

ORDRE NATIONAL DE LA LÉGION D'HONNEUR
MÉDAILLÉS MILITAIRES
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ANCIENS COMBATTANTS FRANÇAIS EN AUSTRALIE

SOLIDARITY LUNCHEON, SYDNEY, FRIDAY 6 MAY 2016

INTERNATIONAL SOLIDARITY WITH FRANCE: A REPORT
FROM THE TRENCHES

The Hon. Michael Kirby AC CMG

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A MOMENT OF OPPORTUNITY

Monsieur l'Ambassadeur, Monsieur le Consul Général, chers amis, je suis ravi d'être parmi vous aujourd'hui. Nous sommes tous des témoins de l'amitié profonde entre la France et l'Australie.

This is a moment of great opportunity in the relationship between Australia and France. That relationship goes back to the earliest days of the convict settlement that became modern Australia. The coincidence of the voyage of La Perouse, symbolised the interactions that have followed, especially in First and Second World Wars. I pay tribute to the heroic veterans of France who attend this luncheon and who fought for the liberty of us all, including for my own liberty.

* Former Justice of the High Court of Australia (1996-2009). Member of the Secretary-General's High Level Panel on Access to Essential Healthcare (2015-16).

The announcement last week of the purchase by Australia of the new submarine fleet from France is an exciting opportunity for us to reinvigorate that relationship. As Consul-General Nicolas Croizer has pointed out, the link that will be established goes beyond the moment of purchase. It will be an ongoing connection of decades that will provide opportunities to rebuild closer relations in the fields of defence services, technology, education, the arts and sport. All of us should be excited by these prospects.

The word "solidarity" that describes this luncheon, is not used often in the English language. But it is common for the French. It symbolises the notion of an association of equals: citizens joined together in a common cause. The common cause we specially celebrate today is end of the Second World War. That war caused enormous hardship to France. But also to other countries, including Australia. It is right that we should reflect upon that struggle and never to forget the sacrifices of the brave soldiers who defeated totalitarian rule and specifically Nazi oppression. How different the world would have been if they had failed.

Most people present and alive today have no personal memories of the war that concluded in Europe on 8 May 1945. However, persons of my age have memories of that hard time. Present with me at this luncheon is my partner of 47 years, Johan van Vloten. He grew up in the Netherlands under enemy occupation. His father was forced to work for the occupier in France on the Atlantic Wall. His family, left in the Netherlands, were compulsorily moved from The Hague inland so as to clear the seaside fortifications against invasion. The family were resettled in Nijmegen. This was fortunate for them because it was liberated by Canadian soldiers in September 1944. Johan remembers to

this day, the arrival of liberation and eventually the return of his father from forced labour in France. The end of the war in the Netherlands happened on 5 May 1945. The German military command in Holland surrendered at Wageningen that day. These are therefore historical days. I pay tribute to the contribution of the Free French forces in the victory that we remember at this event.

THE WORLD OF HUMAN RIGHTS

The end of the war soon brought about the creation of the United Nations Organisation, with its *Charter*, adopted in 1945. That *Charter* proclaimed the triple objectives of the organisation: safeguarding international peace and security; upholding universal human rights ; and ensuring justice for all people.

The work towards the global recognition of human rights began even before the final military victory. At about the time Johan was moved in the Netherlands to Nijmegen, I was at kindergarten in far away Australia. We the school children were lined up outside our school in the Sydney suburb of Concord, to welcome a great lady who was visiting at the time. Eleanor Roosevelt was in Sydney to open the Repatriation General Hospital at Concord, where many wounded American and Australian solidiers were being cared for. She passed by my school. She was not only the wife of the American President F.D. Roosevelt. She was also later to chair the committee that drafted the *Universal Declaration of Human Rights* (UDHR).

The leading scholarly force behind the concepts in that document was a great Frenchman, René Cassin. He had fought in the Great War and

was afterwards a delegate of France to the League of Nations. The UDHR bears the imprint of his experiences and resolution. Also his sharp conceptual mind and his command of succinct language. At school, in 1949, I was given a copy of the UDHR with the explanation, that, unless we defended human rights in the world, there would never be peace and security. That message had been reinforced by the atomic explosions over Japan, which in August 1945, brought a final end to the Pacific War.

René Cassin was later to serve as President of the European Court of Human Rights and as a member of the French Constitutional Council. In 1968 he received the Nobel Peace Prize for his work in drafting the UDHR. His work on that instrument was to profoundly affect my own life and work, as a national judge and an international lawyer. I pay tribute to him for his solidarity with all humanity. And for helping to give the world the tools to secure and maintain global solidarity.

THE VOICE OF FRANCE

Throughout my professional life, France has played a strong, positive and noble part in the ongoing work of humanity to defend those universal human rights. My engagement has been modest. But because it generally occurred behind closed doors, it would not be widely known. It is important that Australians realise the leadership role that France plays day by day in international organisations and international diplomacy. This work does not hit the headlines. But it is constructive work in the tradition of the *Declaration of the Rights of Man and of the Citizen* of 1789 and of the UDHR of 1948.

* In 1978, the Australian Law Reform Commission was working on the development of laws for the protection of privacy. As its chairman, I was sent to Paris for contemporaneous meetings of an expert group of the Organisation of Economic Co-Operation and Development (OECD). The group elected me as its chair. We developed the OECD Guidelines on Privacy that were profoundly to affect the law on this subject throughout the world, including in Australia and in Europe. Experience taught me of the opportunities to work in solidarity with international colleagues, including from France, engaged in extending the defences for human rights. A brilliant member of the OECD expert group was Louis Joinet. He was a French Magistrate who later served in the Cabinet of President François Mitterand. He was a major author of our Guidelines, drawing on work already done in the Council of Europe and in the Conseil d'Etat of France by Bernard Tricot. Joinet and his colleague Philippe Lemoin were amongst the most influential of the participants in the OECD project : bold, clear-sighted and principled. Louis Joinet was later to hold UN mandates on human rights from the Human Rights Commission and in that capacity visited Australia and taught us of our own deficiencies.

* In 1988 the World Health Organisation in Geneva appointed me to serve on the inaugural Global Commission on AIDS. Present at the first meeting were two highly influential Frenchmen, Professor Luc Montagnier and Mr Daniel Défert. Montagnier was the scientist at the Institut Pasteur who first identified the virus (HIV) that causes AIDS. Défert, who had been the domestic partner of the French philosopher Michel Foucault, was a vital participant for

he had been the founding president of AIDES, the first organisation in France to promote AIDS awareness. These two Frenchmen were the symbols of the international solidarity over AIDS. Solidarity in science and in civil society. In his work, Montagnier had the brilliant collaboration of Françoise Barré-Sinoussi. She was later to become the President of the World AIDS Society. She visited Australia in that capacity and was honoured in 2014 on the occasion of the World AIDS Conference in Melbourne. In 2008 she had been awarded, with Luc Montagnier, the Nobel Prize in Physiology/Medicine. Literally, these three French citizens have helped charter the world's unique response to AIDS.

- * In 1993, I was appointed by the UN Secretary-General Boutros Boutros Ghali to be his special representative for human rights in Cambodia. This was a tricky situation. My appointment followed the *Paris Peace Agreements* of 1991. Because of its history, Cambodia fell in the French sphere of influence. Originally, it was expected that a francophone expert would be appointed. But when I took up my post, for reasons too complicated to explain, my first call was on the Quai d'Orsay in Paris. Whilst working in Cambodia for the UN I engaged with two senior French officers who symbolised the different elements present in magical combination in the French diplomatic tradition. One was Daniel Prémont. He was cautious and resistant (ultimately without success) to my insistence on writing my own reports as Special Representative of the UN Secretary-General. The other, Christophe Peschoux, was fearless, risk taking and insistent on the

human rights of the Khmer people. I walked with greater assurance because of their guidance and dedication. I received great support from the French mission in Phnom-Penh. The French influence helped, as did King Sihanouk, to place AIDS in the forefront of the UN human rights effort. We took practical steps by reaching out to vulnerable groups. We helped to save countless lives.

- * In 1995, I returned to meetings in Paris at UNESCO. Under the stimulus of President Jacques Chirac, that organisation in its International Bioethics Committee, had instituted work towards a *Universal Declaration on Human Rights and Bioethics*. A leading contributor to our work was Noelle Lenoir, herself a member of the French Constitutional Council. We worked closely together and shared most ideas in common. Once again, Noelle Lenoir taught of the French capacity to think conceptually beyond mere patchwork solutions to global problems.

- * In 2013, on my appointment to chair the UN Commission of Inquiry (COI) on Human Rights Violations in North Korea (DPRK), I quickly discovered the essential role that France plays at the highest level of the United Nations by reason of its position as one of the Permanent Five (P5) members of the Security Council. France worked closely with the Ambassadors of Australia which was, in 2014, temporarily, a non Permanent member of the Security Council – Ambassadors Gary Quinlan and Philippa King. Throughout the work of the COI, France gave us stalwart support. France helped to secure the engagement in our work of the missions of the European Union in Geneva. I acknowledge the

outstanding support of the French Ambassadors in Geneva - Nicolas Niemtchinow and Elisabeth Laurin. Our report was strongly endorsed by the UN Human Rights Council and later by the General Assembly. When we sought to secure the attention of the Security Council, France took the lead. With the intervention of the French Ambassador in Geneva, the French mission to the United Nations in New York initiated steps critical to our success. It was France, through its Ambassador to the United Nations in New York, Gérard Araud, that organised an 'Arria Briefing' for the members of the Security Council. This is a briefing outside a formal meeting of the Council. But it led on to further success. Ambassador Araud was later posted to Washington. His successor, Ambassador François Delattre, took the lead in propounding a procedural motion to place North Korea on the ongoing agenda of the Security Council. France, Australia and the United States together mustered more than 10 votes for a procedural motion that was passed. North Korea remains on the agenda of the Security Council. I learned of the strong and principled stance that France would take on our report and in solidarity with the sufferings of the people of North Korea.

- * In 2015, the Secretary-General of the United Nations (Ban Ki-moon) appointed me to his High Level Panel (HLP) on Access to Essential Healthcare. The work of this panel is still continuing. It is a sensitive project because of resistance by some of the global pharmaceutical and other corporations, concerned about the protection of their patent interests under World Trade Organisation's treaty provisions. Despite some hostility from other sources, the French mission to the United Nations in New York

was a host for the briefing of UN delegations on the work and objectives of the HLP. Once again, French has taken a strong stand of principle. It did not ask what was in it for France. It asked what was the right thing to do for humanity, in the context of the United Nations.

SOLIDARITY FOR HUMAN RIGHTS

None of the foregoing activities is enormous in itself. But René Cassin taught, in the words of the UNESCO Constitution, that since wars begin in the minds of human beings, it is in those minds that we must build the defences for peace. My engagement over the years with leading figures of France has taught me the importance of the role played by France in our world, and specifically by diplomats, officials and, yes, politicians. René Cassin knew that the UDHR was not the last word on human rights. It was the beginning of the journey. As an Australian citizen, and as an occasional participant in the United Nations and other global activities, I express thanks and admiration for the French contribution to peace, security and universal human rights.

The sale and purchase of French submarines to Australia must itself be seen in this context. These are also defences for peace. It is in the context of peace and security that we can work to enhance protections for universal human rights.

Let us therefore say, in the familiar words for the hopes and aspirations we share :

*Vive la France ! Vive l'Australie ! Vive l'amitié profonde entre la France
e l'Australie !*