

Australian Human Rights Record of Global Concern

Justice Kirby Collection

Date: 11 February 1994

Author: The Hon Justice Michael Kirby AC CMG, President, Court of Appeal, Supreme Court of NSW (1984 - 1996)

Type: Speech

Subjects: Human Rights, Australia

Organisation: Bond University

Location: Bond University, Queensland

EMBARGO: FRIDAY 11 FEBRUARY 1994 7 P.M.

Gold Coast, Friday Australia's human rights record is a legitimate matter of international concern. This was said tonight by Justice Michael Kirby when delivering a Focus 2000 address at Bond University. Justice Kirby said that the days when individual countries or states could offend international principles on human rights or judicial independence were gone. He said that Australia was just as much obliged to conform to international law as was Iraq or Somalia. The world was watching closely our response to Aboriginal claims to traditional land. Justice Kirby said that it was the legitimate role of judges to call attention to departures from basic international principles. If they did not do so, nobody else might do so:

"There are still some Australian backwoodsmen who hanker for the old days of isolation and unquestioned national sovereignty. But those days disappeared with the mushroom cloud over Hiroshima. The world today is linked by jumbo jets, cellular telephones, interactive computers and many common problems. We cannot solve AIDS in our own individual countries. We cannot effectively respond to the dilemmas of the Human Genome Project in the legislature of an Australian State. We cannot respond to the new empire of intangible power - the global media and its handful of owners - on our own. Like it or not, the world is increasingly thrown together. We must therefore develop an increasingly effective machinery of international government. Inevitably this will mean that nation states, including our own, will lose some of their sovereignty. This is happening already. It is a natural historical process. It finds reflection in politics. But it also finds reflection in the law. That reflection includes a universal concern about the respect for human rights and for the independence of judges and other like decision-makers. That is why, when there are assaults in one country upon these basic principles it is the duty of judges and other lawyers to point them out, in the hope that the political processes will respond and correct the wrongs. This is an act designed to ensure that the political process works in an effective and democratic way", Justice Kirby said.

Justice Kirby responded to criticism by a columnist in the *Australian* newspaper directed at his action in speaking at a dinner in Melbourne upon the abolition of the office of the Commissioner for Equal Opportunity, held by Ms Moira Rayner:

"We in Australia used to look with pride at the stability and independence of our judicial and quasi-judicial institutions. We regarded the sacking of judges as something that happened

Australian Human Rights Record of Global Concern

Justice Kirby Collection

only in Third World countries. Yet in the past five years we have seen the development in Australia of the practice of getting rid of judges, and other independent office-holders, by the simple expedient of abolishing their courts and tribunals. This was achieved by the Federal Labor Government in the case of Justice Staples. It has been followed with enthusiasm by State Coalition Governments. It is not a political act to call this development to public attention. The accumulation of cases is now a source of real concern. How can we expect judges and other independent office-holders to act with integrity and courage when they know that if the Government or Opposition do not like what they do, they can be simply removed by abolishing their position. This would never have happened in the past. It is a breach of international principles protecting the independence of judges and lawyers. If judges do not speak up against this conduct, it will pass unnoticed and we will have lost a precious feature of our society that helps to guard our liberties."

Future human rights issues

Justice Kirby listed a number of future issues for human rights which, he said, would find their way onto the agenda of human rights discussion in Australia and in other countries in the decades ahead. He mentioned:

- * The impact on human rights of fundamentalist politics and religion;
- * The implications for human rights of complex biotechnological developments, including the Human Genome Project, which could redefine the very concept of humanity itself;
- * The empowerment of women as an effective means of spreading the principles of human rights;
- * The removal of discrimination on the grounds of sexual orientation in Australia and in other countries;
- * The implications for human rights of the global spread of HIV/AIDS;
- * The implications of drug dependence and drug use for basic human rights; and
- * The significance of the growth of multinational media empires for the human right of free expression and of diversity of opinion.

Global media is a new empire large uncontrolled

Of the impact of global media, Justice Kirby said:

"In the past, the empires of the world were tangible things. A living sovereign - King or Queen - with fleets and armies. In the future empires will be made of intangible power. Of

Australian Human Rights Record of Global Concern

Justice Kirby Collection

electronic signals sent by satellites to dozens of countries simultaneously, none of which individually has the power to control their impact. Yesterday Mr Rupert Murdoch was welcomed to India with more fuss and attention than most Heads of State. He protested surprise. But the fuss was a reflection of the realisation of the great power now held by comparatively few people with greater influence upon the world's thinking and action than virtually any King. We have the United Nations to effect its imperfect control over tangible sovereigns. But who in the 21st century will bring the intangible empires of the global media under the discipline of responsible conduct and answerability to the law and respect for basic rights? The old adage about absolute power corrupting absolutely has sufficient truth in it that we should ponder the need for new international responses to the power of the global media to set the political, social, cultural and economic agenda. This is an important issue for the coming century. I am not sure of the solutions. But the beginning of wisdom is a realisation that there is a problem", Justice Kirby said.

Notes on Speech The above speech will be delivered at Bond University, Gold Coast, Queensland. For further information contact the office of the Executive Chancellor, Professor Harry Messel, tel (075) 951040 or Christine Lau, Community Relations Officer, Bond University, tel (075) 951 040; fax (075) 951 015.