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CONFERENCE ON STATISTICS, SCIENCE AND PUBLIC POLICY

DEMOCRACY, DANGER AND DILEMMAS

18-21 APRIL 2012

QUEEN'S UNIVERSITY INTERNATIONAL STUDY CENTRE

HERSTMONCEUX CASTLE HAILSHAM, UK

SUMMING UP

May 2012

The Hon. Michael Kirby AC CMG

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OPENING SESSION

Fittingly, our conference opened with an invocation to us all by Dr Agnes Herzberg, without whom we would not be here. Once again, she recounted the history of this series of conferences beginning in 1996, of which this is but the latest. She described the special focus of this year's conference. As in the past, we might not be able to reach firm conclusions on the dangers and dilemmas facing democracy today. But at least we would endeavour to ask some of the most important questions.

At the very start, an issue was presented as to whether 'democracy' was definable in terms that could attract general concurrence. And at the closing session, Dame Margaret Anstee returned to the same question, in the context of her reflections on her remarkable career of service in diplomacy and to the United Nations. How do 'the people', in any one polity (let alone the world), give their consent to the performance of all of the tasks of government done in their name?

[*] Past Justice of the High Court of Australia. Text on which were based closing remarks delivered to the 2012 conference on 21 April 2012

Professor William Allen delivered the opening plenary address. He explained how, at the beginning of the American republic, its leaders submitted the new nation to the scrutiny and judgment of world opinion. They did this through the *Declaration of Independence*. Professor Allen impressed us all with his recitation of the moving language of that document, with its ringing affirmation of the purpose of government as being to protect and advance the 'life, liberty and pursuit of happiness' of the people. Although ostensibly expressed in terms of the rights only of 'men', the very nature of the proclaimed civic privileges in the new polity was such that they extended equally to women. Indeed, they extended, by their language and character, to people of every race. Yet did the founders, many of whom like Thomas Jefferson who helped to write the *Declaration* owned slaves, really conceive that their slaves enjoyed, from birth, the same liberty as belonged to people like the founders? This was a matter on which conflicting conclusions have been expressed.

There is no doubt about the huge impact of United States constitutionalism upon the world since 1776. One by one, newly independent nations asserted the same or similar rights for their people. These included France (1789), Ireland (1923), India (1947/1951) and the many nations of Africa, Asia and Latin America which gradually threw off the confines of colonial rule following the conclusion of the Second World War.

Professor Allen conceded that, following the 1911 *Parliament Act*, the United Kingdom had become a full democracy. But for him, the gold standard for democracy in the world was presented by the United States of America. The idea of democracy that it practised was one to which people everywhere could aspire. This standard constituted the aspiration of the democracy movements in Burma, Tunisia, Libya and Egypt.

In my comments on this address, I suggested that the American Revolution had to be seen in the historical context of the earlier struggles of English speaking peoples to throw off tyranny. Thus, it was a natural outgrowth of the movement that had begun at Runnymede with *Magna Carta* (1215), the deposition of King Charles I for defying Parliament and waging war against the people (1649), the Glorious Revolution of 1688 that accompanied the banishment of King James II for defying

parliament; and the commitment of Britain to the independence of its colonies, after it had once learned the lessons of 1776.

Every country has its own heroes and each seeks a form of democratic government appropriate to its history and traditions. There are weaknesses and inflexibilities in American constitutionalism, as there are in every land. Yet few of us, in speaking of our constitution or our founding documents, could match the lyrical praise offered to us by William Allen in his description of the charter of his own country. We drew the inference that all nations should be as attentive in civics as the United States of America tended to be.

DEMOCRACY

Our dialogue then turned to a session in which disparate stories were told of the characteristics of democracy in our several nations.

Tom Molloy (Alberta) described the slow evolution of the rights of indigenous peoples in Canada and the struggle which the First Nations have faced in every country where their power has been superseded by settlers, with or without treaty and fiduciary obligations. The course of the emergence of indigenous rights amongst the native Indians and Inuit in Canada were described. There were amusing stories of the guile and intelligence that the indigenes were obliged to exhibit when dealing with the 'white' settlers. When the native peoples in British Columbia met to discuss their claims and heard the approach of the settlers to their meeting place to check on their restiveness, their habit was to burst into *Onward Christian Soldiers.* Even today, adversaries may reflect upon similar strategies in order to disconcert and confuse their opponents.

Keith James (Queen's, Ontario) examined the question whether financial deregulation of global markets had resulted in overpowerful and unaccountable financiers who were not answerable to democracy yet profoundly important for the wellbeing of the people. He described the way in which the global capital market now operated, with its multiplier effects. He criticised a situation whereby 1% of the population of the United States could own more than 90% of the wealth of the nation.

And how successive United Kingdom governments and officials have supported island tax havens that result in large multinational corporations paying little or no tax in Britain. In default, more revenue must be raised from people of modest means.

Keith James was scathing in his description of the origin of global economic distress, which has come in the wake of the GFC. Although professionally an oncologist, he delivered a knowledgeable and detailed critique of the world's money markets and the dreadful impact they have had in recent years, upon the basic rights of individuals and upon the capacity and inclination of democratically elected governments to control the economic forces and to protect the people against the outfall of foolhardy private risk taking.

Dr S.R. Wilson (ANU, Canberra, Australia) introduced another element in the forces challenging democracy today. This was media, including global media. On 19 April, 2012, the day of this session, the banner headline on page 1 of the *London Times*, over a photograph of the Judges of the European Court of Human Rights, declared them to be "Europe's court jesters". This denigration and disempowerment is possible (and has become common) because of the global character of contemporary media. The forces of restraint are often disengaged.

Dr Wilson described the difficulty of securing an informed and respectful debate about climate change and of the scientific evidence advanced to promote governmental responses. She finally offered a corrective to any rose coloured view of democracy. The tyranny of the majority could sometimes block the rights of a vulnerable minority. A functioning democracy today will require observance of the popular will. But it must do so in a context that protects the unpopular, the powerless and the weak.

DANGERS

Having been alerted to some of the dangers facing democracy today, our conference plunged into a deeper examination of several problems that offer contemporary challenges to national democratic governments.

A paper by John Stone (Carleton, USA), examined the strategy and tactics of climate change denialists. According to the paper of John Stone, read on his behalf by John Bailar (National Academies USA), global warming denialists share many opinions and strategies with those, in society, who earlier questioned the adverse affects of tobacco or acid rain. Or who doubted the existence of the ozone hole over the Antarctic or the dangers of passive smoking. To counteract such denialists, and the damage they can present for effective responses to contemporary challenges, there was an urgent need for the 'friends of science' to work together and assist citizens and their leaders to comprehend the best available scientific knowledge relevant to current political questions.

Dr O. Güvenen (Bilkent University, Turkey) described his own career in national institutions as well as international, including the OECD in Paris. He pointed out that, with 193 countries now members of the United Nations, finding a democratic foundation for the legitimacy of world governance was extremely difficult. However, at least in such cases, the international organisation was constituted by representatives of states, most of whom subjected their leaders to various democratic checks. In the case of multinational corporations, there would normally be not even this semblance of democratic accountability. Many transnational corporations were larger than nation states. Their budgets outranked those states. Their control of resources and influence on the lives of millions of people worldwide presented a contemporary problem for national and global democratic accountability. It was difficult if not impossible, to resolve this challenge.

Dr Güvenen reminded us that the danger presented by the inability of national and global institutions to respond effectively to the challenges of large and powerful corporations, was one that confronted all humanity. Additionally, there was enduring the military-industrial complex of which President Eisenhower, on demitting office, warned the American people. Unless effective control of nuclear and other dangerous weapons could be exerted by the world community, the prospect of humanity reaching the conclusion of the 21st century intact must be at least doubtful. One mentally disturbed leader could imperil the lives of millions. And, in addition to this challenge, the log jams over global issues such as extreme poverty, global

climate change and endemic diseases were such that the ordinary theory of national democracy could not promise any effective resolution.

Janet Hatcher Roberts (Canada, UN) picked up on these themes by describing multiple dangers facing democracy today. She mentioned the perils of over-population that feeds into endemic poverty. She described the brutal treatment of animals, killed in increasing numbers for food and the need for humanity to reduce the consumption of red meat. She mentioned, as particular dangers, the problems of the enlarged role of religion, the diminished respect for constitutional secularism and the increasing evidence of racism in the world. To these she added the peril of limitations on women's health and reproductive rights and the challenges to several specific groups at risk, including sexual minorities and global refugees.

DILEMMAS

The next session began with a disturbing presentation by Peter Milliken (past Speaker of the House of Commons in the Parliament of Canada) on electoral dilemmas. He began with a reflection on the voting systems in operation in the world; the conduct of seemingly endless opinion polls that often immobilise democratic leaders; and the abuse of polling effected by automated telephonic interrogation.

Dr David Hand (Imperial College, London) examined the ways in which public data and statistics can impact contemporary society. He shared with Dr Agnes Herzberg the boast of having written a book which contained nothing but data. He suggested that, properly presented, data could add to transparency in politics and, properly organised, could open politicians, governments and administrators to much greater scrutiny than in the past. He explained the objectives of the creation of a Public Data Corporation in the United Kingdom. It would be able to deploy non-aligned public data in ways that would improve the organisation of society and the provision of government services. Public data, he explained, was a precious, and previously underused, asset of any community. The advances in information technology would enhance our capacity to know our societies and to target effectively any blockages requiring legal, administrative and other remedies.

Dr Hand described many concerns presented by the increased access to public data: the cost burdens; the means of ensuring the quality of the data; the need to enhance the utility of data; and the need to safeguard countervailing values such as privacy, confidentiality and security.

In his talk, Nicholas Jewell (Berkeley, California) described his work in analysing data, successively in the areas of HIV/AIDS; the patterns of military casualties in theatres of war; and the features of civilian casualties and their numbers. He explained the activities of trackers of the current levels of death and injury in the contemporary Syrian conflict. Exposure to such immediate and extremely detailed data could sometimes engender anger and prolonged military responses. On the other hand, out of common humanity, they could sometimes initiate national and international responses because of the intolerable levels of violence shown in photographic images and data analysis.

There was discussion of the contrast between the leakage of data that occurred in the reactions to the Vietnam conflict and the recent Wikileaks which had placed in the public domain detailed material not originally written, or later redacted, for that purpose.

Dr Mark Lachmam (Ontario) rose to a challenge presented to him by Dr Herzberg. He was asked to conceive of an end to illness and wondered what this would look like. To explore this theoretical possibility, he examined the history of the eradication of smallpox, of polio and, in earlier times, of tuberculosis. Yet, from his own medical practice, he recounted the very high levels of HIV and tuberculosis among Nunavut in northern Canada, where the incidence is running at third world levels.

A search for the end of illness involved an understanding of the co-factors that are at work in most medical conditions. In real life, few patients suffer only from one illness. Problems come in multiple manifestations. These propositions were illustrated by reference to several conditions including HIV and Attention Deficit Syndrome. The later showed, once again, the great importance of nutrition, housing, proper protection and education in the human child between the ages of three and

six years. These are the years of enormous brain expansion in the human being. To conceive the end of illness, it is necessary to conceive a world in which health, welfare, housing and education are in good shape. But in many parts of the world this is far from the present reality.

EDUCATION, OPENNESS AND THE INTERNET

After a brilliant concert recital by Emily Kenway, mezzo soprano (who happens to be the daughter of David Hand), accompanied by Belinda Jones (piano) in the magical environment of the Castle, the participants turned on the next day to new topics to challenge their sensibilities.

Sir David Cox (Nuffield College, Oxford) explored the meaning of 'dilemmas' and the operation of the theory of probability in the development of public policy in all branches of government and in society more generally. He confessed to being "deeply secretive", by disposition, especially at the earlier stages of policy development. He considered that the relentless push to open all things and to reduce the exceptions to public access under freedom of information laws could often be counterproductive to the sound development of policy and democratic decision-making.

Historically, the tradition of British public administration has been of a service uncorrupted, professional and expert; but highly secretive. In the age of the internet, and demands for more and real democratic accountability, the possibility of returning to those traditions was explored. But at least to this reviewer, it seems an improbable outcome and, as a general proposition, quite possibly undesirable.

J.S.C. McKeeland (Manitoba) Jim Tomkins (Regina) examined the dramatic funding cuts in many countries (including Australia, Canada and the United Kingdom) in subventions and scholarships available to overseas students in university education. The consequences of changes in California were described by Nicholas Jewell. A millstone of debt has now been imposed upon many graduates because of changes in tuition charges. Several participants expressed anxiety about the growing commercialisation of modern universities. Others expressed concern about the

perceived trivialisation of university courses, involving for example tertiary courses in golfing and folk medicines.

PRIVATISATION VERSUS STATE OWNERSHIP

The ensuing discussion led naturally into consideration of the growing tendency of governments around the world to "sell off the farm". The privatisation of previous government corporations has transferred accumulated public wealth into the hands of corporations or, in the Russian Federation, oligarchs who thereby became hugely wealthy. Out-sourcing of government activities to the private sector has also reduced, in some cases, the accountability of decision-making for what were previously public activities performed by civil servants or public agencies. The temptation to turn universities into cash cows, and to milk foreign students because of the high fees they are willing to pay, threatened, in the view of some participants, the integrity of these institutions and their devotion to high principles and the conduct of pure scientific research.

Z.G. Mansourati (Telus) explained a project in which he had been engaged in the attempted privatisation of the Nigerian mobile telephone agency. In the end, the project failed. But, as more hitherto public activities are privatised, a question is presented, what are the core activities of government that cannot or should not be properly out sourced in any functioning democracy? Is anything now sacrosanct? The National Reserve Bank, for instance? The higher courts with their constitutional duties? The army and defence forces? By reference to numerous examples, the conclusion seemed inescapable that very little indeed was now immune from this process of privatisation.

John Gerrard (Manitoba) described the operations of democracy in the digital age. In particular, the impact of social networks (Facebook, Twitter, etc) upon the democratic process was still evolving. In revolutionary situations, these forms of instant communication can sometimes help to deploy individuals; but also to warn and protect them. They can record abuse and report it to the world. But is it prone to abuse and to populist manipulation? Upon these questions, the jury is still out.

Jim Beall (St John's College) took the participants back to the original idea of Friederick Engels. He had suggested the possibility that a 'world spirit' was emerging in the 19th century that would modify the role of the individual citizen in the nation state. This notion had led to the abuses of totalitarian fascism and communism. But the internet now undoubtedly links millions of minds on every continent. Cyberspace can itself be conceived of as a kind of 'world spirit'. How this will adapt to notions of democracy and accountability is still uncertain.

DEMOCRACY AND INTERNATIONAL BODIES

An excellent panel followed concerning the operation of international institutions and how they could be rendered more answerable to democratic values. Lewis Wolpert (University College, London) explained that all lives involve risk and that human beings are notoriously bad in assessing risk. He illustrated this assertion by reference to his own practice of riding bicycles through London traffic whilst listening to his iPod.

Peter Milliken (formerly Canadian Parliament) described the peculiar risks of politics and the difficulties of conducting rational dialogue on matters of policy in the dynamics of the contemporary 24 hour news cycle.

Dame Margaret Anstee recounted elements in her service to the United Nations Organisation. She instanced reforms that could be introduced to the U.N. (such as the introduction of a single term for the Secretary General, Directors-General, High Commissioners and other high office holders). But she concluded that these reforms were unlikely to come about because of geo-political resistance to them and the investment that current office holders have in present arrangements and their power to deploy their influence so as to maintain the status quo.

Dr Güvenen emphasised the importance of civil society organisations (NGO's). But he raised questions about the sources of their funds and the assurance that they demonstrated a widespread genuine civic participation. He returned once again to the growing significance of transnational corporations, and particularly in the field of finance and economics.

Professor Allen analysed the difficulties of conducting democracy in the age of contemporary media. However, by reference to an instance of possible racial differentiation in prosecution policy in the United States, he suggested that, if the media is truly free, it will eventually carry the seeds of effective responses to injustice, including through the new social media which can place pressure on politicians and officials that is sometimes perfectly justifiable and quickly effective.

ROLES OF GOVERNMENT

The final session saw Dame Margaret Anstee return to describe the struggle that women sometimes experience in being accepted as serious players in national and international institutions. Peter Millikin described the erosion of authority from parliament and even from political parties into the hands of the Head of Government and the political staffers that surround him or her.

David Strangway (Quest University, Canada) described the importance in every modern society, of the interaction between the public and private sectors. He explained the way the internet had developed as an offshoot from the communication system developed by the United States military. He understood the complaints about the international financial system. But he suggested that the way forward would be found through co-operative activities of public and private corporations. His was an affirmative contributions based, in part, on the experience in Canada of creating Quest University out of private capital, in order to provide new opportunities which public institutions were not affording.

Dr Wolpert spoke movingly of the great silence that existed in many societies, notwithstanding the astonishing developments that have happened in science, technology, public policy and attitudes. He spoke in this connection about the public silence over depression; schizophrenia; dementia; cancer; obesity; abortion; suicide; and the right to die. He thought that the value of the Herstmonceux conferences in the current series was that no holds were barred. All issues were on the table. And the participants offered their perceptions based on their own honest reflections based on their professional and personal experiences.

CONCLUSIONS

In the final session, Sir David Cox returned to offer his closing reflections. He praised Dr Herzberg and the unique role she had played in the conference series. The Hon. Ian Gibson, retired member of the British House of Commons (University of East Anglia), recounted experiences from his long life in politics. Getting things done through democratic government was often a challenge. And even when legislation was enacted it was not certain that it would hit its target. He described his passions, which were not tamed, in the slightest, by cynicism or despair. As in the past, the participants were fortunate to have these recurring voices of realism, experience and optimism about the capacity of trained people to edge their countries and societies in desirable directions. Whilst there was much concurrence in the conference, there were also differences of emphasis and direction. Nonetheless, differences were expressed in civilised ways and with the stimulus of interdisciplinary pressure to look outside the comfort zones familiar to each participant.

At the end of the conference, we all once again thanked those who had worked so hard to maintain the conference series and to bring the 2012 meeting to fruition. Above all, grateful thanks were expressed to Agnes Herzberg for her unflagging optimism that a meeting of minds from different continents, professions and experiences would produce an alchemy of rare delight. So it was in 2012. We have met and now we part our ways. But we take with us new insights. Our own journeys will be easier and richer for the four days we spent together in Herstmonceux Castle. The springtime sunshine, with its attendant daffodils, was attempting to challenge the winter gloom and to provide, once again, hope for the future. It was in this atmosphere, and with confidence, that we parted but in the hope of further renewal.

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