

I hope by May 2005 that we will have consolidated what was fragile before, our police force. We have had problems with the training of our police force, to a large degree borne out of one of the ridiculous policies that the UN has. For the UN you have to have all nationalities more or less equally [proportionately] represented so if you have a police force to be trained you can't have only Australians [or] New Zealanders or Norway [training the forces], you have to bring in some thirty nationalities. Well I exaggerate a bit but to demonstrate some of our people salute with their right hand and some with their left hand This is just to illustrate some of the difficulties, but of course this has now been corrected. The UN did realize that to train the police force you have to bring in those who really understand and have experience in what the role of a police force in a modern democratic country is.

We also have serious problems in the judiciary ... and a lack of judges. I don't wish to say anything negative about our judges, they are very sensitive and understandably so, but the fact is there are allegations of our judges having extremely low productivity. We hear that in Portugal a judge handles some 800 cases a month, [whilst] in East Timor something like two or three cases per month [are handled], either because of a lack of enthusiasm in the workplace, or lack of experience, fear, and lack of self confidence. But that creates problems in dispensing justice and with the investors' climate. How can investors come to East Timor to create jobs, to address our problems of unemployment, if they don't trust our judiciary?

Overall we have made remarkable progress. The country is largely peaceful. When I travel around the country, which I have done in recent times, unannounced and un-programmed, I was pleased to see the progress we have made. So many more acres of land cultivated, thousands of new heads of cattle, buffalo, cows, chickens, pigs, goats, and I noticed many, many more people, and thousands of children going to schools, than two years ago. There is much more trade in the rural areas than two years ago, you see many areas that were empty of any trade now building markets. I was pleasantly surprised to find near the border area two or three weeks ago on an unannounced trip ... quality housing emerging and I asked where the money came from for this housing. More than \$40m had been loaned by the Portuguese bank based in East Timor to thousands of East Timorese. According to the Portuguese Bank Manager the repayment rate is better than in Portugal itself. Savings in Timor is more than \$100,000m in two years, from of course businesses to individuals, and the government begins to have a significant surplus, so much so that the UN told me the other day that my government was too conservative and that it should be spending the money, but the government does not wish to spend money for the sake of it. We need to improve, to strengthen our implementation capacity.

Our thanks to Mallesons Stephen Jaques for their support and assistance in organising our 2004 Annual Lecture.

Book Launch

The launch of the book 'Corporations and Transnational Human Rights Litigation' (Hart Publishing, 2004) authored by Centre Director Professor Sarah Joseph was held on 23 November 2004. The book was launched by Chief Justice Michael Black and Michael McGarvie, Partner, Holding Redlich. Here is an extract from the text below†.

...None of the salient [domestic transnational corporate litigation] cases has yet been decided on the merits. Therefore, a number of issues have not been comprehensively addressed in any of the cases in any of the jurisdictions. The most important outstanding issue relates to the circumstances in which a parent company will be held liable for the actions of its subsidiaries. The issue is critical as most of the alleged human rights abuses in these cases have been perpetrated in a developing country by a subsidiary corporation in that country which may lack sufficient capital to provide adequate redress, and/or which may not be amenable to personal jurisdiction in the TNC's 'home' country. To what extent can a human rights litigant pierce the corporate veil, or, alternatively, directly target the parent company for its actions or omissions regarding supervision of its subsidiary?

This book details and analyses the developments in recent civil cases, to serve as a guide to the new ways in which corporations may be liable in domestic courts for human rights abuses. Even though there are no final merits judgments, the interim decisions to date give important clues as to the possible extent of modern transnational corporate human rights liability. This analysis is thus important for transnational human rights victims in order to know the boundaries of possible available legal redress. It is also important for TNCs which must now take human rights into account in managing the legal risks (as well as moral and reputation risks) associated with offshore projects.

†Extract excludes footnotes.



Chief Justice Michael Black, Sarah Joseph, Michael McGarvie