

"The future directions for human rights?"

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# the future directions for human rights?

Justice Michael Kirby originally wrote this article for 'The Age' (8.1.94) entitled Great Questions of our time No. 13. What are the future directions for human rights? It is reproduced in this issue of Community Quarterly with the permission of both the above parties. It succinctly states many of the human rights issues facing Australians and especially our regional responsibilities.

JUSTICE MICHAEL KIRBY

To some Australians talk of human rights is either boring or irrelevant. Reaching for another prawn from the barbie on a hot summer afternoon - the air filled with the drone of cicadas - they are inclined to look on human rights as other people's problems.

But as human rights are universal and indivisible - they inhere in human beings everywhere simply by our being human - so is the responsibility for evolving and applying them, and eradicating their all-too-frequent abuses. Embracing this responsibility is a moral challenge to each one of us.

The boundaries of human rights principles are not set in stone, like the laws of the Medes and the Persians. They are constantly being pushed forward as

we gather new insights. So, in recent years, we have come to see the great injustices suffered by women, by members of ethnic minorities, by gays and lesbians and other groups to which we were earlier blind. Laws on these subjects may be changed. But changing attitudes must sometimes await the instruction of a new generation at the parent's knee and at the local kindergarten, where ideas are formed which tend to last a lifetime.

Recently the International Commission of Jurists adopted a number of issues as its forward program to stimulate the world community's consideration of important new topics for human rights.

High on the new agenda was the issue of human rights and sexual orientation. The freedom won by homosexuals and

bisexuals in Australia (although not Tasmania) are by no means universal. In Iran and many other lands, homosexuals are still punished and even executed for their nature. This must stop. We must bring global pressure to see that it stops and not just put such wickedness down to legitimate cultural or religious differences.

The impact of human rights on Christian, Muslim, Jewish and other religious fundamentalism is another issue. ~~Last month~~ I had dinner in London with Salman Rushdie, safely guarded by two large detectives. The intolerance with which his writing has been met, and the *fatwa* which puts upon him an

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The impact of modern technology on human rights also requires the closest attention. The advent of computers, of biotechnology and the Human Genome Project present acute issues for human rights which sometimes seem beyond the capacity of parliaments or lay people to understand and address. Yet address them we must. To do nothing is to make a decision.

The global environment also presents issues of environmental human rights which can only be tackled by international cooperation in defence of the planet. Most people know this. It is one of the reasons for the great political success of the Greens in many lands, including Australia.

The human rights of drug-dependent people and drug users must also be

international sentence of death, shows how very real is the challenge to human rights thrown out by religious intolerance. As fundamentalism is growing in many lands, fuelled often by extreme nationalism, it clearly hands us, the proponents of universal human rights, the gauntlet of a challenge to win the minds of the people in the coming century. The competitors of the minds of the people in the next century are human rights, diverse democracy, nationalism, intolerance and fundamentalist extremism.

Intolerance is clearly at work in the world. To some extent we see it at home. We also see it in the demands of some of our Asian neighbours. It is important that to them, out of self-respect, Australia should speak with a straight-forward and single message. It is no good telling China

**"... how very real is the challenge to human rights thrown out by religious intolerance."**

considered on the agenda. At present, such people are often sacrificed on the altar of the courts, for assignment, in many cases, to prison, in order to frighten off the majority from the use of drugs. Clearly this strategy has failed.

and Indonesia that human rights abuses are not really our concern and then laying down a different rule for Papua New Guinea and others more susceptible to our instruction.

We must seek to build in Asia and the Pacific new institutions to reinforce respect for human diversity and fundamental rights such as exist elsewhere in the world. In Europe and the Americas there are now international and regional commissions and courts which receive and adjudicate on citizens' complaints of breaches of basic rights brought against their countries at the bar of international law and opinion. Even in Africa there is a permanent Commission of Human and Peoples Rights. But not in Asia and the Pacific.

It is time that the Australian Government took the initiative to promote such an Asia-Pacific Commission and Court of Human Rights. The initial members of such a commission could be those countries which, like Australia, already submit to the Human Rights Committee of the United Nations: Mongolia, Nepal, New Zealand, the Republic of Korea, and the Philippines. It may take a little longer to rope in other countries of the region. But we should start the process.

To those who say that the Confucian societies, or the Islamic communities, of our region will never join, I would answer in the words of Governor Chris Patten of Hong Kong:

*"There is nothing specifically or exclusively European or North American about respecting human dignity. If you're a journalist locked up for months for telling the truth, if you're a trade unionist incarcerated for championing workers' rights, if you're beaten on the head (or worse) by a*

*policeman, the brutal result is the same, for you and for your community, whether it happens to be Europe or Asia, America or Africa. Human rights are indivisible and interdependent ... The main reason for wanting to sweep human rights under the carpet is to retain political power or crush opposition."*

In terms of human rights, we have many problems in Australia. But also many blessings. Our blessings impose upon us a duty to share our resources and our experiences with our neighbours and our friends. We should do so humbly and not arrogantly. We should do so attentive to their instruction about our faults. We should do so evenly and not inconsistently. We should do so generously and where necessary bravely; beyond anything else, human rights require spirited champions.

Justice Michael Kirby is president of the New South Wales Court of Appeal and chairman of the executive of the Geneva-based International Commission of Jurists. ~~Last month~~ <sup>In Dec</sup> December, 1993, he was appointed by the Secretary-General of the United Nations ~~to be~~ <sup>a</sup> the UN's special representative on human rights for Cambodia.