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## John Curtin a tribute: strengthening the rule of law and Australian democracy

JCPML Anniversary Lecture presented by the Rt Hon Malcolm Fraser on 12 June 2008.

It is now over 60 years since John Curtin died. The circumstances of his own upbringing in Victoria, the family's move to Western Australia, his work within the union movement, his repeated attempts to enter Parliament, his opposition to conscription in the First War, his unification of the Labor Party in 1935, his wartime leadership, are all well documented.

There is little that can be added that is fresh or new. He was persistent. He had a high sense of public duty. The office of Prime Minister cost his life. His health was never good. He worried about important decisions in a manner that was much to his credit. When, with a great sense of Australian purpose, he defied both Churchill and Roosevelt to bring Australian troops home for the defence of Australia, he agonised over the decision. He knew he was putting those troops at risk until they were safely in Australian ports. The long journey across the Indian Ocean was unprotected and subject to Japanese attack.

He often walked in the evening or at night to allay his concerns, or at least to make it possible to live with them. Worry or concern about the consequences of major decisions did not deter him from taking those decisions. It all stands greatly to his credit, to his determination and his moral strength.

It needs to be understood that, up to the time of the Second World War, Australia had no independent foreign policy. Foreign policy and defence were conducted by the United Kingdom on behalf of Australia. One of the reasons for failing to sign the

Statute of Westminster, or pass legislation ratifying the Statute of Westminster in the 1930s was that it could weaken Britain's commitment to the defence of Australia – a strategy that was mistaken and flawed.

Menzies himself had recognised deficiencies in British foreign policy. Early in 1940 he wrote to Bruce heavily criticising British policy in relation to East and South-east Asia and suggesting strongly that Australia should be advised by her own people who would have Australia's interests at the centre of their concerns. The day after he became Prime Minister it was announced that missions would be established in Tokyo, Beijing and Washington.

Menzies had believed that a government of national unity should be formed to prosecute the war, as had occurred in the United Kingdom. Curtin had refused, suggesting instead the establishment of an Advisory War Council, which Menzies reluctantly accepted. A little later Menzies himself, shortly before his government fell, offered to serve under Curtin in a national government, an invitation that was again rejected by Curtin. It is an indication of the high regard that Menzies himself had for the Labor leader.

One of Curtin's best known actions involved his appeal to the United States at the end of December 1941. America's Pacific fleet had virtually been put out of commission at Pearl Harbour and it took a considerable time before America was able to rebuild and commence the long and arduous task of driving the Japanese back.

In Canberra there is a photograph of General MacArthur's cavalcade being held up by a mob of sheep travelling along the same road between the airport and Parliament House. MacArthur must have wondered what kind of country that he had come to save.

We need to remember the deep divisions in Australia concerning the conduct of the war. They influenced politics for many years. Wharf labourers would not load ships for our troops in the Middle East until Germany attacked the Soviet Union. An imperial war overnight became a people's war.

In August 1941, significantly before Pearl Harbour, Roosevelt and Churchill committed themselves to the Atlantic Charter. A statement of principles about the kind of world they intended to build after the War, a very different world from that which had preceded it. Their commitment was reinforced by the unprecedented horror of Hiroshima and Nagasaki. This gave an impetus to leaders of nations throughout the world to move towards the establishment of a law-based international system. The terrible events of 9/11 have seen a different, tragically reactionary response, the progressive destruction of that law-based international system, which had taken more than fifty years to build. It has seen the erosion of individual human rights and the purposeful avoidance of due process, all in the name of national security.

I want to talk about the Rule of Law and Due Process, especially as they impact the rights of ordinary people. I also want to talk about the development of law in relations between states and Due Process as being critical to stable, effective and rational government. Due Process normally has a legal connotation but it is also relevant to the conduct of political affairs.

I will start with the background of the post-war years and major efforts that were undertaken to build a law-based international system, then devote some attention to the Bush years which have done so much to reverse the progress of the previous six decades.

In the First World War, issues involving sovereignty, sea power and empire dominated; there was no question of the rights of individual men and women as we understand them today. It was proclaimed as “the war to end all wars”. It led to the establishment of the League of Nations. That dream was cut short because the United States Congress retired to isolationism and refused to support President Wilson. As a consequence, the League never fulfilled its promise for a global system based on rules, not warfare.

It is only since the end of the Second World War that the question of legality has come to be significant in waging war. When the British Chief of Defence Staff asks for

a legal opinion before he will order his troops to invade Iraq, we know the world has changed.

After the Second World War, the Atlantic Charter led to the creation of the United Nations, it led to the Universal Declaration of Human Rights and to the conventions seeking to give legal effect to its high principles in the protection of fundamental freedoms. While Frank Forde, as Deputy Prime Minister, led the Australian delegation at San Francisco, it was Dr Evatt who really drove the agenda. It led to the establishment of the United Nations Organisation, the International Monetary Fund, the Universal Declaration of Human Rights and the World Bank and some years later to the International Criminal Court, perhaps the most fundamental change to international structures since the founding of the United Nations itself.

The role of the United States was critical in these developments, it was a driving force. It took the world a considerable way towards the establishment of a law-based international system, which was a notable departure from the situation that had existed up to the Second World War. The United Nations sought to outlaw war as an extension of foreign policy. For the first time, membership of the United Nations, and therefore the international community, required acceptance of a prohibition on the resort to military force, except in cases of self-defence or authorisation by decisions of the Security Council.

There was another element present when the Founding Fathers of the United Nations met, whose consequences were not fully recognised even then, and, in the shadow of 9/11, one which has been rejected by the Bush Administration. This element was the recognition that if there is to be a law-based world, then great powers must set an example by working within the law and abiding by it. Without that support, a rules-based system would not long survive.

As the Cold War emerged, George F Kennan, the United States Ambassador to Moscow, reported in 1946 that the Soviet Union believed that its future would only be secure if democracy was destroyed. It was indeed very much a mirror image of the attitudes expressed by the neo-conservatives and President Bush, who believe that America will only be secure if the world is democratic in the American image. This is

typical of the view of fundamentalists, whether they be political or religious. They fear their value system cannot survive competition.

Kennan ended that particular report with a plea to his political masters: "Finally we must have courage and self-confidence to cling to our own methods and conceptions of human society. After all, the greatest danger that can befall us in coping with this problem of Soviet communism is that we shall allow ourselves to become like those with whom we are coping." If only somebody had spoken to President Bush in similar terms.

The United States throughout the Cold War recognised that it was important to talk to their enemy and to work within the newly established rules of the United Nations. While these methods were not always employed, by and large the United States Government sought to replace unilateralism with greater use of multilateral diplomacy. The United States had confidence and did not fear discussions and negotiation.

As a consequence of discussions between the United States and the Soviet Union, little by little agreements were put in place which, amongst other things, banned atmospheric nuclear tests, created the Treaty on the Non-Proliferation of Nuclear Weapons, undertook discussions to limit and ultimately reduce Strategic Arms. And so the world became a safer place and nuclear war was avoided.

To this point, establishing a better world involved two different but complementary processes. First the establishment of a law-based system of international relations, step by step, falteringly, but nevertheless moving steadily forward. Secondly, it involved a process of diplomacy and communication without which neither a law-based system nor peace could have been maintained.

The great changes made in the post Second World War era sought to extend the principles of the rule of law and due process through international conventions and agreements to the behaviour of states and also moved cautiously to establish international courts to adjudicate disputes. In all of this, United States support was essential. Europe did not have the inclination or the will to provide sufficient drive

and motivation. By the turn of the century we had seen the first legal humanitarian intervention in Somalia, the establishment of the Rome Statute of the International Criminal Court and a global architecture based on mutual respect, due process and the rule of law.

This by and large was the world inherited by the second President Bush. Following the calamity of the Twin Towers his Presidency halted and even in some aspects reversed, much of the progress of previous decades. There are many who think that the Twin Towers changed the world and American attitudes forever. To the Neo-Conservatives it presented an opportunity which they seized avidly.

A group of Neo-Conservatives issued a Statement of Principles in June 1997. The principles may sound harmless enough, but at their core is a simple belief, that the century or if you like, even the world, belongs to the United States. What the United States wills, it can achieve and so it is necessary first to make sure that no power can ever challenge the United States and second to challenge regimes hostile to American interests and values. The United States' role is to be unique in preserving and extending an international order, friendly to American security, prosperity and principles. It was certainly not a statement of "live and let live". It was a statement of "live and make like us".

The malign influence of the neo-conservatives was reinforced by another powerful political force, right-wing evangelical protestant churches, who are, little by little, seeking to infiltrate into Australia.

Over Iraq, over Islam, the role of America, the policies of those evangelists and of the neo-conservatives combined. It was inevitable that this pressure would greatly influence President Bush and his policies; their ideas seem to meet his natural inclinations.

The twin towers enabled them to establish an aggressive unilateral foreign policy. It dismissed the idea of multilateral cooperation. America would decide its own path and other nations would not be consulted. It was based on ideas that were doomed to fail.

It also provided an opportunity for President Bush to throw off shackles which he and the neo-conservatives and evangelists believed, acted as improper restraints on the exercise of American power. The Security Council was to be diminished and many international agreements were also either rejected or abrogated, and in one case, left "unsigned". These included agreements that would have limited trade in Small Arms, banned the use of biological weapons and maintained controls over the development and production of nuclear weapons and defence systems.

President Bush tore up the Geneva conventions. He invented a new form of "unlawful enemy combatant" or "unprivileged belligerent", not covered by the Geneva conventions and not covered by any of the protections of civilian or military law. He established a special detention camp at the Guantanamo Bay Naval Base. He set aside basic principles of the Rule of Law. Because he was fighting, as he believed, a war on terrorism, the principles which were important to the maintenance of a civil democracy were thrown overboard. Hearsay evidence which could not be checked or verified was to be accepted. Evidence achieved by torture was to be admitted. Retrospective criminal laws were established creating new terrorist offences. Military commissions were convened with one purpose: to achieve a guilty verdict. Victors' courts, doing justice to a tyranny, but not to a law-based country like the United States.

How do our leaders come to the view that terrorism is so different and so new that we cannot live by our own standards? How do we come to overthrow the principles so necessary for a just and stable society? How do we overturn international obligations designed to limit an arms race between the super powers? How do we set aside international conventions against torture? How do we embrace a unilateralism that is bound to lead to conflict and instability? How do we emerge from the darker age which has emerged during the War on Terror?

Already in America there are signs of revulsion at the abuse of executive power exercised by the current President. His Attorney-General, Alberto Gonzales, was forced to resign.

Gonzales' real problem was that he believed that his role as Attorney-General was to create a legal framework and argument that would enable the President to do whatever he wished. In other words, there were to be no limits to the assertion of Executive power. If that doctrine were to prevail, it would have overthrown basic concepts for the separation of powers, so critical to American democracy and American freedom. The resignation of Gonzales was a significant victory for the re-establishment of the Rule of Law and Due Process in the United States.

While there are those, like President Bush, who act as though we cannot fight terrorism and at the same time live by our own standards, there are many examples that suggest otherwise.

Britain never went to such extremes in seeking to overcome the IRA. Germany and Italy were able to maintain the Rule of Law and overcome serious terrorist attacks from the Red Army and Red Brigades. We also forget that in the late seventies, it was the period of aircraft hijackings. These problems and others have been overcome by an exercise of restraint, by diplomacy and within the law, even as human rights expanded and gained greater traction through the world.

The war against Iraq represents the worst fears of smaller nations in the developing world about the unrestrained use of American power. The failure in Iraq demonstrates that the idea of American unilateralism has been extraordinarily destructive. If the processes set in place by the United States under earlier administrations had been maintained, the United Nations would have been strengthened, the Security Council reinforced and the development of law to govern relations between states significantly advanced.

A second example concerns Hamas. Western policies have again made it so easy for the terrorists. For some time the West had been urging and encouraging democratic elections, not only in Palestine but throughout the Middle East. Hamas won a free and fair democratic election, that should have been predictable to anyone with knowledge of Palestine. It would have been possible to say to Hamas from our point of view your attitudes and policies must change, but you have won a democratic election therefore we will talk, we will negotiate. Little by little it may have been



possible to find areas of agreement. Instead the United States, Israel and others refused to talk to Hamas and cut off aid. They forced Hamas back to the weapons that it had known from the beginning: to violence, to warfare.

But it is worse than this. Fatah lost the election and America and Israel wanted Fatah to pursue a fight with Hamas that was bound to divide Palestinians even further. There were some signs that Hamas were prepared to resist some of these pressures. A unified government was established but it broke apart and Abbas has played into the hands of both the United States and of Israel by not conducting policies designed to heal the divisions within Palestine.

In the process of reneging on their own principles, the West gave the terrorists a major weapon: democracy would only be acceptable if it gave the result the West wanted.

These aspects are reinforced by a British House of Commons bipartisan report which emphasizes that discussions with Hamas ought to be undertaken if a settlement is to be reached. More recently we have learnt that the former President Carter and the French government have been having discussions with senior people in Hamas.

Tony Blair has been one of the architects of current western policy with the United States in the Middle East. He has spoken deeply of the need for a resolution of the Palestinian question but he, too, has not been prepared to talk to Hamas and therefore to have Tony Blair as the Chief Negotiator, designed to broker a solution to the problems of those tormented territories, seems bizarre.

What has happened in Iraq and Palestine suggests on empirical grounds that we would have been far better off to stick to our principles, to promote democracy, to embrace diversity, to encourage involvement in a multilateral infrastructure that upholds human rights and individual freedoms. Departure from principle in the handling of these issues has only made the problems of the Middle East much worse and harder to resolve.

In the United Kingdom, Prime Minister Blair's support for President Bush was almost missionary. He sought to remain close to the President and spoke with passion about

preservation of the British way of life. His motivation in and conduct of the War on Terror will provide historians with fodder for years into the future. But one thing is clear, Prime Minister Blair did not act like a person concerned for the Rule of Law when he refused to place Lord Goldsmith's legal advice as Attorney-General before his own Cabinet, concerning the legality of the war. The failure of the British Cabinet to scrutinize that legal opinion will have consequences in future years.

This omission was all the more serious because it was known that Chief of Defence Staff, Admiral Sir Michael Boyce, had told the government he would not order troops to invade unless he was assured that such a step would be legal under British and international law.

We now know that Goldsmith's legal opinion over 13 pages was equivocal. Both sides of the case could be reasonably argued. Hardly a strong case for war and not the statement the Chief of British Defence Staff needed before ordering his troops to fire.

It would seem that Blair overcame the situation by ordering Goldsmith to provide a short categorical statement supporting the legality of the war. As he has since publicly said, this was not a condensation of his legal advice. It is that short statement which the Australian Government tabled in the Parliament, announcing Australia's participation in the war. Since Blair did not allow the full opinion to go to his own Cabinet, it is most unlikely that he would have allowed it to go to the Australian Prime Minister or Ministers.

These aspects, however, underline an enormous difference between Iraq and the First and Second World Wars. The question of legality was of great importance. The Security Council and decades of multilateralism had influenced opinion massively. For the British Chief of Defence Staff, Admiral Sir Michael Boyce, to ask for a legal opinion would have been unthinkable in an earlier age. But this was done by Boyce before he was prepared to invade Iraq.

Despite Blair's deception over the matter this unprecedented focus on legality gives us cause for optimism.

For us, Australia's role is the more important. To understand fully our own position in the post September 11th world, we need to keep in mind differences between our own Constitutional processes and those of the United States or, for that matter, of Britain. Those differences make it much easier for governments here to set aside the Rule of Law and Due Process than it would be in either Britain or the United States. In the United States there is a clear separation of power between Congress, the Executive and the judiciary. Basic rights are enshrined in a Bill of Rights, which has always been at the centre of American attitudes.

I wish to emphasize two other factors in the United States which are very different from the position in Australia.

First, if the United States was to undertake military action against another country, there must be a vote in the Congress supporting that move. I would now support a similar provision placed in the Australian Constitution. If the Government has such a weak case for war that it could not persuade a majority of both Houses of Parliament, to vote in favour of a proposed conflict, then that conflict should not be undertaken. In America, the President cannot move without such a vote from the American Congress. In Australia the Parliament now does not need to be consulted. The Australian Parliament should be given a power equivalent to that of the United States Congress.

Secondly, the US Senate Select Committee on Intelligence, which examines the affairs of the intelligence community in the United States, owes its duty to the Senate and to no-one else. If the CIA or any part of the Security establishment objects to some part of a proposed report from the Senate Committee, they cannot prevent the report being published. It is a decision for the Senate alone.

In Australia the situation is markedly different. If ASIO objected on national security grounds to some parts of a report to be tabled by the Australian Parliamentary Joint Committee on Intelligence and Security, ASIO may approach the Attorney-General and ask that the section be struck out. It is not left to the Committee, it is not left to the Parliament, it is a decision of the Ministers, it is a decision of the Executive. In the previous government, that made it a decision of ASIO.

Such a process should not be tolerated in Australia.

In Britain, the situation is also significantly different from that in Australia. In Britain, the institutional framework, the legacy of the common law, and the accession to the European Union Charter of Fundamental Rights, create a different situation from that which exists in Australia. The Law Lords have also been more independent, less bound by the legislation of government.

The House of Commons, and even the reformed House of Lords, have acted with greater independence than our Senate and House of Representatives.

In Australia the Executive is in, and of, the Parliament and controls the Parliament more effectively than a British government controls the two elements of the British Parliament. The legislature here has failed to exercise restraint on the Executive.

Our Constitution is about a division of power between States and Commonwealth, there is no reference in the Constitution to the protection of basic rights. What protections may exist, derive from the common Law, but the Common Law can be over-ridden by an Act of Parliament as has occurred on more than one occasion.

To the extent that there is a separation of powers in Australia, it has historically been dependent upon the States. As time has passed, that has become less relevant.

The differences in our constitutional and institutional framework leave Australia more vulnerable to the excessive and unwise use of government power than either the United States or the United Kingdom.

In the name of national security in the period of the last government, there was increasing disregard for the Rule of Law. The forfeiture of rights of individual citizens can be seen by the growing number of individuals whose circumstances have meant nothing to the government, which has shown no decency, no concern. People sent to Nauru, to prisons overseas, children kept in detention centres, Australian citizens illegally deported or in Immigration Department jails.

In these cases, regard for the Rule of Law and Due Process was set aside. To them we must add Mamdouh Habib, David Hicks and Mohamed Haneef.

We now that David Hicks' trial was a total farce with the matter being pre-determined two weeks before in the plea bargain consummated in Washington. The Hicks trial would have done justice to Joseph Stalin. It was just as much a political fix as his show trials.

Paul O'Sullivan, Director-General of ASIO, made it clear before a Senate Hearing that Habib had been rendered to Egypt, despite strong Australian objections involving ASIO, senior representatives of the Federal Police and three government departments. What departments would they be? Prime Minister's, Foreign Affairs, Defence, or perhaps Attorney-Generals? It is impossible to believe that senior Ministers were not told and did not know. The Government said they made enquiries of the Egyptian authorities who had no record of Habib going into or out of the country. Really, how naïve can one be? Would they keep a record of secret CIA movements?

To allow any Australian to be so treated and do nothing to protect that Australian from the most barbarous of treatment is beyond belief. I had never thought any Australian government would behave so callously and without concern for the rule of law and for its most basic of all obligations.

How do Rule of Law countries so demean themselves that they allow these processes to occur? How is it that even more people have not been enraged? Does it rest on the age-old but narrow proposition that the people against whom these acts are directed are not like us? "They belong to them, not to us." Haven't we learnt time and time again that, if we stand aside and allow somebody's rights to be pushed aside, if we allow arbitrary, injudicious acts of government to destroy the life of one person, don't we understand that that creates a virus that spreads through the body politic? Even now, because of laws preventing publication, we do not know how many people may have been affected by the recent run of amendments to Australia's security legislation.

The relative silence of the Labor Party on these issues may have been good politics but it left a void. There certainly needs to be reform and some of the worst excesses of the National Security laws, that empowers the authorities to detain a person in

secret, whom they know to be innocent of any crime or any evil thought is quite extraordinary on the statute books of a Rule of Law country. In recent years, those who support basic rights, the rule of law, due process, have carried the banner forward. There is still a great question mark over the attitude of the current government on these issues.

What does one do about all of this? How do we buttress our constitutional processes? How do we move back to strict adherence to the Rule of Law, not only in relations between citizens but in relations between citizens and government? How do we make sure that future Australian governments will stand up for the basic rights of Australians, wherever they may be? That they will not throw aside the presumption of innocence, the right to a fair trial, the right to be heard in a properly constituted court of justice. How do we re-establish strong support for the Security Council and a law-based world? How do we find security in terrorism's shadow – where our rights, the rule of law and due process have been lost in the dark?

There are a number of steps that need to be taken and in reading about John Curtin's life, I have asked myself whether these are steps that would have created a John Curtin agenda in today's world. Would they have aroused his sense of justice, of a fair go, of Australian purpose?

1. We seriously need a Bill of Rights, following the practice of all European Union countries, New Zealand, Canada and the United States. The States in Australia are starting to move in this direction, led by the ACT and Victoria but this legislation only applies to State law. We need a Federal Bill of Rights to act as a restraint on governments, to provide some benchmarks for our judicial processes. It is long past time that we joined other democratic nations in establishing a Bill or Charter of Rights. At the moment we are one of kind without such protections.

2. We should seek a constitutional change so the approval of the Senate and House of Representatives would be required before an executive government commits Australian forces to armed conflict.

3. We need new measures to support the independence of the High Court. Perhaps we should establish a judicial council which would suggest names suitable for appointment to the High Court and for the Federal Courts.

4. We could reinforce the independence of the judicial system by ending promotions from one court to another. There is a suggestion in some quarters that judicial decisions can be influenced by the expectation of promotion. This principle as an objective was current in the United Kingdom in earlier times.

5. We must find ways in which the power of Parliament can be reasserted. While the Executive is in and of the Parliament, the power of Party machines in both major political parties is now so great that the independence that used to be exercised in the Senate in particular, hardly exists. It is rarely exercised in the House of Representatives and then only with great courage and considerable risk.

6. We should seek a further change, probably by legislation, that makes it impossible for any part of the intelligence and security machinery to censor a Parliamentary report critical of its activities.

7. As Petro Georgiou has proposed, there should be an independent judicial review of the operation of the nation's security laws and of the way in which they impact on the basic rights of people. Even those who believe the laws operate fairly and reasonably, should support that review, because they would believe that it would enable them to argue more cogently that the laws are necessary and not contrary to basic justice principles.

These changes would go a long way to strengthen the supervisory processes so essential in today's world.

8. We also need to give more thought to ways of keeping the Government itself within the Rule of Law How do we require the Government to provide the protections that ought to be available to Australian citizens, both here and abroad? In the Abassi case the Law Lords placed that obligation on the British Government. How do we make sure that Due Process prevails? Is there some way in which we can make the Government, or people within the Government, liable or responsible and subject to

judicial processes? This was attempted in the case of David Hicks, where the Federal Court was asked to review the conduct of the Howard Government with respect to his detention and treatment. That litigation terminated following David Hicks' "plea bargain" in Guantanamo Bay and his subsequent repatriation to Australia.

9. We should establish a set of basic obligations where the fate of individuals is concerned, whether they are people in Immigration Department detention centres, or under restraint by other institutions of government, to make those involved responsible and liable for what happens? Abuse has gone so far that such steps need to be taken. Those who act in ways that impinge on the human rights of any person without due process should be subject to penalties.

In recent times, Prime Minister Gordon Brown has introduced a range of policies that seem, in part, similar to some of the ill-advised policies of the Howard government. How to reinforce Britishness, how to maintain identity, how to exclude those who don't fit in. Such views or approaches are ill advised on two grounds.

First, while there are characteristics which mark differences between nations, the values essential to a peaceful and just society are not particular to any nation. For any nation that wants peace and security, such values are in fact universal.

But secondly, the far more important question for any British leader at this point is how do people, born in Britain, of immigrant parents but parents who have no criminal record of any kind and who, as far as one can judge, have been constructive citizens within Britain, how do such people end up wanting to set off bombs and wanting to kill people in London?

How is it that such British born people have been persuaded to adopt the terrorist mantle? I suggest the simplest and perhaps the most reasonable response is that too much of western policy, in particular of British, American and, in the time of the previous government, Australian policy, has made it extraordinarily easy for the fundamentalists of Islam to attract recruits, to accept the mantle of suicide bomber.



Fundamentalists of any religion are evil and deserve total condemnation but the way to diminish the power of the fundamentalist preacher is to maintain a society in which their extremism has no appeal.

An infidel army in an Islamic country like Iraq, lying about the reasons for the war, lying about Iraq's perceived capacity to harm the West, or to drop bombs on London within an hour, lying about the legal advice of the highest law officer in Britain, were grist to the mill for the fundamentalists. Add to that long-term policies over Israel and Palestine, the perceived partiality of western policy, the refusal to talk to Hamas, even though democratically elected. One could go on. It is not difficult to see how these arguments, these actions can be construed to represent an attack on Islam, an attack on their faith.

The War on Terror will continue until Britain, and America in particular, learn to ask themselves that question. The war will not be won by guns and arms. The settlement in Ireland was not won by guns and armies but by a willingness to talk, to find over decades, areas of agreement and the shared understanding that peace must be given a chance.

I believe these attitudes have some resonance with the memories of John Curtin. He clearly had an abhorrence of war and probably believed that wise policy could do much to avoid war but the circumstances of the time compelled him to lead a nation in a war for survival.

Would Curtin have talked to Hamas? President Carter has done so. France at a high level has done so. I believe we should be but what of the leaders of Britain, America and what of our new government in Australia? Or are we still to have our policy determined by Israel, against our interests and, as I believe, against the interest of Israel itself.

We need to be prepared to re-examine our own actions, our own policies and motivations, to recognise better how those actions are seen by people who are not necessarily our friends and test better the viability of our own policies.

10. Beyond Australia we should re-establish strong support for the United Nations and its structures. Reform of the Security Council must be undertaken. Its capacity must be used in the resolution of disputes and its decisions respected. Only through the Security Council will we be able to establish rules for the conduct of affairs between nations. We should use our status as an ally of the United States to persuade the United States that these major issues are of critical importance to a peaceful world. Rather than going along with America, we should be seeking the support of the United States once again to adopt the far-reaching approaches so evident in much of the work they did in post-war decades.

11. There is a real role for a middle-ranking country such as Australia acting in concert with others, such as Canada, Sweden or India and many more, in strengthening the international system. Despite the regression of President Bush's time, over the past sixty years there has been progress and we should not be discouraged. The debate about the legality of the Iraq war is a major sign of that progress.

There is one last point that should be on our agenda for today. Curtin's time as Prime Minister was totally taken up with prosecution of the war effort, securing Australia's future. The American role was critical and ultimately ANZUS was established, which recognised that Britain's military role was virtually ended in the Indian and Pacific Oceans and that, for the future, we should look to the United States for military support.

But ANZUS is not a Pacific NATO. The commitment on both sides is a commitment to consult, it is far short of a commitment to defend, which would depend upon circumstances of the time and the separate decisions of governments in the future.

Such dependency may have made sense when the world was split between the United States, the free world and the Soviet Union, but the Soviet Union does not exist any more and we really need to reassess what will best serve Australia's interests and Australian security. While I would keep ANZUS, I would not want to make it the centrepiece of Australian foreign policy. We need to be more independent, we need to understand our own region better. In particular we need to understand that our

security within our region, and that of all the countries which comprise it, will be best served when relationships between all the players in the region are ones of trust and confidence.

12. We should work ultimately for a treaty between all the nations of east and south-east Asia, embracing of course Japan, China, Korea, Australia and New Zealand and other countries between to establish collective security arrangements for our own region. If there were a conflict between such a treaty and arrangements with external powers, the regional arrangement should take precedence.

Prime Minister Rudd's statement about a Pacific community may lead to such a result. The question arises, however, about the relationship of that community with the United States. There is a serious question, should America be a part of it? She would oppose being left out but if she is included, she would seek to influence its charter and its purposes in ways which enshrine American power. If countries of the region have the courage, initially at least, to move without the United States, it could be a force for greater good and establish a balance that presently does not exist.

Recognition that working with others, hopefully to define the framework which will allow tensions to be resolved and ultimately overcome should be an essential element of Australian foreign policy. Recognising that security for all the countries of the region is dependent upon the resolution of regional issues is critical. The fact that some parties to these disputes spend great energy to secure American support for their point of view is not necessarily conducive to an ultimate resolution.

America's attitude in east and south-east Asia is dependent, not upon the interests of any particular country of the region but upon America's definition of America's own interest. As Menzies and Curtin recognised of Britain in the early part of the war, that interest is not necessarily identical with the interests of Australia.

Playing a more active role in the United Nations in multilateral affairs, as the government has announced, is a step along that road.

Would John Curtin have had the foresight to understand that, in a global context, the resolution of these regional problems is paramount in the search for Australian security, so that we no longer need to be fearful of or subservient to a major power?

John Curtin's decision to bring troops back to Australia at a most critical time in Australian history, his countermand of a Churchill order, his capacity to stand against both Churchill and Roosevelt over that issue, underline his understanding of Australian security and give us strong grounds for believing he would understand that necessity in today's world.

## Rt. Hon. Malcolm Fraser

Malcolm Fraser was Australia's 22nd Prime Minister, leading the nation from November 1975 to March 1983.

He was an Oxford graduate and a grazier when he won the Victorian seat of Wannon for the Liberal Party in December 1955. Entering politics aged just 25, he was the youngest member of the 22nd parliament. His first ten years were spent as a backbencher in the Menzies Government but when Harold Holt became prime minister in 1966, Mr Fraser was appointed as Minister for the Army. He also served as a minister in the governments of John Gorton and William McMahon.

When the Labor Party won office in December 1972 under the leadership of Gough Whitlam, Mr Fraser sat on the Opposition benches for the first time. Looking to reassert Liberal principles and provide the Liberal Party with a new sense of purpose and direction, he stood for leader in a ballot in March 1975, defeating Billy Snedden to become Leader of the Opposition.

Mr Fraser was appointed as caretaker Prime Minister on 11 November 1975, after Governor-General Sir John Kerr dismissed the Whitlam Government. The Fraser Coalition government won office a month later with the largest landslide of any federal election.

The Liberal and National Country Party Coalition remained in office, winning strong majorities in both the 1975 and 1977 elections and a third term in 1980, until defeated by Labor under Bob Hawke in 1983.

Prime Minister Fraser was influential in changing Australian relations abroad, both within the Commonwealth and with the countries of East and Southeast Asia. He was an adamant opponent of apartheid and a strong supporter of reform in South Africa. He also played a prominent part in the Commonwealth's efforts to establish an independent Zimbabwe. His government supported strong defence spending and reinforced Australia's diplomatic and trade relations with the countries in our region, viewing defence and foreign policy as key means of forestalling the advance of Communism.

Though economic rationalism was debated during his term of office, the Fraser government pursued more traditional approaches to financial management and fiscal policy.

In the years of the Fraser Government a significant piece of legislation for Indigenous people, the Aboriginal Land Rights Act (NT) 1976, was passed. The position of Commonwealth Ombudsman was established in 1977 and Australia's first Freedom of Information law was enacted in 1981. The same year, the government passed the Human Rights Commission Act and established the Human Rights Commission.

The Fraser government revitalized Australia's immigration program, bringing migrants from Asian countries, including nearly 56,000 Vietnamese refugees. Over 2000 'boat people' were granted entry. The immigration program focused on resettlement and 'multiculturalism' with the Institute of Multicultural Affairs being set up in 1978.

Mr Fraser resigned from parliament on 31 March 1983 and, within two years, had become a key figure in Australia's international and diplomatic relations.

Notably, he was Co-Chairman of the Commonwealth Committee of Eminent Persons against Apartheid which was formed to encourage a process of dialogue and reform in South Africa in 1985-86 and in 1989 he was appointed Chairman of the United

Nations Committee on African Commodity Problems which reported to Secretary-General de Cuellar in June 1990.

In 1999 he was appointed as the government's special envoy to Yugoslavia to seek the release from a Yugoslav prison of two CARE Australia workers, eventually securing their release later that year. Mr Fraser then worked with Nelson Mandela, Kofi Annan, and Finnish President Martti Ahtisaari to free a third CARE worker still in prison.

In recognition of the legislative record of his government in Indigenous land rights, as well as his personal commitment for all of his public and private life to anti-racism, Aboriginal reconciliation and minority rights, Mr Fraser was awarded Australia's Human Rights Medal in 2000 for his contribution to the advancement of human rights in Australia and internationally. Mr Fraser has been a Member of the InterAction Council for Former Heads of Government since its inauguration in 1983 and is currently its Chairman.

In 2002 Mr Fraser published his book *Common Ground – Issues that should bind and not divide us*.

Mr Fraser died on the 20th March 2015.