

Welcoming Remarks

The Honourable Mr. Justice Jamie W.S. SAUNDERS*

As we come together over the next few days to share our experience and concerns in the field of human rights we will, undoubtedly, hear many expressions of what is meant by the words "Human Rights".

Surely they must include respect for human dignity; tolerance of others; a commitment to the principles of fairness and justice and equality and a recognition that, in order to be truly free, one must be given sustenance to live and the opportunity to maintain oneself.

It was of these qualities that Nelson Mandela spoke when at his trial, in 1964, he said:

I have fought against white domination. I have fought against black domination. I have cherished the idea of a democratic and free society in which all persons live in harmony and with equal opportunities. It is an ideal I hope to live for and achieve. But if need be, it is an ideal for which I am prepared to die.

After 26 years in prison, much of it spent in horrible, solitary conditions, President Mandela was living proof of the resilience of the human spirit when he was still able to say, in his inaugural address delivered to the people of South Africa on May 10, 1994:

[...] We must strive to reinforce humanity's belief in justice, strengthen its confidence in the nobility of the human soul and sustain all our hopes for a glorious life for all [...] (in) [...] *a rainbow nation at peace with itself and the world.*

It strikes me that it was no accident that President Mandela entitled his inaugural speech *Let there be work, bread, water and salt for all.*

From the earliest of times, when people first gathered together to live in groups, we have faced the challenge of defining and protecting human rights. As the breadth of human experience and enterprise expanded borders beyond villages and city states, the protection afforded to human rights by a particular country's domestic law or institutions was often shown to be flawed and inadequate.

Au fil des siècles, les droits de la personne sont devenus partie intégrante des lois internationales.

* Supreme Court of Nova Scotia, Halifax, Nova Scotia.

Ainsi, aujourd'hui ces droits sont considérés primordiaux, des droits auxquels chaque personne peut faire appel contre une action gouvernementale qui est défendue par une loi ou une coutume internationale.

En organisant ce congrès et en dressant la liste des participants, nous avons cherché à examiner la question sous ces angles; telle qu'elle s'articule aujourd'hui, et la vision que nous pouvons en former pour le siècle à venir. Nous l'avons également conçue dans un contexte national et international, ici au Canada et dans le monde.

Historians remind us that the law is often slow to address the protection of rights we too frequently take for granted. Its focus has been reactive as opposed to visionary.

History has also taught us the calamity that befalls any civilized nation when the tyranny of fear muzzles two of the principal pillars of democracy — an independent judiciary and an independent Bar. We have come to depend on such non-governmental agencies as the International Commission of Jurists to publicize gross violations through their own vigilance, careful investigation and advocacy. They have managed to bring international scrutiny and worldwide pressure to bear on breaches of human rights spanning the globe. We are pleased that the ICJ, through the auspices of its Canadian section and its President, Justice Robert Wells, has joined with CIAJ in presenting that portion of this afternoon's program identified in your material.

This then lends the framework to what has been prepared for you. It sets the stage for us to admit the terrible burden borne by many, through no other reason than their *differentness*, or their gender, or the fact that their ancestral roots happen to be aboriginal, or black, or because the misfortunes of life have cast them as being disabled, or uneducated, or hungry, or impoverished.

Cela nous permet de poser des questions qui incluent les suivantes :

- Jusqu'où doit-on protéger la liberté individuelle?
- Existe-t-il une tension entre les cours, les gouvernements et les assemblées législatives dans la définition et dans l'exercice de leurs rôles distincts dans le domaine des droits de la personne?
 - Si oui, est-ce qu'une telle tension serait un symptôme d'une démocratie en bonne santé?
 - How does one balance human rights and freedoms with societal and personal responsibility?
 - How well equipped are our institutions to protect the cultural heritage and legitimate aspirations of minorities?
 - Who decides legitimacy?
 - Are courts the best place to have such questions answered?

- Have we made our rules and procedures so expensive and cumbersome as to threaten the very existence of the institutions established to protect human rights?
- How must the roles of the Bar and the Bench change in the 21st century to address any of these concerns?

As we approach the next millennium where information is stored in gigabytes and dispensed in nano-seconds, we must be prepared to bring new vision and insight to the challenge of championing democracy and human rights here and abroad. This requires broad-mindedness and tolerance for the heritage and aspirations of others, as well as confidence in our own ability to enlighten and to serve.

I restrict myself to thanking Christine Huglo-Robertson and her staff at CIAJ headquarters in Montreal for their tireless efforts on your behalf as well as to my friend and colleague Professor Tom Cromwell, a man of exemplary reputation as teacher, author, lawyer and law reformer. It was a distinct privilege for me to work with Tom on this project. His wise counsel, willing hand and continuous good humour made the whole experience memorable and a real pleasure.

To all of you who have come, we think you will be provoked. We hope you will be challenged. We know you will be informed. Please enjoy what our city and province have to offer.

I would like to conclude these opening remarks by referring to the inspiration and insight offered by Burmese activist and Nobel Prize laureate, Aung San Suu Kyi in the keynote address by videotape to the Forum on women at Beijing in 1995. After describing the global forces which affect the quality of life of the human community, she said:

[...] Six years of house arrest afforded much time and food for thought. I came to the conclusion that the human race is not divided into two opposing camps of good and evil, It is made up of those who are capable of learning and those who are incapable of doing so.

[...] As we strive to teach others we must have the humility to acknowledge that we still have much to learn. And we must have the flexibility to adapt to the changing needs of the world around us.

