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# Addressing the Role of Police in the Protection of Human Rights: the UN Seminar, Canberra, 1963

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## Introduction

On 12 May 1963, Australia's leading scholar of jurisprudence and international law, Professor Julius Stone of the University of Sydney's Law School, delivered a broadcast on ABC Radio, 'Australia looks to the world: the police and the people'.<sup>1</sup> His comments were occasioned by his recent attendance at the United Nations Seminar on the Role of the Police in the Protection of Human Rights, held in Canberra. Stone had attended the Seminar as an observer representing the International League for the Rights of Man.

Stone asked rhetorically why an international meeting dealing with issues such as police arrests, wiretapping, police interrogation of suspects and universal fingerprinting was related in any way to the United Nations and international affairs. He answered in two ways. At one level there was a need to address gross violations of human rights which had grave international repercussions. He cited egregious provisions of the South African Government's apartheid legislation; and the brutality of police in Alabama in dealing with black Americans demonstrating for recognition of their human rights. From another perspective, in the 20th century the importance of human rights of men and women had been the focus of international laws and treaties. These were the contexts for the 1963 UN Seminar.

The Universal Declaration of Human Rights was approved at the United Nations General Assembly in 1948. The Declaration has become a symbol of that organisation's aspirations. Its enactment into binding institutional and governing norms has been a prolonged process, and continues. For one recent historian of human rights in the post-war world, the first two decades of the United Nation's life were a record of failure. It was not the United Nations, argues Samuel Moyn, but the social movements emerging from the disillusion of the Cold War years, that enlivened human rights as a contemporary political agenda (Moyn, 2012)<sup>2</sup>. Yet these were also years in which the organisation institutionalised a commitment to advancing human rights when it established a Division dedicated to the issue.

The 50th anniversary of the Canberra UN Seminar on the Role of the Police in the Protection of Human Rights offers a compelling opportunity to reconsider the emergence of human rights as a norm shaping criminal justice principles and practice since the Second World War. The event was unprecedented and its agenda potentially explosive. The institutional and political constraints on the advancement of the human rights agenda in such a forum nevertheless proved formidable. Looking back from 2013 we have the advantage of hindsight in appraising this unusual event. We also face the challenge of understanding its limitations. In the account that follows we consider the hopes that were held for the UN Seminar, the course of its deliberations, and observe the scope of debate around its outcomes at that time.

## The UN Division of Human Rights

The United Nations was a legacy of wartime commitments to construct an organisation that would be a more effective guarantor of international security. It also embodied a positive agenda of human development of which the creation in 1946 of its Division of Human Rights was a signal instance. The Division was dedicated to developing an educational program, addressing not only the generalities of human rights, but also dealing with their implications for the various departments of government and of social life.

Commencing in 1958 this educational program comprised a series of regional seminars, some of which were concerned with the protection of human rights in criminal law and procedure. The seminars were the brain-child of the Canadian Dr John Humphrey, founding Director of the Division of Human Rights. The importance of the seminars in strengthening the rule of law and human rights in the region was endorsed by the UN Secretary General in 1958:

Perhaps the most important purpose of these seminars would be to bring key people together for short periods of time to stimulate their thinking and through their leadership to encourage greater awareness of problems of human rights within official circles.<sup>3</sup>

What is most significant is that the UN Seminar aimed to provide a forum for forging an international and regional consensus on the importance of human rights protection in policing under the umbrella of the Economic Commission for Asia and the Far East (ECAFE). ECAFE was established in 1947 as a subordinate body of the UN Economic and Social Council. Originally ECAFE had 'regional' and 'non-regional' members; the non-regional members including Australia, New Zealand, France, the Netherlands, the Soviet Union, the United Kingdom and the United States. Other Pacific countries such as Australia, New Zealand and Samoa would later become regional members, but Communist countries such as China, North Korea and North Vietnam were excluded.

ECAFE Seminars were held in 1958 at Baguio City, the Philippines, on 'The protection of human rights in criminal law and procedure'; in 1960 at Tokyo, on 'The role of substantive criminal law in the protection of human rights, and the purposes and legitimate limits of penal sanctions'; and in Wellington, New Zealand in 1961, on 'The protection of human rights in the administration of criminal justice.' From an Australian perspective, a notable contributor as planner and participant was Norval Morris, at the time Professor and Dean of Law at the University of Adelaide. Morris was one of six elected vice-chairmen at the Philippines seminar held in February and March 1958. He led discussion on 'Rights and safeguards protecting the individual against arbitrary or illegal arrest and detention' and prepared three working papers for the seminar. In preparation for the seminar Morris had worked with representatives of the Commonwealth and State governments preparing Australia's contribution. In the previous year Morris had been part of an expert working party that had met in Manila advising on the agenda. In a pioneering paper on human rights issues, Morris reflected on the seminar's proceedings and outcomes in the *University of Tasmania Law Journal* in 1958 (Morris, 1958)<sup>4</sup>.

In June 1960 the Commonwealth of Australia's Solicitor-General Sir Kenneth Bailey met in New York with Dr Humphrey, the main purpose being to discuss the Wellington seminar.<sup>5</sup> Humphrey had expressed the hope that Australia would be strongly represented at the seminar. In spite of Humphrey's suggestion that an Asian country would host a seminar after New Zealand, at this early stage the Australian Government was already lobbying to host a human rights seminar in either 1962 or 1963. Subsequently Bailey extended an invitation to Humphrey to make a short visit to Australia early in 1961 either before or after the Wellington seminar.

Accepting the invitation, Humphrey arrived in Australia in late January 1961 before travelling on to New Zealand. In Canberra he met the Attorney-General Sir Garfield Barwick, as well as Bailey and Ralph Harry of the Department of External Affairs. Later Humphrey visited Sydney and then Melbourne, where he met with Sir Owen Dixon, then Chief Justice of the High Court of Australia. Humphrey recorded that Dixon did not express much interest in the proposed UN Seminar in Australia; instead they talked about Dixon's experience as the UN's mediator in Kashmir.<sup>6</sup>

The New South Wales Solicitor-General Harold Snelling, Norval Morris and Stephen Parsons (of the Commonwealth Solicitor-General's Office) were selected to represent Australia at the United Nations Seminar in Wellington. During their time in Wellington, members of the Australian delegation held a number of meetings with Dr Humphrey concerning the possibility of a seminar in Australia in 1963. As a result of those discussions, a number of the participants at the Wellington Seminar were invited to an informal meeting to

test their reaction to possible subjects for a future seminar. Three themes were suggested:

- (a) Constitutional, legal and judicial techniques in the protection of human rights (suggested by Harold Snelling)
- (b) The role of the police in the protection of human rights (suggested by John Humphrey)
- (c) Administrative law and human rights (already the topic of the 1958 seminar held in Ceylon)

Dr John Robson, New Zealand's Secretary for Justice, who attended this informal meeting, later expressed the view that South East Asian countries were not yet ready to devote their attention to 'niceties of administrative law safeguards', having more pressing problems. In a memo for his Department in Canberra, the Australian delegate Parsons confirmed this, reporting that '[t]here was unanimous agreement [at the meeting] that subject number two – concerning police powers – would be the most desirable subject.'<sup>7</sup>

At the suggestion of Pakistan's Attorney-General Mr Nasir Ahmed Khan (who had also participated in the informal meeting), a minor change in the proposed topic was suggested; the word 'in' was changed to 'and', to read: 'The role of the police and the protection of human rights'. The purpose of the alteration was to remove any implication that police were being cast in the role either of champions or of opponents of human rights. This alteration did not survive Barwick's scrutiny. The Australian Government felt that use of the word 'and' might introduce a degree of width into the matters considered by the seminar, leading to discussion beyond the particular phases of police activity that relate to human rights. The Pakistan Attorney-General concurred, providing that the points of view of 'lawyers, judges or jurists' were taken into consideration when discussing issues concerning police and human rights.

By the conclusion of the Wellington Seminar it seemed clear that Australia would be the main contender for hosting the 1963 seminar, after initial interest by Malaya came to nothing. In March 1961 Humphrey met in New York with Australia's Ambassador to the United Nations and emphasised the importance of an Australian invitation being submitted as quickly as possible. In discussions during the meeting in Wellington, Humphrey had already suggested the seminar topic focussing on police and human rights. Importantly he also indicated that the United Nations would want the seminar to ensure that a variety of points of view were considered in addition to the views of police representatives.



1 Sir Kenneth Bailey

2 Opening speech by Sir Garfield Barwick (Dr John Humphrey on the right)

For the Australian Government both the Department of External Affairs and the Attorney-General's Department were involved in planning and organising for the 1963 Seminar. Conveniently by 1961 Sir Garfield Barwick was the minister responsible for both departments. The formal request to host a seminar on the role of the police in the protection of human rights was submitted on 30 June 1961, and accepted a month later. The Australian proposal followed an intensive period of planning, involving the Attorney-General's Department Stephen Parsons and Ted Hook, working closely with Sir Kenneth Bailey.

Parsons had been in New Zealand with Norval Morris for the Wellington Seminar. With his expertise in law, criminology and penology Morris was an important contact for Stephen Parsons. His involvement in the series of South-East Asia seminars held prior to 1963 meant that his advice was keenly sought by those organising the Canberra seminar. By 1961 Morris was based in Adelaide and for the most part, he and Parsons communicated by letter and telephone. Some of the contemporary thinking about the scope of the issues is preserved in the archival record of their communications. Morris was already an international player in criminal justice debates and alert to the developing agenda of human rights. In April he asked Parsons whether the Commonwealth was pursuing '[Canadian Prime Minister] Diefenbaker's suggestion at the London Prime Ministers' Conference that there should be a British Commonwealth Declaration of Human Rights, or was this not pursued in London? If there is any activity on this question I would find satisfaction in being associated with it.'<sup>8</sup> Earlier Parsons had already noted Morris' suggestion that 'the agenda for the proposed seminar could be so drawn as to highlight, throughout, the dual obligation of the policeman in relation to the individual human rights of the citizen, namely, the duty to protect the citizen from antisocial behaviour by other citizens and also from the use of excessive police powers by the State'. Morris was also attentive to the sensitivity of the players involved, telling Parsons that it would be important 'to draw the agenda in such a way as to elicit the interest and co-operation of senior police officials and to enable them to take part in the discussions on equal terms with lawyers.'<sup>9</sup> In an article published in 1962, Morris emphasised that the problem of the relationship between human rights and the criminal law was of the first importance. Morris argued that the criminal law in the Western world faced two major threats. The first was that it was not proving to be a particularly effective instrument in controlling anti-social, harmful, community and individually injurious conduct. Second, with the increasing rate and severity of delinquency and crime, there had been a tendency to clothe the instruments of the criminal law (including the officers and agencies of the criminal law) with very substantial and sometimes excessive powers over men's lives.<sup>10</sup>

The readiness of Morris to confront these issues directly through communicating with senior police is a mark of the originality of his thought and practice. Morris himself consulted 'a senior police officer' at one point in the planning discussions and then in Canberra in July spent a day in a committee of three including himself, Commonwealth Police Commissioner Ray Whitrod and Parsons. Whitrod was one of the two Australian police who made a significant contribution to the work of the government departments for the 1963 Seminar, the other being Selwyn Porter from Victoria. The original intention was that Commissioner Porter would work with Norval Morris in drafting a background paper for the Seminar. But Morris' absence at Harvard from August 1961, followed by his appointment in 1962 as Director of the newly established United Nations Asia and Far East Institute for the Prevention of Crime and the Treatment of Offenders (UNAFEI) in Japan made this impossible. In his place the task was offered to Professor Zelman Cowen, then Dean of Law at the University of Melbourne. With Porter, Cowen drafted Background Paper A, one of two Background papers prepared for the Seminar. These were intended to address general issues on the topic and not focus on the experiences of specific nations.

It can be seen that the UN Seminar was a creature of government, with very limited involvement of police in its planning, in spite of the title. Commissioner Porter was quite unaware of the prospect of the Seminar,



until he received the invitation to prepare a Background Paper. The main opportunity for Australia's police commissioners to be advised of planning for the 1963 Seminar was through their participation in the annual commissioners' conference. It was Ray Whitrod, as Commissioner for the Commonwealth Police Force, who provided information on the UN Seminar for the commissioners' meetings. However, because of confusion about the projected dates of the Seminar in Canberra, the 1963 commissioners' conference ended up being held immediately before, rather than after the UN Seminar. Whitrod had hoped that police commissioners from other countries in Australia for the UN Seminar might be able to attend the Australian police commissioners' conference, but this did not eventuate. These early faults in preparation were symptomatic of the limited impact of the Seminar on police in Australia as elsewhere.

## The Seminar Venue in Canberra

The UN's John Humphrey would have preferred Sydney or Melbourne to Canberra (of which he recalled later, 'built up out of nothing it might just as well have been a town in the Canadian West; even the trees had been imported' <sup>11</sup>). Barwick and Bailey opted for the national capital. For Barwick this was 'a decision having regard principally to the national significance of the meeting, and also to certain other considerations, including proximity to embassies and the national Parliament.'<sup>12</sup>

Suitable venues were limited – Parliament House was rejected owing to the length of the seminar clashing with parliamentary sitting requirements; and the recently completed Academy of Science building was rejected as lacking the informality that Morris and Parsons considered essential for successful discussion. The venue selected in July 1962 was Canberra's Rex Hotel, one of the first multi-story buildings constructed in Canberra and its first post-war hotel. Completed in 1960, it was six stories in height and was a noted Canberra landmark at that time, the most prominent on the north side of the city. For the seminar organisers, the Rex Hotel offered two advantages over the Academy of Science; in addition to providing a suitable convention venue and an appropriate number of offices for officials and organisers, the hotel could accommodate delegates from outside of Canberra attending the Seminar. Having the accommodation and seminar facility in the same locality streamlined arrangements for the organisers. Apart from the conference room, the main administrative requirements for the organisers and UN staff were a smaller room for occasional meetings of the steering committee, a second room that would be used as a documents room, and six double bedrooms that would provide office space. The two simultaneous interpreters would



3 Commissioner Ray Whitrod, Commonwealth Police Force



4 Canberra Rex Hotel 1961

not require an office. As well as agreeing on the venue, in April 1962 the Australian Government had settled on 30 April to 14 May 1963 as dates for the Seminar; these dates were later amended, with an opening date of Monday, 29 April; closing on Monday 13 May.

## Australia's Delegation to the Seminar

Deciding on Australia's representation for the Seminar was always going to be a delicate juggling act, particularly for Sir Garfield Barwick and Sir Kenneth Bailey. The selection of delegates required a balance between police and non-police representation, and an adequate representation from Australia's States and territories. In July 1962 Ted Hook at the Attorney-General's Department wrote to Bailey, expressing concerns about the composition of the Australian delegation at the Seminar:

'As the host nation we may nominate five participants and five alternates, making a total team of ten. My own feeling is that a team of ten active members is too large. I think that either the various members would become frustrated owing to limited opportunities to speak or the Australian representatives would be speaking so often that the primary purpose of the Seminar could be defeated.'<sup>13</sup>

Hook was suggesting five participants; Sir Garfield Barwick, Sir Kenneth Bailey, Selwyn Porter, Zelman Cowen and Harold Snelling and two alternates, one of whom could be Ray Whitrod and the other, an academic. He suggested that there should be some formal consultation on the matter with the States.

A later memo from Hook to the Department of External Affairs (6 August 1962) indicated that Barwick did not share Hook's concerns about the large-size of the Australian delegation; Barwick wanted the delegation to comprise 5 participants and 5 alternates, and he agreed to request nominees from the States.<sup>14</sup> In the end the Commonwealth nominated 5 participants; 5 alternates; and 5 observers. Barwick had written to all State Attorneys-General on 22 August seeking their nominations. The names of the Australian delegation were required to be submitted to the United Nations by 14 September. Barwick indicated that he already had a number of qualified men available to be nominated and he would discuss the issue further at a meeting of the Standing Committee of Attorneys-General (SCAG) scheduled for 7 September 1962.

Barwick's mention of 'available men' highlighted the prevailing environment in government in which opportunities for qualified women to participate in national and international meetings were very limited. In the event, no female participants or alternate delegates were nominated by Australia and by any of the other delegations at the 1963 Seminar. In Wellington at the 1961 UN Seminar there had been one female participant, India's Deputy Minister for Home Affairs. The issue of female representation at the 1963 Seminar for Australia's delegation arose in September 1962 when the Secretary of the Department of External Affairs wrote to the Attorney-General's Department highlighting the qualifications of Enid Campbell, Senior Lecturer in Law at the University of Sydney, and suggesting that Campbell be included as an alternate delegate for the UN Seminar. The Attorney-General's Department responded that it was too late to include her and no one suggested including her as an observer.

The response from State ministers to Barwick's request to nominate individuals for Australia's delegation reflected differing levels of enthusiasm for the project. Queensland nominated a single individual, a police inspector. On the other hand the list submitted by the New South Wales Attorney-General included three Supreme Court judges; the Dean of Law from the University of Sydney; a Senior Crown Prosecutor; two public servants; and the Commissioner of Police. The list eventually nominated by the Commonwealth

Government meant that the Commonwealth and all States would be represented at the Seminar:

### **Participants**

Sir Garfield Barwick, Attorney-General and Minister for External Affairs (head of the delegation)

Sir Kenneth Bailey, Solicitor-General and Secretary, Attorney-General's Department

Chief Commissioner Selwyn Porter, Victoria Police

Professor Zelman Cowen, University of Melbourne

Mr Justice J L McClemens, Supreme Court of New South Wales

### **Alternates**

Commissioner R W Whitrod, Commonwealth Police Force

Mr H A Snelling, Solicitor-General of New South Wales

Mr R P Roulston (replacing Professor Shatwell), University of Sydney

Mr S H Good, Solicitor-General of Western Australia

Commissioner N T W Allan, New South Wales Police Force

### **Observers**

Commissioner W J Delderfield, Tasmania Police Force

Mr W A N Wells, Assistant Crown Solicitor, South Australia

Inspector F Palethorpe, Queensland Police Force

Mr E J (Ted) Hook, Attorney-General's Department

Mr M G M Bouchier, Department of External Affairs

Inspector J B Giles, South Australian Police

Mr G J Hawkins, University of Sydney

From a police perspective, the most significant feature of Australia's delegation was that it contained three police chiefs (Commissioners Porter, Whitrod and Allan) as either participants or alternates, and one other (Commissioner Delderfield from Tasmania) as an observer. New Zealand with Commissioner Spencer as head of its delegation was the only other participating country to send a police chief. Even then, it appears that the New Zealand Government needed to be assured of the importance of involving such a senior officer as their Police Commissioner. In February, shortly before the Seminar, the Australian High Commission in Wellington cabled the Department of External Affairs in Canberra seeking names of likely Australian representatives for the Seminar as New Zealand's Treasury were 'opposing proposals for New Zealand representation on [the] grounds that [the] Seminar does not call for senior representation particularly [the] Commissioner of Police'.<sup>15</sup>

The Australian Government had earlier negotiated with Humphrey over the balance of police and non-police representation in the various country delegations. Humphrey feared 'that the subject matter ran the risk of an exclusively police participation'. He suggested that Australian Missions in countries concerned with the Seminar should encourage nomination of judges, lawyers or social workers as alternative participants. In February 1963 the Department of External Affairs sent a memorandum to Australian embassies and high commissions in the ECAFE region: 'Our desire was, and is, to widen the participation as much as possible, and it would be appreciated if you would take such action ...'<sup>16</sup> In Laos Australia's ambassador met with the UN's representative in the country and advised him of the planned Seminar. The ambassador cabled the Australian Government: 'I thought of trying to achieve the nomination of General Soukan (neutralist and former Commissioner of Police) with the idea of seeking overseas visits fund support for an extended visit.'<sup>17</sup> However these attempts came to nothing and there was no Laotian representative at the Seminar.

Shortly before the Seminar it was realised that a representative of the Territory of Papua and New Guinea should be included in the Australian delegation. Barry Holloway, a senior official in the Territory's administration, was added to Australia's delegation as an observer. In addition South Pacific Commission countries were invited to send observers. For the Australian delegation all expenses including travel and accommodation were being met by the Commonwealth and not the State governments. In preparation for the Seminar, Sir Kenneth Bailey organised a meeting of the Australian delegation prior to the opening day to be addressed by the Minister and for 'discussing questions of common interest relating to the Seminar'. They met at the Rex Hotel on the morning of Sunday 28 April. Sir Garfield Barwick's briefing notes indicate that he counselled the Australian participants about the sensitivities involved in addressing people from countries with different political and legal systems and different police practices.

## Secretariat

The secretariat and administrative support for the Seminar was provided by the Department of External Affairs. A total establishment of 22 was required. This would include the two simultaneous interpreters; remaining staff came from the Department, with the exception of a press liaison officer. Department staff were required for a documents reproduction office; for operation of a Gestetner duplicating machine; for collating documentation, and arranging documentation. Three copy typists (English language) and one messenger were also required. One of those hired to provide simultaneous interpreting of the Seminar's proceedings was Mrs Nancy Robson from Sydney. She flew to Canberra on the Friday before the opening day of the Seminar in time to familiarise herself with the interpreting equipment. The Government had hoped to hire another simultaneous interpreter through the UN's ECAFE offices in Bangkok. This was not possible and they secured the services of an interpreter from Noumea who had worked for some years for the South Pacific Commission.<sup>18</sup> The Department of External Affairs experienced difficulties in providing additional staff to produce a verbatim record of proceedings. In the event the Department argued that having no verbatim records at the Seminar would keep formality to a minimum and no summary or verbatim records of proceedings were produced.

For participants there was extensive documentation prepared for the Seminar. There were two background papers; Background Paper A written by Selwyn Porter and Zelman Cowen, and Background Paper B by Juhei Takeuchi, Director of the Criminal Affairs Bureau, Ministry of Justice, Japan. In addition to the background papers eighteen working papers were commissioned that dealt with the subject matter of the Seminar from the perspective of each of the participating countries. Australia's contribution (Working Paper 15) was prepared by the Commonwealth's Attorney-General's Department. Some of the other working papers were more specialised. For instance, Mr Justice McClemens of the Supreme Court of New South Wales, who was a member of Australia's delegation, prepared 'Working Paper 18: Memorandum on the function of the police in relation to the custody of persons needing examination in respect of possible mental illness'. McClemens had a particular interest in the rights of people with mental or physical disabilities; in 1961 he had also chaired a Royal Commission into corruption and abuse at Sydney's Callan Park Mental Hospital. McClemens' contribution had not been solicited; after he was nominated by the New South Wales Government, McClemens had forwarded his paper to Sir Kenneth Bailey, suggesting that it could provide an opportunity for discussion at the Seminar.

Photographs from the Seminar show the main conference room at the Rex Hotel organised with a large horseshoe shaped table. The various country delegations were seated on the left and right arms of the table. In the opening session Sir Garfield Barwick and Sir Kenneth Bailey are shown seated at the top centre of the horseshoe with Barwick speaking and Bailey chairing his session. Other photographs show observers

and members of the public seated in rows on the left and right behind the country delegations. Newspaper reporters would have been positioned behind the rows of delegates. Presumably observers who applied to make presentations to the Seminar did so from the top table seated next to the person chairing the session.

The program for the Seminar comprised sessions that were controlled by the chairman and five deputy chairmen. Eleven different participants were involved as discussion leaders for the sessions. At a later date, a report published in the *NSW Bar Gazette* was critical of the conduct of the seminar with respect to observers: ‘Observers were invited to speak at the invitation of the Seminar, but, in order to receive such an invitation, they were required to hand in their names, and later were given a specified time at which they were required to speak if at all. In this manner it was obvious that the observers were unable to contribute to the discussion on any particular point as it arose, and were therefore in no position to influence the discussion or make any substantial contribution to it.’<sup>19</sup>

## Program for the Seminar

In the 18 months prior to the Seminar the draft agenda was circulated to a number of interested parties, including the United Nations, Norval Morris and State Attorneys-General. In summary, the Seminar was to consider the role of the police in relation to human rights from two main perspectives: (i) The duty of the police to maintain a system of law and order; and (ii) The duty of the police to protect the community without them infringing on the rights of anyone, including the criminal and the suspect.

The program for the Seminar was based around seven main topics.

- I. Human Rights and the Police: Introductory
- II. Human Rights and Preventive Police Action
- III. Human Rights, the Police and the Suspect: Investigation of Crime
- IV. Human Rights, the Police and the Accused: Prosecution and Evidence Given by the Police
- V. Human Rights and Police Discipline: Control of and Remedies Against Abuse or Excess of Police Powers
- VI. Human Rights and the Administration and Training of the Police
- VII. Human Rights and Public Relations of the Police



5 Seminar room, Canberra Rex Hotel



6 Mr John Male, Sir Kenneth Bailey and Dr John Humphrey

As the Seminar proceeded a number of issues provoked immediate debate in the Australian press, as discussed below in the summary of proceedings.

## Highlights of Proceedings of the Seminar

### Day 1 of the Seminar: Monday, 29 April

The Seminar opened at the Rex Hotel on 29 April 1963. Sir Garfield Barwick, Australia's Minister for External Affairs and Attorney-General was elected President and Sir Kenneth Bailey was elected Chairman. Representatives from Cambodia, Hong Kong, India, Iran and Japan were elected Vice-Chairmen and John Ballard, representing North Borneo, was elected rapporteur. The opening address was delivered by Sir Garfield Barwick and he was supported by Dr John Humphrey, representing the Secretary-General of the United Nations, who thanked the Australian Government for its hospitality and support for the Seminar. Barwick's address drew particular attention to the importance of the role of the United Nations in promoting human rights, providing the basis for the organisation of regional seminars on the subject.

The first major topic for the Seminar was a consideration of the proposition that all citizens should be obliged to have their fingerprints taken and recorded. A majority of speakers at the Seminar supported the proposition, including Zelman Cowen who indicated that universal fingerprinting would serve a useful national purpose and would be entirely compatible with fundamental human rights. He was supported by Mr Francis Seow, Singapore's Crown Counsel and Deputy Public Prosecutor who argued that the practice would assist in dealing with problems of fraud. Opponents of the proposition included a New Zealand delegate, Mr J W Bain, who opposed compulsory fingerprinting as an 'interference with the individual', and Sir Kenneth Bailey, who argued that national compulsory fingerprinting would be a direct infringement of personal freedom.

In spite of this majority support for universal fingerprinting, locally there was a significant political and editorial reaction to the proposition. Victoria's Premier Henry Bolte was reported as being emphatically opposed: 'It would be an unnecessary inconvenience to the public and a waste of public money.' In a similar vein, the Melbourne *Herald* editorialised: '[M]any Australians would still feel that compulsory



7 John Ballard, Delegate from North Borneo and Seminar rapporteur



8 Francis Seow, Singapore Crown Counsel and Deputy Public Prosecutor

fingerprinting was a needless invasion of their freedoms.<sup>20</sup> At various times the annual conference of Australian Police Commissioners had discussed the possibility of a uniform system, such as a 1937 proposal that the entire adult population (14 years and over) should be fingerprinted, or proposals at other times that certain groups of the population, such as all aliens or all prisoners of war, should be compulsorily fingerprinted, but none of these proposals had attracted political or even much bureaucratic support.<sup>21</sup>

### **Day 2 of the Seminar: Tuesday, 30 April**

On the second day delegates generally agreed that preventive police action and laws covering vagrancy and consorting were essential if human rights were to be preserved. There was a wide-ranging debate on preventive measures available to police for the maintenance of peace in dealing with processions and public meetings. Victoria's Chief Commissioner Porter had acknowledged the danger of police taking unnecessary advantage of laws which gave them wide powers over the individual rights of ordinary citizens but he argued that it would be a great mistake to think that all the urges and restraints which produce police action or inaction came from the written law of any country. In his speech he emphasised the importance of police training. Speaking in the debate, Professor Zelman Cowen argued that any police powers be exercised in good faith for the purpose for which they were conferred.

Reporting the day's proceedings, the *Canberra Times* publicised the contribution of Francis Seow, Singapore's Crown Counsel and Deputy Public Prosecutor. He had described how riots were quelled by the Singapore Police. Special squad of fifty police were sent to troubled area; they broadcast to the crowd in four languages with orders to cease and disperse; they recorded this on tape to use later at any inquiry; if the broadcast failed to quell the rioters, police would make a baton charge; if this failed tear gas would be fired; if rioting continued, there would be another plea in four languages. When all else failed, police would open fire on the ring-leaders, aiming at their knees.<sup>22</sup>

### **Day 3 of the Seminar: Wednesday, 1 May**

Police evidence and the interrogation of prisoners were considered on the third day, when observers as well as delegates made their mark. There was substantial discussion on the circumstances in which statements by an accused person could be admitted into evidence. The Judges Rules that applied in the United Kingdom were discussed at considerable length. With respect to interrogation, two judges, Mr Justice McClemens (NSW) and Sir John Barry (Victoria) had an opposing view from that of two police chiefs, New Zealand's Commissioner Spencer and Chief Commissioner Porter of Victoria. McClemens argued that interrogation of prisoners and suspects by police should be recorded in a form incapable of alteration. A report of the debate in the *London Times* referred to Barry's assertion 'that confession was the most attractive way of solving crimes. Getting one should be recognized as a genuine temptation.' Barry himself had quoted from an April 1962 judgment of Mr Justice Sholl, a fellow judge of the Supreme Court of Victoria: 'A few police officers acting improperly necessarily affect the standing and credibility of all in the eyes of the tribunal which has to deal with an allegation of intimidation by the police.'<sup>23</sup> Sholl had been concerned that police officers were not availing themselves of modern means of recording interview with accused persons. Commissioner Spencer disagreed with the two judges, arguing that 'if police were further bound by restrictions their real job would get out of hand'. Spencer's intervention was startling in its frankness, for an international human rights forum: 'A policeman can stand so much of insults, and if a prisoner is hit it is spontaneous and has nothing to do with interrogation.' Chief Commissioner Porter's comments focussed more pragmatically on the reaction of suspects or prisoner to recording devices; he alleged that some people became incommunicative when police used tape recorders.

At the end of the day, an administrative oversight had led to two cocktail events being organised on the

same evening; Sir Garfield Barwick's reception for Seminar participants, coincided with a cocktail reception by the Ambassador to Indonesia to mark the transfer of the administration of West Irian by the United Nations to Indonesia. The historic transfer of West Irian, proceeding without a vote of the people of that former Dutch colony, highlighted the competing rights in play at the United Nations in these years.

#### **Day 4 of the Seminar: Thursday, 2 May**

Discussion on the use of tape recorders for taking police statements from suspects continued on the fourth day of the Seminar with a contribution from Commissioner Norman Allan of New South Wales. Allan had been appointed as Police Commissioner in the previous year; at the time he was the youngest Commissioner in the State's history. In his presentation Allan defended police methods of interrogation and argued that there were many occasions when use of tape recorders was inappropriate such as when equipment was unavailable in remote areas.

Later in the day a Melbourne psychiatrist, Dr Richard Ramsay Webb, representing the World Federation of Mental Health as an observer, attracted attention with a wide-ranging speech that addressed the powers of government and police to intervene with individual freedoms. On the one hand he argued that Australians had nothing to fear from compulsory fingerprinting and blood tests for drunken drivers, but he also spoke out against the use of lie detectors by police in the interrogation of suspects, and the arrests by police of people who had attempted suicide.

#### **Day 5 of the Seminar: Friday, 3 May**

This was probably the most dramatic day at the Seminar; for two reasons: firstly a speech by Shirley Andrews, an observer representing the UK Anti-Slavery Society for the Protection of Human Rights, speaking on police discrimination against Aborigines; and secondly a consideration of telephone tapping (wiretapping) of suspects.

Andrews reported that Aboriginal people were much more liable to be arrested than other Australians and under conditions which were a violation of their human rights. She highlighted examples of police mistreatment of Aboriginal people and criticised the dual role of police, not only in law enforcement but also as 'protectors' in some States, with dictatorial powers. Andrews' allegations cut through the polite tone of the Seminar; one newspaper reported that 'Delegates sat in stunned silence as Miss Shirley Andrews,



**9 Sir Garfield and Lady Barwick at the Indonesian Ambassador's reception, 1 May 1963**



**10 Shirley Andrews**



speaking for the Anti-Slavery Society, made these allegations ... Only one foreign delegate commented on Ms Andrews' speech - the Crown Counsel and Deputy Prosecutor of Singapore, Francis Seow, who said the speech had left him 'bereft of words.'<sup>24</sup> The immediate reaction was a suspension of ordinary business of the Seminar while police delegates denied the charges. In the days that followed Andrews enjoyed some support from a variety of sources but both police and politicians were vocal in their condemnation and denial of the claims in her statement.

The subject of telephone tapping was almost as sensitive. Zelman Cowen described telephone tapping as 'a very dirty business', while Justice McClemens argued that strict limits should be placed on their use by government or security agencies. Both advocated the necessity of judicial oversight and review in the use of telephone interception.

### Day 6 of the Seminar: Monday, 6 May

On resumption of Seminar sessions after a weekend sojourn in the Snowy Mountains, Commissioner Allan from New South Wales took up the debate on telephone tapping, arguing strongly in favour of police use of such powers: 'If the public is to be afforded maximum protection, police must be given every facility to catch the criminal.' Allan's argument was supported by Commonwealth Police Commissioner Ray Whitrod who said that it was a reasonable assumption that most people would support police use of telephone tapping if police thought it would help solve 'particularly revolting crimes.' A stark difference between police and other views was exposed by this debate. Allan's support for tapping was publicly opposed by the NSW Acting Premier as well as major newspapers. Ted Hook from the Commonwealth's Attorney-General's Department argued that telephone tapping was a grave invasion of human rights. He pointed out that the Commonwealth's *Telephonic Communications (Interception) Act* did not permit telephone tapping for the prevention of serious crime, but only applied when national security issues were concerned.<sup>25</sup>

### Day 7 of the Seminar: Tuesday, 7 May

Debate on this day included a discussion of police safeguards to prevent innocent people being prosecuted, as well as remedies for police wrong-doing. Commissioner Porter indicated that Victoria Police was aiming at dual safeguards to protect innocent people from unnecessary prosecution: (i) by attaching legal advisers from the Crown Law Department to the Police Department; and (ii) obliging police to discuss cases with



11 Professor Zelman Cowen, 1957



12 Victoria's Chief Commissioner Selwyn Porter, greets a new police recruit

senior officers not directly involved in the matter. Mr Justice McClemens argued that it was the duty of police to submit all relevant evidence to the court whether it supported their case or not.

Discussing the civil liability of police Zelman Cowen argued that the doctrine that police were not servants of the State was a 'bad historical doctrine'. An arrest was an 'end product' of a team effort by a number of police personnel. Cowen argued: 'I urge that we not be prisoners of our history and that the State should answer for the civil wrongs of its policemen.'<sup>26</sup>

### **Day 8 of the Seminar: Wednesday, 8 May**

On Day 8 debate continued on the criminal liability of police. It was a matter of concern to Victoria's Commissioner Porter that police as citizens could still become involved in court proceedings against other citizens as a result of their alleged wrong-doing as police. There followed a discussion of the structure and role of police disciplinary tribunals. Internal disciplinary proceedings were discussed, as well as disciplinary tribunals in which an independent body was chaired by a judge or senior official. Jack Meltzer, Secretary of the New Zealand Police Association, a member of his country's delegation, noted that disciplinary tribunal hearings in New Zealand were not open to the public unless permission was given by the relevant Minister. Meltzer was also the source of a rare mention of the rights of police when he clashed with Commissioner Allan over NSW opposition to political affiliation of police unions.

### **Day 9 of the Seminar: Thursday, 9 May**

On the second-last day of debate at the Seminar, delegates discussed a range of issues. Mr Hae Hyong Yoo of the National Police College of South Korea spoke in favour of a universal code of ethics that should be adopted by police forces throughout the world. This contribution fell within a wider discussion of police training. Yoo argued that since the fundamental responsibility of police did not differ greatly for country-to-country it was safe to conclude that the ethical requirements for police could be universally established. He argued that the United Nations and other international organisations should make a consolidated effort to establish such a code. Yoo was supported by Commissioner Porter but Assistant Commissioner Tyrer of Hong Kong and New Zealand's Commissioner Spencer opposed the idea. Tyrer argued that an international code of ethics would 'remove the police from the public' and that police ethics should be covered in each country's police regulations.<sup>27</sup>

External oversight of police was almost unknown in Australia, but emerging elsewhere. The Seminar heard detailed statements concerning review of police action by the Ombudsman in New Zealand, and by civil liberties commissioners and bureaux in Japan. The role of New Zealand's Ombudsman, appointed for the first time in 1962, was discussed, with an explanation of its derivation from the Scandinavian model. Mr B J Cameron of New Zealand's Justice Department explained 'that the essence of an Ombudsman was to provide some kind of remedy for acts and administration laws which were legal but unreasonable, oppressive, unjust or improperly discriminatory.'<sup>28</sup>

Further contributions on this day came from Commissioner Ray Whitrod speaking on the role of the Commonwealth Police, and Mr Stanley Johnston, representing the Society of Comparative Legislation, who addressed issues including the professional status of the police; the discretion of police not to prosecute unpopular laws; and relations of police with other departments of government and with the public at large.

### **Day 10 of the Seminar: Friday, 10 May**

Discussion at the Seminar ended in the early afternoon of Day 10 to allow work on a draft report to be presented to the Seminar's final meeting on Monday morning. One topic discussed was the rights of ex-

prisoners, especially in relation to their obtaining employment and shelter on their release from prison. Mr Justice McClemens argued that police should respect the privacy of ex-prisoners and that the use of information adverse to an ex-prisoner should only be authorised for ‘grave and weighty reasons’, and then only to the extent necessary to preserve the rights and freedoms of others.<sup>29</sup>

### **Day 11 of the Seminar: Monday, 13 May**

Addressing the concluding session of the Seminar, Sir Kenneth Bailey emphasised that the Seminar had broken new ground in being the first seminar on human rights held under United Nations auspices in Australia as well as being the first UN human rights seminar to consider the role of police. The sixty-page final report, drafted by the rapporteur John Ballard, was adopted at the final session of the Seminar.

The Final Report highlights points on which the Seminar reached agreement:

- That compulsory fingerprinting did not infringe human rights and that it was desirable as a means of identification, particularly in times of national emergency and disaster
- That police should be politically impartial and free from political influence
- That police should only be given clearly defined and limited discretionary powers to act within existing legislation and that they should not be permitted to make laws
- That a suspected person should be given the right of legal advice during detention and that he should be advised of his constitutional rights before interrogation
- That under no circumstances should force be used to obtain a confession or statement of guilt or implication in a crime
- Publicity and press reporting of disciplinary proceedings against police officers was not advisable as they could impair the morale of the police force.

The Seminar also requested that the United Nations Human Rights Division give consideration to the formulation of a universal police code of ethics to regulate the functions of the police in a democratic society. Further, the United Nations was asked to make exchange fellowships available to encourage collaboration in police training between countries in the ECAFE region. In the aftermath of the Seminar, the proposal for a police code of ethics received support of the International Federation of Senior Police Officers which in February 1964 forwarded a statement to the United Nations Economic and Social Council for consideration by the Commission on Human Rights. This referral had a longer term impact in the development of the UN Code of Conduct for Law Enforcement Officials (1979).

### **Some Observers at the Seminar**

As noted earlier the organization of the Seminar provided for government nominated delegates, with alternates, as well as observers from a range of non-government organizations. Opportunities for observer contributions were limited, but a number made good use of their time. Chief among them was Shirley Andrews, with others including Phyllis Frost and the Victorian judge, criminologist and civil libertarian Sir John Barry. Their participation and reactions to the event allow us to understand the possibilities as well as constraints of public debate at this time around the issues at the heart of the Seminar topic.

#### **Observers at the Seminar: Shirley Andrews**

Shirley Andrews, a Melbourne-based biochemist, was a leading advocate for the rights of Aborigines in the 1950s and 1960s. She was a founding member and Honorary Secretary of the Council for Aboriginal Rights in Victoria. Lady Jessie Street was responsible for Shirley Andrews attending the UN Seminar in Canberra. Jessie Street had lived in London for much of the 1950s and during that time had been a

member of the Executive of the UK Anti-Slavery Society. The Society was invited to send an observer to the UN Seminar. When Street declined the invitation, because of heavy commitments and poor health, she suggested that Shirley Andrews be nominated in her stead. Andrews accepted with enthusiasm:

‘I would be honoured to represent the Anti-Slavery Society at the Seminar as you suggested ... I will also start collecting information about oppression of the Aborigines by the police. This is a very live issue with the Aboriginal people, and something they all suffer from even in Sydney and Melbourne so there is no shortage of material.’<sup>30</sup>

Andrews was not sanguine about her forthcoming involvement in the Seminar. In March 1963 she wrote again to Jessie Street expressing some concerns: ‘It is not quite clear from the material they have sent what opportunity there will be for introducing the treatment of Aborigines into the discussion although there are a couple on abuse of police authority, etc where it should be possible to do so. It depends, of course, on what rules they have about [what] observers are allowed to do at a Seminar of this kind.’<sup>31</sup>

Subsequently Andrews negotiated with Bailey that she be allowed to make a contribution to the agenda item dealing with arrests and searches without warrant. She recalled later the attempts to manage her in advance of her intervention: ‘The Secretary, Mr Male made a point of asking how long I would speak for, and I don’t think he had asked anyone else this question. The Chairman ... [Bailey] ... had a little talk with me at morning tea in which he suggested that it would not be tactful to raise an issue that concerned only Australia when so many of the participants were Asians. He said that the Asians had so many more serious problems, for example terrorists, secret societies etc that the Aboriginal problem would seem very unimportant to them.’ In spite of this pressure, Andrews was anxious to proceed: ‘I know from contact with the Aboriginal people that they are very bitter at the way that the police treat them here, I felt that it was an important issue from the protection of Human Rights and also an issue that was very closely connected with the whole matter of the discriminatory laws relating to Aborigines.’<sup>32</sup>

The response to Andrews’ comments on Day 5 was immediate and dramatic. Andrews herself felt that the speech was the first really controversial matter that had been raised at the Seminar. The *Sydney Morning Herald* reported that the speech caused a suspension in ordinary business of the Seminar; Asian delegates agreed to suspend their speeches so that senior Australian police officials could respond to Andrews’ charges. Andrews was struck by their negative reaction and annoyance at her statements: ‘The Victorian Commissioner of Police [Porter] sought me out at afternoon tea after I made the speech and read me quite a lecture along the lines that I had caused him great personal mortification by mentioning these matters in front of Asian people. His main objection seemed to be not to my facts but that I had been so tactless as to mention them!’<sup>33</sup>

NSW Police Commissioner Norman Allan denied any discrimination: ‘There is not one tittle of evidence to show that there is any discrimination or improper action by the police in regard to the aborigines concerned.’ Andrews had highlighted the practice of police in Redfern rounding up groups of Aboriginal men who happened to be standing in the streets and charging them with offensive behaviour. The chairman of the NSW Aborigines’ Welfare Board also claimed to have no knowledge of discrimination by police against Aborigines in NSW. However, the Metropolitan Superintendent of Police responsible for the police in Redfern was more cautious in responding to the allegations; he indicated that in the following week together with other senior police officers he would be meeting with a Congregational clergyman to discuss allegations of police treatment of Aborigines.<sup>34</sup>

Others were more impressed. Jessie Street was in Canberra for the latter part of the Seminar and later wrote to the Anti-Slavery Society indicating that Andrews had ‘made a splendid report on the question of Aboriginal Rights in the limited time assigned to her’. She added: ‘They were quite disturbed when Shirley Andrews appeared and even more disturbed when she delivered her speech, which was factual and down to earth ... I think she showed great courage.’<sup>35</sup> Andrews had also written to the Anti-Slavery Society reporting on her speech and giving her general impressions of the Seminar. She noted that some of the delegates had told reporters that they would refer to the matter of discrimination against Aborigines in reports to the United Nations Headquarters. This was clearly a major objective for Andrews (and Street): ‘It would be wonderful if this could lead to the whole question being raised on a higher U.N. level. It has always been our ambition to get the racial discrimination against Aborigines officially raised at [the] U.N. but there seem to be so many technical difficulties in the way of doing this ...’<sup>36</sup>

The scale of Andrews’ intervention became evident when Victorian Aboriginal activist Margaret Tucker wrote to Bailey drawing attention to ‘press reports issuing from the Canberra Seminar on the treatment of my people’. She included a mimeographed statement that she asked to be circulated to delegates. Tucker’s letter and request alarmed Bailey and his Attorney-General’s Department colleague Ted Hook. Hook had ‘warned’ Bailey about this:

‘An N.G.O. having only consultative status has no right to attack a government and it was quite obvious that Miss Andrews intended to do precisely this. ... But to come to our present problem, a private individual has no status before this seminar. ... Normally we only circulate documents submitted by non-governmental organizations in consultative status with ECOSOC and then only if they contain no attacks against governments. ... What troubles me a little is that the Seminar did (on UN invitation originally & then by our own vote) give a hearing to some exceedingly wild & severe allegations made by an international organisation on behalf of Australian aborigines.’<sup>37</sup>

In the end it appears that Margaret Tucker’s statement was not circulated to delegates. Five weeks after her time in Canberra Shirley Andrews wrote to Sir Kenneth Bailey, defending her speech to the Seminar: ‘I did try and make it clear when I spoke at the U.N. Seminar ... that the discriminatory laws are the main reasons for the unsatisfactory relations which exist between the Aboriginal people and so many of the police. As it seemed inappropriate to speak for very long, I did cut my remarks as short [as] possible, so that this point may not have come out as strongly as I intended it to do. In addition, my criticism of the police attitudes was emphasised by the very defensive attitudes immediately adopted by the senior police officials present.’<sup>38</sup>

### **Observers at the Seminar: Phyllis Frost**

In October 1962 the Honorary Secretary of the Australian National Council of Women had written to Sir Garfield Barwick requesting that Phyllis Frost attend the Seminar as an observer. This request was declined as the Council was not a UN affiliated organisation. However, Barwick mentioned that the International Council of Women did have UN affiliation and was also affiliated with the Australian Council and so the international body would be able to nominate Phyllis Frost as an observer. She was well qualified for the role, being a foundation member of the Parole Board of Victoria; Chairman of the Fairlea Women’s Prison Council from its inception; and Council member of the Prisoners’ Aid Society. In 1955 and 1956, at the prompting of Mr Justice Barry, she had engaged in part-time criminology studies at the University of Melbourne.

Frost attended the Seminar as observer and on Day 6 presented a statement on behalf of the International Council of Women. She predicted that the crime rate among women could be expected to rise as women achieved more equality of opportunities with men. She indicated that much of the routine work done by male police officers could be done by other members of the community and by policewomen.

After the seminar Frost criticised the limited representation at the seminar: 'I was very disappointed to see that the 15 Australian representatives had been drawn from only two sections of the community – the police and the legal profession. ... There was not one representative who was an ordinary member of the community.'<sup>39</sup> A month later Sir Kenneth Bailey wrote to the Secretary of the National Council of Women of Victoria, responding to the criticism. In a long and detailed letter Bailey defended the representation as being in accord with the requirements of the United Nations. He also maintained that representatives of observer organisations had been given ample opportunity to make presentations at the Seminar.<sup>40</sup> In spite of Bailey's defence, one of the notable features of the Seminar's final report is the absence of any specific reference to the contribution of observers. Replying to Bailey Frost said she had been misrepresented by the reporter from *The Age* but still drew attention to the failure of the Seminar's final report to acknowledge the contribution of observers: '... While thanks to your generous Chairmanship observers' voices were heard often on the subjects under consideration – they had no voice (as did the participants) in the final conclusions arrived at - & I think that if they had, some decisions of the Seminar would have been different.'<sup>41</sup>

### Observers at the Seminar: Sir John Barry

In July 1962 when Ted Hook forwarded a memorandum to Sir Kenneth Bailey discussing the possible composition of Australia's delegation to the UN Seminar, the name of Sir John Barry of the Supreme Court of Victoria was one of the names suggested. Although Barry was well known to Barwick and Bailey, he was not nominated by the Commonwealth; instead he received approaches from two international organisations, both affiliated to the United Nations, requesting that he represent them as an observer at the 1963 Seminar. The organisations were the International Society of Criminology and the Society of Comparative Legislation. Because of work pressures Barry could only attend during the first of the two-week Seminar and he shared observer duties with Stanley Johnston of the University of Melbourne's Criminology Department. Barry represented the International Society



13 Sir John Barry

14 Delegates listening to opening speech

of Criminology, and Johnston, the Society of Comparative Legislation. Barry was also invited to represent the International Commission of Jurists but because of his other commitments this role was undertaken by the Sydney barrister, John Davoren, QC.

Both Barry and Stanley Johnston attended from the opening day of the Seminar. The record shows that both made presentations (Stanley Johnston in the second week) but there is no specific reference to the contribution of any observers in the final report on proceedings. We do know that Barry in particular thought dimly of the police contribution. As he told his friend Julius Stone later: ‘... I could not face returning to Canberra. The real value of the Seminar seemed to me the perturbing revelation of police attitudes.’<sup>42</sup> Later, in a letter to Norval Morris he was no less critical. Morris had received feedback from Sir Kenneth Bailey who ‘thought it well worth the time and energy that was put into it’. Barry’s response was blunt: ‘The UN Seminar on Police and Human Rights at Canberra was frightening in its revelation that the police attitude is the same everywhere, and is endurable only if carefully watched and held in check.’<sup>43</sup> One reason for Barry’s critical response to the Seminar would have been the negative and critical reaction of the police commissioners and Seminar organisers to the speech by Shirley Andrews. He had already praised Andrews’ contribution as ‘a humane and civilized utterance.’<sup>44</sup>

## Conclusion

In contrast to the critical views of these observers, John Humphrey later described the Seminar as ‘one of the best in the series’. In retrospect he still considered the subject a good one: ‘The police are sometimes guilty of violating the most fundamental rights, but they also protect human rights. The excellent discussions were well covered by the press and we made a real impact on the public.’ He went on: ‘The participants came from all over Asia; but it was the Australian delegation, which was made up largely of judges and police commissioners (who could be expected to have radically different points of view) that kept the debate going.’<sup>45</sup>

There was no verbatim record of the proceedings and therefore no way of assessing the contribution of Australian delegates and that of delegates from any other of the participating countries. We only have the press coverage of the daily proceedings. The press was well represented at the Seminar but the majority of the newspaper coverage was focussed on domestic issues and the stance of Australian delegates with respect to those issues.

The archival record of the Seminar does suggest some disappointment by the organisers at the calibre of participants from Asian countries. In February, before the Seminar, Mr Justice Gordon Wallace of the NSW Supreme Court had written to Bailey requesting the names of some of the ‘distinguished overseas visitors’ scheduled to attend the forthcoming Canberra Seminar. Wallace and the NSW Solicitor-General, Harold Snelling, were hoping to invite one of these visitors to address a meeting in Sydney of the International Law Association. Bailey’s response reflects a disappointment at some of the absentees from the Seminar. He regretted that the permanent head of Ceylon’s Ministry of Defence and External Affairs had been replaced by a more junior officer and that India had been represented by a Deputy Minister for Law. Similarly he noted the absence of Solicitor-General Richard Wild from New Zealand’s delegation.

In the *NSW Bar Gazette* the Sydney barrister John Davoren, who had attended the Seminar representing the International Commission of Jurists, expressed disappointment at the failure to fully exploit the expertise of observers:

From an examination of the report, it may reasonably be stated that the discussions of the

Seminar tended to disregard the title of 'The Role of the Police in the Protection of Human Rights' and concentrated on exchanging ideas on police methods. Some discussion certainly centred on whether such methods infringed human rights or whether any infringement of human rights in particular types of cases was justified in order to combat crime. Most of the participants expressed the view that the methods that they used, really did not infringe human rights, but, if in some circumstances they did, such infringements were justified in the community interest.<sup>46</sup>

Shortly after the Seminar concluded, Julius Stone broadcast his assessment on ABC Radio. Stone acknowledged the important differences in legal, constitutional and political standing of the countries represented at the Seminar, categorising these differences as (i) developed / undeveloped countries; (ii) accusatorial system from the English common law / inquisitorial system of continental Europe; and (iii) emergency conditions / normal conditions. Stone argued that in spite of these differences the strength of the Seminar was in making police and prosecutors from each country aware that on many matters there were recognised international standards of police and conduct, a kind of code of police ethics. At the same time Julius Stone expressed disappointment at police response on specific issues, evident in the state of denial by Australian police chiefs following Shirley Andrews' speech. He also lamented that the State of Queensland had only been represented by an inspector of police. Stone's concluding remarks focussed on limitations highlighted by other observers at the Seminar such as Sir John Barry and Phyllis Frost. Both had remarked on the failure to effectively utilise observers at the Seminar. In Stone's words: 'The creative sessions were provoked by two or three participants who were not officials, aided by Observers from non-governmental voluntary bodies who strictly were not participants, and had only a limited right to join in.'<sup>47</sup> In these observations Stone observed the achievement of the Seminar, a first in many ways, while also registering the contemporary constraints on its reach and impact.

<sup>1</sup> Stone, J (1963). *Australia Looks to the World: the Police and the People*, Radio broadcast (12 May 1963), National Library of Australia (henceforth, NLA) MS 2505/37/96

<sup>2</sup> Moyn, S (2012). *The last utopia : human rights in history*. Cambridge, MA: Harvard UP

<sup>3</sup> Morris, N (1958). Human rights and the criminal law in South-East Asia. *University of Tasmania Law Review*, 1(1), 68-79

<sup>4</sup> *Ibid.*

<sup>5</sup> Note of Conversation Between Sir Kenneth Bailey and Mr John P Humphrey (10 June 1960), National Archives of Australia (henceforth, NAA) A432, 1960/2338

<sup>6</sup> Humphrey, J P (1984). *Human Rights & the United Nations: a Great Adventure*. Dobbs Ferry, NY: Transnational Publishers

<sup>7</sup> Memorandum from S F Parsons [on] Proposed U.N. Seminar, Australia, 1963 (20 February 1961), NAA A432, 1961/3035 Part 1

<sup>8</sup> Letter from N Morris to S F Parsons (10 April 1961), NAA A432, 1961/3035 Part 1

<sup>9</sup> Memorandum from S F Parsons, 1 March 1961: Proposed United Nations Seminar on Human Rights, NAA A432, 1961/3035 Part 1

<sup>10</sup> Morris, N (1962). Human Rights and Criminal Law: Progress and the United Nations. *Police*, July-Aug, 23-25, 50

<sup>11</sup> Humphrey, *Human Rights*, op.cit.

<sup>12</sup> Letter from G Barwick to R R Downing (NSW Attorney-General), 16 Nov 1961, NAA A432, 1961/3035 Part 1

<sup>13</sup> Minute from E J Hook to K H Bailey, Seminar on Human Rights, Canberra, 1963 (18 July 1962), NAA A432, 1961/3035 Part 2

<sup>14</sup> Memorandum from E J Hook for the Secretary, Department of External Affairs (6 August 1962), NAA A432,



- 1961/3035 Part 2; also NAA M1505, 1333 Part 2
- <sup>15</sup> Cablegram from the Australian High Commission, Wellington, to the Department of External Affairs, 19 February 1963, NAA A432, 1961/3035 Part 3
- <sup>16</sup> Memorandum from W T Doig, Department of External Affairs, to Australian embassies and high commissions, ECAFE area, 7 February 1963, NAA A432, 1961/3035 Part 3
- <sup>17</sup> Cablegram from the Australian Embassy, Vientiane, to the Department of External Affairs, 6 March 1963, NAA A432, 1961/3035 Part 3
- <sup>18</sup> Report of the Conference Officer, R B Hodgson (17 May 1963). United Nations Human Rights Seminar – Canberra, April-May 1963 – Meeting – General, NAA A1838, 1481/31/1
- <sup>19</sup> New South Wales Bar Association (1963). *Bar Gazette*, no.6, 3
- <sup>20</sup> Can Do Without Fingerprinting, *The Herald* (Melbourne) (30 April 1963), 4
- <sup>21</sup> See Mark Finnane (2009) Controlling the “alien” in mid-twentieth century Australia: the origins and fate of a policing role. *Policing and Society* 19(4): 442-467.
- <sup>22</sup> Halting Riots Advice, *Canberra Times* (1 May 1963), 22
- <sup>23</sup> Tape Recorders for Suspects’ Confessions: Police Challenge to Judge’s View, *The Times* (London) (2 May 1963), 2
- <sup>24</sup> Law-Made Tyranny ‘Against Aborigines’, *Canberra Times* (4 May 1963), 3,7
- <sup>25</sup> Police Chief Urges Telephone Tapping for Crime Detection, *The Age* (7 May 1963), 5
- <sup>26</sup> Police Force Needs Inbuilt Guard Against Injustice, *The Age* (8 May 1963), 6
- <sup>27</sup> Police ‘Need’ World Ethics, *Canberra Times* (10 May 1963), 6
- <sup>28</sup> Rights Guard Recommended, *Canberra Times* (10 May 1963), 6
- <sup>29</sup> Keep Secret on Former Prisoners, Says Judge, *The Age* (11 May 1963), 3
- <sup>30</sup> Letter from S Andrews to J Street (21 August 1962), State Library of Victoria (henceforth, SLV) MS 12912
- <sup>31</sup> Letter from S Andrews to J Street (3 March 1963), SLV MS 12912
- <sup>32</sup> Letter from S Andrews to T Fox-Pitt (7 May 1963), SLV MS 12912
- <sup>33</sup> *Ibid*
- <sup>34</sup> ‘Aboriginal Injustices’ To Be Discussed, *Sydney Morning Herald* (8 May 1963), 2
- <sup>35</sup> Letter from J Street to T Fox-Pitt (11 May 1963), SLV MS 12912
- <sup>36</sup> Letter from S Andrews to T Fox-Pitt (7 May 1963), SLV MS 1291237Memo from E J Hook (?) to K H Bailey (?) (May 1963), NAA M1505, 1333 Part 2
- <sup>37</sup> Memo from E J Hook (?) to K H Bailey (?) (May 1963), NAA M1505, 1333 Part 2
- <sup>38</sup> Letter from S Andrews to K H Bailey (28 June 1963), SLV MS 12912
- <sup>39</sup> Police Seminar Criticised, *The Age* (17 May 1963), 15
- <sup>40</sup> Letter from K H Bailey to the Secretary, National Council of Women of Victoria (30 June 1963), NAA A432, 1961/3035 Part 4
- <sup>41</sup> Letter from P Frost to K H Bailey (9 July 1963), NAA A432, 1961/3035 Part 4
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- <sup>45</sup> Humphrey, JP (1984). *Human Rights & the United Nations: a Great Adventure*, 294
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## About CEPS

The Australian Research Council (ARC) Centre of Excellence in Policing and Security (CEPS) was established in 2007 under the ARC Centres of Excellence special initiative to boost policing and security research capacity in Australia amid the growing complexity and internationalisation of transnational crime in the post 9/11 environment. Headquartered at Griffith University, the ARC Centre partnership includes The Australian National University, The University of Queensland, and Charles Sturt University. CEPS has developed numerous partnerships with industry partners, and Australian and international researchers.



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