

The High Court has been prominent in entrenching the fundamental principle that it is proper that, on matters of international concern, the Commonwealth has powers to give domestic effect to its international human rights obligations.² The recent statement by Mason CJ, Deane and Toohey JJ of the High Court that 'the ratification of an international convention is a positive statement by the executive government of this country to the world, and to the Australian people, that the executive government and its agencies will act in accordance with the Convention',³ provides an indication of the High Court's current thinking. The High Court in this case declared that individuals can legitimately expect Commonwealth administrators to have regard to relevant international instruments. The Government has already rejected this view, and is proposing legislation to limit the High Court's ruling.⁴

The President of the Commission, Sir Ronald Wilson and I consider that the legitimate expectation found by the High Court to exist in *Teoh*, rested on much stronger ground than the mere ratification of the Convention on the

Rights of the Child. The effect of annexure to the *HREOC Act*, we consider, is to confer on it a special status. The Commission's President has said 'it is unthinkable that the Parliament should even be asked to consider' reversing the legitimate expectations created by the provisions of the *HREOC Act*,⁵ which should be recognised as governing Commonwealth decision making.

It is interesting to observe that in 1995, just as in 1975, it is the observance of human rights which has rejuvenated interest in the exercise of federal government prerogative to enter treaties and the scope of the Commonwealth external affairs power.⁶

For 50 years, the Charter of the United Nations, and Australia's role in promoting the observance of fundamental rights and freedoms, has proceeded in the recognition that these are matters which transcend inter and intra national borders.

We should ensure that we never lose sight that this principle is inherent in the fundamental nature of human rights. We should continue to strive for the full realisation and protection of human

rights and fundamental freedoms and it is proper that citizens of Australia look to the Federal Government for the leadership in doing so.

KEVIN O'CONNOR

Kevin O'Connor is Acting Federal Human Rights Commissioner.

References

1. Lodged on 25 December 1991 by Mr Nicholas Toonen in relation to s.122(a) & (c) and s.123 of the *Tasmanian Criminal Code 1924*.
2. Developed over a series of decisions commencing with *Koowarta v Bjelke-Petersen* (1982) 56 ALJR 625.
3. *Minister of State for Immigration and Ethnic Affairs v Ah Hin Teoh*, Decision No. FC 95/013 at 15.
4. Joint Statement by the Minister for Foreign Affairs, Senator Gareth Evans, and the Attorney-General, Michael Lavarch, 'International Treaties and the High Court Decision in *Teoh*', 10 May 1995.
5. Submission to the Senate Legal and Constitutional Affairs Committee on 'The Constitution — External Affairs Power' 15 May 1995.
6. See the reference of the Senate Legal and Constitutional Affairs Committee on 'The Constitution — External Affairs Power', 15 May 1995.



NOTICES

CHILDREN FIRST CAMPAIGN

On 23 May 1995 the Victorian Council for Civil Liberties launched the Children First! Campaign. The campaign, which is supported by a variety of agencies working to improve the situation for Australia's children and young people, is directed towards recognising the rights set out in the UN Convention on the Rights of the Child.

The campaign consists of a background paper on the status of Australia's children, a poster to raise awareness of children's rights and postcards which will be sent to the Prime Minister calling for:

a charter of Children's and Young People's Rights enacted in legislation;

the appointment of a Commissioner for Children;

resourcing of a national children's and young people's legal advocacy program.

A variety of initiatives are being conducted in association with the cam-

paign, including national consultations with young people conducted by the National Children's and Youth Law Centre on the content of a children's Charter.

A copy of the postcard is enclosed in this edition of the *Alternative Law Journal*.

If you would like to know more about the campaign or can distribute material please call Joseph O'Reilly on (03) 9629 5222.

TRAFFIC MATTERS IN THE MAGISTRATES COURT

The Legal Aid Commission of Victoria has recently published 'Getting Court', a guide for people appearing for themselves in traffic matters in the Magistrates Court. There are two booklets in the series, one for pleading guilty and one for pleading not guilty.

In addition to the publications, the Commission has also, in conjunction with Film Victoria produced an up to date video, 'Getting Court'. This video looks at a person representing themselves in the Magistrates Court using a

guilty plea as an example. The video and the guides are designed for use in self-help classes such as traffic summons workshops, or can stand alone as part of community legal educational activities. *Contact:* Legal Aid Commission of Victoria, tel (03)9607 0223.

CONTRIBUTIONS SOUGHT: DECEMBER ISSUE — QUEER LAW

Seeking Articles/Briefs/Comments/Drawings/Caricatures on lesbian, gay, transgender issues and the law for the December issue of the *Alternative Law Journal*. *Contact* Miranda Stewart on (03) 9419 5136 (ah) for more information.

JUSTICE KIRBY: SPEAKER

The Hobart branch of the United Nations Association has invited Justice Michael Kirby to be guest speaker.

Date: 25 August 1995

Time: to be advised (evening)

Venue: Law Faculty, University of Tasmania

Contact: Helen Gwilliam, tel (002) 202 068