

Annual Conference Reviews the Big Issues of 2006

2006: The Year in Review

By Katie Mitchell

The Castan Centre's annual Year in Review conference was a challenging and exciting event as human rights experts and activists took to the podium to share their perspectives and expertise on prominent human rights issues of 2006.

The conference opened with two international guests, Mr Malcolm Langford and Mr C. Raj Kumar. Malcolm addressed the extent to which human rights offers a coherent framework for reshaping our understanding and response to the world water crisis. He opened by "disentangling" the meaning of the term "world water crisis", highlighting the multi dimensional impact of the crisis and the factors perpetuating it. The development of the right to water as an international human right was also examined with a focus on the position of the UN Committee on Economic, Social and Cultural Rights. Malcolm suggested that "while legal action plays a role in monitoring government performance, there is a clear need for clear legislative frameworks and sufficient political will and civil society mobilisation together with international support." Raj explored the impact of corruption in South Asia from a human rights perspective. Although acknowledging the devastating impact of corruption on human rights Raj was optimistic about what could be achieved through a combination of rights-based strategies including expanding our language to include corruption-free governance as a fundamental and non derogable human right.



Joo Cheong

The conference also had a strong regional focus. Alex Tilman explored issues of justice for East Timor, giving both a historical perspective and personal insight into the situation currently facing East Timor. Dr Scott Burchill examined how the Australian government has sought to "avoid the obvious implications of its own findings" in relation to the granting of 43 temporary protection visas to West Papuan asylum seekers. Scott drew some parallels between the situation in East Timor and West Papua and observed that, as in the case of the East Timorese, "anyone with a view on the subject is consulted except those with a primary interest in it - the West Papuans. The only question never asked is the only one worth posing: what do the people of West Papua want?" He noted the opinions and responses of various politicians and leaders in the community and concluded that "our responsibility is to see that the West Papuans get the opportunity to make their own choices."

Ms Azadeh Dastyari then exposed the dark history of offshore processing of asylum seekers. Azadeh took us through the history of this phenomena, starting with the Haitian Migration Interdiction Program instituted by President Reagan and continuing under the presidency of G.W Bush and Clinton. This approach was then adopted in Australia under the Howard Government who introduced an offshore processing model "with striking similarities" to the US model, in both Nauru and Papua New Guinea. Azadeh explored some of the consequences and costs of offshore processing and the political motivation driving this approach, "Australian and US policies of offshore processing were both instigated to deny asylum seekers rights enjoyed in Australian and US territory." Azadeh suggested that "instead of adopting the 'US model', Australia should aspire to a truly 'Australian model', one that is more humane, cost effective and just for refugees."

The way in which the mentality of the "war on terror" has shaped Australia's counter terrorism legislation was explored by Dr Joo-Cheong Tham who highlighted the "perils



Malcolm Langford, Sarah Joseph and Raj Kumar share a joke

of countering terrorism by eroding human rights". The presentation explored the government's defence of these new laws, raising questions as to the logic and validity of these arguments. Joo-Cheong then critically analysed a selection of these new laws in light of the central three aspects of law which give them their power. That is; "the wide statutory definition of a terrorist act... powers conferred on the government to ban terrorist organisations [and] unprecedented powers conferred on security and police organisations." He noted that this current approach "endangers human rights" and may also "undermine its purported agenda to counter terrorism." Highlighting the contrasting approach of the UN and international human rights treaty bodies he urged that "terrorism be understood in its broader context and addressed primarily by non-coercive and inclusive measures founded on the principles of justice, equality and solidarity".

The question of where to limit one human right in order to serve or protect another is rarely answered with ease. Rather it often resembles a fine balancing act between the needs and rights of one individual or group with another. Dr Carolyn Evans explored the grey terrain between banning hate speech and freedom of expression in democratic societies. Carolyn looked at these questions within the context of religion, drawing on the experience of the Danish Cartoon controversy as a recent example. Whilst acknowledging the damage and danger of hate speech, Carolyn asked whether the "more difficult, time-consuming, expensive methods of building trust and respect between people of different religious viewpoints will not ultimately be at least as successful as banning hate speech and far less problematic from a rights point of view."

Adding a local flavour to the conference Dr Julie Debeljak scrutinised the Victorian Charter of Human Rights and Responsibilities and in particular examined the way in which it aims to preserve parliamentary sovereignty and promote dialogue. Julie outlined the manner in which the Charter restricts the power of the judiciary to "interpretation and non-enforceable declaration only rather than conferring powers of judicial law-making or invalidation" in an attempt to maintain parliamentary sovereignty. However she suggested that these restrictions may not fulfil the purpose they set out to achieve outlining three central areas which are likely to cause difficulty and produce a situation where "the



Scott Burchill gets a hearty laugh from Susan Kneebone

Charter promotes parliamentary sovereignty at the expense of rights protection."

Paula Gerber addressed the vital and fundamental issue of human rights education. Noting that education about human rights is mandated in various international human rights instruments Paula explored the gap between this right to education and the reality of human rights education in secondary schools. Paula drew on the results of an empirical study conducted in secondary schools in Melbourne and Boston (USA) to illustrate the current status of human rights education in schools and the obstacles which impede upon human rights education. This closing presentation was reminded us that the future of human rights lies with the next generation. It is the youth of today who will determine the human rights culture of tomorrow and its role in the local and international sphere. As the conference illustrated, there is a wealth of knowledge and a strong movement for human rights across the globe. It is this knowledge and passion which must be passed to future generations.

2006 Human Rights The Year in Review was proudly supported by Mr Salvatore Malatesta and Holding Redlich. Conference papers are available on the Castan Centre website and the refereed conference publication will be available for sale from the Castan Centre in April 2007.



Alex Tilman speaks while Professor Susan Kneebone, Dr Colin Burchill and Azadeh Dastyari listen on



Peter Redlich introduces Malcolm Langford, a Holding Redlich Distinguished Visiting Fellow