the sad case of Australia's first stolen generation victim, Bruce Trevorrow, with media at the South Australian conference.



NSW Alliance president, Jnana Gumbert, speaks with *Today Tonight* on personal injury issues associated with the poor state of some Australian roads.

In NSW, Alliance president Jnana Gumbert, has spoken out extensively in the media on concerns about legal costs legislation, the loss of adequate financial income to incapacitated NSW workers after accidents and resulting catastrophic health outcomes; legal advertising bans; the restriction of common law and damages claims in NSW and the failure to adopt Ipp Report recommendations for psychiatric injury for people who view the aftermath of a disaster; the dangers of prison privatisation as well as school children's exposure to unflued gas heaters and the right to compensation if injured as a result.

Together with Andrew Morrison SC, Ms Gumbert also gave evidence at the Legislative Council Standing Committee on Law and Justice's review into the NSW Motor Accidents and Lifetime Care and Support schemes. It was the first time the ALA had been invited to give evidence at the review.

Alliance director Greg Barns, in his newly created media portfolio position, has also significantly raised the profile of the Alliance this year, discussing

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issues such as mandatory sentencing, the presumption of innocence, cultural rights, anti-terror laws, anti-association laws, prisoners' rights, better human rights and civil liberties protections, drug reform, police powers, the right to resume life after serving a criminal sentence, the Northern Territory Intervention and, more recently, discriminatory asylum seeker policy.

He has had opinion pieces published regularly for the Alliance in ABC's *The Drum* and *Crikey*, speaking out and writing prolifically about a range of subjects affecting access to justice issues while also continuing to formulate new, exciting policies for the Alliance such as advocating for a changed public attitude to those found in possession of drugs for their own personal use.

It is with this rolling up of the sleeves approach and grassroots examination of impediments to equitable justice that the Alliance plans to continue in the future, promoting more extensive public debate on access to justice issues and achieving progressive legislative and policy changes as a result.

Mandy Wyer
Public Affairs Manager

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