

## **ADDITIONAL COMMENTS FROM SENATOR BRIAN GREIG**

### **AUSTRALIAN DEMOCRATS SPOKESPERSON ON LAW AND JUSTICE**

This inquiry exposed some interesting issues surrounding the question of Genocide that are worthy of further comment.

#### **Retrospectivity**

If Parliaments and the community are to engage in a meaningful discourse about the prevention and punishment of the crime of genocide – then it cannot be done in isolation of the historical facts. Indeed to do otherwise, is to condemn the memory of countless peoples and the worst expressions of inhumanity to irrelevance. In the Australian domestic context, this has been reflected in some antipathy towards the issue of possible retrospective application of this legislation. For the record, the Australian Democrats support the retrospective application of Anti-genocide legislation. We believe that fundamentally, the *Convention for the Prevention and Punishment of the Crime of Genocide* – anticipates a retrospective (i.e: punishment) and the prospective (i.e prevention) of genocidal effect and actions. Many if not all experiences of genocides will precede the creation of this Bill. We cannot in all conscience deny those realities

The question of whether or not Anti-Genocide laws ought to be retrospective draws a strong response from both sides of the debate. Most Holocaust (Shoah) survivors and members of Australia's stolen generations (and their advocates), amongst others, feel passionately that retrospectivity is essential to allow for access to justice.

Others feel that retrospectivity would open old wounds and create social division. There is strong sensitivity surrounding the possibility of Indigenous Australians taking claims of Genocide against the Australian Government and its present and past officials, for the policy of removing Aboriginal children from their parents.

The Australian Democrats consider that retrospectivity is not only highly desirable, but necessary for both the prevention and punishment of genocide. We believe that the prospect of Aboriginal Australians taking claims of Genocide for the past policy of removing children from their families is a right that Aboriginal people are entitled to explore. The fact that such exploration may cause discomfort to some is no reason to prevent it. Indeed, the legal recognition of Genocide within Australia may well assist with reconciliation, in much the same way that the Truth and Reconciliation Council is assisting to do so in the Republic of South Africa.

#### **RSL**

The Democrats found the submission to this inquiry by the Returned and Services League (RSL), to be appalling. Far from presenting the Committee with considered opinion or relevant information, the RSL submission was little more than vilification.

Its argument that gay and lesbian citizens ought to be excluded from Anti-Genocide legislation is disgraceful, and its refusal to acknowledge that homosexual people were persecuted and slaughtered by the Nazis constitutes Holocaust denial.

Indeed, the arguments against gay and lesbian people by the RSL were, for the most part, the very arguments that the Nazis used as justification in the murder of gay and lesbian people fifty years ago. Ironically, the vilification of homosexual people by this RSL submission provided the Committee with the very evidence needed to illustrate that homosexual people have been, and remain, the subject of hatred, myth, misinformation and vilification, which in turn leads to the dehumanisation of and violence towards homosexual people.

### **Attorney Generals Department**

The Australian Democrats note with great concern the failure of the Attorney General and his Department to have meaningful input into this inquiry.

The seriousness and importance of this legislation was not treated with the respect and diligence it deserved.

No submission was received by the Committee from the Attorney General on this matter and the wrong departmental officers were sent to meet with the Committee in Melbourne.

For this reason, the Australian Democrats are very concerned that it is now proposed to defer this Bill for another three months, in order to accommodate the AG's Department, which has had, we believe, ample time to assess it.

This Bill is fifty years too late; a further delay so that the AG's Department may now participate is unacceptable. This work ought to have been done during the Committee process, and not after. This delay is regrettable and was avoidable.

**Senator Brian Greig**