

FAMILY LAW CONFERENCE IN DURBAN

Lessons for Australia?

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The International Society for Family Law held its Ninth World Conference in Durban, from 27–31 July 1997. On a backdrop of the new South Africa, the conference took as its focus 'World Themes and African Issues'.

It is not unusual for the Society to hold a conference in the context of intense political turmoil and change. Its 1991 meeting was in Opatija, in what is now Croatia, but was then Yugoslavia. The new President of the Society is Peter Sarcevic, who convened the Opatija conference, and was later Croatian ambassador to Washington.

In South Africa, the new constitution is still being bedded down, in a society under intense scrutiny both from within the union and throughout Africa. The opening address to the conference by Mr Omar, Minister of Justice, immediately placed family in the centre of social and legislative issues. Referring to the common warnings of unsafe streets and civil disorder, Mr Omar acknowledged the fragility of the new society, while expressing no tolerance for unlawfulness.

He recalled the recent history of South Africa, where economic policies demanded that families be separated, with workers (mostly male) in barracks in company towns, and women, children, the old and infirm in squatter enclaves. Bachelor workers, the Minister explained, were socialised into adulthood in conditions akin to war, with little chance to learn about community, or of the cohesion born of interdependence within a mixed-gender, multi-aged community.

With few adult models of integrated family life and little power to change their conditions, men may choose random revolt with the contingent threat of anarchy in society. The challenge for the new South Africa is to re-engage these formerly disenfranchised and socially deprived members of society. Mr Omar's view is that such social and family depredation does not mend in one generation, and he underlined the need for both political will and popular patience in achieving a new society.

South Africa may seem a distant mirror to be reflecting aspects of family policies

elsewhere – particularly where links are made between public order, the values of youth, and parenting. When people complain about the selfish and uncaring youth of Australia, we might well look beneath the surface of such allegations of personal deficiency. There may be connections between the impressions young people make and the economic shifts and social policies which stop them from their goals of becoming effective members of family, community and civil society.

How can young people make plans, and commit themselves to work – or the search for work – if their community offers few models, and fewer opportunities, for a career transition from youth to productive adult? Restructuring industry in the post-manufacturing era requires a mobile, commando-style workforce. Yet one person's flexibility is another's instability, and the resultant stress on relationships and families may become an impediment to long-term commitments, purposeful pursuit of career, engagement in community and the like. Being mobile in the search for work, switching industries and being flexible in entering new relationships and communities are valuable attributes in effecting economic change. They may be qualities which sit uneasily with intimacy, rearing children and building communities.

The rhetoric of the flight from commitment of young men, and of the selfish behaviour of fathers (Blankenhorn 1995), is one of personal inadequacy and moral turpitude. The phenomena may be better framed as institutional rather than personal. What obstacles does the society put in the way of parents being effective, steady providers and nurturers of their children? Do institutions encourage and profit from exactly the same values which make it difficult for parents to provide and partnerships to endure? What responsibilities accrue to industry and governments for the social costs of such change?

When something akin to ghettos of poverty are described in Australia following the massive restructuring of manufacturing industry (Gregory and Hunter 1996), the message to young people is clear: be cautious about planning, and about

commitments (whether to a person or a mortgage). Young people's values and behaviours are perhaps ethical responses to a shifting world. Values like flexibility, adaptability and mobility may be at odds with those commonly put in the 'family values' basket – commitment, stability, linearity and engagement in civil society.

Some of the messages from the International Society of Family Law Conference in South Africa were that change requires structural analysis to keep society coherent. It is a useful challenge to some of the easy solutions offered on youth and parent responsibility.

In South Africa the constitutional means of assuring family stability and social integration were the subject of a keynote address by Justice Sachs, of the Constitutional Court of South Africa. Justice Sachs was cautious about the immediate effect of a Bill of Rights in South Africa. He saw impatience, flowing from unfulfilled expectations, as the enemy of the peaceful consolidation of society. He advocated the setting of realistic limits for what can be achieved by rights alone in a short time. Targets such as adult skilling, access to work and equitable wages are the essential goals. Achieving these goals, while recognising family and community in a previously disenfranchised society, is a Herculean task, but not one Justice Sachs seemed to shirk.

A final conclusion that emerged from this conference is that family law, although sometimes seen as 'soft stuff,' is as tough as constitutional law, and perhaps even more integral to hard economic planning.

References

- Blankenhorn, D. (1995), *Fatherless America*, Basic Books, New York.
- Gregory, B. & Hunter, B. (1996), 'Increasing regional inequality and the decline of manufacturing', in Sheehan, P., Grewal, B. & Kumnick, M. (eds) *Dialogues on Australia's Future: In Honour of the Late Professor Ronald Henderson*, Centre for Strategic Economic Studies, Victoria University, Melbourne.

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FAMILY LAW COUNCIL VISITS NEW ZEALAND

The Family Law Council of Australia, an advisory body to the Commonwealth Attorney General, met for the first time in New Zealand, in Wellington, from 15–17 October 1997.

The meeting, organised at the invitation of the Principal Family Court Judge of New Zealand, Justice Patrick Mahony, ranged widely over issues such as the representation of children in family proceedings, the Hague Convention, and the treatment of domestic violence in family law proceedings.

Family law migrates quite freely in both directions across the Tasman with comparisons and exchanges instructive to law reform and legal practice in both countries. Among the issues covered at

the meeting were child support, discussed with the Child Support Team of the New Zealand Inland Revenue Department, matrimonial property developments, presented by the New Zealand Ministry of Justice, and a meeting with the Family Court Administrative Judges to discuss the Australian Family Law Reform Act (1995).

The Australian Institute of Family Studies was represented at the meeting by Kate Funder. Dr Funder presented Institute research conducted in collaboration with the Attorney General's Department, and ongoing Institute research with implications for family law reforms including child support, children's rights and parental responsibility.