

Justice Action:
Australian Prisoners' Struggles Up-Date
Brett Collins

AUSTRALIAN PRISONERS BATTLE FOR THEIR VOICE

The political scene in Australia has been changing, but that change has not been heard in the dungeons of the old penal colony. The High Court victory on the return of the vote to prisoners in 2007 has passed almost unnoticed with some states even refusing to accept information from candidates for prisoners.

Justice Action was asked to defend prisoners' right to vote before a Senate inquiry, and following the court victory mounted a series of moves focussing on that right to political expression.

We talked with all the states at the Ministerial and Commissioner level to ensure that information for prisoners, such as campaign literature and "how to vote" was available to them to make an informed vote.

We suggested that the prison noticeboards in wings and pods be used. Also, that candidates should at least be able to address the Inmate Development Committees. In addition, we contacted political parties of all persuasions informing them of this and suggesting they send on "how to vote" to the Australian Electoral Commission for mobile polling and postal votes.

We prepared a draft JUST US Federal Election Special newspaper and contacted all eight states and territories through our lawyers to ensure it would get access to all the prisons. We have a data base of the 130 prisons and allocated one to every two prisoners throughout Australia and New Zealand. It also went by name to every judge from the High Court to magistrates in every state in Australia and New Zealand, and Members of Parliament in both countries. We have distributed our prison publications for decades.

Our lawyers followed up with each of the states for a response, with a request for acceptance or a stated objection to some section. As no state took exception to the draft content, we then printed 25,000 copies of the four page colour tabloid. Five states accepted their quota and distributed them to the prisoners. Three refused without reasons.

We then took a case to the New South Wales (NSW) Supreme Court on the grounds of constitutional and administrative law, getting *pro bono* legal support to do it.

CONFRONTATION IN DISTRIBUTION

Any doubt about how seriously the NSW Department of Corrective Services was taking our paper was dispelled by what happened on Saturday morning, November 10, 2007.

An armoured car, the Malabar Emergency Unit, three police cars and about 10 prison officers confronted the three *Justice Action* people who were giving out JUST US on the footpath outside the Silverwater Complex on Saturday morning at 8:30 a.m. Other *Justice Action* people across the road and at the bus stop were also handing out JUST US and talking with visitors.

The prison officers called the police and then removed the newspapers from the windscreens of all of the scores of prison visitors' cars in the carpark! Dangerous material?

We continued to hand it out to all visitors, shadowed by police and prison officers with a video camera. When the police inspector finally attended he agreed that we were entitled to be there as our legitimate right to protest and interact with our community, and they backed off.

The attending police refused to accept our complaint that the taking of the newspapers from the visitors' cars was theft and obstructed our right to expression and the visitors' right to receive political information. Constable Davies' comment noted down was: "Are you for fucking real?".

This is justice for JUST US. But they all read it.

THE COURT HEARING: HAQUE V. COMMISSIONER

When JUST US was examined by the court with copies in all hands, Steven Corry's helicopter hovering over the masthead and Commissioner Woodham's legal team of four pointing to the story of Emu Plains Visiting* saying that it could cause tension in the dangerous environment of prisons, we knew we had it won.

With Emu Plains women and children leading the accusation and copies having gone to every politician in the country and every judge, their position

* In May, 2006, the Department of Corrective Service unexpectedly restricted visiting for women prisoners and reduced phone contact. This change seriously affected the Mothers and Children Program at this low security facility. See www.justiceaction.org.au.

was untenable no matter what the court decided. NSW prison administration had refused political parties' requests to distribute "how to vote" papers to prisoners - the first time this had happened. Now they could see what we have been battling and why that lack of respect affects recidivism and public safety.

Then to cap it all, our lawyers passed the message back that ACT Corrections had said it can enter their system – bringing the list to four yesses out of eight, with Victoria still chewing its nails. They all had the chance to negotiate on the content so none could complain. New Zealand is still being negotiated. That means we have the Offer of Hope being observed with information from Berrimah in Darwin to Fremantle in Western Australia, from Risdon in Hobart to Belconnen in Canberra. Let them hear our silent minute at mid-day on Mondays! We demand to be recognized as people. No matter what the court says, JUST US has established that the right of expression to and from our community members inside the jails cannot be blocked.

Intimidation by the NSW prisons' department interfered with the court challenge. One prisoner plaintiff withdrew citing concern that he would be refused release on parole and would be made bankrupt to pay court costs. Lawyers of the department claimed the benefit, arguing that the remaining plaintiff did not have sufficient "standing" and asked that the case not be heard on its merits. It was just a continuation of their corrupt behaviour and it did not matter. We have been assured of full legal support for another challenge with a newly tuned edition if necessary.

THE LARGER FRONT

The 25,000 prisoners in Australia are about to come on line! Key to the newspaper battle is the opportunity to have prisoners in their cells involved in expressing themselves. Breaking down the stereotypes, with prisoners and their people outside working for the alternatives through networks that already exist. The prison industry has failed so spectacularly to make a safer community, instead acting as an incubator of problems, that our task is not so difficult.

We have set up a series of campaigns involving many key prisoner problems which are **universal** no matter which country or which wing. A good example of a campaign is one based on the trend to ban smoking

in prisons. This has no support from prisoners themselves, 80 per cent of whom smoke. *Justice Action* took up the issue and was ejected from the Justice Health Consumer Group. We have now linked with mental health consumers in institutions who are similarly affected and have legal rights to facilities being built to allow choice, as have public areas like casinos. And Québec (Canada) prisoners defend our respect internationally. It is called working together.

Justice Action is an Australian (Sydney) community based organization of criminal justice activists: We are prisoners, academics, victims of crime, ex-prisoners, lawyers and general community members concerned with abuses of authority. *Justice Action* hosted ICOPA XI, in Hobart, Tasmania in 2006.

They may be reached by e-mail at: ja@justiceaction.org.au.