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THEN & NOW:
STILL A JOINER

APRIL 2012

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UNIVERSITY OF MELBOURNE

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THE HON. MICHAEL KIRBY AC CMG*

I did not have the benefit of learning law at the University of Melbourne Law School. I went to that other place – the Law School at the Sydney University. However, because of a glorious career that I carved out in student politics, I rose to become an Honorary Life Member of the National Union of Australian University Students (NUAUS), as the body was then called. Just a few wonderful lawyers were similarly honoured before me – such as Jed Brennan from the University of Queensland – later Sir Gerard Brennan, Chief Justice of the High Court of Australia and a Justice 1981-98. In NUAUS activities I came to know many outstanding law students, such as Tony Staley and Garry Evans – both of whom went on to become important federal ministers and leaders of our country.

So what did I learn from these experiences as *then* enjoyed for *now*? Well, I learnt the importance of being a joiner. I joined in activities with other students. Doing so helped me to get on. I made important friendships. Many of these have lasted all my life. Equally important, by being a joiner, I was able to discover and develop my own talents. I came to know my strengths and weaknesses. I minimised the latter and

* The Hon. Michael Kirby AC CMG, past Justice of the High Court of Australia, is a patron of AVI. This article draws on the author's remarks at the ceremony in Canberra on 21 February 2012 to mark the 60th anniversary of AVI.

tried to maximise my abilities. This cannot be done, sitting in a room on one's own, reading a book or studying a screen. To discover the real inner you, everyone has to engage with other people.

In late 1962 I was chosen to lead an Australian student delegation to visit Nigeria, Ghana, Singapore and Malaya. Never will I forget our journey in the back blocks of Nigeria, soon after that country's independence from Britain in 1960. Travelling by third class railway carriage into the hot and humid inland of Africa opened my eyes to the big world beyond Sydney, Australia. Before this journey, I had never been further than Katoomba in the mountains near Sydney. Yet here I was, interacting with students in the matters that engaged us at that time. I was confronted with sharp criticisms of the "White Australia" policy that was then in force. The African students demanded to know what Australia was doing for education of Aboriginal students. At the time, I had to confess that not a single indigenous person had ever graduated in more than a century from Australia's fine universities.

Witnessing, and engaging closely with, the students of overseas countries taught me to look closely at my own land and its strengths and weaknesses. Specifically, it taught me to re-examine my own values. I realised that many of those values were based on racist assumptions that virtually everyone in Australia at that time accepted. Nothing like travel, dialogue and debate to broaden the mind. I began to think new and dangerous thoughts.

When I returned from Africa to Sydney, my days were spent as a busy young lawyer. But I decided to study for an economics degree at night. This, I believe, made me more aware of the practicalities and costs of

the law. Justice, it seemed, came with a big price tag. Often, it was not available for the poor and disadvantaged.

So I started to volunteer my services for the Council for Civil Liberties in New South Wales (CCL). Squeezed into my busy work schedule were hundreds of cases, done *pro-bono* for students and other citizens who claimed their liberties had been infringed. Many a student charged with fare evasion got off lightly as a result of my advocacy. Some of these went on to fame and fortune as judges and I hope they remembered. Even more memorable were the cases of the CCL. These involved contested disputes about police shooting; public demonstrations; conscientious objection to military service in Vietnam; and Aboriginal empowerment. As a volunteer lawyer, I took part in defending university students who had travelled to Walgett in in-land New South Wales to 'liberate' the cinema there. Up to that time, Aboriginals had not been sold tickets to the upstairs section of the cinema. It was the student protests, and the subsequent court case, that helped Walgett to change its rules. A tiny blow was struck for racial tolerance in Australia.

When, in the 1970's, I was a judge, I had to perform many interesting tasks. For 10 years (1975-1984) I was seconded to chair the Australian Law Reform Commission. This was a new body established by Federal Parliament to modernise and update the law in Australia. As these things happen, one of the first Commissioners appointed with me, was my old friend from Melbourne Law School, Gareth Evans. He was then a lecturer in the School. He had enormous energy and drive for reform from the days when he had been President of Melbourne University SRC. By this time, there was no way that we could perform our functions in law reform without close involvement with civil society

organisations and the types of people we knew from our involvement in student affairs. We realised that it was stirrers and shakers who caused trouble that were often the change agents in a relatively complacent and prosperous society. We needed them to shake things up. We engaged with them, secured their ideas, and sometimes helped to translate them into laws, enacted by Parliament.

More importantly, it was at about this time that my interest in international volunteering was revived. It started with a request to take part in a body established by the Organisation for Economic Co-operation and Development (OECD) in Paris. This body was created to propose responses to the amazing new computers that were coming into use in the developed world by 1978. Working in conference rooms by day and exploring the beauties of Paris by night, I came to understand how international technology demanded new and co-operative approaches to regulation and the law.

So began my career in international agencies. None of this work secured me more salary or financial benefits. But I had the fascination for a world different from my own, ever since I took that train journey through Nigeria from Ibadan to Zaria in 1963. I supplemented my professional job, as a judge and law reformer, with active participation in numerous international bodies. This experience later came to influence my perception of Australian law. In my view, in the age of the internet, the genome and jumbo jets, we all need to see our discipline, the law, in a new global context.

Not all of my international efforts in WHO, UNDP, ILO, UNESCO and other bodies have been crowned with success. Sometimes, as every

volunteer knows, working in the international field can be frustrating and occasionally maddening. Organisational rules and impediments to progress are frequently frustrating. But nothing ventured, nothing gained.

Much depends now, as then, on precious opportunities arising by chance. But I have discovered, as many before and since have done, that those who work hard win respect. If they come to their tasks with attitudes of inclusiveness and are guided by universal human rights, they can win over the affection and respect of those they work with.

So this is how big changes in the world are being secured with assistance from international law - help for indigenous people, for racial minorities, for refugees, for prisoners, for handicapped people, religious minorities, for gays. And also for women, who are not a minority at all. Standing up for others and standing up for oneself can change the world, step by step. This is what being a joiner has taught me. It is true at home in Australia. It is also true in the wider world. So this is why my message for today's students at University of Melbourne remains the same as it was for me in 1962 when I set out on this journey. In this respect, *then* is as good as *now*. Be a joiner. Get engaged. Think beyond Australia. And make a difference in our world.

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