

Lawyers Beyond Borders launch speech – Sydney Law School May 20 The Hon. Michael Kirby AC CMG*

“Lawyers’ Volunteering – The Story Continues”

LAWYERS AS JOINERS

Lawyers are great joiners. They join all kinds of organisations. They love meetings, discussion, arguments. Many seek opportunities to work for noble causes, like global human rights and the rule of law.

All my life, I have been joining civil society organisations. Coming to this launch reminds me of the time when I was participating in student politics at this University. Seeing all the posters for candidates seeking election, I was almost tempted to run again.

In my student days, the issues were the aftermath of the struggle to prevent the efforts of the federal government to ban the Australian Communist Party and to place legal burdens on communists. The Attorney-General’s father, the Hon. Doug McClelland, played an important part in that struggle. He supported a great graduate of the Sydney Law School, Dr. H.V. Evatt, in his challenge to the legislation in the High Court and subsequently in the referendum campaign. The people in their wisdom rejected the legislation. Some of the opposition extended across party lines.

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The other big issues for students in the 1950s and 1960s included the advancement of Aboriginal Australians, particularly students; the winding up of the White Australia policy; and the enlargement of the rights of women in Australia.

In those days, no-one talked about the civil rights of homosexuals. Everyone just accepted the criminal laws that oppressed them. Which all goes to show that issues of human rights constitute a constantly unfolding panorama. On my way to this launch, I saw a poster calling for students to “Stand Up For Equal Rights”. It declared:

“Hey Rudd ... repeal the same-sex marriage ban now. End all legal discrimination based on sexuality and gender. After 5 years of the ban, stand up for same-sex marriage rights now”

I decided to 'borrow' this sign so that I might leave it on the podium on this occasion. It will give subliminal message from the students of today to the Attorney-General of the Commonwealth. I will hold it up so that the Attorney-General's predecessor, Mr. Philip Ruddock, who is here, can also see its message. Human rights issues are always expanding. If gay rights were not talked of in the 1960s, what are the issues to which we are blind today? We can be sure that lawyers will be amongst the first to find them and assert them.

HOSTILITY AND YEARNING

The Australia of my student days was a rather a self-satisfied place. We saw ourselves as part of an Empire on which the sun never set. We had the white man's burden to bring 'lesser breeds' to civilisation. We tended to avoid under-developed countries. We commonly looked on England as 'home'. There was wide-spread hostility towards, or fear of, our Asian neighbours. At legal admission ceremonies, Chief Justice Herron always referred to the 'dangers to our north' and 'clouds pregnant with possibility'. Those clouds were dark. They portended the so-called yellow peril. Dominos were the national metaphor of fear. These attitudes had the support of most Australians and most Australian politicians.

It was in that unlikely environment that a number of students established the predecessor to Australian Volunteers International (AVI). The students concerned were mainly members of the Australian Student Christian Movement. The idea of reaching out to, discovering and sharing with people of our region, was fundamentally motivated by a spiritual yearning. This yearning was encouraged by feelings of distaste for attitudes of racial superiority and a desire to explore the very interesting part of the world into which history had, almost accidentally, placed Australia.

For fifty years, Australian students have come forward to volunteer for overseas service, responding to the desires or yearnings for adventure and contact with our region and the world. Many, probably most, have had no specific religious reason for doing so. But there is still an element of the spiritual in the desire to help others, to do something other than to advance one's own financial stake in the world. I honour the Australian volunteers and I am proud to be a patron of AVI.

LIFE AS A LAWYER BEYOND BORDERS

Because I was busy with student politics, I did not myself participate in the programmes of voluntary work organised by AVI and its predecessor. However, I did have the opportunity to travel and to see the emerging countries of the developing world, newly reaching independence and full self-respect.

For the National Union of Australian University Students, in 1962 I led student delegations to Nigeria and Ghana and to Malaya and Singapore which had then only recently won their freedom from colonial rule. Speaking with students from those countries, I came to see my own country, and its policies on Aborigines, Asians, women and much more as highly negative and greatly disapproved by people in other parts of the world. That is one of the gifts of travel and adventure. We see ourselves as others see us. We enlarge our own understanding, including of ourselves. We perceive the defects at home that we must try to repair. But we can also help those whom we visit with perceptions and efforts drawn on our own experience.

In the early 1970s, with my partner Johan, I embarked on a great adventure, twice, of travelling across Asia, the Arab lands, Eastern Europe and on to Britain. This we did in a Kombi van, an adventure that many Australians pursued at that time. We were not volunteering to help others. But we were getting off the treadmill of life, seeing the world in all of its marvellous variety, and coming to appreciate the overwhelming commonality that we in Australia shared with our fellow men and women. It is this yearning for adventure, which may have something to do with our geographical isolation, that makes Australians great travellers. Generally speaking, we are interested, throughout life, to explore the world and see it through the eyes of others, including those who have been less fortunate economically than ourselves.

After my first judicial appointment in 1975, the days of overland travel came to an end. But in the decades that followed, I had many opportunities to become a kind of lawyer beyond borders.

- I served as Special Representative of the Secretary-General for Human Rights in Cambodia.
- I worked with UNDP on the constitutional conference to rescue Malawi from one party rule.
- I sat in court in Solomon Islands as President of the Court of Appeal.
- I went to South Africa for the ILO, just before the end of apartheid, to provide advice on that country's labour laws.
- I took part in Pacific countries in consultations about HIV/AIDS.
- I served in many places to bring the message of WHO and UNAIDS to combat the spread of this terrible epidemic.

Lawyers Beyond Borders, the new enterprise we launch this day, will be motivated by the same yearning for adventure and experience of the world and the same desire to contribute to human rights, the rule of law and economic justice everywhere. This is an exciting time for pro bono lawyering. At home, we have seen lawyers, mostly young, contributing through bodies such as the Public Interest Legal Clearing House (PILCH) and the Council for Civil Liberties (CCL) to repair

injustices. In *Mallard v. The Queen*, it was such voluntary and pro bono lawyering that rescued Mr. Mallard from long imprisonment for a murder he did not commit. In *Roach v. Electoral Commissioner*, it was pro bono lawyering that ensured the vote to many prisoners in the 2007 general election. Overseas, it is pro bono lawyering that has helped AVI volunteers to bring support and assistance to individuals and community groups in Asia, the Pacific, Africa and indeed virtually everywhere.

BUILDING A BETTER WORLD

Lawyers Beyond Borders will be a new program of AVI, designed to tap two great motivations that exist, especially in young Australians and particularly in young lawyers:

- The quest for adventure and new experiences and the desire to see the world and thereby enlarge one's own spirit and sharpen one's own perception of Australian society; and
- The desire to help others less fortunate to the attainment of human rights, the rule of law and economic justice. And by doing so abroad to reinforce the determination to advance and safeguard these values at home in Australia.

It is for these reasons, as an old time lawyer beyond borders, that I am proud now to serve as a patron of this new initiative of AVI. I commend this new initiative to those who want to explore their own spirit, who yearn for adventure and service beyond self and who desire to give a part of their life to voluntarily work for people in other countries helping them to build a better world.