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The *Australian Journal of Human Rights* is the first journal of its kind in Australia to be devoted exclusively to the publication of articles, commentary and book reviews about human rights developments in Australia and the Asia-Pacific region. The aims of the Journal are:

- to raise awareness of human rights issues in Australia and the Asia-Pacific region by providing a forum for scholarship and discussion; and
- to monitor human rights developments in this region.

To achieve these aims the Journal adopts a broad-based multidisciplinary approach to human rights issues. It deals not only with the legal aspects of human rights but also with philosophical, historical, sociological, economic and political issues as they relate to human rights in Australia and the Asia-Pacific region.

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The Journal is proud to have as its patrons the Hon Elizabeth Evatt AC, Professor Philip Alston and Father Frank Brennan SJ AO.

Elizabeth Evatt AC has been a Commissioner of the International Commission of Jurists since 2003 and is Honorary Visiting Professor at the University of New South Wales Law Faculty and a member of the Committee of Management of the Australian Human Rights Centre and of the Board of the Public Interest Advocacy Centre in Sydney. She served as a judge of the World Bank Administrative Tribunal from 1998 to 2006; as a member of the UN Human Rights Committee from 1993 to 2000; and as a member of the UN Committee on the Elimination of Discrimination Against Women between 1984 and 1992 (including chairing the Committee from 1989 to 1991). Ms Evatt was President of the Australian Law Reform Commission between 1988 and 1993; Chancellor of the University of Newcastle from 1988 to 1994; and Chief Judge of the Family Court of Australia from 1976 to 1988. She also served as part-time Commissioner to the Australian Human Rights and Equal Opportunity Commission from 1995 to 1998.

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Human rights, the law, cyber-security and democracy: after the European Convention

Judith Bessant*

Many commentators have treated the internet as a site of democratic freedom and as a new kind of public sphere. While there are good reasons for optimism, like any social space digital space also has its dark side. Citizens and governments alike have expressed anxiety about cybercrime and cyber-security. In August 2011, the Australian government introduced legislation to give effect to Australia becoming a signatory to the European Convention on Cybercrime (2001). At the time of writing, that legislation is still before the Parliament.

In this article, attention is given to how the legal and policy-making process enabling Australia to be compliant with the European Convention on Cybercrime came about. Among the motivations that informed both the development of the Convention in Europe and then the Australian exercise of legislating for compliance with it was a range of legitimate concerns about the impact that cybercrime can have on individuals and communities. This article makes the case that equal attention also needs to be given to ensuring that legislators and policy makers differentiate between legitimate security imperatives and any over-reach evident in the implementation of this legislation that affects rule of law principles, our capacity to engage in democratic practices, and our civic and human rights.

Introduction

Wendy Brown recently pointed to the paradox involved in the coincidence of neo-liberal talk of freedom, the promotion of free markets, free trade agreements and globalisation since the 1980s, and the urgency and speed with which modern nation states are building massive walls along their borders (Brown 2010). While the 'West' treated the dismantling of the Berlin Wall in 1989 as the beginning of a new era of freedom and liberalisation, we now see new walls being 'built as prophylaxes against mobile labour, disease, terror, and the innumerable other forces real and unreal that threaten to puncture and undermine the myth of the sovereign state' (Pitcher 2011).

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