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THE UNIVERSITY OF WESTERN AUSTRALIA
BLACKSTONE SOCIETY

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HAVE GOTTA HAVE A DREAM

The Hon. Michael Kirby AC CMG

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In many ways it is more exciting, yet uncertain, to be entering into a life in law today than it was when I arrived at the Sydney Law School in 1957, 60 years ago. Then, there were only six law schools in Australia; now there are nearly 40. Not a single legal firm had a branch in another state, let alone overseas. In 1971 women constituted only 6% of Australia's lawyers. There were no legal aid systems; no community legal centres; no in-house lawyers in corporations; and few government lawyers. There were no women judges, QCs or law professors. None at all.¹

* Parts of this article are derived from an address at a graduation ceremony of the University of Wollongong on 2 November 2016.

** Justice of the High Court of Australia (1996-2009). In 1966, at UWA, Michael Kirby was elected an Honorary Life Member of the National Union of Australia University Students.

¹ D. Weisbrot, Occasional Address, Macquarie University, 14 April 2016, unpublished.

Now lawyers have many more opportunities to use their degrees in different walks of life: in government, in corporations, in academe, in legal publishing, in politics, in overseas countries, in tribunals, in law reform bodies and civil society organisations. The variety of openings could not be dreamt of when I started my studies in law. New subjects have also arisen: environmental law; cyber law; animal welfare law. Late in 2016 I was in Tokyo and I met a room full of young Australian graduates working in a large legal firm. A week later I was in New York, only to find a dozen young Australian graduates working on the margins of the UN General Assembly and international civil society organisations. Countless selfies were taken. Mostly by me! Australia's region is our natural geographic opportunity.

My own career in the law is emblematic of the changes in the legal profession today. Once a retired High Court justice would tend the roses, talk of the "good old days" and try to look distinguished. Today he or she is more likely, as I have done, to be undertaking large international commercial arbitrations in Singapore or New Delhi. Or serving the United Nations on human rights in North Korea.² Or on

² UN Commission of Inquiry of Human Rights violations in the Democratic People's Republic of Korea report A/HRC/25/CRP.1 (7 February 2014).

universal access to essential health care.³ Or addressing, as I have done in recent days, conferences on human rights in Asia concerning LGBTI rights and the dream of equality for everyone. When I was at law school, LGBTI issues were absolutely never mentioned. Shame and fear were the reasons for silence. I pay tribute to the University of Western Australia – and its leadership – for playing a part in this change. Back in 1966 when I attended the annual meeting of the National Union of Australian University Students at UWA, I never dreamed that I would live to see the day (as I did) that the Rainbow Flag would hang with the national and state and Aboriginal flags at the entrance to the University. So we sure have come a long way in my lifetime. Your job is to make sure that similar changes will be achieved in your lifetimes. And by you.

I realise that the current age is not without challenges for new lawyers. Two major forces drive these challenges. The first is the gap that is opening up between the number of students undertaking the professional studies and the number of traditional jobs. For example a recent article disclosed that Australia is producing 15,000 law graduates each year in total.⁴ However, the entire legal profession currently has

³ UN Secretary-General's High Level Panel on Access to Medicines *Report*, September 2016.

⁴ Alan Finkel, "Time to Change our University Graduate Expectations by Degrees", *The Australian*, 29 August 2016, 12.

only 66,000 jobs.⁵ Law journals declare that there are “too many law graduates”.⁶ Lecturers in law are calling for reality checks.⁷ Even federal ministers are beginning to flag a possible need for trimming enrolments, given current employment prospects.⁸

As if this were not challenge enough, there are others that need to be faced with realism. The greatest weakness of our traditional legal profession has been its cost-intensive character and hence its unavailability for many ordinary citizens. The funds provided by governments for public legal aid have been cut. This is so despite the fact that the needs are growing every year. The rise of artificial intelligence offers the prospect of systems becoming available in the law and in healthcare during the lives of today’s graduates. These will not only complement the professions but also, to some degree, redefine the work they do.⁹ As I pass through international airports, artificial intelligence systems photograph me and my passport; analyse the data, apply the *Migration Act*, and open the gate or hold it shut: all in a matter

⁵ M. Douglas and M. van Hatten, “Australia’s Law Graduate Glut” (2016) 41 *Alternative Law Journal*, 118.

⁶ Dean A. Sinque, “Too Many Law Graduates”, *Law Institute Journal* (Vic), September 2016, 8.

⁷ Frank Carrigan, “All Signs Point to Law Deans about to Experience a Reality Check”, *Australian Financial Review*, 19 August 2016, 22.

⁸ Simon Birmingham, Federal Education Minister, address Melbourne, 17 August 2016.

⁹ “Traditional Lawyers Role Under Threat”, *Lawyers Weekly* (Aust.), July 2016, 6. Cf Anthony Wong, “How Far Should AI Replace Human Sense?” *The Australian*, 27 September 2016, 28, citing views of the author.

of seconds. Not so long ago these tasks were being performed by trained officials, taught to apply the law. This is symbolic of the changes that will affect all employment. Lawyers will not be exempt. In the lifetime of today's law students, artificial intelligence will take over more and more routine tasks. Yet, so far, it has not proved possible to programme a machine to have the will to do justice and to have empathy for the victims of violence, discrimination and even of unjust laws.

Such developments are not reasons to start looking around for a new vocation. The traditional path of solicitor, barrister, silk and judge may not be so traditional in the future. But university education teaches a mode of thinking and analysing problems. Law, for example, has found many new opportunities. They will continue. Within four months of graduation last year, 74% of those who were available for work using their degrees were already in employment.¹⁰ And they enjoyed commencing salaries well above those of students undertaking other degrees. Professor Richard Susskind, an expert on artificial intelligence, predicts that legal employment will undergo a period of "redeployment not unemployment". "Lawyers", he says, "move on to new tasks to adopt new areas of knowledge". He predicts that we may even stop

¹⁰ Professor C. Evans (University of Melbourne) quoted in Carrigan *Op Cit*. See also see *Graduate Careers Australia* 2016.

using the word “lawyer” for many of these tasks. They will be legal risk managers; legal project managers, legal process analyst, and legal knowledge engineers”.¹¹ The same will be true for scientists and healthcare professionals.

A bumpy ride ahead for some law students of the 2017 cohort? Perhaps. But graduates from University of Western Australia and other fine law schools are a species with a brilliant talent in survival. We cannot be all that proud of a society in which most people with legal or health problems significant for them and their families cannot afford to see a professional. The unmet demand is there. Adapting demand to supply is the challenge. Innovation and adaptation promise a big future for today’s graduates.

Finally, it is necessary to have a dream. To remember that science beckons us to the future; that healthcare is vital for all of us; and that law can be a noble vocation concerned with justice and fairness. The gifted Australian musician and comedian Tim Minchin, told a UWA graduation ceremony that this was bunkum. This is what he said. I know because it is on YouTube. Summing it up he claimed:

¹¹ See *Lawyers Weekly*, above n10.

You don't have to have a dream. You don't need to seek happiness. Life is all luck. You should all do more exercise. You should be hard on opinions, including your own. You should teach what you learn. You should define what you love. And you should realise that the search for the meaning of life is usually a sign that the searcher is undergoing an early mid-life crisis.

I would agree with only about half of this advice. More exercise and less fruit cake is probably good advice for a person like me. But of course, you *should* all search for love and happiness. A person who comes to university *cannot* but ask about the meaning of life. And above all, every one of us *should* have a dream. A dream of a better world. A dream of justice for the disadvantaged.

When I started out in the law, I certainly had a dream. It was a recurring dream. I called it my equality dream. I dreamed of equality for Aboriginal Australians. I dreamed of greater equality for women. I dreamed of equality for people of different skin colour. I dreamed of an

end to 'White Australia'. I dreamed of equality for people with disabilities. And I dreamed for equality for myself and all gay people.

These dreams propelled me into civil society and lots of *pro bono* legal cases. None of those dreams has been entirely fulfilled. But it is people who have shared the dreams and then rolled up their sleeves and acted in pursuit who have helped to make parts of the dream come true. Those well-known law professors Oscar Hammerstein and Richard Rodgers put this best in their 1949 musical *South Pacific*. In one of the show-stopping songs, *Happy Talk*, they explained the importance of dreaming. So that is my message: on entering law, "You've got to have a dream":

"You've got to have a dream,

If you don't have a dream,

How're you going to make your dream come true?"

Eat your heart out Tim Minchin. And add a little fruit cake. You've got to have a dream!

I send best wishes to the students of UWA and the members of the Blackstone Society. Careers are built on dreams. Great careers are built on very big dreams. Dream about equality and justice. And then spend your life making these dreams come true.