

Do we need a Human Rights Body for the Asia-Pacific? Lessons from around the Globe

By Kate Mulvany

While regional human rights bodies exist in Europe, the Americas, Africa and the Arab states, the absence of a regional body in the Asia-Pacific generates ongoing discussion. In September, Holding Redlich Distinguished Visiting Fellow and Commissioner of the Inter-American Commission on Human Rights Professor Dinah Shelton provided valuable insight into the area at a packed-out Castan Centre event.

Professor Shelton began her lecture by emphasising that regional human rights bodies have made a significant contribution to the development of human rights law. Indeed, as she explained, most of the major innovations in international human rights law, regarding both norms and procedures, originated at the regional level.

Professor Shelton moved on to address the interplay between the universality of human rights and regional diversity. While the regional bodies draw inspiration from the *Universal Declaration on Human Rights* regarding the content of rights, she said, regional issues are often prioritised and rights may be interpreted differently between regions. For example, in relation to the right to freedom of speech, both the European and Inter-American systems protect this core right. However, the right is interpreted more narrowly in Europe, an approach that reflects the cultural and historical context of the region regarding incitement and hate speech. Rather than eroding human rights law, Professor Shelton argued, such differences in interpretation actually contribute to the law's development by allowing it to adapt to the practicalities of unique, region-specific human rights dilemmas.

Professor Shelton then turned to the key requirements for an effective regional human rights body. Citing the work of Christof Heyns, she identified an adequate level of respect for human rights within states' domestic systems, support for court orders via state peer-pressure, a transparent process for the appointment of independent and expert judges, and an adequate budget as fundamental requirements in this regard.

Specific requirements would exist in relation to the development of any potential human rights body for the Asia-Pacific. In particular, Professor Shelton noted, such a body would have to overcome the challenge presented by the unique lack of geographic proximity in the region. Further, a key step in the establishment of any such body for the Asia-Pacific region would be the involvement of Japan, in order to balance any perceived Australian dominance, she argued.

Discussion then concluded on a positive note, as Professor Shelton stressed the enormous benefits that can be derived from regional human rights bodies, and the potential role that the Association of Southeast Asian Nations could play in the future. Overall, the event was extremely successful, attracting one of the largest Castan Centre audiences of the year.

Professor Dinah Shelton visited Australia as a Holding Redlich Distinguished Visiting Fellow.



Dinah Shelton speaking at the event.