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REFLECTIONS ON LEARNING & LIVING IN A PANDEMIC

TRANSCRIPT

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The Honourable Michael Kirby\*\*



In the year, 1949, I was selected to go to the Summer Hill Opportunity Class. The OC class: for so-called gifted students. And we had wonderful teachers. One of them, was Mr Gorringe. He'd fought in the war, which was then only two or three years earlier. And he was there to teach us, how we must do everything we could to avoid war; something which led me to get interested in the United Nations. Mr Gorringe taught me about the *Universal Declaration of Human Rights*, 1948. It was something I applied in my later work on North

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Korea. Teachers leave indelible imprints on the memories and lives of their students.

When I was in sixth class, my teacher was Mr Warren Tennant. He had a car accident. And therefore, the headmaster, Mr Gibbons, was suddenly required to teach this class of bright little boys because we were boys and girls, separately educated then. And so he was teaching me. I was a real little swat and very serious about my work. I wanted to get top of the class all the time. And, unfortunately, I spilled the ink in the inkwell, full of Departmental ink onto my exercise book, which had a green cover. It was a Departmental exercise book. So naturally, I couldn't have my book stained by ink. Literally, my copybook was stained. I therefore tore the pages out. Mr Gibbons, who was an expert in weight, walked up and down the class, picked up the exercise books. He picked up mine and shock-horror he said, "This book is light. You have been tearing out pages from this book. This book belongs to the Department. It belongs to the King. This is the King's property. You have torn out pages from the King's property." He had fought in the First World War. So, there was no excuse for the tearing out of the King's property. And so he said, "Come out Kirby. Out to the front of the class." And he had the cane, up his sleeve. Suddenly the stick appeared – yellow birch. And he said, "Put up your hand. You are going to get two of the best to teach you not to purloin the Department's property." And I said, "But, but, but." He said, "No. No buts. Up, up, up." Swish!

And you know, in my work as a judge much later, I was always a little bit softer than some other judges. And I think that experience taught me an important lesson – Before you impose punishment, you have got to hear the

other side. You have to hear anything that is said. Even though it may not, in the end, change your mind, it's important to hear the other side. And, so Mr Gibbons, although he didn't mean to give me a big lesson in justice, unconsciously gave me a very important lesson for my life as a judge, decades later. Hear the other side.

I loved every day of school days. I was a real nerd; I have to admit. I loved them all. I loved the singing, with Terence Hunt. He was on the ABC wireless so he would be up in the corner of our classroom where the radio speaker was placed. He would lead us in singing. And I had a beautiful voice, even if I say so, and I loved that. And then HD Black, later to become Sir Hermann Black, a product of public education in NSW. He taught us the world as it was evolving in 1949. He told us about how Chairman Mao was leading the Chinese military of the communists against the nationalist leader Chiang Kai-shek. So, it was bringing culture and values to my life. It was bringing history, which I really loved. And, that's why I always, remember my teachers and remember the debt I owe to public schools.

Amongst the teachers I had in High School was a teacher, George Bohman. He taught me history. I came top of the State in modern history. I'm very proud of that fact. Though it pales into insignificance in comparison with a student at the school who recently came top of the state in *five* subjects. That is seriously achieving. But, I had wonderful schools, wonderful teachers. I know all my teachers. I remember them all. They had the biggest impact on me other than perhaps my parents and my siblings. I love the law because, at high school, I was encouraged to get on my feet and to speak. So I became a debater. I became an actor. And generally tried to keep my mouth

open and talk and express myself. Therefore, law was really something that fell rather naturally, into my perspective.

I never regretted that I became a lawyer. Every day you are dealing with puzzles. The puzzles of life. The puzzles of what justice means in the particular case. The puzzle of whether a person is guilty or not guilty of a serious crime. These are matters that are inherently very interesting. The technology in my day was the speaker of the radio broadcasts up in the corner. That was then the level of the technology. Otherwise, we had to find ink in the inkwell, a pen, and you would write and learn to write in proper, calligraphy. Still, the biggest difference between then and now is the difference that's happened in our world. The difference of technology. The role of, computers in the schools. And the role of communicating using digital technology. All of this is so different, from my time.

When I was about, 12, my father did a wonderful thing. He bought me a desk. That desk was in the room in which I slept. That really, helped me to get into the swing of studying at home and doing my homework and doing extra, beyond the homework. I was enjoying education. I was enjoying the opening of my mind. So, I suspect I would have been able to cope with school in isolation. But we didn't have anything like the coronavirus in those days. Our schools were not closed. This was a challenge that the public education and private education teachers of today have had to cope with.

We in Australia generally, take our rights for granted. That is perhaps because we don't have a bill of rights in our Constitution. We don't have a charter of rights in most parts of Australia to remind us of the fact that we

share the planet. We share our nation with people who are not necessarily exactly the same as we are. Australia, in my time, was a country that seriously neglected the Aboriginal people. We had prejudice against people who were of a different skin colour or ethnicity compared to White Australia. We had disadvantages for women and girls in our country. And disadvantages for gays. Now, because I learned during my schooling that I was myself gay, that was not a good discovery at that time. But, I have to say that, in public schools, because there was no religious element, it was really a non-topic.

I never felt oppressed in my school. Yet I have seen a change, in our society. And, I believe that change makes it much easier today for LGBT people in schools. Still, it's imperative that our public schools especially give the lead in equality. Equality for all, for Aboriginals; for people of different ethnicity; for women; and for LGBT people. The *Mabo* decision was handed down by the High Court in 1992. I was not then a member of the court. I came onto the court in 1996. I believe *Mabo* has been a very important step in our journey of, reconciliation and equality for our First Peoples. But a lot remains to be done. The *Mabo* decision dealt only with the issue of land rights. But that was an important symbol of the importance of economic rights in order, that Aboriginal Australians should have equality with other members of the Australian community.

It is noteworthy, that the issue in *Mabo*, the entitlement of indigenous Australians to their land rights, was not fixed up by our elected parliaments. We had elected parliaments in Australia for 150 years before 1992. But land rights were in fact fixed up by an unelected court of senior judges. They said,

"This is simply not just that you should deny people access to their land and their land entitlements, because of their race. That legal rule was corrected by the High Court. *Mabo* is one of the great decisions of the High Court. Not the only great decision of the court.

I think it's important for us to have a symbolic change in our Constitution, which, only had two mentions of the indigenous people and they were not favourable to them or their rights. Fixing up the deficits with symbols is good. But it's not enough. The fundamental problem, which the Indigenous people of Australia suffer is that they have been deprived of the wherewithal by which they would have the economic means to enjoy true economic and social equality with the rest of us. Therefore, I think it would be good to have an acknowledgement of Aboriginal people in our Constitution in a positive spirit. But, it's not enough. There have to be other provisions. The Indigenous people themselves need their, voice from the heart. They have urged that they have a "Voice" into the Federal Parliament. If you keep living day by day and everything is the same and nothing changes, then you are not confronted with the wrongs that appear in the world.

So my hope is that out of the crisis of COVID and the coronavirus, we, as a society, will seize a moment to pause and think. I think we've done pretty well in our national response to COVID-19. That seems to be shown in the very low levels of infection and death. And I think, the fact that that has been done with a high measure of bipartisanship amongst politicians is a very good thing. I also believe that, when we get back to so-called 'normal', we will retain some aspects of teaching and schooling and work that we have learned. For instance, why do we all go to a workplace? It isn't really so

necessary nowadays with the new technology of information and of communication. What we should be doing now is thinking, what do we have to do in our politics to encourage cooperation in things that are truly essential. That will show Australia up as a good country that does some things better than others. And what do we have to do in our work, that will be different? And what do we have to learn from our schools from the innovations that our teachers have introduced into education. They have had to cope with the virus. Nevertheless, there will still be lessons to be applied when the virus has disappeared, as we hope it will? All of us need to learn from the past. And from the present.