

THE HUMAN RIGHTS CONFERENCE AT THE UNIVERSITY OF CAPE TOWN

By Jill and Ernie Wentzel

There seems to be a kind of Parkinson's Law of any political coming together: it results in a left, right and centre. And when it does, one of the groups is more than likely to believe that all is manipulated by one of the others, no doubt with the active support, connivance or indifference of the third.

And so it was at this conference. At the end Mrs Jacobs, of Potchefstroom (representing, one hastens to add, the "right"), complained of over representation of the "left" by which perhaps she meant the liberal establishment.

Meanwhile, more radical attenders felt that the whole spectrum of the conference was far too conservative and more especially that there were not enough Blacks. And to make sure that there was a full spectrum of complaint, some women felt that women were not properly represented as chairmen (sorry, chairpersons) and panelists.

Arthur Koestler, in writing of the "Call-Girls" used this term to describe those academics who go from conference to conference delivering papers that become traditionally theirs. Some delegates felt that this was happening in Cape Town. But tired old South African liberals were not undelighted to hear overseas speakers rather than the traditional arguments presented by one South African to another.

The tensions between "left" and "right" gave life to the conference. Thus Mrs Jacobs complained bitterly that delegates had been invited to visit Crossroads and asked why something **positive** had not been shown to the delegates. It is worth reminding those who make this criticism that one is entitled in a democratic society to take its achievements for granted and to concentrate on its failures so that these may be eliminated. It all reminded one of the BBC ITV

discussion in which the United Kingdom Pravda correspondent responded to criticism of political trials in the Soviet Union by saying that it was as if a man had a beautiful suit, but instead of admiring it, the critics rolled up a trouser leg, found a pimple on the leg and concluded that the suit was lousy anyway.

At the end of the conference Andrew Drzemczewski suggested to those who felt that the conference was loaded in favour of the liberals that the next time there should be 80% Black representation "and if you don't like it that's your problem not mine". He also suggested that those who denied that there was torture of political detainees in South Africa should write to Amnesty international for documentation, but warned that they would then be prosecuted for possessing it!

Summing it all up, Sidney Kentridge said there seemed to be a consensus that the pressure of events would bring about change in South Africa. He said that we should now build up institutions that would promote harmonious living and that we should not wait to formulate a bill of rights until power was changing hands, when it would be seen as a last ditch attempt by Whites to hold on to some power.

The epilogue was left to Professor Ellison Kahn with his mannered style of speaking and measured syntax in harmony with one who methodically and laboriously climbs temporarily down the stairs of his ivory tower to attend conferences. He warned against speeches more in keeping with the politic hustings than with the academic life of a university. He seemed to imply that somewhere in some stackroom in some library the diligent scholar might find the mechanism to protect human rights. He is welcome to try; the rest of us will go back to the hustings.

Highlights of the Conference

- * Opening address by the Honorable Mr Justice M. M. Corbett, who called for a national convention and a bill of rights.
- * Professor Charles Hamilton, a Black from Columbia University, on Human Rights and Principles of Racial Equality.
- * Professor Karl Doehring of Heidelberg on State Sovereignty and the Protection of Human Rights.
- * Professor William Gould of the University of Stanford on the Rights of the Wage Earner.

Professor Gould in a powerful address criticised the inadequacy of labour codes such as the Sullivan Code as a means of ensuring satisfactory labour practices in South Africa. He said that nothing would replace the power of organised labour with guaranteed trade union rights.

* Mr Jack Greenberg of the N.A.A.C.P. on the American System of Human Rights Protection.

He called for the building now of institutions which guaranteed human rights and said that the earlier one nurtures institutions which protect human rights and the more one promotes habits of freedom, the more likely it is that human rights will survive times of great social change.

* Professor Richard Lillich of the University of Virginia on Procedural Human Rights.

He quoted Judge Holmes (the American one) that rights without remedies are not rights at all and stressed the need to ensure that there were procedures to enforce human rights.

* Professor Amnon Rubinstein, a Member of the Knesset and a law professor on the Israeli Experience in State Security and Human Rights.

He described Israeli attempts to promote and preserve human rights in a situation of ongoing emergency akin to war. He described these attempts as being based on a pragmatic morality: "Human rights are good for you". He did not subscribe at all to the theory that in times of emergency human rights can be put to one side while the State is preserved.

* Professor James Read on Human Rights Protection in Municipal Law.

Professor Read, of the School of Oriental and African Studies at London, did not draw the audience he deserved, presumably because many people believed that they were to hear a talk on local government, misunderstanding the technical meaning of municipal. This was in many ways the most significant of all the contributions.

In a paper which was both witty and fully supported by factual reference, Professor Read concentrated on the situation of human rights in Africa and the successes and failures of constitutional government. For South Africans it was a hopeful picture, as he described the desire in black Africa to live under the law and the successes of courts in black Africa (quoting particularly from Zambia) in restraining the executive from unlawful action.

Professor Read rose during a later discussion to rebuke a chairman who said that whatever else one might say about South Africa, this conference would not have been possible in Tanzania or Nigeria.

"You could not have been present at my speech" said Professor Read (rightly) "because then you would have known of conferences such as this recently held in Nigeria, Tanzania and Sierra Leone".

Professor Read showed that human rights and their protection was a matter of ongoing debate in Africa. The Tanzanians did not have a bill of rights because they believed that as in Britain it would be the national ethic which was the best protection for human rights. This was not an opinion shared by many other black countries. The important fact was, however, not unanimity on the method of protection, but the desire to ensure real protection.

* Professor Walter Gellhorn of Columbia University; a doyen in this field of Human Rights and the Administrative State.

- * Professor L. Henken, University of Columbia on International Instruments for the Protection of Human Rights. He knocked the South African outcry against "selective targeting". He pointed out that this did not mean that the target was innocent.
- * Professor Felix Ermacora (in absentia) of the University of Vienna on The European System of Human Rights Protection.
- * Col. Draper of the University of Sussex on Humanitarian Law and Human Rights.
In a paper presented with conspicuous wit, he analysed international conventions dealing with war and the problems of making provision for unconventional wars where guerillas or freedom fighters are involved.
- * Dr Michael Veuthey, On the International Red Cross and the Protection of Human Rights.
During discussion Mr Kelsey Stuart, the South African chairman of the Red Cross, contrasted the government's handling of the Cuban prisoners of war with its treatment of its own detained citizens.
- * Mr Anthony Lewis of the New York Times on The Freedom of the Press.
This accomplished speaker was particularly impressive in dealing with questioners. The speech was followed by a panel discussion on which Mr Myburgh of the Sunday Times, Professor S. A. Strauss and Professor Barend van Niekerk participated.
- * Professor John Dugard on Human Rights in South Africa — retrospect and prospect.
He proposed a commission to investigate allegations by detainees of ill-treatment. In a lively discussion, Mr Pitje, a black lawyer, attacked Professor Dugard for allegedly promoting an unduly cautious approach. Perhaps Mr Pitje came believing that he would, but it was hard to reconcile the attack with what Professor Dugard actually said.
- * A human rights commission was elected, with the task of setting up a permanent body.

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