

Law students' forum reviews Australia's "shrinking democracy"

James Conachy
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Three opponents of the anti-democratic measures being carried out in name of the "war on terror" spoke to the opening forum of a law students' conference at the University of Technology Sydney (UTS) on October 4.

The forum, entitled "Shrinking Democracy: the expanding power of the executive," was addressed by Michael Head, a correspondent for the *World Socialist Web Site* and senior lecturer in law at the University of Western Sydney. The second speaker was Andrew Wilkie, the former Australian military and intelligence officer who resigned on March 11 in order to publicly expose that the Australian, British and US governments knew Iraq did not possess "weapons of mass destruction". The final speaker was Stephen Hopper, the lawyer representing Mamdouh Habib, an Australian citizen being held illegally by the Bush administration—with Australian government support—in the Guantanamo Bay prison camp.

Head, Wilkie and Hopper presented the audience of 150 students and concerned people with a wide-ranging assessment of the inroads into civil liberties that have taken place in Australia and internationally in recent years. Each appealed for a political struggle to be taken up in defence of democratic rights.

The event was organised by the Progressive Law Students Network, whose literature notes that "the current vocational orientation of a law degree fails to recognise that many law students begin their study with the intent of enacting social change". The group was formed two years ago at UTS but now includes students at other campuses, including the University of New South Wales, Sydney University, Macquarie University and the University of Western Sydney.

Michael Head reviewed the origins, character and implications of government measures against so-called "illegal immigrants," focusing on what became known as the "Tampa affair". In August 2001, in breach of then existing Australian law, the Howard government used the military to prevent the Norwegian freighter Tampa from disembarking shipwrecked Afghan refugees on Australian territory.

Head placed the Tampa affair in the wider context of what he defined as the "three major and unprecedented changes" in the Australian state since 2000: legislation to enable the military to be used against civil unrest; laws sanctioning the use of the

military to prevent refugees reaching Australian territory; and the legislation of June 2003 permitting the Australian Security Intelligence Organisation (ASIO) to detain people without trial.

The Australian government, he noted, was also complicit in the detention of Australian citizens in Guantanamo Bay in violation of the Geneva Conventions and had actively participated in the illegal war of aggression against Iraq.

Head told the forum: "These are not measures to protect ordinary working people from terrorism. They are designed to prey upon fears of terrorism, real and imagined, to poison and divert public opinion, in order to protect the political and economic establishment against growing popular dissatisfaction." The Howard government's support for the invasion of Iraq, he said, was a "quid pro quo for American support for its own militarism and bullying in the South Pacific". He noted that it was not long after the Iraq war that "Australian troops were on their way to the Solomon Islands".

In the course of his address, Head stressed that the Howard government had only been able to implement its agenda due to the bipartisan support it had been given by the opposition Labor Party. He documented how Labor had voted for all three pieces of anti-democratic legislation. It had also collaborated with the government to prevent any genuine independent investigation into its lies over Iraq.

The bipartisanship, Head explained, was "hardly surprising". The Labor government of prime minister Paul Keating had initially introduced the draconian policy of "mandatory detention" of illegal immigrants, laying the legal and political groundwork for the raft of measures the Howard government has taken to persecute refugees.

Head outlined the far-reaching anti-democratic precedents established by the campaign against "illegal immigrants". The High Court of Australia in November 2001 refused to hear a *habeas corpus* appeal on the Tampa refugees' behalf against a ruling in the lower Federal Court. The majority of the Federal Court had sanctioned the government's breach of its own Migration Act in the Tampa affair on the grounds the executive had the power to defend "national sovereignty". Due to the High Court's refusal to hear the case, this ruling has never been overturned, opening the way for it to be used to justify other extra-parliamentary measures.

Head concluded by calling for “lawyers who will not flinch in defending civil liberties and democratic rights” but warned that the threats to democracy could not be addressed simply within the “realm of legal work”. “The traditional democratic forms are becoming increasingly exhausted and discredited”, Head stated. “An alternative mass movement must be built that will strive to reorganise society along genuinely democratic, internationalist and egalitarian, that is, socialist, lines”.

Andrew Wilkie detailed the circumstances leading up to and following his resignation from the government’s Office of National Assessments (ONA) on March 11, 2003 over his opposition to the looming war on Iraq. Wilkie repeated his statements in Australia and before inquiries in both Britain and the US that the war was carried out on the basis of what governments in all three countries knew to be exaggerated, unsubstantiated or outright false claims that Iraq possessed “weapons of mass destruction” (WMDs) and links to terrorism.

Wilkie described himself as a “case-study in how the government treats its adversaries”. He has been vilified as mentally unstable in parliament and in the media. In June, *Herald Sun* journalist Andrew Bolt wrote that he had “read through” a top-secret ONA report and alleged it demonstrated that Wilkie had in fact agreed with the assessment that Iraq possessed WMDs. Bolt could only have gained access to an ONA report and used it to try to discredit Wilkie if it was leaked to him by a high-ranking member of the government or public service—which would be a direct breach of the Crimes Act.

Wilkie pointed to the parallel between the attempt to discredit him with the criminal leak in the US naming as an undercover CIA agent the wife of the former US diplomat who exposed the White House’s lie that Iraq had attempted to purchase uranium from Niger. Wilkie also raised the death of British weapons expert David Kelly amid the Blair government’s campaign to discredit claims it had “sexed-up” the Iraq threat.

He told the forum: “It seems to me the Australian, US and UK governments are prepared to act unethically, and even criminally, when attempting to silence their opposition.”

The theme of Wilkie’s report was the “Politicisation of the public service”. While declaring his “enormous respect” for the public service and his former ONA colleagues in particular, he categorised the situation in the Australian state apparatus as the public service tending “toward compliance when confronted with faulty government decisions and policies or government interference and manipulation”. He assessed this as being primarily due to fear of the consequences of speaking out. Underlying this, Wilkie opined, was a “sense of despair” that public servants felt powerless and unable to influence events.

Wilkie called on the audience “not to accept” political leaders “who see no wrong in routinely misleading” the population. In closing he stated that “there is a real crisis of democracy in Australia... What we need more than ever is ethical men and women in power, people we can trust, people with a real sense

of social justice”.

At the start of his contribution, Stephen Hopper noted it was almost two years since Mamdouh Habib had been seized without any charges in Pakistan on October 5, 2001. Habib was then illegally detained and possibly tortured for some five months in Egypt, before being transferred to a US prison in Afghanistan, and ultimately to Guantanamo Bay.

Hopper recounted how the Australian government and media had deliberately distorted the truth about Habib’s arrest in order to portray him as a terrorist. Habib, according to the government, was arrested attempting to cross into Pakistan from Afghanistan. In fact, he was seized 700 kilometres inside Pakistan as he was travelling by bus to catch a flight back to Australia.

Hopper has been blocked from gaining access to information the Australian government has about Habib on the grounds that it “would prejudice national security or relations with a foreign power”. His client is in a legal limbo, as US courts have ruled that the US-controlled military base in Guantanamo Bay is outside their jurisdiction. An appeal is underway to the US Supreme Court.

On several occasions, Hopper referred to what he saw as the parallels between the German Nazi regime’s demonisation of communists and others during the 1930s and the attempt, particularly since September 11, 2001, to portray the Muslim community as a hotbed of potential terrorism. In both cases, the state demanded more powers to “protect” the population. “All of sudden,” Hopper said, “your rights are gone, your whole culture has changed and you’ve got people in jackboots marching into your house and kicking your door down and taking you away because you’ve been engaged in political dissent.”

He told the audience: “It is the obligation of all of us to stand up and prevent that. We’ve got the examples throughout history... when people fail to stand up and speak up, they will be put into a position where they will never be able to speak up again.”

The three presentations were followed by a 40-minute discussion session, during which Head, Wilkie and Hopper answered a number of questions and expanded on their differing views as to how the defence of democratic rights should be developed. The conference continued over October 5 and 6, featuring plenary sessions and workshops on a range of legal and political issues. The Progressive Law Students Network hopes to make the conference an annual event.



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