

Lack of political will has made Australia a safe haven for suspected war criminals

A RECENT feature on the US ABC's 20/20 current affairs program came as a shock to many Americans and indeed to many Australians who knew little about the issue of Nazi war criminals in Australia or the limited scope of government efforts to deal with this problem.

It revealed that several hundred suspected Nazi war criminals, who participated in some of the most unspeakable crimes against humanity, effectively have had safe haven in Australia.

Only three war crimes trials have taken place in Australia. None has resulted in convictions due to shortage of evidence and associated problems -- such as ill health, which led to the hasty withdrawal of the case against Heinrich Wagner in December 1993. Because the federal government closed its Special Investigations Unit in June 1992, there is no apparatus to assemble evidence and prepare prosecutions, or to seriously evaluate new allegations made about others. The Australian Federal Police, now responsible for this area, are woefully under-resourced and ill-equipped to undertake this task.

Ironically, the collapse of the Soviet Union a decade ago has resulted in the availability of evidence not earlier obtainable. As a result, several successful war crimes prosecutions and convictions have taken place in a number of European countries in the past few years. But Australia has not responded to the changing circumstances in reviewing known cases such as Wagner's or responded in any serious way to new allegations. More significantly, it has not developed until now alternative mechanisms such as deportation or extradition of suspected war criminals to address the profound moral issues at stake.

On deportation, unlike the situation in the US and Canada, a legal loophole in the Citizenship Act makes it impossible to strip such men of their citizenship, even when it was obtained by covering up past crimes. This means that Australia has not convicted, deported or extradited a single suspected Nazi war criminal.

Antanas Gudelis of Adelaide was investigated by the SIU, which had difficulty obtaining adequate evidence. In 1994, the Simon Wiesenthal Centre, which investigates Nazi war criminals, forwarded new evidence on Gudelis to the AFP, but it has taken no action.

Many others appear to have slipped through the net, including Konrad Kalejs and Karlis Ozols -- alleged members of the notorious Latvian killing unit, the Arajs Kommando, which voluntarily collaborated with the German SS in the murder of tens of thousands of innocent civilians, mainly Jews.

The evidence against Kalejs, who this week was discovered by the Simon Wiesenthal Centre to be living in the English city of Rugby after leaving Melbourne in June, has been examined in two separate court hearings in the US (1985-94) and Canada (1996-97). Both cases have resulted in Kalejs's deportation from those countries. The US Federal Court of Appeals found that Kalejs was "a key officer in a unit that killed tens of thousands of innocents." But because Kalejs became an Australian citizen in 1958, it has been held he has an unimpeachable right to live here.

Ozols was investigated extensively by the SIU, and in mid-1992 a brief for the Commonwealth director of public prosecutions found there was a prima facie case against Ozols, concluding that he is "the highest ranking alleged war criminal living in Australia". When the government closed the SIU, the then attorney-general, Michael Duffy, refused approval for extra funding requested by the prosecutor to finalise the case.

Individuals such as Ozols and Kalejs profited from both the termination of the criminal prosecution apparatus and an anomaly in the Citizenship Act, which places a 10-year limit on revocation of citizenship for any reason. While this anomaly was finally repaired in 1997, it does not apply retrospectively. Thus, an entire generation of war criminals from World War II who misrepresented their past in gaining Australian citizenship will not be affected.

IF retrospective laws on tax evasion and drug dealing can be justified, then the moral imperative for the deportation of war criminals whose crimes are of such horrific magnitude should be compelling. The Federal Government, after stating in 1997 it would instruct the under-resourced AFP to review the Kalejs and Ozols cases, indicated last year that there is insufficient evidence to mount a trial. But it appears the alternative route of depriving suspected war criminals of their citizenship has virtually been ruled out by the Government.

It is hard not to conclude that the underlying attitude of our law enforcement agencies and successive governments through the 1990s has been that if they sit on their hands long enough, the Nazi war crimes issue will go away.

Indeed, the perpetrators of these inhuman crimes are slowly dying off. But the legacy for the survivors and their families -- and the corrupting effects of inaction -- cannot be swept away. Furthermore, even the death of the last suspected Nazi war criminal will not end Australia's problems. There have been sightings here of alleged war criminals from other countries such as Cambodia and the former Yugoslavia.

Australia has a moral responsibility to have an apparatus in place to deal seriously and comprehensively with all such war crime cases, now and in the future. So far, we have failed in that responsibility.

Dr Colin Rubenstein is executive director of the Australia/Israel and Jewish Affairs Council.

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