

Abstracts

Two ways of bringing rights home

MARIUS EMBERLAND

The article compares the parallel discourses preceding the enactment of the United Kingdom's Human Rights Act 1998 and its Norwegian counterpart *Menneskerettsloven* 1999. Comparing participants in the discourse, topics that were discussed, and how the discourses were framed, the article analyzes the two national human rights implementation debates. While the British debate involved numerous different participants from several walks of life, in Norway the implementation was debated by and for a limited number of jurists, mostly employed by public authorities. While the British discourse involved a broad range of questions of legal, political and societal importance, the Norwegian discourse was predominantly

limited to technical legal issues of interest to jurists only. While the British debate was heated and polemic, and acknowledged both positive and negative effects of human rights law, the Norwegian debate was subtle and underestimated possible consequences of the enactment.

The article claims that the Norwegian debate falls short in comparison with the British discourse, in consideration of fundamental ideals of democratic discourse. Thus, it is asserted that Norwegian lawyers – and possibly other Nordic lawyers as well – should look to Britain if ever in wonder of what consequences are embodied in the enactment of human rights implementation.

The Relationship between Voluntary and Non-voluntary Measures in Child Welfare Service

ELISABETH GORDING STANG

The central issue of the article is the relationship between voluntary and non-voluntary measures in child welfare services. The article also focuses attention to non-voluntary aspects of different measures which are normally seen as voluntary because they are based on consent. The dilemma which appears from the discussion of consent in child welfare law is a consequence of conflicting interests between the child and her parents.

Improving the parents' rights and legal safeguards within the legal system would probably in many cases cost the child its right to assistance, and accordingly make the best interest of the child an illusion. The core question may rather be the opposite: to what extent diminishing legal safeguards for parents in order to secure the rights of the child, would be in accordance with fundamental democratic values and human rights.

Regulation and administration of deliberate release of genetically modified organisms in Norway

JENS PLATHE

A comparison shows that the Norwegian administrative practice regarding deliberate release of genetically modified organisms has been considerably more restrictive than that of the European Union. Of a total of 32 applications for release permission, the EU has decided on and approved 16. Out of these 16, Norway has decided on 12, whereof 4 were approved and 8 were denied. Restrictive practice was intended when the Gene Technology Act was passed in 1993, and to that end, the Act included some standards which state that significant emphasis shall be placed on whether the deliberate release in question represents a 'bene-

fit to the community' and a contribution to 'sustainable development'.

Nevertheless, it turns out that 'sustainable development' is of little significance in the administration of the Act, and thus has not been attributed any clear content as a standard. It is the non-damage provision, the precautionary principle, the 'benefit to the community' standard, and a 1997 Parliament resolution that have had the most significant bearing on the outcome of the applications that have been considered. A more active use of the 'sustainable development' standard would probably have led to fewer approvals.

Law on Same Sex Partnerships: A Step Forward or two Backwards

INGRID BRÄNNARE OCH TOMAS FAXHEDEN

~~The Swedish law on same sex partnerships from 1995 is generally held to express equality and social progress. A critical reading from a queer theoretical perspective, however, gives that the law maintains the prevalent hierarchical order between homo- and heterosexual couples. It is superficial reform that maintains the current order.~~

Respect for family life as a human right and the alternative care of children: Problems in Finland

LIISA NIEMINEN

The article discusses human rights problems in child protection in Finland, and especially in cases in which a child is removed from the family home by the public authorities to be placed with alternative carers.

In Finland the parliamentary ombudsman has an important role as a guardian of the

rights of children. In the supervision of legality she has found that there are often problems specifically in the contacts between children who have been taken into care or committed to institutions and their parents (access restrictions).