

THE AUSTRALIAN NATIONAL COMMISSION FOR UNESCO

BOOK LAUNCHING : 'TEACHING HUMAN RIGHTS'

WEDNESDAY 3 MARCH 1982, SYDNEY UNIVERSITY LAW SCHOOL

TEACHING HUMAN RIGHTS : A FRAMEWORK FOR LAW REFORM

The Hon. Mr. Justice M.D. Kirby
Chairman of the Australian Law Reform Commission

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ANOTHER BOOK ABOUT HUMAN RIGHTS

I hate book launchings. I grew up in a world that got by without them. Now I have to be terribly careful, lest I join Mr. Whitlam, Bob Hawke or Andrew Peacock as one of the insatiable book launchers of the age. In my experience, the last thing people want to hear at a book launching is a book launcher. His observations are generally quite redundant to the occasion : which is usually simply an opportunity for people to get together to enjoy hospitality which is usually meagre, exchange like opinions and refer, in cautiously muted terms to the book which (in the nature of things) none or few of them have yet had the chance to read. Moreover, I have a secret fear that book launchings are becoming a high class version of book reviews. In our busy world, so many people feel they just do not have time to read books, that they content themselves with scanning book reviews in the Listener, the Economist, the New York Review of Books or the local weekend press. Now, in the age of book launchings, we have the oral substitute. Marshall McLuhan triumphs again. It is now no longer even necessary even to read the book review. We can all just listen to the book launcher and then forget the book and get on with enjoying the party.

If that is what happens with 'Teaching Human Rights' it will be a pity. The book is quite heavy, let me warn you. Eugene Kamenka¹ describes it as a 'packed volume'. But compressed within the pages of the essays collected in this excellent volume, are many provocative ideas and many thoughts that are specially relevant to contemporary Australian society. I congratulate the Australian National Commission for UNESCO for publishing the volume. It collects together, basically, a series of papers presented to a seminar on the theme of teaching human rights held at the University of Sydney Law School in June 1980. I attended part of that seminar. It was a high powered affair, with some of the best thinkers and writers in our country. It is a good thing that the collected

ideas of the seminar on teaching human rights should be preserved, so that they can be around to stimulate a wider community discussion about the legitimate place of education for human rights and indeed about human rights, in abstract and in practice in Australia.

The guiding spirit for the volume, as for the seminar, was Professor Alice Erh-Soon Tay, Professor of Jurisprudence at the Sydney University Law School. I sit with Alice Tay at the table of the Australian National Commission for UNESCO, the sponsor for the volume. I am now proud to have her as a part-time member of the Australian Law Reform Commission. She, and her husband Professor Eugene Kamenka, have been active and vigorous in promoting the intellectual questioning of many assumptions about Australian society. I notice that on page 5 of this book, this redoubtable husband and wife team points to a lack of an expounded Australian philosophy of law reform.² I hope that with the membership of Professor Tay, the Law Reform Commission will gain strength in this area.

SOMETHING ABOUT THE BOOK

At this phase in a book launch, it is imperative for the launcher to give a thumbnail sketch of the book. 'Teaching Human Rights' starts with an explanation of how the 1980 symposium came about. The United Nations General Assembly, in adopting the Universal Declaration of Human Rights in 1947, declared that the signatories should:

strive by teaching and education to promote respect for these rights and freedoms.

A resolution in 1977³ of the UN Commission on Human Rights showed the same preoccupation with basing observance of human rights on an awareness about them. UNESCO was asked to submit a report on recommendations about human rights teaching. Such a report was prepared in 1978. One proposal was a conference. That conference, held in Vienna⁴, urged the formulation of a long-term programme aimed at 'specialised human rights teaching'. It was part of the implementation of these ideas, stretching back virtually over the whole history of the United Nations and UNESCO, that brought together the participants in the Australian symposium on this topic in June 1980. For those who were there — some of what follows will seem like 'Last Year in Marienbad'. I ask them to bear with me for this is a thoroughly thorough book launch — a special new species of a now flourishing genus.

Mr. Peter Bailey, since appointed Deputy Chairman of the new Australian Human Rights Commission, outlines in his paper various initiatives that have been taken in this country, for default of a constitutional Bill of Rights, to protect specific rights of individuals, including by the law. He mentions, amongst other things, the work of the Australian Law Reform Commission. One of the projects he refers to on criminal investigation has come to a head in the Criminal Investigation Bill which was introduced into Federal Parliament last year by Senator Durack. That Bill represents, in my view, the most important human rights legislation currently before any parliament in Australia.

Mr. Justice Hope begins by reminding us of the prediction of Christ that the meek would inherit the earth. They have not and it is a prediction which the judge is sceptical of fulfilment.⁵ He has a few hard things to say about Australian self-satisfaction about human rights:

[L]uck has produced a complacency, a self-satisfaction, almost narcissistic in character. We are continuously looking at ourselves in a mirror, admiring the general blurred picture that our short-sighted eyes see; we do not notice the black spots and smudges that lie across the image.⁶

In proof of this assertion, Mr. Justice Hope points out that in his inquiries about protection of rights in respect of national security legislation, few only were the submissions made by a generally apathetic community. He then presents a case study of peaceful assembly rights in Australia. By an analysis of the current legislation, he calls attention to the petty tyrannies that can exist and concludes that if Australia is to put its own house in order, so far as human rights is concerned, it needs to teach about human rights, so that knowledge about them is spread and their importance understood.⁷

Professor Weeramantry calls attention to the impediments that stand in the way of access to the courts in Australia. Whilst theoretically everyone has access to the courts to protect their rights, in practice, courts are virtually unavailable to many citizens, either because of legal impediments or sheer cost. But Professor Weeramantry notes the danger of a slanted education which could distort human rights. This is a theme that is to be found repeated through this book.⁸

Senator Sim's contribution draws attention to the importance of human rights as an aspect of Australia's foreign policy. But he also makes a prediction : that we are at the early stages of the development of a new and international legal order, whose present contours we can only just begin to see. It is the development of this new international order, including international statements of human rights, which represents an important new legal development, in which UNESCO and the United Nations are playing their part : generally to the apathy, indifference or cynicism of many good citizens in Australia. Presumably similar attitudes were voiced by the barons and even some of the serfs when the common law of England was first developed by the Norman kings.

Mr. Whitlam's contribution is, as one would expect, fastidious in its detail.⁹ He lists the Australian record in the adherence to international conventions : something that has always been of great interest to him. It is notable that within days of gaining office, it was Mr. Whitlam's government which signed the International Covenant on Civil and Political Rights. Ratification came seven years later. Mr. Whitlam urges scrutiny not only of our own record but the record of our neighbours. He points out that adherence to international conventions can be used, if in no other way, as a lever to encourage compliance with the just provisions of the Conventions in domestic law.

Professor Millar's piece points to the special difficulties of operating a democracy and to the requirement of levels of political education and awareness that will not exist without a distribution of information, including through the orderly process of education.¹⁰

The tireless Professor Tay then returns with a contribution of her own about the ambivalence of attitudes in some countries of the world concerning the rights of the individual. In proof that this book is not a tiresome, uncritical exposition of United Nations wisdom, Professor Tay is most scathing in some of her observations about the new alleged human rights, such as the so-called 'right of solidarity'.¹¹ Eugene Kamenka picks up an earlier theme in warning that education's role is to give an account of things and must be contrasted with indoctrination. Professor Peter Singer develops the same theme. He even questions the title 'Teaching Human Rights' and urges a preferable course is that of 'Teaching About Human Rights'. He says that it is not possible to be morally neutral. Teachers should not pretend to be neutral. They should make their own views plain and should encourage their students to disagree with their perceptions. Otherwise, he points out, efforts to 'teach' human rights may end up by violating the rights of others.¹²

Professor McCloskey calls attention to the need for discussion of duties as well as rights.¹³ Mr. Graeme Connelly points out that there is still a very active debate about whether there are any objective human rights, inherent in our humanness or whether it is just up to each society and each time to declare the rights appropriate to it. Mr. Connelly sees it as legitimate to raise the consciousness of students about the issue of the rights that are said to attach to humanness, so that they will be less complacent than students often are in Australia about the underprivileged in our society or those against whom laws, practices or attitudes discriminate.

Professor Lauchlan Chipman is as provocative as usual. He takes on the whole edifice of multiculturalism.¹⁴ He expresses fear about inculcation of values at school, at least if it is suggested that the only values that can be taught are those upon which all ethnic communities will agree. Apart from the difficulty of defining such an area of agreement, Professor Chipman expresses reservations about multiculturalism, to the extent that it 'de-legitimizes' the mainstream of Australian social values.

There are many other important and interesting provocative comments in the book, including specialist items on the human rights of women, of unborn children and Professor Singer's stimulating piece which asks why human rights should be kept to humans, and whatever happened to animal rights.

THE HUMAN RIGHTS COMMISSION : A HIGH PROFILE?

I said that this book was timely, because it coincides with the establishment of the Australian Human Rights Commission. That Commission was not established when the book was put together. But it grows out of the ideas that were discussed in this book. One of the Human Rights Commission's functions is:

to promote an understanding and acceptance, and a public discussion, of human rights in Australia ...¹⁵

It would be my hope that the Australian Human Rights Commission will take a very active part in the promotion of greater awareness in Australia about the human rights of all members of the Australian community. It should, in my view, do this by adopting a frankly high public profile. Unless it does so, it may run the risk of serving the administrative functions that are laid down in the Act but not capturing the imagination of ordinary Australian people. Only if that imagination is captured will there be the steady stream of complaints and comments to the Commission that will help it to serve governments and the parliament in the development of laws that are sensitive to people's rights. If I

can revive a medieval controversy, it will not be enough for the Australian Human Rights Commission to confine itself to 'good works'. Working away quietly upon administrative tasks and the complaints that are neatly typed or written by articulate middle Australia will leave untouched the many people who are precisely those for whom the international human rights debate is a desperately serious issue. In this book, it is pointed out by judges, professors and other thoughtful and not unduly radical people that we in Australia are a basically fortunate people, with a reasonably contented and just society. But injustices do occur and internationally recognised human rights are sometimes neglected or ignored. It will be vital, in my view, for the Human Rights Commission in Canberra to bring to the four corners of Australia the message that it will seek out relevant complaints where people feel they have suffered an injustice that amounts to a deprivation of basic rights, will investigate those complaints fearlessly and bring considered and reasoned decisions about the complaints to the notice of parliament. The reports of the Human Rights Commission should themselves be a continuing stream of education on human rights. This will not happen unless the reports are widely ventilated, thoroughly debated and, where appropriate, strongly justified in the Australian media.

TEACHING HUMAN RIGHTS : DOES IT MATTER?

I have no doubt that there will be many Australians who would question the need to teach human rights. At a time of youth unemployment and calls to get back to the 'three Rs', it is easy to distort education into a purely vocation process. I would join the contributors to this book by urging that we should add a 'fourth R' -- we should teach rights. And we should do so by constant reference to international statements of the United Nations : including those which are now the charter of the Australian Human Rights Commission. We should be careful to distinguish teaching about basic rights from unacceptable classroom propaganda or indoctrination. We should maintain our scepticism about those countries which grandly proclaim human rights but daily violate them. But this scepticism should stop short of cynicism and we should not be embarrassed about including a healthy serving of idealism, humanitarianism and internationalism in our educational courses. If, with all the disasters and cruelties of our century, our generation and our country cannot do this, there can be little long-term confidence in the future of mankind.

Teaching human rights, without dogma, will raise the consciousness of students and citizens in Australia to the fact that, though a lucky country, this is not a perfect country. Narcissistic self-satisfaction and complacency about injustice will then give way to a community determined to measure up well in the world league of civilised countries. I expect that this book will contribute to raising sensitivity to the world human rights debate. To the complacent and apathetic about human rights, I say read about the history of our century. To the cynics and sceptics about the world movement for an agreed statement of basic rights, I say remember Runnymede and Magna Carta. In world history, we are at an international Runnymede. We should not expect liberties and justice to flourish internationally overnight. But we should do our part, nationally and individually, to promote a tolerant society whose members are concerned about the rights of others, even those who are not exactly the same as one's self in race, religion, hairstyle, lifestyle or political viewpoint.

In the hope that this book may contribute to a more tolerant and kindlier society and that in the words of John Wesley, 'These things shall be', I now have much pleasure in launching it.

FOOTNOTES

1. E. Kamenka, 'Thinking and Teaching About Human Rights' in Teaching Human Rights : An Australian Symposium, Australian National Commission for UNESCO, AGPS, Canberra, 1981, 77.
2. E. Kamenka and A. E-S Tay, 'Introduction : Human Rights and 'The' Australian Tradition' in Teaching Human Rights, 5.
3. Resolution 33 of the United Nations Commission on Human Rights (21 February 1977), cited in K. Vasak, 'UNESCO Initiatives in Human Rights' in UNESCO News, Vol. 29, No. 4, April 1979, 6, 7.
4. Vienna International Congress on the Teaching of Human Rights, 12-16 September 1978. See Vasak, 7.
5. R.M. Hope, 'Civil Liberties in Australia : The Case of Peaceful Assemblies' in Teaching Human Rights, 33.
6. ibid, 34.

7. id, 44.
8. C.G. Weeramantry, 'National and International Systems as Denigrators of Human Rights' in Teaching Human Rights, 45, 53.
9. E.G. Whitlam, 'Human Rights and the Western Pacific' in Teaching Human Rights, 63, 66.
10. T.B. Millar, 'Human Rights and Diplomacy' in Teaching Human Rights, 69.
11. A. E-S. Tay, 'Socialism and Human Rights' in Teaching Human Rights, 73, 76.
12. P. Singer, 'Teaching About Human Rights' in Teaching Human Rights, 95.
13. H.J. McCloskey, 'What Ought to be Taught About Rights?' in Teaching Human Rights, 83, 86.
14. L. Chipman, 'Ethnicity' in Teaching Human Rights, 129.
15. Human Rights Commission Act 1981, s.9(1)(f).