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HUMAN RIGHTS, TWITTER AND THE NEW TECHNOLOGY

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Graduation Ceremony
Occasional Address

The Hon. Michael Kirby AC CMG

UNIVERSITY OF TECHNOLOGY SYDNEY

THURSDAY 1 OCTOBER 2009.

GRADUATION CEREMONY

OCCASIONAL ADDRESS

On the conferral of the honorary degree of Doctor of Laws

**HUMAN RIGHTS, TWITTER AND THE NEW
TECHNOLOGY**

The Hon. Michael Kirby AC CMG, Hon. LLD (UTS)*

A VERY SPECIAL DAY

I start by thanking the University for the high distinction of an honorary degree of Doctor of Laws.

I am proud to receive this degree in the presence of fellow graduates, all of whom, unlike me, won their right to be here by burning the midnight oil, writing countless essays and sitting many exams.

This is a great day for all of us. And also for our families and friends who supported us on the way to this occasion. I salute all of you. My fellow graduates, you are the future. Most of you now only have one last university lecture to endure – from me. So I will try to keep it short.

I am proud to be here with my own family. My partner Johan, who has listened to too many speeches from me these past 40 years, and also my father, Donald Kirby, still young and active at 93. And my brother Donald and his wife Susanne. Those who are waiting for my State

* Former Justice of the High Court of Australia (1996-2009).

Funeral probably have a long wait ahead of them. My father drove to this occasion. He still cooks the Sunday dinner. And he takes no nonsense from any of his children. He never hesitated to tell me when the High Court got things wrong. (Occasionally I even agreed with him).

I honour all my family, present and absent today. For us, the first of October has always been special. It was the birthday of my late mother, Jean. If only she could be here. Yet in a sense, by the miracle of genetics, she is here, with her gifts of comprehension, common sense and prudence. What would any of us do without our mothers and fathers? And our families? A graduation ceremony is an occasion for all of us to tell them how much we love them. Yes, love. That precious word that many Aussies (especially men) find very hard to utter. Say it repeatedly today. Think of the friends and teachers who helped you to this occasion. Think of your own parents and grandparents, whose lives were so different from your own. All of them would be proud of this day.

I am grateful to receive the degree from this University. I go back to its very beginnings. I have known all of the chancellors and vice-chancellors. From my law reform days in the 1970s, I worked closely with all of the Deans of Law. From Geoffrey Bartholemew, David Flint, David Barker to Jill McKeough, I have known the challenges they faced in establishing a new School of Law with a distinctive professional programme, but with a strong commitment to internationalism and human rights. These are two special forces of the present age. In it, there is nothing that UTS graduates cannot achieve. My 2007 associate in the High Court in Canberra, Jo Lennon, UTS alumna, was selected by me from 400 applicants. After her year with the High Court, she won a

top scholarship to Oxford. A few weeks ago, she graduated BCL with first class honours.

I am also delighted that when you, Chancellor, informed me that the Council had decided to award me this Doctorate, for my contribution to human rights and equal opportunity, not just to law. And in the hope of an ongoing relationship with the University.

I commit myself to an ongoing relationship with the University. It will be the more pleasurable because the UTS Law School is close by, congenial, a place of excellence and one that shares my view that human rights constitute the precious ingredient that adds an ethical dimension to the legal discipline. Without human rights, law would be a cold subject indeed, suitable to an institute but out of place in a university. As Justice Murphy wrote in his dissenting opinion in the United States Supreme Court in *Falbo v United States*¹, the “law knows no finer hour” than when it “protects individuals from selective discrimination and persecution”. The whole point of a university education is to think outside the square. To question and to criticise. Not to accept blindly what others say. Including here and now.

HUMAN RIGHTS TODAY

Throughout my life, in one way or another, I have been involved in human rights, although we did not originally call them such. Championing the cause of Aboriginal students at University and of Asian Australians, of women, and of minorities in the era of White Australia. This was the life-blood of student politics in my day. No sooner was I

¹ 320 US 541 at 561 (1944), cited *Wurridjal v The Commonwealth* (2009) 237 CLR 309 at 329 [210]; cf *ABC v O’Neill* (2006) 227 CLR 57 at 114 [165].

through my studies but I became engaged as a lawyer and committee member in the Council for Civil Liberties. Standing up for minorities and the unpopular was something I learned from those activities. Anyone can stand up for majorities, the popular and the acclaimed². But we are only really tested when unpopular minorities invoke the law's assistance.

At the Bar, my work took me into the industrial tribunals, where battles were fought for industrial justice, safeguarded in those days³ by the belief that the Australian Constitution did not assign direct law-making on that subject to the Federal Parliament. It could only act through a neutral and independent arbitrator, with a strong commitment to a "fair go all round"⁴. On the Bench, I was always vigilant for the defence of fundamental rights. This was not heresy⁵. Having a bias towards universal rights was always an avowed principle of the common law system of justice⁶. Sadly, it was not always delivered⁷. Formalism, literalism and passivity sometimes seemed to get in the way.

In a single lifetime, the techniques of mobilising supporters for the causes of human rights have expanded exponentially. When I was young, suburban meetings and a soap box in the Sydney Domain were the normal venues of such discourse. Television had not arrived. Although radio brought global messages, we enjoyed nothing like the cornucopia of computers, the internet, telecommunications, mobile

² *Adelaide Company of Jehovah's Witnesses* (1943) 67 CLR 116 at 132-133 per Latham CJ.

³ *NSW v Commonwealth* (Work Choices Case) (2006) 229 CLR 1 at 216-219 [519]-[524].

⁴ *Blackadder v Ramsey Butchering Services Pty. Ltd.* (2005) 221 CLR 539 at 548-549 [30] citing *Re Loty & Holloway v Australian Workers' Union* [1971] AR(NSW) 95 per Sheldon J.

⁵ *Al-Kateb v Godwin* (2004) 219 CLR 562 at 589 [62] per McHugh J; cf. at 617 [152] ff.

⁶ *Esso Australia Resources Ltd v Federal Commissioner of Taxation* (1999) 201 CLR 49 at 64ff.

⁷ *Wurridjal v The Commonwealth* (2009) 83 ALJR 399 at 444-445 [210]-[215].

phones, satellites, blogs, Facebook, YouTube and Twitter that exist today⁸.

Sometimes I hear older people decrying the modern media of communications. They predict that these will result in society “losing its mind”⁹. They lament the loud conversations across the city and across the world that they have to endure on buses and trains. They regret the closed off space of the young, tuned into their I-pods or walking with hand-held mobile phones before them, desperate for the stimulus of the latest email or tweet.

It is true that the modern emphasis on brevity, attractiveness and infotainment have sometimes reduced our willingness to explore issues in depth. Sensation, instant gratification and superficiality are often the name of the modern game. For traditionalists, Twitter and tweeting represent the last straw. How can there possibly be utility, they ask, in a technology that limits communication to 140 characters and starts the dialogue with the banal question: “What are you doing?”. Is this a global parody, they ask, of the popular Australian greeting “Ow-ya-goin’-mate?”. Didn’t the world know that this was a question that never expected a reply? Twitter also lets you point to more in-depth web resources. This is not obvious to many people who have not used it.

Well, my proposition is that this new technology is a vital new tool for spreading the messages of basic human rights to every corner of our

⁸ J. Davidson “It’s open house for the twits of this world”, *Australian Financial Review*, 1 September 2009, p.32. But remember the occasion when Justice Gummow’s mobile phone rang (twice) during a special leave hearing where he was presiding. (<http://www.theaustralian.news.com.au/story/0,25197,24144592-17044,00.html>)

⁹ J. Albrechtsen, “Computer-addicted society may end up losing its mind”, *The Australian*, 16 September 2009, 14.

blue planet, in ways that were never possible in years gone by. In the Second World War, Churchill's rallying speeches were, at first, just about all that the Allies sometimes had to counter the Nazi war machine. A few words from him lifted the spirit of freedom. We saw the same when early computers and satellites, and even ordinary old telephone services, jumped the Berlin Wall in the 1980s. They brought messages of hope and liberty in a way that would have been impossible for earlier generations. We can see the same forces at work today in the internet blogs that permit the opinionated and dissidents to launch into print. They can usually bypass their government-controlled media. With a little luck, if they are Australian, they may even bypass the editorial line of the Murdochs and Fairfaxes.

TWITTERING HUMAN RIGHTS

But what of Twitter? Is it beyond the pale? Not if you believe the analysts who describe the role played by the young in text messaging support for the election of President Barak Obama. Not if you see the way Twitter has been used, even in recent days, to respond to the bombing in Jakarta¹⁰, to the Iranian election¹¹. To the trial in Burma of Aun San Suu Kyi. To cover all the myriad of human rights abuses that engage humanity, and especially the young.

Traditional media operate as a source of information. It is generally top down. Twitter is a means of co-ordination. Top down can make us *sympathise*. Twitter can make us *empathise*. It can help us be a part of the action, even if all that we do is re-tweeting a message of support. By Twitter, we are adding to the goal that dissidents and freedom fighters

¹⁰ S. Fitzpatrick, "T-shirts and twitter unite Jakarta's citizens", *The Australian*, 17 August 2009, 37.

¹¹ <http://iran.twazzup.com>; International Campaign for Human Rights in Iran, 16 June 2009 ("Live Twitter Updates from Iran").

have always sought. That goal is an individual awareness that the outside world is paying attention. That people care. That they are engaged. Engagement gives hope which is often a most precious ingredient in the human struggle for freedom.

So this is why the web team at Amnesty International in London is now providing its daily blogs to keep the world up-to-date about www.protectthehuman.com and other online activities. That line uses social media to campaign for human rights. The website www.witness.org uses video and online technologies to open the eyes of the world to human rights violations. It empowers people to transform their personal stories of abuse into practical tools for justice. It helps to target individual engagement directly on policy change. Early videos posted on the *qik platform* are typically seen by 200,000 people within a week: <http://qik.com/video/203590>. The *qik* video was quite remarkable at the time. It was seen by 330,000 people who actively sought it out because it showed a live example of civil liberties lost. This is very different to a passive television audience.

Short powerful Twitter messages from a Tehran University dormitory and from country regions on Iran combined into a powerful voice of protest and anger at the regime's human rights deprivations. All the important world human rights bodies are now switched on to this, including Human Rights Watch, Physicians for Human Rights, and Advocates for Human Rights:

<http://twitter.com/HumanRightsNews>;
<http://twitter.com/AmnestyIntl>; <http://twitter.com/phrTweets>;
http://twitter.com/The_Advocates.

Twitter therefore helps human rights guardians seek out and to find people and organisations who are focused on an issue. It helps to filter and mediate related information and to highlight important stories. It can be used to start a movement as in Iran <http://www.iranhumanrights.org/2009/06/live> and <http://iran.twazzup.com> did. It can turn mere content readers into active publishers. It can then provide what is then published to the public record. This public record is then indexed by Google, making it easily findable by others.

So the moral of the story is this: Do not underestimate the social power of the new technology. Do not miss the human rights potential of Twitter. Of its nature, it reaches mostly to the young who are uncontaminated by resignation, cynicism and surrender. It is no accident that Larry Jaffe, the international award-winning poet, is reaching out to the youth of the world by tweeting his poetic version of each of the thirty articles of the *Universal Declaration of Human Rights*¹². He is doing this to spread a message of peace and individual responsibility for the human condition: see www.twitter.com/larryjaffe for more. His poem “Owned” has been adopted as the official poem on human slave trafficking. Little wonder that Youth for Human Rights International has named him as its poet laureate. In all probability, Larry’s efforts, distributed by Twitter, reach many more people than the Queen’s poet laureate in London does. If he were alive today, Shakespeare would certainly use twitter. ‘To be or not to be, that is the question?’ Who could have stated the big questions more succinctly and powerfully than the Bard – one of the inventors of the concentrated verbal brilliance?¹³

¹² Trans World News, 3 September 2009, (kj@jotopr.com).

¹³ J. Malvern, “OMG noobs, teen twits put words in our mouths”, *Australian*, 1 September 2009, 9.

TECHNOLOGY AND UTS

So this is why this degree from UTS is so precious. From the start, this has been a university that teaches law and other disciplines together with awareness of the relevant technology. That is why lawyers are here today with graduates trained in science, medicine, information technology, communications, business and engineering: this is a true university community. Of course, technology can sometimes be abused. Some of it carries risks, as the Hiroshima cloud and reports of cyber-bullying and racial hatred constantly remind us. But technology can also give a voice to freedom.

I know that that voice of freedom is strong and loud at UTS. For three decades I have heard it in my encounters with wonderful students. I have heard it in this hall at the recent initiative to mobilise university students, throughout Australia and in our region, against global poverty. I have seen it in the UTS annual awards for equal opportunity. Tonight I will contribute to a UTS seminar on the law and slavery, which is often the other side of grinding poverty. So the effort goes on. Be confident about your generation and the technology and internationalism that mark it out as new and different and better than those that went before you.

We must bring all these messages to the millions who need to hear them so that they learn that we, in Australia, are engaged with them. That we reject exceptionalism and narrow exclusions. And that we are confident that the new technology can be a powerful voice for human rights in Australia and the world. So after this ceremony reach for Twitter and tweet the message: There is hope in the world. It will become better. Equal justice under law is a principle not only for the rich but also for the

poor. Say all this in 140 characters. Say it to Australia and tweet it to the globe. And mean it on this special day. And always.
