

1047

LAW INSTITUTE JOURNAL
HUMAN RIGHTS ESSAY PRIZE WINNERS

LAW INSTITUTE JOURNAL

HUMAN RIGHTS ESSAY PRIZE WINNERS

On 8 October 1993 the latest prize winners of the Lucas Baron Human Rights Prize were presented with cheques and books by Justice Michael Kirby. Justice Kirby is President of the New South Wales Court of Appeal. The presentation was made at Brighton Savoy in Melbourne during the course of a dinner which was attended by Chief Justice Phillips of the Supreme Court of Victoria, Justice Peter Heerey of the Federal Court of Australia and Mr Rod Smith, Vice President of the Law Institute of Victoria.

The winners of the prize were two students of the University of Melbourne Law School. They were Carolyn Evans and Virginia Porter. Ms Evans' essay entitled "Women and Religion: Resolving Conflict between Human Rights" examined the resolution of the tension between the basic human right to freedom of religion and gender equality. Ms Evans pointed to the fact that women are frequently in the forefront of religious observance. However, they often suffer disadvantages both in religious doctrine and the practice of religious organisations. The complex and emotionally charged nature of the problem was accepted; but so was the need to move towards reconciling the two seemingly incompatible values inherent in these basic human rights.

Ms Porter's essay, "The Philosophic Basis to restrict Freedom of Expression: Development of a new

response", examined the legal restrictions imposed upon artists in portraying aspects of human nature characterised as obscene. The development of constitutional protections for freedom of expression as it affects obscenity was described with reference to the United States and Canada. The willingness of the Supreme Court of Canada in *The Queen v Butler* (1992) 1 SCR 452 to contemplate the limitations on freedom of expression in the case of pornography on the basis of the harm of violence, degradation and dehumanisation, usually against women, was described. The essay called for a reformulation of the Australian concept of obscenity. Ms Porter recognised the difficulty of avoiding a return to the harmful suppression of ideas, including artistic ideas, which in the past in Australia has led to many absurd prosecutions.

The Lucas Baron prize worth \$1000 is awarded annually by the legal firm, Lucas Baron of Fern Tree Gully in Victoria. This is the second year in which the prize has been awarded. This time it was impossible for the judges to choose between the two essays by Ms Evans and Ms Porter. Both Justice Kirby and the principal assessor of the essays, Mr Tim McCormack (presently of the Faculty of Law in the Australian National University) praised the initiative of this suburban firm of solicitors to promote human rights by way of an annual prize awarded to a Melbourne law student. Mr McCormack announced that from 1994, the human rights essay prize

would be offered nationally. Lucas Baron have guaranteed funds to support the prize in five consecutive years.

In his address, Justice Kirby outlined the need for Australian lawyers to be more aware of international law, particularly in the field of human rights. He pointed to the fact that the High Court in *Mabo v Queensland [No 2]* (1992) 175 CLR 1 had accepted that the influence of the International Covenant on Civil and Political Rights was bound to be felt in the development of Australian common law. Courts construing ambiguous statutes or developing the common law could legitimately look at the body of international law, particularly as it affects basic human rights.

Justice Kirby described the way in which this development of Australian law was to be seen in the context of the growing influence of international bodies upon domestic, legal and social developments. He described recent visits he had made to Malawi, Cambodia and South Africa arising out of his functions as Chairman of the Executive Committee of the International Commission of Jurists. He praised the Victorian Branch of the Australian section of the ICJ, chaired by Justice David Harper of the Supreme Court. He mentioned that Mr David Lucas, principal of the firm Lucas Baron, had observed the trial in Dili, East Timor, of Jose Alexandre Gusmao, an East Timorese "freedom fighter". Mr Lucas had attended and reported on the trial on behalf of the Australian section of the ICJ.

Mr Lucas presented a report on the human rights issues discussed at the recent Lawasia Conference in Colombo, Sri Lanka. The essay prize winners also spoke briefly. The occasion of the prize giving was both an enjoyable evening and a thoughtful opportunity for lawyers and others to exchange ideas about the obligations of modern Australian lawyers to support the world-wide movement towards respect for and protection of basic human rights, both at home and abroad.

For further information on the Lucas Baron Human Rights Prize for 1995, contact Mr David Lucas, Tel: (03) 758 7055; Fax: (03) 758 2561.