The Academy of the Social Sciences in Australia was established in 1971. Previously, some of the functions were carried out through the Social Science Research Council of Australia, established in 1942. Elected to the Academy for distinguished contributions to the social sciences, the 382 Fellows of the Academy offer expertise in the fields of *accounting, anthropology, demography, economics, economic history, education, geography, history, law, linguistics, philosophy, political science, psychology, social medicine, sociology and statistics.*

The Academy's objectives are:

- to promote excellence in and encourage the advancement of the social sciences in Australia;
- to act as a coordinating group for the promotion of research and teaching in the social sciences;
- to foster excellence in research and to subsidise the publication of studies in the social sciences;
- to encourage and assist in the formation of other national associations or institutions for the promotion of the social sciences or any branch of them;
- to promote international scholarly cooperation and to act as an Australian national member of international organisations concerned with the social sciences;
- to act as consultant and adviser in regard to the social sciences; and,
- to comment where appropriate on national needs and priorities in the area of the social sciences.

These objectives are fulfilled through a program of activities, research projects, independent advice to government and the community, publication and cooperation with fellow institutions both within Australia and internationally.

The **Secretariat is connected to email**. The general address for all Academy matters is: ASSA.Secretariat@anu.edu.au. Individual staff may be reached at the following addresses:

Dr John M Beaton, Executive Director: j.beaton@anu.edu.au
Ms Shirley Chapman, Executive Assistant: at the general address

Dr John Robertson, Research Director: john.robertson@anu.edu.au
Mark Pinoli, Assistant Director (Research, Policy & Advocacy):
mark.pinoli@anu.edu.au
Ms Jennifer Fernance, Finance Officer: assa.accounts@anu.edu.au
Dr Peg Job, *Dialogue* **Editor**: pegs.books@ispdr.net.au

Website   www.assa.edu.au

President's column

Celebrating the Academy

There are many occasions when membership in the Academy brings a feeling of pride. To many Fellows it is the excitement of attending the first annual meeting following election and receiving a warm welcome at the Induction, the Annual Dinner and the Annual General Meeting. To others it is the pleasure derived from participation in Academy activities such as a successful workshop, research project, or symposium.

Securing the Summer School for Indigenous postgraduate students

Pride in the Academy and what it stands for was much in evidence at the Raheen Dinner held at the home of Richard and Jeanne Pratt on 29 May. Under the ASSA banner, 96 guests from the worlds of philanthropy, business, education and the Indigenous community gathered to support the establishment of the Academy's Summer School for Indigenous Postgraduate Students.

The Raheen Dinner was an outstanding success. The Summer School has now been secured with funding of $50,000 in each year 2003 and 2004 from the Department of Education, Science and Training (DEST) Indigenous Education Strategic Initiatives Program (IESIP). Other organisations represented at the Dinner have offered generous support. The following donors will have scholarships established in their names – the Pratt Foundation, CSIRO, Hecht Foundation, Rio Tinto Aboriginal Foundation, Newmont Australia and the University of Melbourne. Additional support has been received from Dame Elisabeth Murdoch, Sir Gustav and Lady Nossal, Sir Zelman and Lady Cowen, Professor Joe Isaac and Golda Isaac, Michael Robinson, Victor and Fleur Spitzer, the Australian Catholic University, Bardas Foundation, Hindal Corporation, and HTT Associates. CSIRO has also offered generous mentoring support for Indigenous students participating in the program. The original idea of a Summer workshop has now grown into a Summer School, complemented by a mentoring program.

The story of the Summer School is about a need, an opportunity, and a partnership.

There is an urgent need to significantly increase the participation and completion rate of Indigenous postgraduate students to help build a large cohort of well trained graduates who will go on to become the teachers, researchers, academics, professionals and practitioners of the next generation.

The opportunity stems from two sources: The Academy of the Social Sciences is a vast resource of expertise and knowledge which can assist postgraduate students in their studies, whether in anthropology, demography, geography, sociology, linguistics, economics, law, history, political science, philosophy, psychology, education, or social medicine. Following the election of Professor Marcia Langton to Fellowship in 2001, a direct bridge between the Academy and the community of senior Indigenous scholars opened up to build the partnership needed to develop and deliver a successful program.

Partnerships have been established with the Colonial Foundation Trust (which supported the first program in summer 2002), with DEST through the IESIP grant, and

with the Pratt Foundation, Richard and Jeanne Pratt, and other generous supporters identified above.

Raheen Dinner (from left to right): Professor Leon Mann, Sir Zelman Cowen, Professor Alan Gilbert, Hon Dr Brendan Nelson, Richard and Jeanne Pratt, Marcia Langton, Sir Ninian Stephen.

At the Raheen Dinner, the guest speaker, the Hon Dr Brendan Nelson, Minister for Education, Science and Training, recalled the powerful influence of Senator Neville Bonner, the first Aboriginal Member of Parliament, on his own life and career and commended the Academy on its vision. In thanking the Minister for his inspiring address, Professor Marcia Langton referred to the difference the Summer School is making to the careers of the first group which attended the 2002 program and will make to those who follow.

Honouring three distinguished Academy Fellows

Eleven ASSA Fellows attended the Raheen Dinner**:** two former Governors-General, Sir Zelman Cowen and Sir Ninian Stephen; past Academy Presidents Professors Fay Gale, Joe Isaac, Peter Sheehan and Keith Hancock; together with Professors Alan Gilbert, Sue Richardson, Marcia Langton, Nancy Williams, and myself. Executive Director Dr John Beaton also attended. Sir William Deane, a past Governor-General and an Academy Fellow, was unable to attend as he had a prior engagement to receive an honorary Doctor of Laws and present the graduation address at the University of Queensland. More about that later.

The Raheen Dinner was a fitting occasion for the Academy to honour the three former Governors-General for their outstanding service to the nation. Citations were presented to the Rt Hon Sir Zelman Cowen, Governor General of Australia 1977-!982 and the Rt Hon Sir Ninian Stephen, Governor-General of Australia 1982-1989. In a separate ceremony in Canberra, a citation was presented to Sir William Deane, Governor-General of Australia 1996-2001.

Each citation reads: *The Academy honours one of its most distinguished Fellows for outstanding service to the Australian nation*. It was noted that Zelman Cowen, the second most senior member of the Academy, had been elected to Fellowship in 1952

at the age of 33 years when Dean of the University of Melbourne Law School. Ninian Stephen had been elected in 1987 and William Deane had been elected in 2001. The three Fellows, it was noted, are recognised for their eminence in teaching, scholarship, practice and development of the law, one of the esteemed disciplines within the social sciences, and that all three add lustre to the prestige of this Academy, and indeed to all the Learned Academies.

This issue of *Dialogue* contains articles written by Zelman Cowen, Ninian Stephen and William Deane. The articles are based on important addresses they have made recently.

Zelman Cowen, reflecting on his own life and family history, asks pointed questions about Australia's treatment of refugees and asylum seekers. He observes: 'we have an obligation…to behave with magnanimity to those who arrive here carrying little other than their hopes for a better life. There is no doubt that the world is watching how we respond, and future generations will judge us'. He also makes a pointed observation about the erosion of higher education in Australia: 'There is a troubling contradiction in the worthy aspiration, expressed at government level, for Australian higher education to attract ever more international students, while at the same time allowing the quality of undergraduate education to fall steadily behind the best international standards'.

Ninian Stephen discusses four cardinal principles of the rule of law: Application of the law to government and government agencies as to ordinary citizens; Independence of the judiciary in administering the law; Ready access to the courts of law; General application of the law across situations and activities. He points to the likely need for an Australian Bill of Rights as the effects of globalisation become increasingly felt.

William Deane's graduation ceremony address at the University of Queensland on 29 May, the night of the Raheen Dinner, was widely reported in the media for its strong, uncompromising message. In the article based on his address he identifies the nation's principal challenges: To reverse the damage done to the land, rivers, and coasts: To do more to help safeguard the world environment; To face up to the growing gap between the haves and have-nots; To achieve true and lasting reconciliation with the Indigenous peoples; and to never be indifferent in the face of injustice and falsehood.

This issue of *Dialogue* also contains articles discussing some of the consequences of Australia's involvement in the war in Iraq, and a challenging examination of cultural policy in our country. Altogether, I am certain you will find this a very worthwhile issue. And we can all take pride in celebrating the Academy at its best.

Leon Mann

Where To? Questions for Australians
Zelman Cowen

In my lifetime, I have seen enormous changes in the development of this nation – I am thinking of changes of attitudes as well as material development – and in its 'international orientation.' I have been asked to reflect on some of these issues in the light of my own life experiences and values.

I was privileged to occupy the office of Governor-General for nearly five years between 1977 and 1982. My appointment seemed to me to be beyond imagining, a miracle – proof that anybody in this country could aspire to its highest office. The Office changed my life. It allowed me to pursue a role which I have described as interpreting the nation to itself at a time when there was some doubt as to whether the office still had that capacity. I hope that I may have had some measure of success, and those years remain in my memory as a time of extraordinary personal fulfilment.

But what was perhaps more extraordinary was that the grandchild of Russian Jewish immigrants could be chosen for that role. In many ways this says more about Australia than it does about me. As far as Australia's engagement in the wider world is concerned, this is a theme that could be said to be in my bones. My grandparents, on both sides, were immigrants from Belorussia, then part of Czarist Russia. My paternal grandfather, Solomon Cohen, after settling in London, went to Western Australia at the end of 1908, accompanied by my father, Bernard. Within two years, however, Solomon had returned to England, taking my father with him. Solomon never came back to Australia. My father, however, journeyed a second time to Western Australia in 1911, and made his home in this country.

My maternal grandparents, the Granats, came to Melbourne in 1891. The Granats were, it was said, once a well placed family in their Russian town of Mohilev, but my grandfather, Harris Granat, worked for some years as a hawker of a drapery in Ballarat. Just seven years later, another Russian immigrant, one Simcha Baevski, later known to the world as 'Sidney Myer' arrived in Melbourne, and also worked as a draper in Ballarat. It has to be said that he managed this rather more successfully than my grandfather. Isaac Isaacs, the first native-born Governor-General, was also the child of Jewish immigrants. Why did these families leave Russia and endure long and difficult voyages to try and make a fresh start in a place so remote from all they had known? America and England were popular destinations for Jews in these years of heavy emigration from Russia – but Australia was still very distant and unknown.

Solomon Cohen and Harris Granat had both been born in Russia during the reign of Czar Alexander II, a time that promised better prospects for Jews. But it was a false dawn, and the assassination of the Czar in 1881 ushered in a time of reaction, and of recurring pogroms, which did not ebb until the overthrow of the Romanovs during the First World War. In consequence, there was a mass migration, the like of which had not been seen since the expulsion of the Jews from Spain at the end of the fifteenth century. It has been estimated that a third of the East European Jews left their homeland, and that nearly two million Jews left Russia, between 1880 and 1914. What is striking when comparing the experiences of my grandparents with present-day immigrants – whether they go by that name, or are called 'refugees' or 'asylum seekers' – is the relative ease with which they were able to enter this country. For non-British migrants in the nineteenth and early

twentieth centuries, there was generally no government assistance. But if they were European and could afford the passage, neither was there much hindrance. For non-Europeans, of course, the case had long been very different, and laws embodying what was called the 'White Australia' policy were amongst the first to be passed by the parliament of the new Commonwealth of Australia. Australian attitudes to immigration have not been consistent. The laissez-faire attitude towards non-British European migration in the nineteenth century was followed by more restrictive practices by the 1930s. But the post-war period saw the strong encouragement of European immigrants who, in many cases, were refugees. Then followed the official dismantling of the 'White Australia' policy in the 1960s, and its *effective* dismantling in the 1970s, when this country accepted large numbers of Indochinese refugees.

Irving Howe, in his great book *World of Our Fathers* says that the migration of the East European Jews was a spontaneous and collective impulse, perhaps even a decision, by a people who had come to recognise the need for new modes and possibilities of life. Today, that same impulse is again driving refugees across the world in great numbers. I appreciate our government's need and right to maintain control of the process of deciding who is allowed to settle in this country. Yet it is clear that aspects of our response to this difficult situation have caused concern. In the very difficult balancing of all of these complex arguments, I consider that being as generous as we can be is the most likely way to get the best result. My background gives me a sense of that powerful urge to find something better. Compared to many nations of the world, our circumstances are comfortable, even enviable. We have an obligation, as part of the international community, to behave with magnanimity to those who arrive here carrying little more than their hopes for a better life. There is no doubt that the world is watching how we respond, and future generations will judge us.

I have said many times that my term in the Office of Governor-General was the greatest experience of my life. I believe that the Office provided opportunity and challenge to the Governor-General to interpret the nation to itself, and as best I understand the phrase I attempted to do that. The years in Office certainly remain vivid in my memory as a time of extraordinary personal fulfilment.

This year the University of Melbourne celebrates its sesquicentenary. It is an institution that has played a great part in my life, and through it I developed and maintained a close interest and involvement in higher education in this country and overseas. When I came to the University of Melbourne in 1936 my ambition, transmitted to me by my mother, was to become a barrister. The then Master of Ormond College, DK Picken, thought otherwise. His insistence that I should broaden my University studies, opened up a learning and cultural experience for me in areas in which the University was at its best. I was exposed to outstanding teachers. It was a truly broad and liberal education, and as such it was of inestimable benefit to me.

I have recently read an excellent biography of the great Australian jurist, Sir Owen Dixon – also an alumnus of the University of Melbourne. In 1954, Dixon addressed the theme of higher education in words which are relevant today. He asked where and how a 'liberal education' might be found –

> The universities are faced with the problem of overstraining their resources. Their responsibilities in the propagation of scientific knowledge are tremendous. But their traditional responsibility remains of producing men [and women] whose minds have become better instruments of thought, whose intellectual interests have been stimulated and will often be sustained, and above all who can

combine knowledge with reason and both with experience so as to meet the problems of actual life.

A 'liberal education' is not and should not be seen as a kind of 'add on' luxury, a genteel relic of a time when specialisation was not all-important. Today, more than ever, higher education in this country needs to maintain and even to develop further the essential elements of a liberal education. A graduate in our time must have the capacity to work in a globalised world. By that I mean a world in which human activity of all kinds is shaped by forces that transcend national boundaries. Graduates now and in the future will need to be capable of operating in different locations around the world as well as in their home cities. Naturally, such graduates will more than ever need specialised skills, which will need continued refreshment and refinement throughout their careers. However, specialised skills will not, of themselves, be enough. Equally essential will be the mental flexibility and range which come from a broad and liberal education. As I see it, the vital elements of such an education involve learning through wide reading and a sense of the play of great ideas; the capacity to think for oneself; an awareness and capacity to consider social issues thoughtfully; and to be able to consider such issues in the widest international and historical perspective.

Personal experience from the time when I was a young Dean of Law in Melbourne has convinced me of the importance of keeping closely in touch with a wider world – with the practice of the best universities. In 1945, I went to New College, Oxford, to study on a Rhodes Scholarship (delayed due to my war service). After taking my degree, I moved to Oriel College, as a lecturer and then as a Fellow. I remained there until I returned to Australia to take up the post of Dean of the Melbourne Law School in 1951.

In 1949, from Oxford, I accepted an invitation to be a Visiting Professor in the law school of the University of Chicago. I was there only for a summer, yet my experience proved to be both stimulating and unsettling. A sense of intense intellectual excitement was pervasive. It had implications for the way we ultimately did things in Melbourne. I spent time at Harvard Law School in 1953 and 1963, and I encouraged my colleagues to study and teach in major American Law Schools, on a reciprocal basis. We also began to explore Asian legal systems, in particular Indonesian law. I believe we were successful in what we did, and I would like to think that our example is still followed in Australian universities. Australian higher education cannot maintain its standards, let alone improve, without a global perspective.

There is another crucial aspect of this subject – a sound and broadly based curriculum can only go so far. To convey its lessons effectively good teaching is essential, and I fear that this is an element that is too easily overlooked in discussion of the needs of today's universities. The embodiment and representation of a sensibility and an ethos of the love of learning were – and should still be – essential parts of teaching. This is not achieved only or even mainly by explicit instruction; it works through empathy and identification. Good teaching at all levels, but especially at the undergraduate level, is central to the role and purposes of the university.

A broadly based curriculum and a high standard of teaching are dependent on adequate funding. This is a vexed question about which there is much debate, and until there is a satisfactory resolution Australian higher education will not attain the desired standards of international excellence. One trend seems clear: more funds will have to come from private sources, be they individual students and their families, or by the exercise of philanthropy. The latter resource is still under-developed in this country.

The experience of North America, and - more recently - the United Kingdom, suggests that the development of a culture of philanthropy, drawing on major companies as well as wealthy individuals and foundations, can make an enormous difference to the financial well being of tertiary institutions and the educational capacity of the country. But the full development of such a culture in this country will take time. Adequate public funding of our universities remains essential. It is disturbing that on a per student basis this has steadily diminished in real terms over recent decades, resulting in unacceptable staff-student ratios and, in too many cases, in the loss of that essential direct contact between teacher and student which is the essence of good education. There is a troubling contradiction in the worthy aspiration, expressed at government level, for Australian higher education to attract ever more international students, while at the same time allowing the quality of undergraduate education to fall steadily behind the best international standards.

In the period in which I grew up there was no mistaking the strength of the British imprint on our lives and learning. When I reached the University of Melbourne, I could read a history degree with only glancing attention to any Australian history. I could recite the table of the Kings of England, from the Tudors onwards, with confidence – but I could do nothing with a table of Australian Prime Ministers, whilst Governor-Generals were in the dimmest darkness. Until my last year in law school, I knew nothing of the Australian federal movement. There was no teaching about the Aboriginal peoples and their culture, and they – even individual aboriginal men and women – were rarely to be seen. There was virtually no awareness of the cultural or historic traditions of nearby Asia, except inasmuch as they impinged on the history of the Empire. As one writer has put it, British influences were pervasive, peculiar and tenacious.

By the 1970s the changed Australian view of the world was reflected in a striking Australian cultural awakening. Indeed, by the centenary year of 1988, the 'cultural cringe' had, in the words of the expatriate Australian critic, Robert Hughes, been replaced by the 'cultural strut.' A more constructive aspect of that cultural awakening was a greatly increased awareness of Asia, and recognition that the Bicentenary year was seen by many in the indigenous community as an occasion for mourning and regret, rather than celebration. That mood developed further in the early 1990s, and Paul Keating, vigorously rejecting aspects of the British legacy, actively seeking Asian engagement, embracing reconciliation, and urging the cause of the Republic, epitomised its spirit. More recently, national self-assertion and engagement with the wider world has been expressed through this country's key role in establishing the independence of East Timor, and its subsequent part in peacekeeping and reconstruction. Our involvement in Iraq has focused world attention on Australia's readiness to participate in a conflict far from its shores. Much of this suggests a nation increasingly self-confident.

The Rt Hon Sir Zelman Cowen AK GCMG GCVO QC DCL, was Governor-General of Australia 1977-1982, and was elected a Fellow of the Academy of the Social Sciences in Australia in 1952.

This is an edited version of an address given by Sir Zelman Cowen on the occasion of the Fifth Anniversary of the Global Foundation on 5 June 2003, Melbourne.

The Rule of Law
Ninian Stephen

I t has been said that maintaining the rule of law is the true basis of democratic society, that without it democracy is a misleading and empty phrase. The contrast between democracy and the totalitarian state lies very much in reliance, by a people wedded to the democratic ideal, upon the rule of law, upon a requirement that governments operate under and act within the established law, exercising their powers solely for lawful purposes and also that there be equality of treatment of all citizens.

The precise meaning to be attributed to the rule of law is far from uniform, and this, I think, because, although of extreme significance, it is not one simple ideal but rather a group of vital principles, and, like most of the biblical Ten Commandments, these principles are in the main negative ones, descriptive of what should not occur, should not be done, in any democracy which has regard for human rights and is respectful of the liberties of its peoples.

The cardinal principles of the rule of law seem to me to be four in number. There are, of course, others which writers on the topic include but these four seem to me to be of prime concern. They take their place against the background of very familiar requirements of our legal system that are so much part of our system that we are scarcely aware of them; matters such as the initial presumption of innocence in criminal cases and the general requirement that trials should be fair and that our courts should in general operate in public and not behind closed doors.

The first of these four principles is that Government should be under law, that the law should apply to and be observed by Government and its agencies, those given power in the community, just as it applies to the ordinary citizen. The second is that those who play their part in administering the law, judges and other lawyers alike, should be independent of and uninfluenced by Government in their respective roles so as to ensure that the rule of law is and remains a working reality and not a mere catch phrase. The third is closely associated with the second; it is that there should be ready access to the courts of law for those who seek legal remedy and relief. The fourth is that the law of the land should be certain, general and equal in its operation.

One of the most memorable and certainly the most concise description of the first principle of the rule of law, Government under law, is that of Sir Edward Coke when chief Justice of Common Pleas in James I's England. By then Coke was a reformed character, no longer a vengeful Attorney-General unrelentingly prosecuting for the Crown. Francis Bacon had told the twelve judges of England how they should behave. They should, Lord Chancellor Bacon had said 'be circumspect that they do not check or oppose any points of sovereignty'. That well suited James I and when Coke, echoing Bracton, declared to the contrary that the King 'shall not be under man, but under God and the Laws', James regarded that as treasonably infringing upon the royal prerogative. What Coke said in the context of Stuart times was an affirmation of Government under law, that Government, which in that era was the monarch and his Council, should observe and operate through and under the law and not through Divine Right and the exercise of claimed prerogative powers.

Today that same principle remains vital. When Lord Denning wrote that 'The Executive Government must never be allowed more power than is absolutely necessary. It must always be made subject to the law', he was stating the same principle as Coke stood for and as Bracton had declared more than seven hundred years ago when he said of the King that he must be under God and under the law because the law makes the King.

Allied to this principle and necessary for it to operate is the second principle, the independence of the judiciary and with it the exclusive right of the duly established courts of law, staffed by independent judges, to administer the law. This independence of the judiciary is not a question of independence *for* judges but, rather, independence of the justice system, with the judges free to do justice without fear or favour and protected from the power and influence of the State and from all other influences that may affect their impartiality; supported too, as they must be, by a profession which is itself free to act on behalf of any client and any cause. For an independent judiciary can only be effective and the rule of law can only prevail if supported by an independent profession. This concept of judicial independence, as an ideal if not always a reality, is as old as justice itself because independence of judgment is of the very essence of the doing of justice.

The mainstay of judicial independence is security of tenure. Established by the Act of Settlement of 1700, judges holding office not merely during Government's good pleasure, but with tenure. In Australia, while there are variations in detail, federally and in every State, judicial tenure is and has long been at least as secure as those Act of Settlement terms.

The third principle, ready access to the courts of law, is one of the most difficult aspects of the rule of law because compliance with it involves the provision of legal aid through substantial Government funding; funding which is neither productive of obviously praiseworthy public works nor necessarily meeting with any very grateful public reaction. It is often, accordingly, no great favourite of Governments having to face periodic elections. However it is undeniable that to have a splendidly independent judiciary and court system, yet have full access to it barred to all those without adequate means is a clear denial of the rule of law.

While the preservation of the rule of law rests especially upon the judges and, of course, the legislature, access to the remedies of the law depends very largely upon the solicitors and barristers upon whom citizens must rely if they are effectively to invoke the aid of the courts in ensuring that their rights are preserved and the rule of law observed. The matter of the penniless accused or the civil litigant without means is no easy one to resolve, at least when viewed in budgetary terms. Yet the aim must be to ensure a fair trial, something that lies at the heart of the rule of law.

So long as these financial considerations persist we should not be too sanguine about our own version of the rule of law and the principle that the courts of law should be accessible to all. On the other hand it cannot be that every litigant can be free to pursue his possibly worthless claims and appeals at the taxpayer's expense nor by his penniless state gain a positive advantage over his opponent who has to bear his own legal costs. The way to a more perfect system lies in the future, but that one is essential seems to me to be clear. Partial alternatives do of course exist, notably through lawyers undertaking *pro bono* work; and too, in civil cases the use of carefully regulated contingent fees, with members of the profession being remunerated by some share of the award if the case is won; again in appropriate cases resort to class

actions with a large number of plaintiffs sharing the cost. Each has its difficulties and its defects, but at least does assist in providing access to the courts, as do the many community advice centres and the like, unknown forty years ago but now commonplace.

The fourth of these great principles of the rule of law is that the law should be general in its application, equal in its operation and certain in its meaning. Each one of these qualities is in a sense perfectionist; no one of them can always be complied with absolutely in our complex present day society. However each does represent a goal to be aimed at by our legislators. That a law should be general cannot apply to particular laws, dealing only with certain situations and activities, but within the particular area dealt with the law should, so far as may be, be general in its application and apply to all those similarly situated who engage in it, not differentiating on any basis unassociated with the activity in question.

Similarly with equality, a law should treat equally all to whom it applies, not differentiating on grounds unassociated with the activities to which it relates. This is, in a sense, only an aspect of the earlier requirement of generality. As to certainty of meaning, its importance is that it should leave no room for arbitrary application, provide no room for the exercise of unfettered discretionary powers.

What is surely remarkable about the whole concept of the rule of law is that it lives in harmony with the doctrine of legislative supremacy. The rule of law teaches that there are certain principles that are so fundamental that they infiltrate into every aspect of the laws under which we live. Yet legislative, that is parliamentary, supremacy suggests the very opposite – that valid legislation once enacted *is* the law and is uncontestable, however much it may infringe upon or contradict principles of the rule of law.

What then prevents conflict between this legislative power and the rule of law? Three factors seem to me to play their part in this. First the general, if neither constant nor unanimous, recognition of and respect for the principles of the rule of law by our legislatures. Secondly, judicial interpretation; for where there is room for doubt as to meaning courts do tend to interpret legislation as not inconsistent with what the High Court has described as those 'rights deeply rooted in our democratic systems of government and the common law'. Thirdly, it is aided by our Constitution's separation of powers doctrine, and its distinction between legislative and judicial power.

How then are all these requirements of the rule of law to be ensured, how is a democratically elected legislature to adhere to these vital principles? The existence within the community of a lively belief in proper standards of law making and law enforcement which it is known will manifest itself at election time and of which the law-makers are kept well aware, is, of course, invaluable.

In much of the world today the existence of a superior law, some bill of rights which in relation to human rights, limits and controls those laws which legislators can enact, is seen as a vital contribution to a solution. Our own Constitution contains little by way of a spelling out of individual citizens' rights though in recent years members of our High Court have been venturesome in discerning particular rights which may be implied from it and from the common law.

So long as our governments and Parliaments continue generally to respect human rights the pressure for enactment of a bill of rights may not be great; yet as the effects of globalisation are increasingly felt it may become curious indeed that Australia should continue to lack such a legislative or constitutional measure.

The Rt Hon Sir Ninian Stephen, KG, PC, AK, GCMG, GCVO, KBE, KStJ, Cmdr Legion d'Honneur, was Governor-General of Australia 1982-1989, and elected a Fellow of the Academy of the Social Sciences of Australia in 1987.

This article is based on an address delivered at the Annual General Meeting of Liberty Victoria, Victorian Council for Civil Liberties, in Melbourne on the 17 October, 2000.

Address to the University of Queensland

William Deane

At the outset, I acknowledge the traditional custodians on whose ancestral land Queensland's first University stands.

It is now approaching eight years since I retired from the Bench. In the time since then I have effectively ceased to be a lawyer. Consequently, I do not feel qualified to offer any really worthwhile professional advice to those of you who are setting out on legal careers. The most I can do is to urge you to be true to your own personal principles and to the ethical standards which are essential to the proper practice and administration of law in this country. That having been said, I venture to share a few thoughts with you about the nation which will be increasingly reliant on the leadership of people like yourselves as it passes through its third half century.

Perhaps the most significant thing about our country that my years as Governor-General brought home to Helen and me is the importance, particularly in this modern turbulent world, of maintaining the mutual respect and acceptance which lie at the heart of our Australian multiculturalism. One sometimes hears well-intentioned suggestions that multiculturalism is divisive. I respectfully disagree. I'm convinced that it is our multiculturalism which has made possible our national unity notwithstanding that we Australians directly or indirectly come from all the regions, races, cultures and religions of the world.

For me, multiculturalism means inclusiveness not division. It's enabled us to blend the many into a pretty harmonious whole without bringing to this new land old hatreds, old prejudices and old conflicts. It is our multiculturalism in that sense which inspires and sustains our modern Australia.

Our multiculturalism is not, of course, the only thing of which Australians should be justly proud. There is our land itself … this matchless continent, its islands, its surrounding seas. There is the commitment to democratic government under the rule of law which we have maintained tenaciously in war and in peace. Very few other nations can look back on more than a century of democratic rule unbroken by

dictatorship of the left or right, civil war, military coup or conquest. And there are all the achievements of our Australian people who, as the preamble to our Constitution makes plain, are our nation. All that they are; all that they have been; and all that they have done.

Let me add a few words about what I see as the principal challenges which our country faces in the years ahead. There is the challenge to reverse the damage we have done to our land, its rivers and its coasts, and to make good our failure as a nation to do enough to help safeguard the world environment for future generations. There is the challenge to face up to the completely unacceptable yet growing gap between the haves and the have-nots in this the land of the so-called fair go for all. For the plight of the disadvantaged even in affluent Australia is an overwhelming problem which no one of us who has a voice to speak or the means to help can in conscience ignore. And of course there is the challenge to achieve true and lasting reconciliation between our indigenous peoples and the nation of which they are such a vital part.

There is one challenge for the future leaders of our nation which I would particularly emphasize in this gathering. It is the challenge of justice and truth. The challenge never to be indifferent in the face of injustice or falsehood. It encompasses the challenge to advance truth and human dignity rather than to seek advantage by inflaming ugly prejudice and intolerance. Who of us will easily forget the untruths about children overboard? Or the abuse of the basic rights of innocent children by incarceration behind Woomera's razor wire? Or the denial of the fundamental responsibility of a democratic government to seek to safeguard the human rights of all its citizens, including the unpopular and the alleged wrongdoer, in the case of the two Australians indefinitely caged, without legal charge or process, in a Guantanamo Bay jail? Some may think that these and other similar unpleasant things should be left unmentioned. But if our coming generation of leaders refuses to honestly confront the denial of truth or responsibility which they reflect, our nation will surely be in peril of losing its way in the years ahead.

Finally, I sincerely thank the Chancellor, the Vice-Chancellor, and all the members of this great University for the honour done me by the conferral of the honorary degree of Doctor of Laws. I am truly delighted to be admitted to your company. I also offer my sincere congratulations to all my fellow graduates. Or should I say 'classmates'? May all your plans be successful, all your ambitions be fulfilled and all your dreams become reality.

Sir William Deane was Governor-General of Australia 1996-2001, and elected a Fellow of the Academy of the Social Sciences in Australia in 2001.

This address by the Hon Sir William Deane was given on the occasion of the conferral of the degree of Doctor of Laws *honoris causa* at the University of Queensland, Brisbane, 29 May 2003.

Australia's Participation in the War on Iraq: Some Consequences
The Impact of the Iraq War on the International System
JDB Miller

To the extent that there is an international system, we can distinguish two related but distinct aspects: that which is primarily economic, and that which is primarily political. The economic aspect holds the world together in terms of the movement of people, goods and money: the dockage of cargo ships, the movement of airlines, the postal system, Interpol operations, extradition treaties and the like. This aspect has been in active life for a long time, and has survived a number of wars and other changes over the globe, it is not perfect, and is sometimes violated, but it is the sense in which we can speak of the much-used phrase, the international community.

It is not so with the political aspect. This is the area in which conflicts take place between sovereign states. It is also; of course, the area in which they can arrive at degrees of co-operation: the Law of the Sea, for example. But it is where trade disputes, border wrangling, wars and the impact of civil wars occur. It is here that the idea of an international community is fractured, whether the causes of dispute prove to be economic, political or otherwise.

Of this two-in-one system, it is likely that the economic aspect will be the less affected by the Iraqi War. The price of oil, something of a signal of how the world economy is moving, has survived most of the uncertainties of the war; the return of Iraq to the full world market will have some influence, but this is a market which since the 1970s, has been well accustomed to make adjustments. The physical reconstruction of Iraq will require substantial Western expenditure and the employment of large numbers of people from the West and from the Middle East.

Iraq will experience significant economic improvement from its conquerors. In any sense Iraq is not the centre of world trade and investment; those which matter are likely to continue on their way – provided there is no substantial invasion from the political system which disrupts them.

Here the crucial question is the position of the United States, now that its hegemonic military situation has been consolidated, its government has espoused a number of unilateralist stands, and its present and possibly future revenge upon Islamist terrorism has become such a national creed. There is considerable debate, in the US itself, in Europe and elsewhere, about where the Bush administration will go next, or whether it will go anywhere at all. In one view, expressed by Simon Nixon in *The Spectator*, 17 May 2003, 'the Bush administration has adopted a new world order based in the twin doctrines of pre-emptive action and regime change, including the removal, by force if necessary, of the leaders of states that don't embrace Western values'.

Such an assessment suggests that we may see a series of interventions by the USA in the domestic affairs of states that prove not to embrace Western values, and which like Iraq before the war, have weapons which threaten the USA and/or those countries which support it. This would be something of a departure from the system currently in operation, which assumes that each sovereign state is inviolate in its domestic affairs, and that any interference from another state - especially armed interference - is unprincipled aggression. Yet there is a variety of regimes which, given such a character as eligible for the Nixon quote, would qualify for intervention.

Whether the Bush administration proceeds in this fashion may well be affected by the post-war situation in Iraq, in which the difficulties of US occupation have become

apparent. There are at least two aspects of American history that might militate against intervention as a policy at large. One is the US failure at creating viable democratic and rights-based regimes in its own hemisphere, as in Haiti, Cuba and the Dominican Republic. The other is the practice of Congress, under continued pressure from the demands of domestic issues, to preserve funds for home-based programs rather than for adventures abroad. Iraq will cost a great deal. If the US pulls out early, as in Afghanistan, there will be heavy criticism for not doing enough; if it pulls out late, there will be complaints about the cost and the doubtful benefit. Arguments like these may well have force in the US political system; time will tell. An outcome to the terrorism issue might well decide.

Consideration of the US situation leads naturally to the future in the Middle East. To what extent the effects of the Iraq war will be felt there is very much a matter of guess. It has been claimed by both the US and Australian Governments that the eclipse of Saddam Hussein has been welcomed by such Iraqi neighbours as Jordan, Kuwait and Iran. These were the people expected to cheer; but such statements come from governments, not from the street. The extent to which active Arab anti-Americanism has been expanded by the conquest of Iraq has yet to be seen. Arab states are subject to internal disturbance and to populist take-overs; these are not impossible but are perhaps unlikely in the countries that have given their support to the USA. Saudi Arabia may turn out to be a test case.

The running sore, of course, of the Middle East is the Israeli-Arab conflict over Palestine. The 'road map', prepared by external interests for the Israelis and Palestinians to accept, bears an uncanny resemblance (given so many events since) to the 1947 partition map, which the Arabs rejected. There is no clear indication that this new initiative will prove more effective, in spite of the Israeli acceptance under pressure in May 2003.

Yet there are other reasons why the Middle East should remain a running sore, complicating relations amongst the Western states, and between Arab states above all, about oil. The developed economies cannot do without Middle Eastern oil, however many other areas may produce it; and there is intense competition over who will benefit. Complications arise from the internal conflicts in Arab states between modernisers and traditionalists, and from the generally uncertain attitudes of Arab government. While the USA can moderate the situation between the Israelis and the Palestinians because of the unique character of Israel amongst Middle Eastern States, and the very strong domestic support for Israel within the USA itself, and because any future Palestinian state would be to some undefined extent the recipient of US bounty, there would still be the dreadful legacy of the past. The other Arab states would be very much the loose cannons within the system.

A further matter for the international system is relations between the USA and Western Europe, one that caused considerable debate because of differences within the UN Security Council. In my view, this is something unlikely to disturb either the economic or the political aspects of the system. Advanced economies cannot do without each other, except in time of war between them: the multifarious connections in trade, commerce and intercourse are too strong. Quarrels will be made up, arrangements will be made, summits (so-called) will be achieved.

There will be possible outcomes from the Iraqi war for the United Nations and for international law. If they occur, they will result from there having been unrealistic expectations about both of these. Anybody who said before or during the war that 'the

United Nations must [act] [decide]', or that 'this is against international laws', was deluding him/her self and those who were listening. Both institutions are at the mercy of international politics. If a hegemonic or dominant state in a regional situation wishes to take a violent course and is likely to succeed in it, it will do so, as the USA did in Iraq. The UN is essentially an arena and a vehicle for national interests, not an interest in itself. International law is what is agreed about at the time – if there is a time – not an inviolable set of rules. In this case it was irrelevant to what the USA wanted to do and what it did.

The UN might be called in later to give the impression of a degree of international co-operation, but not as a main actor. It has a role as a humanitarian organisation and as a peace-keeping force when no-one's major interests are involved, but none as a body settling policy when major actors are involved. There is no separate UN.

In conclusion, it seems to me that the system at large – an assembly of sovereign states with a variety of international agreements on mutual interests – will operate as it has in the past. At the least, everyone wants to post a letter. In the political sphere, we may not see so many wars between states as in the past largely because of the disincentive of the proliferation of nuclear weapons, which is now in being and will increase; there will be more bloody civil wars, especially in Africa, a resultant of the developed world's infamous release of weapons to anyone who could buy; but beyond all this there will be further economic globalisation wherever it will profit and will indeed raise the standard of living in countries where otherwise substandard farming and disastrously overcrowded cities would be the norm.

For Australia? The venture in Iraq has been successful in terms of lack of casualties and to approval of the US Administration. There seems to have been only a minimal element of disapproval by South-Eastern Asian Governments. The prospect of some attack from Asia (formerly Indonesia, and now, presumably China, in the minds of politicians and intelligence officers) looks very slight. Unless the USA involves itself in hostilities with Iran and North Korea – the remaining 'evil' states – there is no obvious obligation for Australia to involve itself. It is still an open question how much the Australian community is frightened of Asia as to demand an unconditional adherence to US policy in this part of the world or anywhere else.

Unless dependence on the USA becomes absolute in all situations, perhaps the best outcome of the Iraqi war for Australia would be concentration, both civil and military, but mainly civil, upon our South Pacific neighbours, as advocated by Graeme Dobell (*Quadrant*, May 2003), and upon the task of engaging ourselves with our neighbours in Southeast Asia. Iraq is a long way away, so too are Iran and North Korea.

JDB Miller is retired. He is Professor Emeritus of International Relations, Australian National University.

The Effects of the Iraq War upon Australia's Standing in Asia

Jamie Mackie

Australia's eager participation in the Iraq war as part of President Bush's 'coalition of the willing' has affected our standing among our East Asian neighbours in various ways. The Prime Minister has told us that the governments of Singapore, the Philippines, Japan and South Korea have supported the war and our part in it, while only in Indonesia and Malaysia, the two predominantly Muslim nations in our region, was much disagreement expressed with our stand. The comments from China and Thailand have been muted. President Megawati had accepted his assurances that this was not a war against Islam as such, Mr Howard has said. All this may be true, but it is not just a matter of counting heads (or countries) for and against us in a matter like this. There is far more involved. I have been asked to comment on some of the possible ramifications.

'Asia' is an extremely diverse region, we must always remember, far from monolithic, so assessing the pattern of responses to Australia's increasingly close association with Washington over the Iraq war and its aftermath is not a simple task. It should also be noted that divergent reactions have been expressed in different parts of these societies - among politicians, officials, the media, military leaders, and non-Government organisations for instance - and that popular perceptions and attitudes have often differed substantially from official statements. It is all too likely, therefore, that the longer-term effects of our stand over Iraq could prove a lot more damaging to Australia's national interests than Panglossian official estimates of the immediate impact are likely to indicate.

There are more important reasons why those perceptions matter, even if we disregard as relatively trivial the use of offensive terms like 'Washington's poodle' and 'Uncle Sam's foremost flunky' or the revival of the 'deputy sheriff' label that arose out of our far more justifiable military intervention in East Timor in 1999. The foremost of these reasons is the widespread view in policy- and opinion-making circles in most Southeast Asian countries that our stand over Iraq has marked yet another step backwards, and a major one, in Australia's post-1996 reversal of our previous course towards building up closer relations with our Asian neighbours over the previous half-century. We are widely seen, moreover, as adhering to the Bush administration's post-Iraq line of unilateralist, interventionist policies towards al-Qaeda terrorists and the 'Axis of Evil'. In an increasingly Bush-polarised world, we are lining up prominently in the camp that arouses the most intense concern amongst many of our neighbours.

During a recent visit to Jakarta I encountered a general inclination even among the most pro-Australian members of the opinion-forming community to regard us as drawing even further away from our Asian neighbours as we swing into Washington's orbit. While we have had to maintain a balance of sorts ever since the 1940s between relying on the US alliance for our basic security and seeking closer ties with Asian countries, wavering from one side to the other at times, all recent Australian governments have accepted that some kind of balance between the two is essential. But the tilt away from Asia has been very marked since 1996, and is likely to be accentuated in the years ahead because of the Iraq war and its aftermath. And the tilt towards Washington is occurring at a time when US policies are alienating public opinion in many Asian countries to a degree we have not seen since the height of the Cold War. 'Being seen as indistinguishable from the US ... is likely to be very

damaging,' wrote Ron Huiskens,[1] '… long-term interests will always be framed predominantly by the character of our relations with our neighbours in Asia. If this is not abundantly clear, to Australians and Asians alike, it can be safely inferred that we are not getting it right. Regrettably, our stance on Iraq ... and the manner in which we are now positioning ourselves in the aftermath of this defining war, has allowed the perception to take root that solidarity with Washington takes precedence over all other considerations.'

Shortly before the war in Iraq I wrote[2] that winning the war against terrorism was a matter of primary and enduring concern for Australia's national interests, but that the US war in Iraq was not. Supporters of the war tried to sidetrack this argument with the dubious claim that elimination of weapons of mass destruction in Iraq was a necessary condition for defeating the al-Qaeda terrorists (an assertion that rings hollow today if none can be found.) I anticipated that our involvement in the war would probably lead to a backlash of hostility towards Australia in Indonesia and Malaysia - and, less significantly, in the southern parts of the Philippines and Thailand (where there are substantial Muslim minorities) - which could seriously endanger our chances of winning the cooperation of these countries in the processes of tracking down and eliminating the groups known to have connections with al-Qaeda there. After the event I have to admit that no very serious backlash has yet occurred. In Indonesia, Muslim anger against the war has been less than expected, and directed more against the US than Australia, while in Malaysia it has been expressed mainly by the Prime Minister, Dr Mahathir, in his traditional, almost ritualistic tirades against Australia, but without any serious repercussions elsewhere (so far). But Mr Howard's endorsement of the doctrine of preemptive action against terrorists and his statement that Australia would strike first to prevent any attack against us has evoked expressions of resentment even among otherwise friendly governments in Southeast Asia. So it is not just the anti-Islamic aspect of our participation in the Iraq war that has to be taken into account here, but our further identification with the tone and doctrines of US policy in the aftermath.

US hegemony and Australia's association with it

None of the East Asian nations is comfortable about the interventionist, hegemonic and unilateralist thrust of US policy that has developed in the aftermath of the Iraq war under President Bush. Nor are they happy, as Mr Howard seems to be, with his repudiation of the international security system based upon the UN. Bush's advocacy of the preemptive strike doctrine and the rule-of-the-strongest implications of his 'you're either for us or against us' attitude runs deeply against the grain in a region where the concept of non-alignment has always had many followers as a counter to neocolonialism and where intrusions upon national sovereignty arouse strong resentment. Anti-Americanism is increasing in South Korea, Japan, Indonesia and other parts of Southeast Asia. It is, as the distinguished US foreign policy analyst Stanley Hoffman commented recently, in a searing attack on Bush's policies, 'not just hostility towards the world's most powerful nation, nor envy, or hatred of our values. It is more often than not, a resentment of double standards and double talk, of crass ignorance and arrogance, of wrong assumptions and dubious policies'.[3] Those sentiments echo many of the views currently being expressed in most Asian countries. Hoffman attributed this hostility to Washington's 'disdain for international institutions, and adoption of a strategic doctrine that gives a prominent place to preemptive war in violation of the provisions of the UN Charter, along with the decision to go to war without the support of the Security Council required by the Charter, [which] are all part

of a tough new policy of US predominance whose implications are extremely serious … A pure and simple return to the rule of the strongest would be a catastrophic regression … [which would] promote insecurity, not security or moderation'. The preemptive strike doctrine could now be invoked by Russia if it decided upon an attack against Georgia, or by India against Pakistan, or North Korea against South Korea or Japan. Is that likely to make Asia a safer place?

China has always been strongly averse to any claims to hegemonic status, be they from the USSR in the era of supposed communist solidarity, or from the US today behind 'the mask of universal benign ideals', as Hoffman puts it. Beijing's comments on the Iraq war were relatively muted, however, because of a reluctance to endanger the gradual improvement in relations with Washington which had come under severe strain in the early years of the Bush administration. China has certainly been deeply concerned about the risky course of US policy towards North Korea as an 'Axis of Evil' regime over recent months and the heavy-handed rhetoric emanating from the neo-cons in Washington who want to force an Iraq-style change of regime there. On the other hand, the tangled and intractable character of North Korea's nuclear threat is making it almost essential for Washington to engage China as well as South Korea and Japan in a cooperative strategy to bring Kim Jong-Il to the bargaining table. As far as China's attitude to Australia is concerned, however, our close alignment with the Bush administration seems not to have outweighed the importance to Beijing as well as Canberra of preserving the recent Northwest Shelf gas deal between us.

Japan is probably the one nation in Asia that is strongly inclined to back US policies over Iraq, regardless of the rhetoric used to defend it, provided Japan's national interests are not adversely affected. But alarm has been aroused even in Tokyo by the implications of Washington's hard-line approach to North Korea over the nuclear issue, which along with a general increase in nationalist sentiment across Japan over recent years creates a major constraint upon the Koizumi government's ability to endorse the new Bush unilateralism. Australia could find its own enthusiasm to do so may alienate other influential groups in Tokyo unless we modify our rhetoric significantly.

South Korea is one of the most uneasy of Asian nations about the implications of the new Bush foreign policy, especially as the new, more independent Roh Moo-Hyun government in Seoul is committed to maintaining the 'Sunshine Policy' towards Pyongyang inaugurated by Kim Dae-Jung. Anti-US sentiment had in any case been building up over the issue of US bases for some time prior to the Iraq war, so the Roh government is unlikely to lean far in the direction of supporting US policy just now. Whether or not that will carry any implications for South Korea's relations with Australia in the near future is another matter. Probably not, unless we diverge too far from its policies towards Pyongyang; but if we follow Washington too slavishly on that we are likely to evoke antagonism.

Plagued for decades by stubborn Muslim rebellions in the south - of which the Moro Islamic Liberation Front (MILF) is the most dangerous because of its links to al-Qaeda elements- the **Philippines** has generally endorsed the US stand on Iraq more strongly than any other ASEAN member except Singapore. US troops have even been brought in to stiffen the operations against the Abu Sayyaf rebels in Mindanao. Yet her foreign ministry has criticised Australia for her 'hegemonic ambitions' because of our preventive war rhetoric.

Thailand was initially reluctant to endorse publicly the US stand over Iraq, but has since done so under pressure from Washington. Her cooperation with Singapore and Malaysian intelligence agencies in their drive to identify and detain Jemaah Islamiyah (JI) agents in the Muslim south has been an important element in the war against terrorism. But Thailand too attacked Howard's preemptive strike doctrine.

Malaysia was predictably critical of the attack on Iraq as anti-Islamic and not justified by the Security Council, although in general Prime Minister Mahathir's bark was worse than his bite on this occasion. But he revelled in the opportunity to warn Australia that it would be 'an act of war' if we were to launch a preemptive strike against terrorists in Malaysia (an unlikely contingency, in any case, one might assume) and described Howard's statement as 'arrogant'. In the *New Straits Times*, which is generally regarded as a mouthpiece of the government, the 'coalition of the willing' was described as 'the forces of globalised democratic fascism', unrestrained by world opinion or the UN. But Malaysian participation in the intelligence operations against JI terrorists continues, regardless of the rhetoric.

The Indonesia dimension

Indonesian reactions to our role in the Iraq war and its aftermath matter to Australians more than those of any other country in the region for several reasons. The foremost has to do with the 'war on terrorism', since unless the spread of the Indonesian networks connected to al-Qaeda, notably JI, can be curbed there and elsewhere in Southeast Asia through cooperation with our closest neighbours, Australia will face a vastly more difficult task in warding off terrorist attacks within its own territory. (It is questionable whether terrorists would find it hard or easy to get into Australia in sufficient numbers to pose a serious security threat even in those circumstances, but the risk is too great to ignore.) So far, the cooperation between the Australian Federal Police and Indonesian police since the Bali bombing of October 2002 has been spectacularly successful not only in tracking down the perpetrators but also in unraveling the inchoate JI networks headed by Bashir, which has been the main source (so far) of suicide bombers. If those forensic investigations continue to a point where the JI networks are rooted out completely it will be a major boost to Australia's security as well as Indonesia's. Fortunately for us, one effect of the Bali disaster has been to marginalise the more radical Muslim groups which had also been responsible for earlier terrorist attacks within Indonesia. The well-established mainstream Muslim organisations and political parties have been sufficiently shaken by the evidence coming out about JI to dissociate themselves from such activities altogether - and as campaigning for next year's elections looms closer the political pressures are also pushing them towards the middle of the spectrum rather than to the extremes. No one wants to admit to any involvement with al-Qaeda. Any likelihood that the overtly Muslim parties will win enough seats in the 2004 elections to have realistic prospects of achieving an Islamic state is therefore remote.

Secondly, our cooperation with Indonesia over terrorism is important because it could do much to strengthen the bilateral relationship between our two countries which has been under severe strain since our military intervention in East Timor in September 1999. Relations between us have been rocky ever since, and could conceivably remain so for some years to come. For not only does the humiliation suffered by the TNI (Indonesian Armed Forces) still rankle there, but other frictions over Australian protests about human rights abuses – especially in Aceh, where a full-scale military conflict is now raging - and the denial of autonomy to Papua, or failures of the legal system, are arousing widespread resentment also. (Suspicions that we have sinister

plans to detach Papua from Indonesia underscore the dangers here.) The relationship is in a delicate enough state without being subjected to the suspicions, misperceptions and conspiracy theories arising out of our role in Iraq and our close identification with an increasingly disliked US government. In such circumstances, our interventionist rhetoric – and the neocolonialist overtones of our recently announced policy towards the Solomons 'failed state' – could prove as damaging to the relationship as any substantive measures associated with it.

In the longer run, Australia's role as one of Bush's most loyal supporters is unlikely to be forgotten in Indonesia – or any other part of the region. It will be dragged up and used as a stick to beat us over the head whenever it suits the government, or some maverick politician, to do so - even if only to embarrass the relevant authorities into having to agree. More seriously, it is unlikely that we will find any defenders of our stand among the more 'moderate Muslims' (a dangerously overworked and misleading term) - even among those of them who do not greatly care about either Saddam Hussein or Muslim solidarity and who might, in happier circumstances, have some sympathy for Australia. Many Indonesians are highly critical of Bush's heavy-handed unilateralism and his 'you're either for us or against us' attitude towards countries like Indonesia. And it's that point of view which we in Australia are now seen as willingly, enthusiastically identified with, along with the US claim to a right to launch preemptive strikes against regimes suspected of harbouring terrorists or weapons of mass destruction. The neocolonialist overtones of Bush's unilateralist, hegemonic approach to foreign relations arouse as much hostility in Indonesia as they do in the mind of the more forthright Dr Mahathir.

How much does all this matter to Australia? Perhaps not a great deal immediately, so long as our relations with Indonesia are tolerable in other respects, as they have been during the post-Bali phase of intensive police cooperation. But it could matter a lot if we find ourselves at odds with each other over other issues, where active cooperation is essential (for instance, as in some fisheries issues, people-smuggling and drug trafficking). In those circumstances a few angry politicians could find golden opportunities to stir up popular antagonism towards us over our role in the Iraq war and our willing cooperation with the US 'crusade' against another Muslim country.

In conclusion …

Commentators from both wings of the political spectrum in Australia have expressed strikingly similar views about the effects of our involvement in the Iraq war on our standing in Asia. Joan Grant[4] has commented on the 'growing alienation from Asia on the part of the [Howard] government, and growing mistrust of Australia among our neighbours'. Paul Dibb has written that 'the perception in some parts of the region that Australia is America's deputy sheriff has … stuck. We are having no success, for example, in our efforts to be included in formal regional groups, such as ASEAN plus 3, or wider regional free-trade arrangements … In some respects the alliance now threatens to divide us from some parts of our own region'.

Xhou En-Lai is said to have replied, when asked about the influence of the French Revolution on world history: 'It's too soon to tell'. Without endorsing that altogether too-clever cop-out literally, I feel it does have a certain relevance to the issue I was asked to address here about Iraq. Changing times and circumstances are bound to colour the judgments we make on such events in significant ways. We are still too close to the Iraq war to see its consequences in perspective today – especially as the end of the war seems not to be nearly in sight yet. The impact of the war on the Israel-

Palestine conflict (and on US policy thereto) could prove to be crucial here, for few Asian governments will be keen to back the US 'road map' unless it soon achieves effective progress towards peace. Australia could find itself out of step with them yet again.

But the still larger question of whether the Iraq war may have such effects on the worldwide Muslim community as to bring the world closer to a situation where Samuel Huntington's scenario of a 'conflict of civilisations' between the Islamic world and 'the West' comes into play is even more worrying. If anything like that comes about, it is likely to be the most disastrous political scenario Australia could ever be faced with in its relations with the region to our near north.

Jamie Mackie is Professor Emeritus, Indonesia Project: Economics Department, Research School of Pacific and Asian Studies, Australian National University.

---

1   Huiskens, Ron (2003). *Australian Financial Review*, 7 May.
2   Mackie, Jamie (2003). *Sydney Morning Herald*, 22 January.
3   Hoffman, Stanley (2003). *New York Review of Books*, 22 June.
4   Grant, Joan (2003). *Arena Magazine*, June-July: 30-35.

Europe and America after the Iraq War
Peter Shearman

Introduction

It is interesting to note that as the Cold War was ending neither of the three most influential and widely cited articles offering predictions for the future of international relations foresaw a rift between Europe and America. Indeed, Francis Fukuyama's liberal vision of an expanded zone of peace comprised a growing number of democratic states in which conflict between them would be an oxymoron. John Mearsheimer's realist conception of 'back to the future' forecast a multipolar world in which a nuclear-armed Germany would threaten the peace in Europe in traditional balance of power terms. Samuel Huntington's 'clash of civilisations' envisaged a future where cultural differences and the politics of identity would pit the West (North America and Europe) against Islam.[1] Also of note is the absence in these theses of any serious consideration of transnational terrorism, or to the spread of weapons of mass destruction to 'weak', 'rogue', or 'failing' states and the dangers that these might pose to international security.

Yet, ten or so years after these articles were written, the US and Europe were seriously divided over war on Iraq, a war justified by those pursuing it as part of a necessary response to the new threats of terrorism, its links with rogue states, and the spread of weapons of mass destruction. The world as we knew it had seemingly, suddenly, fundamentally changed - but not along the lines suggested by some of the most eminent scholars and thinkers in International Relations. I offer an assessment of what has led to this rift in transatlantic relations, and with what consequences. One can understand world politics and the conduct of foreign relations from different levels of analysis: the workings of the international system itself, with a focus on structure;

the political processes at the domestic level; or from the influence and actions of single individuals.[2] It should be recognised that there are a number of different and contending theories with differing assumptions and methods at each level, but given limits of space I will simply try and draw out what is most important at each of the three levels relating to the empirical world.

Changing structure of the international system

The origins of the recent rift between Europe and America can be found in the terrorist attacks of 11 September 2001. 9/11 was a major strategic shock to the United States. Neither George W Bush nor Al Gore mentioned terrorism in their three presidential debates during the election campaign, even though they took place immediately after the bombing of the *USS Cole*. At the level of the international system 9/11 marked a new and largely unexpected challenge to the power of the world's strongest state. At this level of analysis 9/11 could have been expected to have major consequences for world politics, for it is the actions of the Great Powers that determine the general conduct and practices of international relations, including the role and functions of international institutions. The structure of global politics in the Cold War was bipolar, centered upon two dominant 'superpowers'. At this level of analysis it was of little significance that the USSR and the US represented competing ideologies: the key was in the relativities in material power capabilities.

In this bipolar structure Europe was central to global politics and international security, symbolised by the division of Germany. Western Europe was the lynchpin for the US balance of power against the Soviet Union; and Eastern Europe was the key sphere of influence providing for Moscow's perceived security needs. These relationships were institutionalised in military alliances: NATO and the Warsaw Pact respectively. The US established a network of multilateral institutions through which cooperation with allies was necessary to safeguard American national interests, and in which other members had not only a voice, but also a vote or a veto. Although the US had a preponderance of power, it did not enjoy complete hegemony: to exercise its power it required a multilateral approach and cooperation with its chief allies, especially those in Europe. Where there were differences between Europe and America the Soviet threat kept them in check. The structure of the international system dictated this. The US was willing to pay the price for providing international public goods as an essential investment in its own national security. The main threat to international security came from the European continent. The key US strategic doctrines of containment and deterrence were centered in Europe.

The structure of the system has altered fundamentally since 1989, and the strategic shock of 9/11 and its aftermath revealed the emerging nature of international politics in a unipolar world.[3] The paradox of the contemporary era is that although the US has unprecedented power capabilities in relative terms to other states its vulnerability has increased, largely as a result of transnational terrorism and the failure of many post-colonial entities to develop into strong stable states. This is also the situation facing Australia in its region of the world, where Prime Minister John Howard in his speech 'Foreign Policy in the Era of Terrorism', justifies 'coalitions for action' outside the context of multilateral institutions.[4] The structure of the international system is one in which war between major powers is unlikely, but where nevertheless the propensity for violent conflict is greater as capabilities are more widely dispersed among more varied types of actors. Even where US interests are not directly at stake in states on the verge of collapse, or where the US is not an actual target of violence, significant

American interests could ultimately be threatened, thereby tempting preemptive military action.

Geography no longer provides sufficient protection from new threats. Again, this is also the logic behind the Australian intervention in the Solomon Islands, reflecting the radical changes to the structure of the international system. The end of bipolarity produced a structure more conducive for the exercise of US military power against these new threats, for there is no longer the fear of a Soviet response. In addition, due also to the absence of opposing great powers, the US can afford to operate unilaterally, to ignore not just the United Nations, but also its closest allies in Europe. Finally, new technologies allow for fewer casualties, further encouraging preemptive military actions.

Hence, the rift between the US and Europe over Iraq can be seen as a result of the changing structure of the international system. New structures result in shifts in threat perceptions and in alliance patterns. Wartime coalitions rarely survive much beyond the last shots being fired. Alliances are formed on the basis of a common threat. Once the threat has disappeared, alliances disband. Yet NATO not only survived the Cold War, it thrived by taking in new members. With interventions in Bosnia and Kosovo, the alliance had evidently found a new collective security role. However, events following 9/11 created a crisis in NATO. Unipolarity is not conducive to fixed alliances. Empires do not willingly tie themselves into co-binding institutions restricting the unilateral use of their power. Although NATO invoked article 5 of its Treaty after 9/11, committing the alliance to supporting the US in a war on terrorism, Washington conducted the war against the Taliban independently. Europeans had earlier been frustrated by US leadership in Bosnia and Kosovo - but the lesson then for the Americans was that in the future meddling Europeans should not be permitted to impede the use of US military power (US commanders complained that operational effectiveness in these conflicts was hampered by the legal concerns of European NATO members).[5] As Ignatieff puts it, in a moment of crisis now the Americans regard Europeans with 'suspicious contempt'.[6]

It was the crisis over Iraq that brought the rift between Europe and the US into the open. French opposition to a preemptive strike against Iraq was articulated in classical balance of power terms, despite some obligatory references to the 'international community'. The French leadership had been constantly calling for the need for a mulitopolar balance to contain the 'hyper-power' of the US. France used the UN as a vehicle for pursuing its own national interests. There was fear in Europe of a unilateralist America threatening international stability. Across the political spectrum in many European countries politicians were calling for the balancing of US power. At this level of analysis this reflected not shifting values but competing interests.

A simplistic cartoon-like characterisation has consistently been drawn of European multilateralists versus American unilateralists. This ignores the reality of asymmetrical interests between the two sides, the unbalanced power of the US, and the differences of view on these matters within, and not just between the various states. The US developed a new national security strategy in which 'coalitions of the willing' would be assembled with the US taking a leading role. It is argued that new threats cannot be contained or deterred, for terrorists and rogues do not operate according to the norms of international relations. Thus the theories, strategies, and concepts of the Cold War era were considered to be no longer applicable. One cannot have a détente relationship with terrorists and rogue regimes. It is not possible to live in peaceful coexistence with groups willing to commit suicide for their cause. When the twin

towers of the World Trade Center fell so too did the twin doctrines of containment and deterrence.

For the US now 'the mission defines the coalition', and not the other way around. Europeans are unhappy with this assertion of American hegemony, fearing that the US is assembling coalitions of the obedient whilst ignoring the one institution, NATO, which gives Europe influence. Europe is no longer the major theatre of US strategic doctrine. NATO as an organisation had effectively become a collection of states from which the US chooses partners for coalitions in pursuit of American national interests. It had become, in the words of Josef Joffe, a 'pool' rather than a 'pact'.[7] Simply stated, the structure of international politics means that Europe is no longer critical to US foreign and security policies. Hence, we are likely to see increasing transatlantic tensions over major questions relating to international security. This is most unlikely to lead to violent conflict or war between Europe and America (assuming there is no catastrophic discontinuities in world politics, or radical changes at the domestic level), but it could make the resolution of other ongoing conflicts much more difficult. At the systemic level of analysis it could be argued that the changing structure of global relations is pushing the US and Europe in different directions.

Domestic politics

It is perhaps the tragedy of international relations that politics takes place within the territorial boundaries of the nation state. Political processes - recruitment of leaders, political socialisation, elections, the setting of political agendas and public policy - all take place within the state. Many see the sources of the transatlantic drift to be rooted not in material facets of power and international structures, but in domestic politics: in culture, demographic patterns, and different perceptions about the world.[8] However, much of the writings on these issues is superficial, and lacks intellectual rigour or analytical substance, often reflecting an ideological or political bias. There are of course differences between Europe and America on issues such as the death penalty, genetically modified food, agricultural subsidies, environmental issues, and so on. But these are not fundamental, and there are disagreements on these issues within as well as between the two sides. One could make the case that with the death of communist ideology and the processes of globalisation American and European cultures have actually come closer, not diverged. The old left-right political continuum is dead, and notions of pitting European social democracy versus American capitalism no longer applies (if it ever really did), as the US and Europe search for a 'Third Way'.

The idea that identities determine behaviour in international politics is not evidenced in the pattern of shifting diplomatic and military alliances. US as a liberal democracy has allied with all types of regimes and groups, from communists, anti-communist 'freedom fighters', Islamic fundamentalists, military regimes of various types, as well as other democracies. It has also pursued protectionism, free trade, isolationism, unilateralism, and multilateralism, at various times depending upon perceived national interests. So too have European democracies. America and Europe may have similar cultural characteristics, but their interests are diverging, and the fact that NATO is now arguably in a state of crisis is further evidence for this.

Another similarity is that on both sides of the Atlantic governments are chosen and replaced by the electorate. With the demise of the Cold War and the existential threat posed by communism, elections have increasingly focused more upon 'domestic issues'. This is yet to be tested in the US following 9/11 and the war on Iraq, but the pattern is unlikely to be broken. Politicians tend to be driven by the polls when

developing policy. It is widely thought that Bill Clinton was persuaded to support the enlargement of NATO in the only language that he understood: that pertaining to votes (large numbers of voters in key constituencies in the electoral college originate from Central Europe). Hence, policy reflects local issues, public opinion, and the desire of politicians to get elected. In other words politicians think only in terms of the next election, not the next generation.

One should see German Chancellor Shroeder's criticism of US policies leading up to the war in Iraq in the context of his reelection bid, for his opposition to Washington received wide popularity among voters. Domestic issues remained the most salient, but opposition to war helped Shroeder get over the line. Opposition to war, however, did not equate with enmity towards the United States, nor did it reflect a fundamental clash of cultures. Indeed, opinion polls in the US leading up to the conflict showed a majority of Americans also opposed war, and then supported it only if approved by the UN Security Council.[9] In local elections in Germany since the war most citizens in areas with American military bases wish to retain them. This clearly is not indicative of a fundamental rift in relations at the wider public level. It suggests opposition to specific US foreign policies, not to America itself.

The one stand-alone European state that supported the war on Iraq with a large military deployment was the United Kingdom. Prime Minister Tony Blair stood firmly behind the US even in the face of widespread domestic opposition. In an unprecedented vote of defiance against an incumbent Prime Minister fully one-third of Labour MPs from the governing side voted against war. Polls showed the majority of the population also opposed war. Had there been an election due in February it is interesting to pose the question as to whether Blair would have stood by his 'principles'. Possibly. However, it is highly unlikely that Blair would survive if he were to send another British force to fight a preemptive war led by the US. This is specially the case given the failure to find weapons of mass destruction in Iraq or any links to Al Qaeda, the original justifications for war. There are competing explanations for Blair's support for war. One relates to his idealism, his stated belief in the moral purpose of a struggle against evil regimes. Another to the idea that it is necessary to ally oneself with the US in order to counter hegemonic and unilateralist tendencies in Washington. A third explanation posits that Blair simply seeks through acting as a deputy to the world's major power to gain some influence in world politics for the UK. The first line of argument is easily dismissed if one looks not at what Blair says, but at what he has done since becoming Prime Minister.[10] The other two explanations reflect choices made on the basis of power and interests.

Opposition to the US-led war on Iraq in Europe was due to a number of factors, but the most persuasive argument relates to differences in interests and a genuine desire to check the power of the US - not because Europeans are from Venus and Americans are from Mars, but because most European leaders wish to moderate those neo-conservative tendencies in the current US administration pushing for extending the American empire through a crusading militarised advancement of democracy. French, British, and Germans, Russians and indeed Chinese, all supported the same goals in relation to Iraq: to prevent Saddam Hussein's regime becoming a threat to international security. The difference was that the neo-conservatives in the Bush administration, along with Tony Blair, pushed for regime change to ensure this.

Robert Kagan argues that 'Today's transatlantic problem is not a George Bush problem'.[11] This might be true, but not for the case Kagan makes. His thesis is that there is a fundamental cultural divide between Europe and America. Kagan challenges

the assumptions of Fukuyama and Huntington and what he considers to be the common view that Europe and America share cultural and political values. Rather he sees Europe not at the end of history, but in a new phase of history that transcends the Westphalian system that Europeans themselves had constructed. His argument is that in Europe the rule of law and morality have replaced Hobbesian power politics. However, Kagan's thesis is clumsy and self-contradictory. He acknowledges the stark differences in power capabilities and the tendency towards opposing views on strategic issues, but his argument that these are a reflection of culture and ideology do not convince.

Having stated that Bush is not the problem Kagan nevertheless focuses on Blair as one of the factors explaining why 'Britons' have a more 'American view of power', referring in particular to Blair's forceful role in Bosnia in the early 1990s. Yet Blair was not in power at this time (John Major was). And other European countries too, including France and Germany, supported NATO's intervention. Furthermore, leading up to the war on Iraq, when Blair was in power, the vast majority of British citizens *opposed war*. This clearly does not then relate to any shared culture about the use of power separating the Anglo-Saxon world from much of the rest of Europe. But not only does Kagan get the empirical facts wrong, he also misapplies Kant and Hobbes. The simple dichotomy of Americans as Hobbesians and Europeans as Kantians does not work.

The insistence on going to the UN (a body made up of nation states) reflects a European concern to maintain, not transform, the system of states and the principle of sovereignty that pertains to them. The UN Security Council is also the only instrument Europeans have to moderate the power of the US where such is deemed to be in their (national) interests. European discourse refers to 'failed states' that require fixing, not 'rogue states' that need overthrowing. European strategic thinking sees threats in traditional terms, based upon perceived intentions of other actors, mainly states, with containment and deterrence as the main instruments to ensure national security. American neo-conservatives see security in terms of the possible capabilities of others, requiring pre-emption and regime change to prevent future threats emerging. Europeans generally believe that extending democracy cannot be forced, through military means. Many neo-conservatives in the US are of the view that it is possible and desirable to support the removal of regimes like Saddam Hussein's and to export democracy. Accepting problems associated with any such generalisations, insofar as these hold true then it is Americans who are the Kantians, and the Europeans who are operating according to the principles of Hobbes.[12]

Many in Europe feared that the election of Bush in 2000 heralded a new US isolationism. The worry after 9/11 was that the US had become unilateralist, Here we have a distinction without a difference, for isolationism and unilateralism both stem from a similar mistrust of binding institutions, and a desire to insure the primacy of national interests over what Condoleeza Rice refers to as an 'illusory international community'.[13] Bush himself had little interest or knowledge of foreign affairs when he came to office, relying heavily on his advisors.[14] Many of these (labeled neo-conservatives) had long held the view that the US should be willing to act unilaterally, militarily where necessary, in pursuit of American national interests. 9/11 gave them their opportunity. Rumsfeld raised the question of Iraq to Bush the day after 9/11, and his deputy Wolfowitz sought to persuade the President to put Iraq at the top of a hit list of military targets.[15] These key foreign and defence policy figures do not necessarily

reflect a general American tendency to expand its 'empire' through military strength. It was not just retired US Generals on CNN who spoke out against waging war on Iraq - the vast majority of those in uniform were against it too.[16] The speed with which the Iraqi regime was overthrown would seem to vindicate the preemptive strategy, yet it is unlikely that the US military establishment will be enthusiastically drawn into another such venture, especially given post-war problems on the ground. We exaggerate the differences between Americans and Europeans at the risk of creating a self-fulfilling prophecy. We might do well to recall that Al Gore won the vote, but lost the US election, and his ideas are closer to many European politicians than they are to those of the Bush administration. If Gore was in power on 9/11 the 'war against terror' might not have led to a military invasion of Iraq.

Conclusion

In the United States opposition to the war against terror is often labeled simplistically as 'un-American'; opposition to US policies in Europe and Australia is often simplistically labeled 'anti-American'. The illogicality of these labels is obvious, and needs no detailed explanation (they are insults designed to serve the political purposes of those who use them). The important thing to recognise is that there are many similarities among large numbers of Americans and Europeans who are strongly opposed to the current neo-conservative foreign policy trends. Timothy Garton Ash posits: 'It seems an hypothesis worth investigating that actually it's Republicans who are from Mars and Democrats who are form Venus'.[17] This is possibly as accurate as Kagan's argument - but it still fails to identity what is more likely the case: there is no simple dichotomy of the type of old-fashioned left and right. Many Republicans are concerned at the direction US foreign policy, and many Democrats support a more aggressive approach.

The differences between Europe and America over the war in Iraq reflected in part the changing structure of international politics. The essential feature of the system is US hegemony and unipolarity. Great powers define the main dynamics of international relations. With only one overwhelming power after the demise of the Soviet Union, the direction the US takes is critical for the future international system. Many in Europe, but also in the US, fear that unilateralism and a strategy of preemption and regime change is dangerous. Europeans can only use the multilateral institutions that are currently available in an effort to counter these trends. Americans can use their votes. The future remains uncertain. The dispute over Iraq is likely to spur Europeans further to foster and institutionalise common foreign and security policies.

Australia has gone further than any other country in adopting the new US national security strategy as a model. Yet if Australia can organise a 'coalition for action' to restore order in the Solomon Islands outside the UN, what is to prevent Indonesia from using military force to restore order to its own provinces? If the US can forcibly remove a regime that it suspects is developing weapons of mass destruction and having links with terrorists, then why should the world's largest democracy, India, not move against the military regime in Pakistan for its support of terrorists in Kashmir? Is Russia now free to organise coalitions of the willing to stamp out terrorism in the Caucasus or Central Asia, or to restore order in neighbouring failing states? Where does this new normative shift stop in its application? This is a very serious matter. It is on these fundamental questions that many in Europe are in conflict with the US.
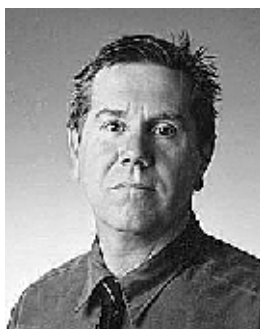
Associate Professor Peter Shearman, Department of Political Science, University of Melbourne, teaches and researches in International Relations and Security Studies. His forthcoming book, [with Matthew Sussex (eds)] European Security after 9/11*, will be published by Ashgate.*

1   The arguments in the three articles were later expanded into books: Francis Fukuyama (1992). *The End of History and the Last Man*, London: Penguin; Samuel P Huntington (1997). *The Clash of Civilizations and the Remaking of World Order*, London: Touchstone Books; John J Mearsheimer (2001). *The Tragedy of Great Power Politics*, New York: WW Norton.

2   Kenneth N Waltz (1954) first developed the three levels of analysis in his *Man, the State and War*, New York: Columbia University Press. See more recently Bary Buzan (1995) 'The level of analysis problem in international relations reconsidered', in Ken Booth and Steve Smith (eds). *International Theory Today*, Cambridge: Polity Press: 198-216. For the best contemporary account of the changing structure of world politics see Seyom Brown (2003). *The Illusion of Control: Force and Foreign Policy in the 21st Century*, Washington DC: Brookings Institution Press.

3   The term 'empire' is increasingly being used to describe the position of the US in contemporary global politics. See, for example, Michael Ignatieff (2003). *Empire Lite: Nation Building in Bosnia, Kosovo and Afghanistan*, London: Vintage; Eric Hobsbawm (2003) 'America's imperial delusion', *The Guardian*, Saturday 14 June; James Kurth (2003) 'Migration and the dynamics of empire', *The National Interest*, Spring: 5; and Jack Synder (2003) 'Imperial temptations', *The National Interest*, Spring: 29-40.

4   *The Australian*, 2 July 2003. Howard's speech to the Sydney Institute represented an official reappraisal of Australian foreign policy priorities.

5   See Wesley K Clarke (2001). *Waging Modern War*, New York: Perseus: 35.

6   Ignatieff, *Empire Lite*, *op cit*: 16. Igantieff went on to say: 'The Americans trust their allies so little - that they exclude everyone but the British from all but the most menial police work'.

7   Josef Joffe (2002). 'Of hubs, spokes and public goods', *The National Interest*, Fall: 17-20.

8   For example see, Charles A Kupchan (2002) 'The end of the West', *The Atlantic Monthly*, 290, 4, November: 42-44. Kupchan argues here that the next clash of civilisations will not be between the West and the rest, but between the US and Europe.

9   A poll in early March 2003 found that 59 per cent of Americans supported war only if sanctioned by UNSC. Cited in Slavoj Zizek (2003) 'Paranoid reflections', *London Review of Books*, 3 April.

10 For a catalogue of British policies that have effectively supported repressive regimes see the chronology compiled in Mark Curtis (2003). *Web of Deceit: Britain's Real Role in the World*, London: Vintage: 441-445.

11 Robert Kagan (2003). *Paradise and Power:* Books: America and Europe in the New World Order, London: Atlantic Books. Kagan coined the catchy, but unhelpful phrase that Europeans are from Venus and Americans from Mars.

12 This is a point also made by David Runciman (2003) in his review of Kagan: 'A bear armed with a gun', *London Review of Books*, 25, 7, 3 April: 3-6. Runciman comments that the concept of 'rogue state' used by the Americans is '…a lot closer to the work of a neo-Kantian political philosopher like John Rawls than to anything you will find in Hobbes'. Here

one might agree with Rumsfeld's conception of 'old Europe', as the French and others are still 'Realist' in their thinking.

13 Condoleeza Rice (2000) 'Campaign 2000 - promoting the national interest', *Foreign Affairs*, 79, 1, January-February.

14 During the election campaign he stated: 'Nobody tells me what to believe. But I *do* need somebody to tell me where Kosovo is'. Quoted in Ivo H Daalder and James M Lindsay (2003) 'The Bush revolution: the remaking of America's foreign policy', Washington DC: The Brookings Institution, May.

15 Bob Woodward (2002). *Bush at War*, New York: Simon & Schuster:319.

16 This is of course difficult if not impossible to fully document. But anyone close to those in senior ranks of the military will be aware of their serious misgivings. The *New York Times* and other media covered this angle of the war, although Rumsfeld and the Generals officially denied any rift.

17 Timothy Garton Ash (2003) 'Anti-Europeanism in America', *New York Review of Books*, 50, 2, 13 February 13.

The Implications for International Law of the Illegality of the War against Iraq
Shirley Scott

Like municipal or domestic law, international law is now recognised to be indeterminate. This means, most simply, that it is possible to argue either for or against the legality of most actions. Sometimes the cases for and against can be made with roughly equivalent ease but in other scenarios it is far more difficult to argue one way than the other. In relation to the war against Iraq, the clear majority of independent international lawyers in Australia, the United Kingdom and the United States believe the case against the legality of the use of force to be far more convincing than their governments' assertions to the contrary.[1] In the last issue of *Dialogue*, Andrew Byrnes and Hilary Charlesworth set out clearly the reasons as to why they considered the war against Iraq to be illegal.[2] There is widespread concern that the system of international law will necessarily be weakened by a display of seemingly blatant disregard for international law on the part of the world's superpower, a display endorsed and mirrored by the Australian Government's going 'all the way' with President Bush.

A system of law is not necessarily weakened by non-compliance, though, even by blatant and visible acts of non-compliance. In our national legal system no-one suggests that the system is at risk just because an individual, even a high-profile individual, has been found to have committed a crime. Assumptions regarding the impact on international law of what is generally believed to be an illegal war against Iraq must be exposed to critical scrutiny and debate. There are two levels on which we can assess the ramifications for international law of the illegal use of force against Iraq by the United States, the United Kingdom, and Australia. First is that of the actual rules of international law: will the law on the use of force be changed by the actions in question? Prior to the commencement of hostilities, the great concern was as to whether the war would lend support to the Bush doctrine of the pre-emptive use of force. The second, broader, question to which I have already alluded, is that as to whether the system as a whole will be damaged in some more general way by the loss

of confidence on the part of other countries in a system that appears susceptible to being bent and swayed by the will of the current super/hyper-power.

The international law of the use of force: does international law post Iraq permit of pre-emptive strikes?

In the lead-up to the launch of hostilities on 20 March 2003 there was considerable discussion of the potential political ramifications and legality of the US engaging in pre-emptive strikes. Debate was given impetus by the release of *The National Security Strategy of the United States* in September 2002. This stated, *inter alia,* that the United States would 'disrupt and destroy terrorist organisations' by

Defending the United States, the American people, and our interests at home and abroad by identifying and destroying the threat before it reaches our borders. While the United States will constantly strive to enlist the support of the international community, we will not hesitate to act alone, if necessary, to exercise our right of self defence by acting preemptively against such terrorists, to prevent them from doing harm against our people and our country.[3]

There was a notable lack of enthusiasm in Europe, and elsewhere, to what, in legal terms, was interpreted as a proposed extension of the right of self-defence. The concern was that, were anticipatory self-defence to be regarded as legal, it might provide justification for Russia against the Chechnyans, Israel against the Palestinians, and so on. In the most extreme scenario, it could ultimately lead to the end of the UN Charter's prohibition on the use of force.[4]

Many Australians – not to say Asian leaders - were thus alarmed when Prime Minister John Howard referred to the possible appropriateness for Australia of a policy of pre-emption. President Bush endorsed Mr Howard's remark that he, and, he was sure any, Australian prime minister - would be willing to launch a pre-emptive strike on a neighbouring country if it were known that terrorists there were planning an attack on Australia.[5] Not only was Prime Minister Howard echoing the Bush doctrine of pre-emptive strikes but he and Senator Robert Hill, Minister for Defence and Leader of the Government in the Senate, also alluded in unambiguous terms to the international law of self defence, the possibility that the UN Charter will need to change to cater for 'a new and distinct doctrine of pre-emptive action to avert a threat'.[6]

In the event, the governments of the United States, the United Kingdom and Australia made no reference to pre-emption in their public justification for the initiation of hostilities against Iraq on 20 March 2003. Rather than base their case on self-defence they instead resorted to the second of the two exceptions to the prohibition on the use of force in international relations: resolutions of the Security Council. The argument that Security Council resolution 678 authorising the use of force to expel Iraq from Kuwait combined with the ceasefire resolution 687 could still provide authority to use force against Iraq had been repeated on a number of occasions during the 1990s. To this dubious justification was now added resolution 1441 of November 2002, an addition that to most legal minds did little to strengthen the argument. France, China and Russia had made clear that they had only voted in favour of resolution 1441 because it contained no automaticity to use force, the resolution itself concluded by stating that the Security Council would remain seized of the matter, and the United States and the United Kingdom had sought a second resolution in recognition of the fact that they had been unable to gain an authorisation to use force in resolution 1441. As the UK explanation of its vote on UN Security Council Resolution 1441 (2002)

stated quite unequivocally, '[t]here is no "automaticity" in this Resolution. If there is a further Iraqi breach of its disarmament obligations, the matter will return to the Council . . .'.[7] The US had similarly stated: 'this Resolution contains no "hidden triggers" and no "automaticity" with respect to the use of force.'[8]

Customary international law evolves via the actions and words of states but there is little prospect that the war against Iraq will lead to a change in the international law pertaining to the use of force. As we have seen, the doctrine of pre-emptive self-defence was not cited as a reason for the hostilities and the argument drawing on resolutions of the Security Council was both too specific and too little supported to be readily echoed by other states in other scenarios.

Confidence in international law: will the system of international law be weakened as a result of this non-compliance?

If international law on the use of force is not likely to change as a result of the war against Iraq what about the more general claim that the system will be weakened by the blatant lack of respect for international law displayed by the illegal use of force on the part of the United States, United Kingdom and Australia? To break a law does not necessarily reflect a lack of respect for law, but may, on the contrary, derive from a particular concern for the rule of law. Those who administer euthanasia where euthanasia is illegal may be those most devoted to an ethical and just legal system and be seeking change in the law so as to make it more so. The claim that action that does not comply with particular rules of international law will do irreparable harm to international law may be effective rhetoric in garnering support for one's opposition to that action without necessarily being based in fact. In a study I recently undertook of the implications for international law of six other examples of US non-compliance with international law, the conclusions were counter-intuitive in that the outcomes could not be said to have been wholly negative; the outcomes included new multilateral instruments, the clarification of particular points of law, and in one example, prospects for improved compliance by the United States.[9]

There is a general feeling that non-compliance on the part of the world's only superpower is worse than that on the part of other states. As the world's greatest military power, so this line of reasoning proceeds, the United States has a special responsibility to safeguard the system and to lead by example. And yet the United States did not rise to superpower, and then to sole superpower, status by being a `goody-goody'; judicious use of international law and its institutions and processes contributed significantly to its rise in power during the course of the twentieth century.[10] Even the fear that other states will now have less reason to comply with international law may well be unfounded. The concern that the system may be weakening may well mean that there will be, if anything, greater emphasis in the near future on compliance by other states. And, if recent actions of the United States are anything to go by, the United States will be happy to present future actions as moves to enforce international law against delinquent states. After all, wasn't US intervention in Iraq all about the enforcement of international law?

Conclusions: Australia and international law

This is not to laud the actions of the Australian Government. Criticism of Australia seeking to play 'deputy sheriff' to the United States is as pertinent in the realm of international law as it was in relation to policy.[11] While it may be widely recognised that the preponderant power of the United States allows it to act hypocritically in relation to international law, Australia is not in the same position. The United States for the most

part made careful and strategic use of international law until its superpower status seems to have made it less careful; even in the recent scenario the United States tested the reaction to pre-emption and to alternative legal approaches before proceeding on the basis of Security Council resolutions.[12] As a middle power Australia cannot so readily fall back on threats if other state and non-state actors do not fall into line with our preferred course of action, while Australia stands to gain from the credibility that comes from thinking things through for itself, even if doing so as an ally of the United States. It is not the specific legal arguments of the United States, but rather its self-conscious use of international law relative to its positioning in regional and global affairs, that Australia should emulate.

Dr Shirley Scott is in the School of Politics and International Relations, Faculty of Arts and Social Sciences at the Unversity of New South Wales.

---

1 For an academic commentary that regards it as legally justifiable, see Sam Blay and Ryszard Piotrowicz (2003). 'The use of force and the force of law in Iraq', *Australian Law Journal* 77: 283-289.

2 See Andrew Byrnes and Hilary Charlesworth (2003). 'The illegality of the war against Iraq', *Dialogue* 22/1: 4-9.

3 *The National Security Strategy of the United States of America*, White House, Washington DC, September 2002. Available at <http://whitehouse.gov/nsc/nss.html.

4 Article 2(4) of the UN Charter reads: 'All Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations.'

5 See the remarks of Prime Minister Howard on The Sunday program, at http://sunday.ninemsn.com.au/sunday/political_transcripts/article_1192.asp.

6 Senator, the Hon Robert Hill (2002). 'John Bray Memorial Oration', University of Adelaide, 28 November. Available at http://www.minister.defence.gov.au/HillSpeechtpl.cfm?CurrentId=2121.

7 Statement by Ambassador Greenstock to the Security Council (2002). 'Explanation of Vote on Security Council Resolution 1441 on Iraq, 8 November. Website of the UK Mission to the United Nations. http://www.ukun.org/xq/asp/SarticleType.17/Article_ID.516/qx/articles_show.htm.

8 USUN Press Release #187 (02) (Revised) (2002). Explanation of Vote by Ambassador John D Negroponte, United States Permanent Representative to the United Nations, following the vote on the Iraq Resolution, Security Council, 8 November 8. Webpage of the United States Mission to the United Nations http:www.un.int/usa/02_187.htm.

9 Scott, SV (2003).'The impact on international law of US non-compliance' in M Byers and G Nolte (eds). *United States Hegemony and the Foundations of International Law*. Cambridge University Press.

[10] For further development of this argument, see my forthcoming article, 'Is there room for international law in realpolitik? The United States and international law', *Review of International Studies* (January 2004).

[11] See, for example, the comments of John Hewson in an interview on SBS television on 11 March 2003. 'John Hewson criticises Howard Iraq policy', available at http://www.australianpolitics.com/news/2003/03/03-03-11.shtml.

[12] See Adam Roberts (2003). 'Law and the use of force after Iraq', *Survival* 45: 2 (Summer): 31-56.

Free Trade and Economic Integration with the United States: A Critical View
John Quiggin

The debate over a possible Free Trade Agreement (FTA) with the United States is complicated to the point that the famous Schleswig-Holstein question seems straightforward by comparison. As a result, the debate has been fragmented into a series of arguments on separate issues, more or less ensuring that it will not reach any satisfactory conclusion.

The complexities begin with the fact that the terms of the putative agreement are being negotiated in secret. At some point, it may be necessary to pass legislation to give effect to the agreement, but by this point there will be no possibility of renegotiating specific terms. Parliament will be faced with the options of accepting or vetoing what will be, for all practical purposes, a *fait accompli*.

In terms of the process, then, the debate concerns the desirability of an agreement, the terms of which are hypothetical. Some participants are primarily concerned to support, or oppose, the idea of a bilateral agreement with the United States, while others are seeking to influence the negotiating position of the government with the hope of ensuring that specific items are included or excluded.

Leaving issues of process to one side, the debate is characterised by a number of distinct but intertwined threads. Moreover, participants in the debate have exploited the resulting ambiguity to bolster their positions. For example, protectionist opponents of a FTA have raised the concern that it might weaken the World Trade Organization, a body which they normally view with a mixture of fear and contempt. Conversely, supporters of the agreement have relied on a 'picking winners' approach to industry policy normally disdained by advocates of free trade.

The simplest way of viewing the debate is in terms of the debate between free-traders and protectionists that commenced at Federation and has ended in a more-or-less comprehensive victory for the free-trade side, in terms of both the policy debate and actual policy outcomes, though much less so in relation to popular sentiment. Traditional protectionists may naturally be counted among the opponents of anything described as a 'Free Trade Agreement'.

Appealing as this way of viewing the question may be, it is highly misleading, precisely because the traditional debate is now primarily of historical interest. Australia has abolished nearly all of its traditional barriers to trade (tariffs, quotas and so on). The only remaining industries protected by such barriers are motor vehicles and textiles, clothing and footwear. In neither case is a Free Trade Agreement with the United States likely to have a significant impact.

The textiles, clothing and footwear industry in the United States is, like that in Australia, contracting under the pressure of import competition, and protected by a range of formal and informal quotas. Neither country has a genuine comparative advantage relative to the Asian nations that dominate this sector. Negotiations for a Free Trade Agreement raise messy issues regarding the need for 'rules of origin' to preclude the possibility of imports from low-cost countries being re-exported using the Free Trade Agreement. However these issues are resolved, it is unlikely that trade in this sector between the United States and Australia will ever be significant.

Similar points apply in relation to motor vehicles. The fact that the US produces left-hand drive vehicles and Australia produces right-hand side vehicles ensures that any trade will be confined to components. Even here, the fact that both countries are net importers indicates that any trade is likely to arise from attempts to exploit arbitrage opportunities arising from drafting errors in the rules of origin rather than from genuine comparative advantage.

There is a little more room to move on the US side. A FTA will presumably include the removal of some barriers to imports of Australian farm products, most notably beef and sugar. In most agricultural markets, however, the United States is a competitor for Australia, not a consumer of Australian products. All these markets are distorted by a set of production subsidies and export subsidies generally referred to as 'the Farm Bill'. Although some concessions may be made with respect to import quotas on beef and sugar, there is no serious prospect that the Farm Bill will be repealed or modified in such a way as to eliminate its adverse impacts on Australian farmers. On the contrary, subsidies have been increased under the Bush Administration, and any action to reduce them is entangled in the broad-ranging disputes between the United States and the other main practitioner of agricultural subsidisation, the European Union.

A second way of looking at the debate, also drawing on long-standing issues in trade policy, is the choice between bilateral and multilateral agreements. For many critics of the proposed FTA, bilateral agreements are seen as being like customs unions, in which the participants reduce barriers to trade flows among themselves, while maintaining and even increasing barriers against others. The standard economic analysis of customs unions focuses on a comparison between trade creation (the new trade between the parties to the agreement) and trade diversion (the reduction in trade with other countries that normally accompanies this).

In the present context, concern about trade diversion has focused on relations with Asia[1]. Expansion of trade with our rapidly growing Asian neighbours is seen by many advocates of free trade as the natural focus of Australian trade policy. Advocates of the FTA argue that there is no reason why it should detract from trade with Asia and point to the fact that Singapore has already entered an agreement. However, their view of the world economy is one in which the United States plays a dominant role. Since the crisis of 1997, this view has largely displaced the idea that the Asian economies will soon grow form one pole of a multipolar world economy along with Europe and the United States.

There is however, a broader issue in relation to the choice between bilateralism and multilateralism. Under the Bush Administration the United States has, to an ever-increasing extent, rejected the whole idea of multilateralism on the basis that it fails to recognise the special position of the United States. In place of multilateral negotiations in which the United States is, at most, first among equals, the Administration has pursued bilateral agreements on a wide range of issues. The most notable case is that

of the International Criminal Court, where the United States has pursued bilateral agreements exempting Americans from prosecution.

Inevitably these agreements involve an element of 'pattern bargaining'. The United States proposes the same set of terms to each of its negotiating partners, generally on a 'take it or leave it' basis. While adjustments may be made in particular cases, the end result is inevitably that the terms of such agreements are those set by the more powerful party.

The most important multilateral agreement to be boycotted by the United States is the Kyoto protocol on climate change. It is noteworthy that the most prominent advocate of the FTA, Alan Oxley of AUSTA, is also a leading critic of Kyoto, and bases his arguments against Australian participation primarily on the argument that Australian industries will lose competitiveness against non-signatory countries such as the United States. It is easy to foresee the possibility of the Kyoto agreement coming into conflict with a FTA. For example, an effective emission credit trading system will require some form of taxation of carbon dioxide emissions embodied in imports from nonsignatory countries. Applied by Australia to imports from the United States, this would, on the face of it, conflict with the requirements of the FTA.

In the discussion so far, the FTA has been considered at face value, as an agreement about trade. But, as supporters and opponents are agreed, the description of the proposed deal as a 'Free Trade Agreement' is a misnomer. As Oxley[2] observes

> It has now become obsolete to measure the economic impact of these agreements principally by their effect on the flow of goods. With global barriers to trade in goods substantially reduced, the gains from economic integration can now be secured by a wider range of instruments aimed at freeing movement of capital and labor and promoting greater competitiveness. The overall effect can be described as 'deep integration', a term now adopted by the World Bank. The traditional description of these agreements as either customs unions or free trade agreements (FTAs) (deriving from the method of reducing and aligning tariffs) is a misnomer in a world of lower tariffs. The World Bank prefers to describe them as 'Regional Integration Agreements'. Free Market Arrangements would be an even more appropriate term.

The political significance of greater economic integration has enhanced the political importance of these agreements. The economic integration achieved in Europe and North America has clearly enhanced the national security of the countries concerned.

In general, an integration agreement involves the adoption of common, or at least compatible, economic policies on a wide range of issues, including intellectual property, public ownership of infrastructure, and competition policy.

However, 'integration' is a misleading term in the context of a bilateral agreement between Australia and the United States. Given the relative size of the two countries, and the 'pattern bargaining approach' noted above, it is clear that any agreement will involve Australia adopting American institutions and not *vice versa.*

To understand the implications it is worth considering some examples. One issue stressed by Trade Representative Robert Zoellick[3] is 'intellectual property'. To see what this might mean in practice, we need to look at the case of Eldred vs Ashcroft, decided recently by the US Supreme Court.

This case was a constitutional challenge to a recent Act of Congress which extended the term of copyright protection from fifty years after the death of the author to seventy

years (ninety-five for corporations). The 'Copyright Term Extension Act' is often referred to as the 'Mickey Mouse Act' because of the observation that the term of copyright is extended whenever the Disney copyright on Mickey is about to lapse.

The constitutional challenge failed, but the case did elicit an unusual degree of interest from American economists, seventeen of whom submitted a brief to the Supreme Court opposing the Act. The list is striking not only because of the eminence of the signatories (five Nobel Prizes and more to come) but because it represents all shades of economic opinion from free-market luminaries like Buchanan, Coase and Friedman to interventionists like Akerlof and Arrow.

Australia still has the term of copyright fixed at fifty years after the author's death and publishers interested in making public-domain works accessible to the general public are increasingly taking advantage of this. There can be little doubt that the negotiating demands of the US in any agreement will include an extension of our copyright terms.

Similar points apply to the Pharmaceutical Benefits Scheme. The AUSTA submission to the Senate Inquiry into the FTA denies any intention to 'dismantle' the scheme, but notes, ominously, that 'there are features of the scheme that discourage investment by drug companies in Australia. AUSTA supports measures in the FTA which encourage more investment and job growth in Australia'. It is safe to conclude that the 'features' seen as discouraging investment and job growth are the same ones that provide Australians with access to affordable drugs.

More generally, as Oxley's preferred term 'Free Market Agreement' indicates, the FTA implies acceptance of the United States as an economic model for labour markets, tax and welfare policy, regulation and deregulation. Just as membership of the European Union requires acceptance of the social-democratic policies set out in the EU Social Charter, an FTA with the United States will work only if Australia follows the US in removing labour market policies aimed at protecting workers from the impact of market forces and in 'ending welfare as we know it'. While advocates of the FTA correctly point out that these consequences would not actually be required by the terms of any agreement, they clearly regard them as desirable corollaries.

The case for deep economic integration with the United States rests on the assumption that the American 'new economy' and the associated economic and social institutions are superior to the 'old economy' and 'old society' of Australia. Negotiations for the FTA commenced during the late 1990s, a period of American economic triumphalism when the claim that the United States had discovered a uniquely optimal economic model seemed plausible. Today, with US unemployment higher than that in Australia and many European countries, there seems no reason to accept it.

John Quiggin is an Australian Research Council Professorial Fellow in the School of Economics and School of Political Science and International Studies at the University of Queensland (j.quiggin@uq.edu.au).

[1] Garnaut, R (2002). Garnaut argues an FTA will damage Australia's relations with Asia. http://www.austa.net/publicForum/publicForum21.htm

[2] Oxley, A (2002). 'Free Trade Agreements in the era of globalization: new instruments to advance new interests - the case of Australia', Australian APEC Centre, Monash University, July. http://www.austa.net/publicForum/publicForum37.htm

[3] Zoellick, R (2003). Address at the Launch of the American-Australian Free Trade Agreement Coalition (19 March). http://www.austa.net/pdf/Zoellickspeech.pdf.

DONATIONS AND BEQUESTS

WHY?

Because the Academy has a vision and plan for the future, and is enlarging its programs to fulfil its mandate more fully. In particular, a broadened revenue base will enable the Academy to:

- Expand its program of workshops, stressing involvement of younger researchers
- Provide subsidies for publication and dissemination of workshop outcomes
- Support major new research initiatives on matters of national concern

HOW?

- Donate for a specific purpose, or to be used at the Academy's discretion
- You can make a bequest to the Academy in your Will
- Establishment of an Academy Foundation will involve donors in Academy activities

WHEN?

- Donations are needed now to enable the Academy to expand its activities. Donations have tax exempt status
- Bequests are a longer-term commitment. The key is to amend your Will now to ensure that the Academy will benefit.

FURTHER DETAILS

For confidential advice on making a donation or bequest, contact the Academy's President, Professor Leon Mann,
or Honorary Treasurer, Dr Bruce Chapman,
through the Academy office.
28 Balmain Crescent, Acton ACT 2600 or
GPO Box 1956 Canberra ACT 2601
Telephone: 61 2 6249 1788 - Facsimile: 61 2 6247 4335
ASSA.Secretariat@anu.edu.au

Academy News

Research Program

ARC Linkage-Learned Academies Special Projects 2004

We are delighted to announce that the research project: 'What Is To Be Done With Management Ethics? Addressing National Needs and Priorities', submitted by *Professor Stewart Clegg and Dr Carl Rhodes (University of Technology Sydney)* has been short listed for funding consideration in 2004. A full proposal was submitted to the ARC on 18 July.

The purpose of this project is to bring together an interdisciplinary team of Academy Fellows and other national and international experts to discuss and analyse ethics as they relate to organisation practice and managerial behaviour across the whole range of public, private and third sector organisations.

For further information please contact John Robertson, Research Director: john.robertson@anu.edu.au.

Workshop Program

Recently completed workshops:

- On 10-11 July, *Professors Marian Sawer, Barry Hindess and John Dryzek (Australian National University)* held a workshop at ANU on 'Us and Them: Elites in Australia'. Discussions focused on anti-elitist discourse in contemporary Australia and its consequences for the quality of public life. It also explored the social context in which anti-elitism developed, the diversity of elites (economic, intellectual, political, sporting) and differences between the actual role of elites in public life and the role ascribed to them by anti-elitist discourse.

- The 'Working Mothers and Social Capital' workshop, convened by *Professors Belinda Probert (RMIT) and Patricia Grimshaw (University of Melbourne)*, was held at RMIT on 4-5 July. The workshop bought together researchers working on the historical and contemporary patterns and dilemmas of motherhood and paid work in Australia.

- The Academy's first workshop in the Northern Territory, 'The Potential Role of Social Capital in Alleviating Persistent Poverty', was convened on 1-2 July by *Professor Ian Falk, Centre for Teaching and Learning in Diverse Educational Contexts, Northern Territory University*. Discussions focused on the current state of knowledge regarding social capital (its attributes related to capacity building) in relation to its impacts on, and potential for alleviating, poverty.

Forthcoming workshops include:

- *Professors Mervyn Lewis* (University of South Australia) and *Riaz Hassan* (Flinders University of South Australia) will convene a workshop in November 2003 in Adelaide on 'Perspectives on Islam'.

- In Brisbane, *Professor Helen Bartlett* from the Australasian Centre on Ageing, the University of Queensland, will convene a workshop on 'Evidence into Policy: What Works in Ageing?'

- *Professor Tom Campbell*, Centre for Applied Philosophy and Public Ethics (CAPPE) at Charles Sturt University will hold a workshop in December 2003 on 'Ethics and Auditing'.

Further information about the Workshop Program and the *Workshop Guidelines* can be found at www.assa.edu.au or contact Mark Pinoli in the Secretariat.

International Program

Netherlands Exchange

Elspeth Probyn FAHA, Professor and Chair, Department of Gender Studies, School of Philosophical and Historical Inquiry, University of Sydney, has reported on her visit to the Netherlands.

I visited the Universities of Utrecht and Amsterdam in November, 2002. My host at the University of Utrecht, Professor Rosi Braidotti, asked me to conduct a Master Class on my forthcoming book on shame and affect. Over a period of two days, along with 8 PhD students from the European Exchange Program, we had a lively discussion on the differences in how shame works politically in Australia and in the 'new' Europe. Many of the students are researching aspects of the massive changes that the former Eastern Bloc has undergone, especially in regards to women's work and their social position. Questions of shame are at the forefront, for instance, in terms of the large, now illegal, population of eastern European sex workers in the Netherlands. With the changes in membership of the EU, by 2006 Russia and the former Yugoslavia will be isolated from the rest of Europe, a situation that will be highly volatile in terms of feelings of exclusion and resentment. Equally shame was of interest for students working on aspects of the Dutch relationship with their previous colonies, especially Surinam.

For the remainder of the research visit, I met with Professor Braidotti to discuss collaboration between Dutch and Australian colleagues working in cultural and gender studies. We formulated plans to formalise plans through applying to different programs for funding within the EU.

In Amsterdam I met with Dr Joke Hermes from the Communications Department at the University of Amsterdam. Dr. Hermes is a leading Dutch researcher in gender and media and we discussed possible collaborations between her institution and Australian researchers. She is one of the organisers of the very successful Crossroads in Cultural Studies conferences, which have thus far met only in Europe. With the next one to be held in Illinois, USA, there is a possibility of proposing Australia for a future conference.

Applications for the Australia-Netherlands Exchange Program are now invited for 2004. **Closing date: 15 August 2003.**

Australia-France Joint Research

ASSA and the Embassy of France are pleased to announce the 2004 call for proposals for joint-action Australian-French research. Attention is drawn to the two areas where social scientists may be eligible to make an application.

Two types of activities will be eligible for support:

- Projects: cooperative research projects between at least one French and one Australian partner.
- Workshops: meeting(s) of delegations composed of researchers from the public and private sectors of both countries, to create or consolidate collaborative activities.

In both cases the type of support granted will be plane tickets and/or living allowances, to go to France and/or Australia.

CNRS 'Projets de recherche conjoints - Australie' - Deadline 31 July 2003. www.cnrs.fr/DRI/AOffres/ (application must be lodged by the CNRS partner).

Special Case: Humanities and Social Sciences (HSS)

A specific joint call for proposals by the French Embassy and the Academy of the Social Sciences in Australia (ASSA). **Deadline: 8 August 2003**. It will support visits beginning after 1 January 2004. All applications will be jointly assessed, and in some cases jointly funded, with the Academy of the Social Sciences in Australia. Please contact maryline.bouchet@diplomatie.gouv.fr at the French Embassy for further information or an application form. Dr John Robertson john.robertson@anu.edu.au will manage the ASSA involvement in this program.

   Professor David Andrich of Murdoch University, Australia, and *Professor Alain Leplege* of the University of Amiens and the Institut d'Histoire et de Philosophie des Sciences et des Techniques (UMR 8590, University Paris1/CNRS), have been collaborating in studies in the philosophy of measurement in the social sciences. In January 2002, Alain Leplege visited Murdoch University for a month with the support of the French Embassy, and in May 2003, David Andrich visited the Sorbonne for two weeks with the support of both the French Embassy and the Academy of Social Sciences of Australia.

While in Paris, Professor Andrich presented two papers at the Institut d'Histoire et de Philosophie des Sciences et des Techniques at the Sorbonne. The first, titled 'Recognising problems after they are solved in the construction of models of measurement in the social sciences', was presented at an International Conference on the Epistemology of Measurement in the Social Sciences, and the second, 'On the distribution of measurements in units that are not arbitrary', was a revised version of a paper presented at a similar conference in Paris in May 2002. The final version of the paper is to appear in a thematic issue of *Social Sciences Information* (Alain Leplège guest editor). Professor Andrich's recent studies in the philosophy and epistemology of measurement complement his ongoing work in developing and operationalising models of measurement for the social sciences.

Australia-Britain Special Joint Project Funding

The Academy of the Social Sciences in Australia, the Australian Academy of the Humanities and the British Academy have launched a new scheme for the support of joint projects between Australian and British scholars. One award (of up to £8,000) for a project which covers both humanities and social sciences disciplines, or two awards (of up to £4,000 per project) will be available each year, to cover travel and maintenance expenses.

Level of award: up to £4,000 / £2,000 for the Australian partner, and an equivalent sum from the British Academy for the British partner.

Eligibility: The principal applicant on the Australian side should be normally resident in Australia. Other scholars associated with the project will normally be expected to be of postdoctoral status.

Period of award: up to twelve months. Possible extension of one year on reapplication.

Closing date: **30 September 2003** for projects to commence from April the following year.

For application and referees forms, please contact the Academy of the Social Sciences secretariat or visit its website www.assa.edu.au.

Australia-China Exchange Program

In July, Professor Su Yigong, Institute of Law, Chinese Academy of Social Sciences visited Australia for a two week period as a Visiting Fellow in the Faculty of Law at the Australian National University. His topic of research is 'Chinese immigration in Australia and their accommodation to common law atmosphere'. His study will examine the process by which Chinese people confront western law and how they adapt themselves to it. He is hopeful that his research might provide a new model upon which one can review the value and content of the traditional Chinese law within an occidental law system.

Professor Su recently published *Chinese Law Applied by Westerners: Traditional Chinese Law and Custom in Hong Kong,* Social Sciences Literature Press, 2002.

AASSREC (Association of Asian Social Science Research Councils)

http://www.assa.edu.au/International/member.htm

ASSA will host the 15th Association of Asian Social Science Research Councils (AASSREC) conference from Monday 10-Friday 15 November 2003 in Canberra. *Professor Fay Gale*, immediate Past President of the Academy is the current President of AASSREC and the convenor of the event, which is hosted in turn by member nations. This will mark Australia's second time as host; the first was the 5th Biennial ASSREC Conference in Sydney in 1983.

The eighteen member nations have been invited to send delegates to participate in workshops and meetings with their regional colleagues. The first day of proceedings will be the **Academy Annual Symposium on 'Youth in Transition'**, a theme that has resonance for all nations in the globalising world. Among the aspects to be considered are transnationalism, urban migration, gender imbalances, educational opportunities, employment, housing and challenges for political institutions. Fellows of the Academy, ASSREC delegates and a panel of young people will contribute to the discussion.

For further information about this scheme or any of the other Academy funded International Programs, please contact John Robertson at the Academy's Secretariat on 02 6249 1788 or john.robertson@anu.edu.au.

ASSA meets CSIRO at Flagships Workshop

Beginning in 2002, Academy representatives have been meeting with CSIRO scientists to explore ways to foster a growing interest in the application of social science to issues of science for society.

The CSIRO interest has been spearheaded by Dr Graham Harris, an ecologist who is Chair of CSIRO's Flagship Programs. Harris is passionate about the social responsibilities of science. He is keen to build a partnership with the Academy to ensure that the human and societal aspects of science are prominent in CSIRO's thinking and research in the six Flagships Programs which secured Government funding of $20 million in this year's Budget. The six Flagship Programs are

Preventative Health (P-Health), Healthy Country, Energy Transformed, Light Metals, Agrifood Top 5, and Wealth From Oceans.

CSIRO hosted a dinner on 18 June and a one-day workshop at CSIRO headquarters in Canberra on 19 June at which CSIRO's Flagship Directors and leaders in the fields of emerging science and social and economic integration described their programs. The Academy representatives discussed some of their work with implications for science application. Workshop participants then exchanged ideas about each other's work and identified possibilities for collaboration in new research projects.

For the Academy, Dr Kelly Fielding of the University of Queensland's Psychology Department described her work in the area of the social psychology of environmental sustainability. Professor Pip Pattison, FASSA and Head of the Psychology Department, University of Melbourne, described the application of social network analysis for modelling group cohesion and dynamic models for analysing change and equilibrium in complex systems. Professor Mark Dodgson, Director of the Technology and Innovation Management Centre, University of Queensland, discussed innovation cycles and the management of innovation systems. Professors Leon Mann, Sue Richardson, Ann Harding, and Executive Director Dr John Beaton also participated in the workshop as Academy representatives.

ASSA and CSIRO are now exploring ways to build the partnership, including: an ASSA-CSIRO Forum on Research Engagement; Electronic discussion groups; A senior social scientists' secondment program linked to the Flagships program; and involvement in an ARC networks initiative.

Academy and CSIRO representatives at the Flagships Workshop in June.

Summer School and Mentoring Program for Indigenous Postgraduate Students

The Academy's Summer School and Mentoring Program has been established as an annual activity following a grant from the Indigenous Education Strategic Initiatives Program of the Department of Education, Science and Training.

Professor Kenneth Maddock, formerly of Macquarie University

died on 2 June 2003.

An Obituary will appear in the *Annual Report.*

Dialogue is published three times per year and the deadlines are 1 March, 1 July and 1 November. Contributions are usually commissioned, but offers to contribute are always considered.

Letters to the Editor are welcomed, and all correspondence regarding *Dialogue* should be directed to

The Editor, Dr Peg Job, pegs.books@ispdr.net.au

Workshop Report

Occupational Stress in Australia in the Twenty First Century: the Health and Social Costs

Don Byrne

Background

The topic of occupational stress is a particularly apposite one for Australia in the early 21st Century. The nature of occupations and the social and inter-personal structures within which many occupations are carried out are undergoing rapid and sometimes dramatic change. The personal costs associated with this change are substantial and varied; they include impaired health (both physical and psychological), disruptions to both social and family relationships, and impairments to occupational efficiency. The consequent economic costs are difficult to calculate with any precision but it is worth noting that compensation only for the health consequences of occupational stress now forms the single biggest payment category for Comcare (the Commonwealth Government's primary health insurer) and this trend is probably also reflected in the liabilities of other major Australian health insurers. For Comcare alone, stress ranked in the top 4 of claims in the 1998/1999 financial year and accounted for more than 10 per cent of all claims against the insurer (Comcare Annual Report, 1998/1999). Stress ranked third for proportion of expenditure by injury group and top in terms of the average total cost of pay-out (greater even then multiple physical injury).

It is very clear then that occupational stress permeates the entire fabric of Australian society, with attendant costs on health and well-being which flow through to directly and negatively impact onto social and occupational functioning, leading in the final analysis to significant and broad based economic loss.

Occupational stress is, of course, also a phenomenon of major international importance but contemporary Australian research in the area has been significant in contributing to this broader international view. In addressing the issue of occupational stress, at least from the psychosocial perspective, there is therefore a good deal of local evidence produced by Australian scholars that may be drawn into consideration. This workshop sought to collect many of those scholars together for the single purpose of exploring the patterns, causes and management of occupational stress in Australia. The program was developed and convened by Professor Don Byrne (The Australian National University) and while many of the participants came from the various areas of psychology it drew as well from the broader base of the social sciences and included participation from the areas of industrial relations, management, economics and the law.

The Workshop

The program opened with a presentation from Professor Don Byrne on the measurement and presentation of occupational stress in Australia. After introducing the constructs of stress in general and occupational stress in particular Professor Byrne reviewed the current state with regard to the measurement of occupational stress, concluding that since occupational stress was a conspicuously complex construct, measures of occupational stress had, by and large, failed to adequately address the complex and process nature of the area. More alarmingly, perhaps, while there were many excellent Australian studies of occupational stress in specific occupational groups, there were very few studies examining large and occupationally

unselected samples of the Australian workforce. Baseline levels of occupational stress in this country were therefore lacking and this hiatus in basic psychosocial research was likely to impede progress both in explaining the phenomenon and in dealing with its social and economic consequences.

The helping professions, and particularly those dedicated to the treatment of pain and suffering, are frequently associated with occupational stress. Associate Professor Helen Winefield (The University of Adelaide) has extensively studied occupational stress among medical practitioners, and her presentation considered the difficulties experienced by general practitioners in particular. In a climate of constrained health resources the business of medical practice is an increasingly difficult one to handle for many doctors. Diminishing incomes within a context of escalating bureaucracy appear to have added significantly to the stress of medical practice over the past years. A necessary emphasis on the business side of the practice often impairs relationships with partners and colleagues, and decreases the perceived availability of social support within the practice. The alternative, of solo practice, offers no social support at all. Expensive diagnostic testing, seemingly necessary to avoid diagnostic and treatment errors which might increase the risk of litigation, is closely regulated by the Health Insurance Commission. A better understanding of how medical work stress affects the quality of work performance and contributes to error, seems urgently needed.

Evolutionary explanations of stress tie the construct to the well known flight/fight mechanism in which a challenging or threatening environment stimulates the organism to prepare for direct physical action. Associate Professor Janice Langan-Fox (The University of Melbourne), considering the issue of gender and occupational stress, introduced the countervailing notion of tend/befriend as the more appropriate evolutionary mechanism for women. While there is good psychobiological evidence for the existence of this mechanism it is essentially incompatible from a psychosocial perspective with many contemporary work environments. A fundamental mismatch therefore exists between the demands of these work environments and the psychobiologically driven capacities of many women to effectively deal with them. This tension may serve as one explanation for the unique experience of occupational stress in women.

Occupational stress was long considered the particular bane of those in the professional or managerial end of the occupational spectrum and while the evidence no longer fully supports this view it remains clear that high occupational status does constitute a significant risk for occupational stress. Professor Tony Winefield (The University of South Australia) took up this issue with illustrative data from a very recent study of occupational stress among academics. Academic staff in Australian universities report levels of occupational distress noticeably above that found in the population at large. Academics report significantly higher levels of occupational stress than do technical or administrative staff in the same universities and those in newer universities appear to experience more occupational stress than do those in older and more established universities. While these data come from a very specific segment of the professional population there is no reason to believe that they could not be replicated across the professions as a whole.

The certainty of tenure, once largely a given in the Australian workforce, is now rapidly disappearing in many areas, and is being replaced by time-limited contracts or, in many cases, by little more than piecemeal work. The issue of what can now be called precarious employment was discussed by Professor Michael Quinlan (The University

of New South Wales). Both international, and now Australian experience and evidence suggests that precarious employment is associated with a raft of health problems both psychological and physical in nature. Added to the self-evident social difficulties arising from such tenuous employment experiences (inability to plan financially, protracted periods of unemployment, a continued threat of relocation and the like) precarious employment is likely to be a significant source of occupational stress in Australia in the near future.

Professor Victor Callan (The University of Queensland) examined the issue of occupational stress and corporate change. The structures of organisations are, for better or worse, apparently under almost constant review, and change may be both rapid and substantial. While the drivers of change are typically economic the need for change is frequently not understood by those who are more likely to be affected, namely those employed by changing organisations. Change often involves significant culture shifts by workers to accommodate to new structures and demands, and when this exceeds an individual's capacity to adapt the result is likely to be the experience of occupational stress and its attendant problems. This raises issues regarding the effective management of corporate change, and particularly whether management should focus on the individual or on the organisation.

Occupational stress is clearly an issue which bears directly onto industrial relations and the trade union perspective was presented by Ms Sue Pennicuik (The Australian Council of Trade Unions). The employers' approach to occupational stress appears to be largely characterised by denial and, if recognised at all, put firmly within the responsibility of the individual. A recent survey conducted by the ACTU however suggests that around 25 per cent of employed Australians have taken time off work for reasons of occupational stress. The trade union approach is to make workers aware of occupational stress and its causes and consequences through campaigns of mass education. There is also encouragement for workers to alert management (and others if necessary) to potential hazards for occupational stress within particular work environments. The current situation regarding occupational stress is, however, often one of protracted tension between workers and management.

When occupational stress is linked to health problems then there is a strong chance it will involve claims for compensation. This evidence was considered by Ms Leone Moyse (Comcare Australia). Claims for occupational stress reached a peak in 1994, and until this year were declining in number. Occupational stress claims have the highest average cost of all claim types, primarily because those claiming tend to be out of the workforce longer than those with other workplace related illness or injury. There is some reason to speculate that changes to the industrial climate, including threats of down-sizing and out-sourcing, have acted to limit claims for occupational stress. Claims were either not made or, as current evidence indicates, were made for other physical conditions such as occupational overuse syndrome, or for other more nebulous complaints such as pain syndrome. The impact of these issues and the possible reasons for the apparent increase in claims evidenced this year, are currently under review.

However, when disagreement between worker and employer or insurer becomes intractable, claims for occupational stress may well become the subject of litigation and Professor Marilyn Pittard (Monash University) discussed the role of the law in adjudicating on matters of occupational stress. At a most basic level employers have a duty of care to provide a safe working environment for those they employ and are

obliged to take whatever steps are reasonable in order to offer protection to their workers. The problem appears to lie with the definition of what is reasonable and how this is interpreted by the court. However workers are not without personal responsibility and it is clear that if litigation is to succeed they have an obligation to inform employers of the possibility that they may either be experiencing occupational stress or the beginnings of some health condition which may arise from occupational stress.

The management of occupational stress can be addressed from at least two broad perspectives; that of the organisation and that of the individual. Adopting the latter perspective, Associate Professor Sharon Parker (The University of New South Wales) looked at the design of healthy workplaces in reducing the potential for occupational stress. The characteristics of the work environment have long been a focus of interest in understanding occupational stress and issues of worker autonomy and job enrichment are prominent in this regard, with low levels of both predicting occupational stress. Excess job demands are also potentially stressful. Parker presented evidence from recent studies suggesting that job design to enhance autonomy and empowerment, while minimising demands, can reduce the likelihood of occupational stress. Parker also proposed theoretical extensions to existing models of work design and stress.

Associate Professor Maureen Dollard (The University of South Australia) summarised the current situation with regard to the management of occupational stress in Australia. There are few good Australian studies to draw on but a number of essential elements may be distilled from what is available. At an organisational level such issues as facilitating communication through the organisational hierarchy, establishing a culture of value for employees, provision of adequate social and organisational support and ongoing monitoring of job demands all seem important. However when these strategies are either not implemented or prove ineffective then the ready provision of diagnostic, treatment and counselling services for employees must be mandatory. Much of what is seen as best practice in the management of occupational stress could be facilitated by better networking among researchers and practitioners in the area of occupational stress.

The final discussion session was chaired and guided by Emeritus Professor Robert Gregson (The Australian National University). The session identified the conspicuous absence of broad-based research into occupational stress in Australia and highlighted the need for this research to be done. It recognised however that political, industrial and economic forces operating in Australia over the past decade or so have been at odds even with the recognition of occupational stress as a phenomenon affecting the workforce. To concede that industrial structures and practices may have harmful consequences for workers is to foreshadow possibly mandatory revisions of both industrial and insurance law which are seen to be inordinately costly. If it is recognised at all, employers place sole responsibility for occupational stress onto the individual worker and de-emphasise, so far as possible, the roles either of the occupational structure or of the industrial practices which operate within it. To further complicate the situation, the approach of insurers is most typically to require that a diagnosable psychiatric disorder is interposed between exposure to the occupational environment and the onset of any physical symptomatology which might be claimed to arise from exposure to that environment.

The Australian situation is in marked contrast to that operating in Europe (or at least the countries of the European Union) where the provision of a safe working environment, and that includes a non-stressful environment, is both enshrined in

regulation and potentially enforceable. It has been argued from the European experience, albeit perhaps anecdotally, that this approach is ultimately the most cost-effective since early intervention for the prevention of occupational stress, whether structurally or individually focused, can act to solve problems before they involve expensive litigation, compensation or, as a last resort, industrial action. The papers presented at this Workshop by Professor Callan and Associate Professor Parker underscore the potential for such intervention.

The Workshop provided the first real opportunity to bring together a critical mass of Australia's foremost scholars working in the field of occupational stress and to allow both formal presentation and discussion of the issues in a way which set them aside from the largely practical considerations which have been the focus of previous conferences in the area. While ultimately these discussions must work towards a practical outcome the real issue identified by the Workshop was the simple lack of systematic evidence on occupational stress in Australia (as opposed to that in Europe and the USA) which could be used first to effectively persuade the doubters that we have a real problem in this country, and second to provide a basis from which that problem can be solved. The unique opportunity which the Workshop gave to share information among this critical mass of Australian scholars established a network of people who are now keen to take the issue further, to seek opportunities for large-scale collaborative research and to ensure that the issue is not lost through inactivity. The Workshop, which was generously co-supported by the Academy and by the National Institute for Social Sciences at the Australian National University and by Comcare Australia, was an exceptional success, and we are grateful both to the Academy and to our other sponsors for providing the means to allow it to take place.

Don Byrne is Professor of Psychology in the School of Psychology, Faculty of Science at the Australian National University.

SOME RECENT ACADEMY PUBLICATIONS

Occasional Paper Series

Australia Fair
Cunningham Lecture 2001   Hugh Stretton   *Occasional Paper 2/2001*

A Hundred Years of Women's Politics
Ed M Simms   *Occasional Paper 1/2002*

Before the Bough Breaks
**Cunningham Lecture 2002**   Fiona Stanley   *Occasional Paper 1/2003*

Arising from Academy Workshops

Working Futures: The Changing Nature of Work and Employment Relations in Australia Edited by Ron Callus and Russell Lansbury, The Federation Press, 2002*.*

2001: The Centenary Election Edited by John Warhurst and Marian Simms*,* University of Queensland Press, Australian Studies Series, 2002.

Investing in our Children: Developing a Research Agenda Edited by Margot Prior, Academy of the Social Sciences in Australia, 2002.

Books
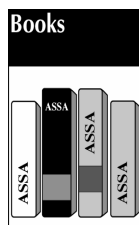
Hard Heads, Soft Hearts: A New Reform Agenda for Australia.
Edited by Peter Dawkins and Paul Kelly, Allen & Unwin 2003.

This book stems from the conference, *Towards Opportunity and Prosperity*, held in April 2002 under the auspices of *The Australian* and the Melbourne Institute. The Chair of the Institute's Advisory Board and the Editor of *The Australian* write, with disarming modesty, that 'Australia's leading national daily and Australia's leading economic and social think tank formed an alliance to further a compatible and vitally important set of objectives'. *Hard Heads, Soft Hearts* contains summaries and excerpts of papers presented at the conference, of articles written and published by the newspaper in the lead-up to the conference and of some papers published elsewhere. Surrounding these are commentaries by the editors.

Given that I cannot comment specifically on more than a handful of items, I can think of no better method of summary than to list the chapter headings. In Part 1 – Introduction and Background – we have: Australia's Economic, Social and Environmental Performance: Stocktake and Outlook; The Australian Economy: Past, Present and Future; and Globalisation: World Trade, Living Standards and Inequality. Part 2 – The New Reform Agenda – comprises: Unemployment, Joblessness and Welfare Reform; Education and Innovation; Population Policy; Work and Family; Ageing and Retirement; Health Policy; The Environment and the Kyoto Protocol; Are We Becoming a Branch Office Economy? Taxation, Merger Law and Population Growth; and Microeconomic Reform. Part 3 – The Way Forward – is written entirely by the editors.

The task of compression was obviously difficult. The techniques of excerpting and summarising, with liberal use of text boxes, are only moderately successful. In some instances, we get 'main points', with little flavour of the underlying argument; in others, we have what seem to be extended précis, with an off-putting uniformity and dryness of tone. The editors' contributions read like *ex cathedra* pronouncements – some as adjudications of the contending views of participants, others simply as statements of opinion. Why these, devoid as they are of argument, should command attention is not at all evident. They do, however, serve to confirm the 'slant' of the whole project.

The conference, as the editors make clear, had a mission; and so, not surprisingly, does the book. The mission had two components: to affirm the desirability of continued and intensified economic 'reform' – broadly, a euphemism for further deregulation; and to propose measures for alleviating adverse side-effects as they impact on segments of the Australian community. By a happy coincidence, deregulation is seen as causing more improvement than detriment for the less fortunate members of the society. There is a preponderance of contributors whose views accord with the mission. Certainly, there are dissents. These, however, contrast starkly with the predominant themes.

The provenance of 'hard heads' and 'soft hearts' flows, as the editors remind us, from Alfred Marshall's 'cool heads, warm hearts'. These, Marshall hoped, would be attributes of the Cambridge-trained economist. It seems, on first utterance, a nice ideal. On closer reflection, and depending upon how it is deployed, it either lacks content or becomes a semantic cover for policies characterised more by sternness than by compassion.

At the time of the Irish potato famine, the policies of the British government were much influenced by CE Trevelyan, Assistant Secretary to the Treasury. Trevelyan advised extreme caution in the provision of help to the starving Irish, lest a generous policy reinforce the indolence and lack of self-reliance that had left them exposed to the worst effects of natural disaster. Around the same time, the economist Nassau Senior opposed laws to restrict the working hours of women and children employed in factories, arguing that the employer's profit – essential to the continued employment of labour – came from the last hour of work. Trevelyan and Senior were honourable men, committed to the public weal. Each could have professed to the possession of a hard head and a soft heart. Some of Trevelyan's contemporaries, however, thought that famine in Ireland required a *more* 'soft-hearted' response. Others, appalled by the disclosures of the factory inspectors, demanded legislative relief for the defenceless workers. Do these contrasts get at the thinking underlying the caption of the book?

A better – because less ambiguous - characterisation of the project would be 'A Neoconservative Agenda for Australia's Future'. To be sure, not all of the book fits this description. The chapters on population and (arguably) education do not. Equally, however, there are parts that have little to do with hard heads and warm hearts.

It is impossible to deal comprehensively with the contents of the book. Hence I must be selective.

Take first the issue of economic growth and its causes. The editors rely on the contributions of Ross Garnaut and Ian McFarlane for the proposition that economic growth was mediocre before deregulation, but much better in the 1990s. This tends to support the presumption for economic 'reform'. As the chart below shows, however, productivity growth rates in recent years have *not* exceeded those of the later 1960s and most of the 1970s. The sclerotic economy of those earlier years was, by today's standards, performing quite well. (The 'trough' of the 1980s is something of a mystery, coinciding as it does with the transition from the 'regulated' to the 'deregulated' economy.)

To retrieve the *post hoc* analysis, we are asked to compare Australia's performance with those of other countries: whereas the growth rates of the earlier period fell below those of other OECD countries, those of the 1990s were superior. The argument, thus adjusted, becomes rather attenuated. We now need to explain, not only the varying growth rates of Australia, but also those of the comparator countries. This is by no means a simple assignment.

Bob Gregory was a discussant at the conference and (the editors tell us) 'expressed some scepticism about the extent to which we can accurately attribute the sources of the improved productivity performance of Australia'. In Gregory's view (with which I concur), 'there are multiple causes [of the accelerated growth in the 1990s], that might include labour market and product market reforms and technological change, but . . . it is not possible to say how much each factor has contributed'. The editors are unmoved: 'The conventional wisdom, reflected in this chapter, is that [productivity growth in the 1990s] represents the successful outcome of a program of microeconomic reform initiated in the 1980s. We note Bob Gregory's scepticism about this explanation . . . But we endorse the view that labour market reform, product market reform, and what Ross Garnaut called . . . the abandonment of regulatory isolationism, represented a necessary set of economic reforms, without which it is implausible that we would have enjoyed the kind of productivity growth that we have enjoyed in the 1990s.'

M A R K E T   S E C T O R   P R O D U C T I V I T Y   G R O W T H   IN   A U S T R A L I A   1 9 6 5 - 2 0 0 2
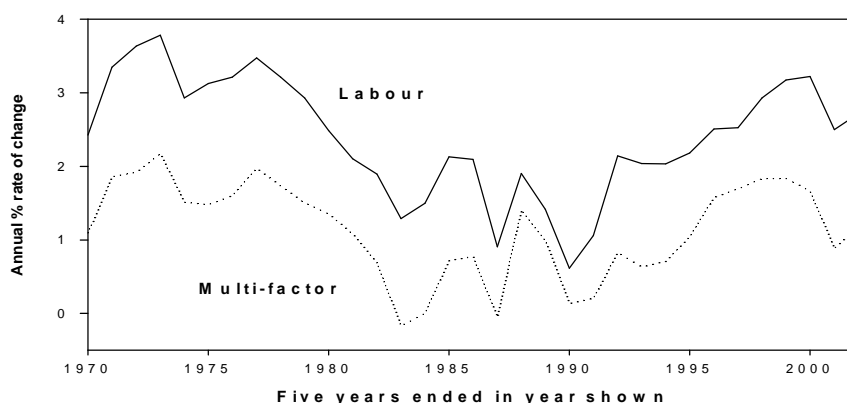
Source: ABS spreadsheet, Cat. 5204.0, Table 21.

John Quiggin, an authority on microeconomic reform who might well have challenged the 'conventional wisdom', was not invited to contribute to the conference.

Secondly, I take the issue of labour market regulation. One of the editors is among the 'Five Economists' who, since 1998, have been advocating a freeze of award wages, with offsetting fiscal adjustments to help low-wage earners. The others in the group (John Freebairn, Ross Garnaut, Michael Keating and Chris Richardson) were all involved in the conference, and three contribute to the book. Their proposal, if implemented, would cause – is intended to cause - a 12 per cent reduction in the real value of award wages, undermining the 'safety net of fair wages and conditions' that the Australian Industrial Relations Commission is legally required to maintain. It is a proposal that neither the present government nor organised employers have endorsed. The editors tell us that it was 'a major focus of discussion at the conference'; and that 'the Five Economists' plan, or something like it, continues to be discussed as a possible way forward for policy'. So far as I can tell from the book, no contrary case was presented. Such a case would have encompassed both the multiple functions of the award system and the long-recognised importance of wage adequacy to human dignity.

Dealing with industrial relations more generally, the tenor of the book favours labour market deregulation – more specifically, reducing the roles of arbitral tribunals and trade unions. The editors, it is true, profess their strong support for the right of workers to belong to trade unions. This profession is of a kind with 'Some of my best friends are . . .', for a right to belong to unions is empty unless unions can *do* things to advance their members' interests. Contributions reported in the book were from Tony Abbott, Judith Sloan, Mark Wooden, Lyndon Rowe (Chief Executive of the Chamber of Commerce and Industry of Western Australia) and Sharan Burrow (President of the ACTU). It is no surprise that all but the last supported the deregulationist stance. The contributors did not include labour market experts, such as Joe Isaac, Russell Lansbury, Sue Richardson and Malcolm Rimmer, who might have offered different perceptions of the role of institutions in industrial relations.

I do not know whether Alfred Marshall would have applauded the Dawkins-Kelly program. Ronald Henderson may have turned in his grave. Yet to describe the project as biased would be to miss the point: it makes no pretence of objectivity. Both the conference and the book are properly regarded as advocacy. There is nothing wrong with that. We do not look for balance in political manifestos. Those with different conceptions of the good society are at liberty to organise their own conferences. In this connection, it is only fair to acknowledge the support recently given by *The Australian* to a conference on life and work that has aired views manifestly at odds with the paper's thinking.

Keith Hancock

The Experience of Middle Australia: The Dark Side of Economic Reform. by Michael Pusey. Cambridge University Press, Melbourne, 2003.

Michael Pusey popularised the term that defined the politics of the last decade with his 1991 book *Economic Rationalism in Canberra*. As a bureaucrat in the senior levels of the Australian Public Service at the time, it was fascinating for me to watch the reaction to Pusey's book.

His argument that the Canberra bureaucracy had been captured by a narrow-minded and ideologically driven group of economists who imposed their vision on the policy process was attacked ferociously by that same group of economists and their camp followers in right-wing think tanks and the press.

Yet while the book had its faults, its thesis was almost self-evidently true and everyone in the bureaucracy knew it was true. Pusey had exposed the game by naming the truth and for that some never forgave him.

Michael Pusey's new book, *The Experience of Middle Australia,* explores the perceptions of middle Australia of the effects of 'economic reform', the euphemism used by economic rationalists to describe their economic program. It is a sign of how the world has changed that a more contestable analysis about the effects of economic reform has been met with a response much more muted than the earlier frothing at the mouth.

But one has to ask whether the supporters of economic rationalism in the bureaucracy and outside ever stop to ask themselves whether the basic premise of neoliberalism – that it would improve economic outcomes and thereby make for a better society – proved correct. I doubt it. For the defining feature of economic rationalism was always its contempt for the facts; the nostrums of the economic texts would do. One looks in vain for any evidence to support the basic contentions contained in the iconic reports of the economic rationalists, such as the Hilmer Report and the National Commission of Audit.

Yet middle Australia – defined in the study to include all but those households with incomes in the bottom 20 per cent and top 10 per cent of the population – was always deeply
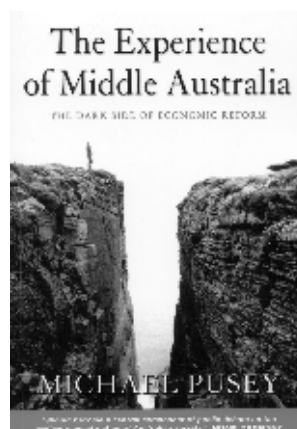
sceptical, and Pusey's analysis exposes and explores this scepticism by way of detailed interviews with '400 randomly selected middle Australians in five capital cities'.

Pusey has uncovered a seam of anger and resentment, built on a surprisingly accurate assessment on the part of middle Australia, of the winners and losers from economic reform. Much of this discontent is expressed as unhappiness about the material circumstances in which middle Australians find themselves. But I suspect that the anger is due more to the non-material effects of the great neoliberal experiment – the damage done to employment security, the intensification of work, the penetration of market values into areas of social life where people feel they don't belong, the erosion of trust and faith in public institutions (especially government) and the corrosive effects of economic reform on their relationship with family and friends.

If the total victory of neoliberalism has rendered expositions of its failures redundant, Pusey's book will nevertheless serve as an affirmation of Keynes' famous injunction: 'Practical men, who believe themselves to be quite exempt from any intellectual influences, are usually the slaves of some defunct economist'.

Clive Hamilton

***Ministers, Mandarins and Diplomats: Australian Foreign Policy Making 1941-1969**. By Joan Beaumont, Christopher Waters, David Lowe, with Garry Woodland. MUP, 2003.*

This is about how Ministers and the Department of External Affairs got on with foreign policy and with one another, from HV Evatt's time as Minister to the end of Paul Hasluck's in 1969. It is the product of Deakin University's History Department, with help from Garry Woodland, a former Ambassador to China. I found it fascinating, not least because I knew many of the people in it, some of whom were my friends, one or two not. This may affect my capacity to review it.
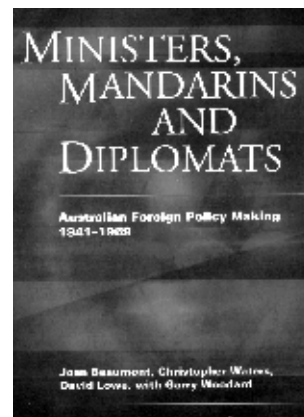
In scholarly terms, it is impeccable. Every quotation is documented, and there is an ample bibliography of the numerous works on Australian foreign policy which have appeared in recent years. There are chapters on the background of External Affairs, then on each of the five ministers and their relations with the department, and finally a useful chapter on what the diplomatic life abroad was like in these formative years. Prime Ministers appear from time to time, but the emphasis is very much on the department and its minister. There is no hesitation about judgment on either.

Of the ministers, Spender and Barwick come out best, the former for his forcefulness and determination, the later for his rapport with the department at various levels, and his capacity to turn round a Cabinet which would otherwise have taken a different and perhaps disastrous line. There is a remarkable contrast with Casey, who could not make his way in Cabinet – eg, over Suez in 1956 – and needed conversation with agreeable people to form a policy. Spender is praised for his Colombo Plan and ANZUS initiatives; also, it is shown how he continued to influence foreign policy while Ambassador in Washington.

The sad cases here are Evatt and Hasluck, both men with contradictions in their aims and personalities. I think the judgments are tolerant, moderate and fair, even though both were terrors to the department. Hasluck seems to come out best, but only just.

So far as the department is concerned, the judgment overall is that the atmosphere and the approach to policy changed from liberal internationalism in the 1940s to realism and Cold War liberalism. Individuals are given their due; Shann, Plimsoll and above all Tange. This is as it should be.

Perhaps the authors' brief did not go quite far enough. There is mention here and here of harsh relations with other departments – Prime Minister's, Defence, Trade and the odious Treasury – but not nearly enough. It would have been worthwhile to see how Heydon's attitudes changed when he went from External Affairs to head of Immigration; from recollection, I think he managed it: he had a strong sense of national interest.

JDB Miller

Opinion

Does the Australian Government Have a Cultural Policy?
David Throsby

Before trying to answer the question posed in the title of this paper, it would be useful to know whether such a thing as a cultural policy exists. In most fields that are of interest to government policy such as the environment, health, education, transport and so on, the area of concern is clearly identified, and hence the scope of policy coverage is reasonably clearly delineated. Not so with culture. Does the term 'culture' embrace only what are commonly referred to as the high arts – drama, dance, opera, 'serious music', literature, the visual arts? Or does it extend to popular culture, including film, video games, television, rock music and other similar fields? Or is an anthropological or a sociological definition of culture more appropriate, extending the coverage beyond creative activities and focusing attention on matters of identity, values, beliefs, tradition, ways of living together – in short just about anything that serves to identify a group and bind it together? It is apparent that what comprises cultural policy will vary widely according to which interpretation of culture is used.

In practice, however, there is little doubt that historically in Australia the term cultural policy, to the extent that it has been used at all, has meant arts policy. So, for example, a document entitled *Cultural Policy in Australia* written in 1980 by Jean Battersby, the first administrative head of the Australia Council, is principally concerned with the high arts as defined above, although she does include chapters on film and broadcasting, and there is even a section on sport.[1] Likewise, twenty years on, Deborah Stevenson's recent book subtitled *Making Australian Cultural Policy*[2] is also concerned primarily with government policy towards the arts, although her orientation as she charts the changing environment over the last couple of decades is anything but elitist.

In order to understand the present Australian Government's stance in these matters it will be helpful to review the development of Commonwealth arts policy since Harold Holt moved to set up the first Australian Council for the Arts in 1967.[3] The first half of the 1970s saw a substantial consolidation and expansion of arts support through the

establishment of the Australia Council by the newly elected Whitlam Government. Soon after it was born, the Council had to endure a searching review of the rationale for its functions carried out by the Industries Assistance Commission[4], and then faced another enquiry ten years later by a House of Representatives Standing Committee on Expenditure chaired by Leo McLeay.[5] Despite their critical demeanour, neither of these inquiries brought about any significant changes in the Australia Council's operations, nor did they upset the willingness of the government of the day (Coalition in the first case, Labor in the second) to continue funding the arts from the public purse. Indeed by compelling arts advocates to justify their position, these inquiries helped to consolidate in a local context the economic arguments for government intervention in this area, arguments which were being well worked over by economists elsewhere.[6]

The articulation of an economic basis for arts policy in terms of public goods provision during the 1980s was given an added dimension by the climate of economic liberalisation and microeconomic reform prevailing at that time. In this environment lobbyists found it advantageous to promote the arts as generators of economic wealth, arguing that the arts made significant contributions to incomes, exports, employment and regional development. Such a characterisation of the arts – as an industry producing goods and services for sale to consumers rather than as a sublime expression of human creativity – ruffled many feathers at the time, and still does. Critics such as Donald Horne[7] have seen these developments as implying a relentless commodification of the arts and a sell-out to the soulless rigour of the marketplace. In fact, labelling the arts as an industry does no such thing; it simply acknowledges the fact that artistic production and consumption occur in an economic context which can be analysed using the tools routinely employed by economists to study industrial organisation, consumer behaviour and market disequilibrium. Doing so does not deny that the role of art, in individual experience or in society at large, serves a much larger purpose. I shall return to these matters below.

The concept of the 'cultural industries' that started to take shape during the late 1980s reached its apotheosis in the Keating Government's grand vision for a cultural policy, *Creative Nation*, published in 1994.[8] But this document was much more than a blueprint for industry development. It represented the first serious effort to put together a comprehensive national cultural policy, springing from the very roots of what could be described as indigenous and non-indigenous Australian culture. As such, it represented a decisive shift away from the narrowness of earlier policy statements concerned primarily or exclusively with support for the arts.

For its time, *Creative Nation* was an exceptionally forward-looking document, anticipating several lines of cultural policy development, which have since found expression in other countries, if not here in Australia. For example, its efforts to link the cultural industries with new media technologies and the growth of a creative workforce prefigured later moves in these directions in the UK, the US and other countries.[9] Nevertheless, despite its heroic intent, *Creative Nation* proved to be longer on rhetoric than on any real capacity to deliver cohesive and operational measures to bring about change. True, it gave rise to some successful new programs in the cultural field, but it also produced some spectacular failures. Overall, it did not lead to any dramatic shifts in cultural policy formulation or implementation at the national level. Any chance that, given time, it might have yielded longer term fruits was effectively scuttled by the change of federal government in 1996. Curiously, the overall spirit of *Creative Nation* may now be more apparent in the States than at the Commonwealth level, a proposition that I will examine further below.

Following the election of the Coalition government in 1996, the expression of cultural policy in the federal arena has reverted to the traditional arts policy formulae. At successive elections since, both main parties have issued policy platforms protesting their belief in the importance of the arts in Australian society, reasserting their commitment to funding the major cultural institutions, and promising to implement a few new initiatives designed to keep the 'arts community' happy. It has been left to the minor parties to come up with something more like a comprehensive cultural policy. So, for example, in the 2001 election campaign, the Democrats produced a thoughtful document listing priorities for a 'cultural plan' relating to matters such as employment for artists, the promotion of arts education, funding for the Australia Council, legislative reform, trade issues, indigenous cultures and heritage, all contained within a coherent policy framework.[10]

This brings us to the present day. Is it possible now to stand back and speculate upon what, in some ideal world, a national level cultural policy might contain? After all, the academic study of cultural policy is now well established, an international conference on cultural policy research is held every two years, and there are several scholarly journals in the field, so there are sound grounds on which such speculations can be based. Four components of an idealised cultural policy might be identified. In putting forward these four elements below, I also comment on where the present Federal Government stands in relation to each one. Note that these points are made here not in any particular order of priority.

First, an essential element of a cultural policy is likely to be a continuation of the traditional core component discussed above, namely a policy towards the creative arts. The objectives of arts policy, the instruments by which it is delivered, and the institutional arrangements for policy implementation are well established and durable, both here and in other countries[11]. However, this is not to say that these things are immune from change; indeed, there are aspects of all of them that are subject to constant debate and review. For example, the customary orientation of arts support programs towards producers rather than consumers of art is questioned from time to time by economists enamoured of consumer sovereignty or suspicious of rent-seeking activities by artists and arts organisations. Another aspect of arts policy that is an issue of continuing discussion in a number of countries is the balance between direct support (via subsidy) and indirect support (via tax measures) in the provision of government assistance.

Although in Australia the Coalition government has maintained arts support programs in broad terms since coming to office in 1996, the climate in which financing is delivered has been changing. The last few years have witnessed an increase in emphasis on efficiency in expenditure, on the use of service contracts with target outputs, on the adoption of performance indicators, on the introduction of more stringent accountability measures, and so on. The arts have never been entirely comfortable with these sorts of requirements and indeed there are grounds for arguing that in some important respects the arts cannot be expected to fit into standard moulds, for example in the specification of competency standards for the artistic workforce. Nevertheless the pursuit of efficiency in the use of public funds remains an important aspect of government attitudes towards arts support; this concern has provided the motivation for recent inquiries such as the Nugent Report on the major performing companies, which resulted in increased funding for this sector to enable it to sort out its chronic financial problems.[12]

The second component of an ideal cultural policy would comprise a policy towards the so-called creative industries. Designation of exactly how far the cultural or creative industries extend is a matter for debate, though most definitions would include the arts, film, print media, broadcasting, publishing, music recording, etc.[13] These industries contribute to economic activity in a variety of ways, each giving rise to avenues for possible policy intervention. For example, the cultural industries lie in many respects at the front-line of the information revolution, and as such have been seen as intrinsic to the growth of the so-called new economy. In particular, cultural industries may be of specific interest to governments through their potential for facilitating economic restructuring, including their capacity to act as avenues for labour absorption in conditions where traditional industries are declining. Further, there has been much interest, especially in Europe and the US, in the role of the cultural industries in urban and regional development, not only through their role in employment creation but also through their scope for creating the sort of cultural infrastructure that makes a city or region more attractive to other incoming investment. Finally it can be noted that cultural goods and services enter international trade in a variety of ways, raising issues both of export promotion and of cultural protection as areas of concern for government policy.

The Federal Government's record in regard to these aspects of cultural policy can best be described as piecemeal. Moreover, the government's approach to the creative industries operates without any real sense of a cultural imperative guiding the formulation of sector-specific decisions. Thus, for example, media policy, which has strong cultural ramifications, seems to be driven primarily by economic and political motives. Likewise, how the government might deal with cultural matters in trade negotiations such as those currently leading towards a possible Free Trade Agreement with the United States (see discussion elsewhere in this issue of *Dialogue*) remains unclear. How much weight, if any, might be attached to cultural costs that cannot be measured in economic terms in such negotiations?

If the Federal Government has not put together a comprehensive policy towards the cultural industries, the same cannot be said of the States. Several of them, including Queensland, Victoria and South Australia, have adopted or are in the process of adopting industry development strategies in which the arts and the creative industries play an explicit role. In this respect, as noted above, the States can be seen as being more attuned than the Commonwealth has been to the challenges laid down in *Creative Nation*. To a certain extent, the enthusiasm at State level for fostering the cultural industries can be explained by the fact that urban and regional development programs can be best formulated and implemented at local rather than at national levels. Furthermore, it has been somewhat easier for the States than for the Commonwealth to identify clusters of creative enterprises or of cultural activity as uniquely their own, as, for instance, in the promotion of their local film industries. Nevertheless, the efforts of some of the States to espouse progressive policies for cultural industry development stand in contrast to the general lack of action at the federal level in these areas.

The third cultural policy element relates to the management of Australia's cultural heritage and the operation of cultural institutions housing heritage collections such as public museums, art galleries, libraries, archives, etc. Policy in this area has to deal with two related aspects: on the one hand there is the conservation of heritage buildings and sites and the care of collections of artworks, artefacts and other cultural materials held in a variety of institutions across the country; on the other hand there is

the use of these sites and collections by the public. Heritage policy has been a major component of cultural policy in a number of countries for many years. Its formulation and implementation have been the province largely of heritage experts – art historians, archaeologists, architects, urban planners, the conservation profession, and others. Only recently have economists become interested in the field and their intrusion has not always been welcomed.[14] Nevertheless one of the important contributions that economics has been able to make has been to identify heritage items, whether fixed or moveable, as capital assets. The concept of cultural capital thus specified has many similarities with that of natural capital, opening up possibilities for applying to cultural heritage the same sorts of evaluation methods as economists have successfully used in assessing the benefits bestowed by natural environments.[15]

There have been various interventions in heritage policy in Australia at the federal level, ranging from the inauguration of the register of the National Estate in the early 1970s by the Whitlam government, to the continuing acceptance by the Commonwealth of a need for an array of national-level cultural institutions, most of which are located in Canberra – the National Gallery, the National Library, the National Museum, etc. In addition, successive federal governments have attempted to provide some sort of regulatory framework within which the heritage and collections sectors can operate, for instance in legislation controlling the export of cultural property. However, much of the focus for activity in the area of cultural heritage remains at the State and local level, whether in tourism management at heritage sites or in conservation of collections in State and regional museums and galleries, or in access to libraries and archives, or in other areas.

Finally, we come to the most general aspect of a government cultural policy, that part of it relating to the wider interpretation of culture mentioned at the beginning of this paper, involving questions of who we are, how we live and what we stand for. This remains an ill-defined and contested area for policy purposes, engaging as it does pervasive issues such as the expression of national identity; even assuming such a concept has meaning or significance. On the one hand it can be argued that governments have no part in being prescriptive in areas like this; what it means to be Australian, Canadian, Japanese or any other nationality is something that properly arises from the desires and aspirations of the people themselves, and is not a matter for government decree. On the other hand governments do project a stance on such things, both domestically and internationally, and this can have a significant influence on policy in various areas – consider, for example, the French Government's fierce protection of their country's language as an enduring symbol of French culture. Within a democratic polity, it could be assumed that any such position adopted by an elected government would have to be reflective of the prevailing mood of the people; whether this is true, and also whether governments lead rather than follow popular opinion in this area, are matters for political scientists to determine. Suffice it to say that the inclusion of some component relating to these broader concerns would seem to be inevitable in formulating a comprehensive cultural policy.

In the Australian context, as elsewhere, these issues ramify through all of the areas of cultural policy discussed above, but they also give rise to some specific policy areas, including policy towards cultural diversity (or multiculturalism as it used to be called), relations with the indigenous population, dealing with cultural minorities, questions of governance and the possibility of a republic, international cultural relations, and so on. There can be little disagreement with the proposition that in these respects the Howard

government has adopted a profoundly conservative stance. The cultural underpinnings of the Prime Minister's own position on matters such as the republic, reconciliation, relations with Asia, treatment of refugees, and so on, are well known. They are shared to a greater or lesser degree by members of his government. They inform the way in which the present Australian government represents Australia to the world, and they affect policy formulation both directly and indirectly. In short, there is a recognisable policy position captured under this final element in our list of components of a cultural policy, one that has wide ramifications in Australian life, suggesting that cultural policy could be seen as a more significant force in national affairs than might at first sight appear.

To conclude, my approach in this paper has essentially been to treat cultural policy as an arm of economic policy – justifying support for the arts, for example, in terms of government's role in correcting for market failure. Such a treatment is consistent with the proposition that over the last twenty years government policy in most western countries has been increasingly driven by economic imperatives; reliance on market processes in the allocation of resources has grown, social policy in areas such as education, health, welfare and so on are more and more couched in terms of economic relationships between government and people. Yet there is much in the field of culture that stands outside the formal reckoning of market economics. Elsewhere I have argued that fundamental questions of value are raised by a confrontation of economics with culture[16]. This is clearly true in the field of policy. Perhaps the role of the arts specifically, and culture more generally, in individual and community life creates demands for a sort of value that cannot be fully captured by the limited capacities of conventional economic analysis. If so, there may be a place for a wider specification of the reach of cultural policy in the contemporary world, in defiance of the prevailing orthodoxy.

David Throsby is Professor of Economics, Division of Economic and Financial Studies, Department of Economics, Macquarie University.

---

1   Battersby, Jean (1980). *Cultural Policy in Australia*, Paris: UNESCO.
2   See Deborah Stevenson (2000). *Art and Organisation: Making Australian Cultural Policy*, St Lucia: University of Queensland Press.
3   For overviews of the development of arts policy in Australia see, for example, Tim Rowse (1985). *Arguing the Arts: the Funding of the Arts in Australia*, Ringwood: Penguin; Philip Parsons (ed) (1987). *Shooting the Pianist: the Role of Government in the Arts*, Sydney: Currency Press; Justin Macdonnell (1992). *Arts, Minister? Government Policy and the Arts*, Sydney: Currency Press; Deborah Stevenson (2000). *op cit*; David Throsby (2001). 'Public funding of the arts in Australia' *Year Book Australia 2001*, Canberra: Australian Bureau of

Statistics, pp 548-561; and Lisanne Gibson (2001). *The Uses of Art: Constructing Australian Identities*, St. Lucia: University of Queensland Press.

4   Industries Assistance Commission (1976). *Assistance to the Performing Arts*, Canberra: AGPS.

5   House of Representatives Standing Committee on Expenditure (1986). *Patronage, Power and the Muse: Inquiry into Commonwealth Assistance to the Arts*, Canberra: Parliament of the Commonwealth of Australia.

6   These arguments revolve mainly around the possibility of the arts being a case of market failure, where government intervention is needed to provide public goods or to enhance the output of beneficial externalities; for an overview, see David Throsby (1994) 'The production and consumption of the arts: a view of cultural economics', *Journal of Economic Literature*, 32: 1-29; and papers collected in Ruth Towse (ed) (1997). *Cultural Economics: the Arts, the Heritage and the Media Industries*, Cheltenham: Edward Elgar, pp 501-719.

7   See, for example, Donald Horne (2003). Address to Sydney Arts Management Advisory Group, Australia Council, Sydney, 24 March.

8   Commonwealth of Australia (1994). *Creative Nation: Commonwealth Cultural Policy*, Canberra: Department of Communications and the Arts.

9   See, for example, Chris Smith (1998). *Creative Britain*, London: Faber and Faber; Sara Selwood (ed) (2001). *The UK Cultural Sector: Profile and Policy Issues*, London: Policy Studies Institute; Richard Florida (2002). *The Rise of the Creative Class*, New York: Basic Books; and Council of Europe and ERICarts (2002). *Cultural Policies in Europe: a Compendium of Basic Facts and Trends*, Strasbourg: Council of Europe.

10 Australian Democrats (2001). *An Australian Cultural Plan*, Canberra: the Australian Democrats, *mimeo.*

11 Although of course the administrative structures and policy instruments used to deliver arts support differ widely between countries.

12 Major Performing Arts Inquiry (1999). *Securing the Future: Final Report*, Canberra: Department of Communications, Information Technology and the Arts.

13 See Richard E Caves (2000). *Creative Industries: Contracts between Art and Commerce*, Cambridge: Harvard University Press, and David Throsby (2001) *Economics and Culture,* Cambridge: Cambridge University Press, Ch 7.

14 See, for example, Michael Hutter and Ilde Rizzo (eds) (1997). *Economic Perspectives on Cultural Heritage*, London: Macmillan; and Alan Peacock (ed) (1998). *Does the Past Have a Future? The Political Economy of Heritage*, London: Institute of Economic Affairs.

15 See, for example, contributions to Ståle Navrud and Richard C Ready (eds) (2002). *Valuing Cultural Heritage: Applying Environmental Valuation Techniques to Historic Buildings, Monuments and Artifacts*, Cheltenham: Edward Elgar.

16 David Throsby, *Economics and Culture, op cit*, Ch 2 *et seq.*

Officers and Committees
Academy of the Social Sciences in Australia

President: Professor Leon Mann
Executive Director: Dr John Beaton
Research Director: Dr John Robertson
Treasurer: Dr Bruce Chapman

Executive Committee: Professor Leon Mann (Chair), Dr Bruce Chapman (Centre for Economic Policy Research, Australian National University), Professor Fay Gale, Professor Sue Richardson (National Institute of Labour Studies, Flinders University of South Australia), Professor John Ritchie (Australian Dictionary of Biography, Research School of Social Sciences, Australian National University), Professor Peter Saunders (Social Policy Research Centre, University of New South Wales), Professor JJ Smolicz (Graduate School of Education, The University of Adelaide).

Committees: Standing Committee of the Executive; Finance Committee; Membership Committee; International Relations Committee; Workshop Committee; Public Affairs Committee, Research Projects Committee, Early Career Award Committee and Panel Committees.

Branch Convenors: Professor Candida Peterson (Qld); Professor Russell Lansbury (NSW); Professor Tom Stannage (WA) Professor Brian Galligan (Vic); and Professor JJ Smolicz (SA)

Panels:

A *Anthropology, demography, geography, linguistics, sociology.*
Chair: Professor Peter McDonald
B *Accounting, economics, economic history, statistics.*
Chair: Professor Russell Lansbury
C *History, law, philosophy, political science.*
Chair: Professor Pat Grimshaw
D *Education, psychology, social medicine.*
Chair: Professor David Andrich

---

28 Balmain Crescent, Acton
Postal Address:
 GPO Box 1956
Canberra ACT 2601
Telephone: 02 6249 1788
Facsimile: 02 6247 4335
Email: ASSA.Secretariat@anu.edu.au