

## **Kate Eastman – Human Rights Career Series Seminar**

**8 September at the Law Faculty, Monash University, Clayton.**

**(edited transcript)**

Thank you very much for asking me to come along today. I might preface my comments by saying it feels like yesterday that I was sitting in a room like this attending a seminar like this wondering what I might ever do with my law degree. I will also say that I don't like talking about myself. I would rather speak on behalf of others. However, Sarah has asked me to tell you about my work as a barrister in the area of human rights.

Everyone has their own path and being a barrister practising in the area of human rights is one path of many which may be followed by those interested in human rights and social justice. When I think about human rights barristers, I think about Geoffrey Robertson QC. In London when you talk about human rights barristers you immediately think of Geoffrey Robertson or Cherie Blair. They are internationally well known and they are quite famous in their own right. In Australia it is more pedestrian. There are not many barristers who work in the area of human rights and barristers generally do not have the level of public recognition about the work we do and the type of cases we are involved in. While I work in the area of human rights, my work is focused on Australian human rights rather than the international work for which these English barristers are so well known. Australia has few opportunities in human rights compared to those working in Europe.

So a little bit of background and history about myself. I have been obsessed with human rights since I can first remember so that is probably the reason why I work in the area now. I have always been interested in social justice issues. I can't tell you why that is or how it came about. It may well be because of the sorts of things that my parents do or my family are involved in but my parents are not lawyers and no-one in my family had anything to do with law until I first decided I wanted to go to law school.

I started law school naively believing that law was about justice and helping people. I still naively believe that law is about justice and helping people. If you have the education and the opportunity and the privilege to study law in a university like this, or where I studied at the University of New South Wales, then part of your responsibilities as a member of the community and a member of civil society, is to contribute that knowledge and that learning to help other people who are less fortunate. I know not all lawyers have that view but that's where I come from.

I was very lucky to study at UNSW with Professor Garth Nettheim. He was at the forefront of promoting Indigenous rights and looking at law from a human rights perspective. I went through law school doing a whole range of subjects. In my second last year of law, I participated in the summer clerkship program. I was offered a summer clerkship with Allen Allen & Hemsley. When I worked at Allens in Sydney it was a colourful law firm. It was a firm interested in giving their graduates and their summer clerks opportunities to work in a whole range of areas. I was determined to see something human rights related in the firm's commercial practice. My summer clerkship exposed me to areas where human rights law touches upon commercial law. I worked on a defamation matter which involved a child's rights. I worked in the mining law group and assisted on writing an advice on petroleum rights in the Timor Gap. My task was to examine whether there could be a legally enforceable right to self-determination in East Timor in international law. This was in 1988-1989 and of course predated the 1995 International Court of Justice litigation about that very issue.

When I finished my undergraduate degree, I wanted to do some more study – in particular a Masters in International Human Rights Law and European Law. When I finished law school, I went off to London University and that was a bit of a life changing event for me. I studied with Dame Roslyn Higgins who is now a judge at the International Court of Justice. She was on the UN Human Rights Committee at that time. So to study human rights law with her was to bring the cases to life. I became very interested in how human rights worked in a practical setting and how what was happening in Europe and the sorts of cases that were being run under the European Convention of Human Rights could be translated into Australia and I got very fired up about Australia joining the First Optional Protocol to the ICCPR. I also volunteered to work for Article 19 which is an NGO promoting free speech.

I had a terrific time in London and then had to come back and work at Allens. Because I wanted to keep up my interest in human rights, I joined a number of NGOs in Australia, like Australian Lawyers for Refugees. I also set up the Australian Lawyers for Human Rights (ALHR), with another friend. A few months after I started working at Allens some refugees started arriving in the northern part of Australia, only to find themselves in the first form of mandatory detention, in Port Hedland. When I worked at Allens, the firm agreed that I could travel to Port Hedland on a pro-bono basis to assist with the Australian Lawyers for Refugees working on refugee applications. That work continued after I returned to Sydney and one of the cases ended up as the

High Court's *Wu Shan Laing* decision. Allens provided its services pro-bono on a number of important refugee cases in the early 1990's.

I continued at Allens for a number of years. I did secondments to community legal centres and other human rights activities. I also studied for a second LLM at the University of Technology. Allens were fantastic in providing those opportunities. Now many of the large law firms in the city have pro bono practices. For example, Mallesons now has a human rights law group within the law firm so there are enormous opportunities to do human rights law within the resources of a large law firm.

However, my dream job was to work at the Human Rights and Equal Opportunity Commission. In 1995, I was lucky enough to get a job at HREOC when Sir Ronald Wilson was the President. It was a very, exciting time to work at HREOC and all I did was human rights law all day every day. I used to look forward to going to work so much. It was so exciting and it was a challenging place, in a sense, brought the reality of human rights in Australia home. My work involved all aspects of discrimination law and interventions in Court proceedings where human rights issues arose.

After a number of years at the Commission, I wanted to do more advocacy work. As a girl I thought there was no way I could go to the Bar - its too scary. A couple of the QCs, including Ron Castan, said if you really want to do that then give it a shot.

I have now been at the Bar for the last 7 years. It is difficult to describe the type of work I do at the Bar, as every day is different. No case is ever the same. As a barrister you are self employed, you have to run your own business, you have slow times, you have fast times and you have very scary times. Not all the matters I'm involved in have a human rights element. One has to be prepared to do the range of work which comes along. Some of the matters I have been involved in include High Court litigation about international child abduction, disability discrimination law, access to IVF services/sex discrimination and migration detention. I have also been asked to be in court on a Sunday when the *Tampa* case was in full flight!

Since I have been a member of the Bar, I have also had the opportunity to teach and do other types of consulting work. A couple of years ago, I worked with Unifem Australia on a project concerning women's rights in Afghanistan. This involved travelling to Kabul with another Australian lawyer. I have been involved in teaching human rights in Burma, working in collaboration with Monash University, Professor Kinley, Sarah Joseph and Chris Sidoti. This is

an example that doing human rights law is not always doing popular law. Often when you work in the area of human rights, you have to act for unpopular people, unpopular causes and you have to have the strength to withstand criticisms - often personal criticisms about the work you do and the people you represent. Burma has been an interesting area where we have undertaken a lot of work, we think for a good purpose but also met a lot of criticism.

As a barrister you also have to be prepared to act on all sides of a matter and that's often a challenge for those that are at the Bar doing the area of human rights law. There have been times where I have been briefed to appear for governments in human rights law cases to defend alleged human rights breaches.

So in conclusion, if you are interested in working in the area of human rights and being an advocate, you don't have to be extraordinary, you don't have to be a Geoffrey Robertson to be a human rights barrister. You just have to be able to work hard, have your wits about you, withstand some criticism and not be in it for the money. The area of human rights is not as remunerative as other areas. If you are prepared to do the work, then it is an immensely rewarding career and one of enormous opportunities. You never quite know when those opportunities might come up but the opportunities are there.