

1004

Teaching judges human rights: Montreal conference of UNESCO

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The education of the judiciary about human rights and equal opportunity principles gained momentum in Australia in the run-up to the Federal Election in March 1993. In a speech setting out the National Agenda for Women of the Australian Labor Party, the Prime Minister (Mr P J Keating) at the Bankstown Town Hall, Sydney on 10 February 1993 offered his response to community concerns about some perceptions of certain judicial attitudes concerning women. In the course of his remarks, the Prime Minister said:

*"Like many others, I was recently shocked to read that a Judge, during a sexual assault trial, had explicitly condoned the use of violence by a man against his wife. I do not believe that reflects current community attitudes. It is intolerable that women should continue to suffer prejudice or injustice of this kind in our courts - or anywhere else. I am pleased to inform you that earlier this week, just before the Parliament was prorogued, my colleague, Michael Duffy, the Attorney-General, took an initiative which I trust will be the first step in ending such unfair and archaic attitudes. We are committed to ensuring that Australia's laws and legal practices reflect changing community attitudes and, to this end, the Attorney has asked the Australian Law Reform Commission to report to him on ways of ensuring equality before the law. Justice Elizabeth Evatt will head this inquiry. Her widespread legal experience within Australia and internationally makes her a most appropriate person to conduct this report. I look forward to her interim report later this year."*

Mr Keating also announced that funds would be provided to the Australian Institute of Judicial Administration (AIJA) to support the development of courses for Magistrates and Judges "to help them identify prejudices that might impact on their judicial attitudes towards women". This programme is to be developed by a Committee headed by Justice Deidre O'Connor, Judge of the Federal Court of Australia and President of the Administrative Appeals Tribunal. The pressure for education of the judiciary built up further in 1993

following widespread media coverage of reported comments by judges in South Australia and Victoria criticized by some commentators as being insensitive to the human rights of women. In outlining the Government's programme to Parliament in May 1992 the Government's commitment to judicial "education" was confirmed.

Talk of teaching judges in a formal system of judicial education causes anxieties in some quarters, at least in common law countries where formal procedures of judicial education have not been common. Only recently, and then in the minor key, have procedures for formal training been introduced. Notable commentators, including Lord Devlin, have warned against the risk that detailed judicial training may undermine the independent cast of mind of the judge of our tradition. It might present the problem of imposing on the judge's thinking an official orthodoxy, usually laid down by agencies of the Executive Government destructive of judicial independence. See P Devlin, *The Judge*, OUP, Oxford, 1979, 22, 36.

In Australia, education in basic human rights for the general population has been promoted by the Human Rights and Equal Opportunity Commission and by State bodies engaged in human rights activities such as Anti-Discrimination Boards and Equal Opportunity Commissioners. In schools, courses in legal studies and specific training in human rights principles have flourished in recent years. The way ahead for Australia was chartered in 1980 by a national conference organised by the Australian National Commission for UNESCO. This in turn grew out of the UNESCO Conference on Teaching Human Rights held in Vienna in 1978. The papers of the Australian conference are collected by Professor Alice Erh-Soon Tay (ed), *Teaching Human Rights*, AGPS, Canberra, 1981.

The issue of education of judges, and indeed all citizens, about respect for the basic human rights of others was examined at an

international conference organised by UNESCO which took place in Montreal, Canada 8-11 March 1993. The conference, titled "International Congress on Education for Human Rights and Democracy", was opened by the Director-General of UNESCO, Professor Federico Mayor. In a number of sessions of the conference speakers emphasised the importance of judicial attitudes to the achievement and protection of human rights, including in respect of women and minorities. The conference also explored the practical achievement of respect for human rights through the legal system. Participants in the Montreal conference included many frontline workers for human rights. There was, for example, a large contingent of "pro-democracy students" from Thailand and from other countries with a recent history of derogations from human rights.

One of the main speakers at the Montreal conference was Professor Kathleen Mahoney, of the University of Calgary who will be visiting Australia for the AIJA later in 1993. The theme of her interventions was the special responsibility of judges and lawyers to protect human rights.

Amongst the proposals placed before the Montreal conference was one that UNESCO should increase its efforts to distribute basic human rights instruments and particularly amongst those most closely involved in the administration of justice, such as judges, lawyers, police, prison, customs and probation officers. It was recommended that UNESCO should initiate a regular bulletin by way of report and commentary on the jurisprudence of the basic human rights instruments. Such a bulletin could contain short notes on important decisions of relevant bodies such as the European Court of Human Rights, the United Nations Human Rights Committee, national constitutional courts and other bodies which elaborate the meaning of the basic human rights norms.

Speakers at the Montreal conference urged UNESCO to consider the feasibility of visual and oral programmes directed specifically to the education of magistrates, judges, practising lawyers, law teachers and law students concerning the sources of basic human rights norms, the availability of relevant case law, commentary, jurisprudence and other means by which human rights may be used by judges and lawyers in the performance of their daily tasks in ways consistent with domestic law.

The Montreal conference also covered a wide range of issues going far beyond education for human rights within the judiciary and legal profession. But important sessions of the conference were devoted to the provision of basic information to members of the legal profession. Participants in the Congress, whatever their professional background, recognised the particular importance of members of the legal profession in translating the high ideals of human rights jurisprudence into the practical law of the land.

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