

Journal of Social Inclusion Launch

April 26, 2010

Speech by the Honourable Michael Kirby AC CMG

I want to start by acknowledging the traditional custodians of the land, not in a pre-emptory way, but sincerely. We must learn to do this as the New Zealanders do, truthfully, reflectively, remembering the wrongs of the past, dedicating ourselves to an inclusion of our Indigenous people wholeheartedly in the future. I am very glad to have the chance to launch this wonderful new *Journal of Social Inclusion*...

The journal, like Caesar's Gaul, is divided into three parts. First, there's a wonderful essay by Anne Ingamells on Aboriginals in remote areas of Australia. Then there are two essays relating to children: one is by Dr Stephen Larmar and the other is the essay by Gabrielle Le Bon and Jennifer Boddy on vulnerable primary school children and their families. The third are two essays which touch upon issues of the disabled by Gail Pritchard talking about disabled as teachers, and two wonderful book reviews by [Danielle Baillie on the life story of Louise Medus, and Caroline Slade on the life story of Kenny Fries], both of them disabled people who have written very insightful books about their experience. The essays are in book review form and are really wonderful and very readable.

To bring all the themes together, Fiona Kumari Campbell has written an essay which is concerned with the cosmopolitan view of the world, the impersonality of city life which is the nature of most life in modern Australia, and how we can build a cosmopolitan community which reaches out to all members and makes all members true participants in our society. Fortunately on the Qantas plane this morning there was a most unusual stewardess. She was French – I could hear it from her accent. So I said to her, "Pardon, what is the meaning of the word 'flâneur'?" (spoken in French), and she said a flâneur is the sort of person who wanders all over the place aimlessly. As somebody who wanders all over the place generally rather aimlessly, I entirely understood the theme which Fiona Kumari Campbell had chosen for her essay: how we can make our wandering through life, our life's journey, less aimless and more happy and contented for ourselves and useful to the world.

These are really very interesting essays on groups that are excluded. We are constantly writing about Aboriginal exclusion, teachers and children, and the third group which is the disabled. The disabled don't get mentioned often enough, so I think it is a terrific thing that the journal has really concentrated on them.

Ann Ingamells' essay is about a community of Aboriginals mostly in Diamantina, and she makes the point that we will include Aboriginal and Indigenous people but generally it has to be on our conditions - you will be included to the extent that you conform to the assimilationist model.

My very last case in the High Court of Australia concerned the constitutional validity of the Northern Territory Intervention. I am afraid I was in sole dissent on that occasion. Indeed there was a sharp exchange between myself and the new Chief Justice, Chief Justice French, who suggested that my indication that I regarded the legislation as based on a racial model was gratuitous. That's what Chief Justice French said. I answered that it wasn't gratuitous, it was absolutely central to my reasoning in the matter. This was an intervention which was aimed ostensibly to address a very important issue but which contrary to the recommended suggestions of the committee which had identified the problem – it involved

absolutely no consultation with the Aboriginal people of the Northern Territory. It was top-down and it remains essentially so to this day, and so the assimilationist model is still in place, not the inclusion model.

Dr Larmar has examined children at risk and in particular a program based upon an idea formulated in the United States in 1993 of so-called Kids Hope Aus which is the Australian version pioneered by World Vision, a wonderful organisation. The program works on a basis of linking a child with somebody who is a member of the church community. As I grew up in a family of church community people I know how very good members of church communities generally are, but it is very important that we shouldn't think that the only good citizens in our community are church-goers and members of church communities. I've had, as anybody who saw the program on Compass last night, a most constructive dialogue over 41 years with my partner who is totally opposed to church communities, and a more moral and inclusive and helping person I couldn't wish to meet. He took upon himself to do not just words, which is what I have done in the AIDS epidemic, but going out and working as an Ankali, cleaning toilets and helping making meals, sitting there talking to people living with HIV, real inclusion stuff. So I don't know whether the only model of Kids Hope Aus should be linking troubled children with church community people, though certainly they must have a part because they will be good citizens too.

The essay by Gabrielle Le Bon and Jennifer Boddy is about vulnerable primary school students and it points out that there are new groups in vulnerable primary school, for example overweight children - I hadn't thought of that - and children who are subject to bullying. I can't really remember much bullying in my school days. Of course I was an A-type personality and a very swotty sort of a child, but bullying apparently affects one in six Australian schoolchildren which is a very serious thing. Do you know the model that Gabrielle and Jennifer have suggested, the model that will deal with that problem successfully - it's inclusion. It's including the people who are at risk of bullying, including children, and that really bears out the point I made earlier about dealing with issues affecting Indigenous people. You can't just impose it from above, which is the colonial model, you have to include. You have to take the trouble to consult. You have to engage. It takes more time but it generally lasts longer and is better. That's what inclusion is all about.

And then the wonderful essay by Gail Pritchard on the disabled as teachers. I remember a wonderful teacher that I had back in 1958 at the Sydney Law School, Professor David Benjafield. He was in a wheelchair and he taught us Constitutional Law. He taught me everything I knew about Constitutional Law. He was a magnificent teacher and he used to come to the law ball. In fact he seemed to be more comfortable at the law ball than I was. He would always turn up at the law ball and have a great time with the students.

I had to think recently in Hong Kong at a conference on sexuality about what it is that gets into the mind of people that makes them feel uncomfortable. Of course the easy answer is religious instructions and legal restrictions, but you've got to dig deeper than that and when you dig deeper you find it is infantile assumptions and preconceptions and it's issues of views of bodily integrity and bodily parts and it is also a question of aesthetics, people's notion of aesthetics, that the family can only be man, woman and two children, preferably a little boy and a little girl. That's an aesthetic image of the family, the sort of family in which I grew up. It is a lovely image but there are other images and there are other aesthetics. We've all just got to get used to it, because that is part of the society in which we operate.

And what I like about Fiona Kumari Campbell's essay is that she started to do that digging deeper. She started to ask, what is behind all this? If this journal in the future is going to have a utility, it is because it is going to look big on the instances and ask what are the features that occasion prejudice against groups, and discrimination against them, and how can we respond? Fiona mentions in her title, apart from flâneur, which I had to ask the

stewardess this morning what it meant, she mentions tolerance. That is a good word and I like it, but I always thought that tolerance is a somewhat condescending emotion. I will tolerate you. I will put up with you. I don't really like you but I will tolerate your reality.

What I think we have to build is a society of acceptance; acceptance that we are diverse, that one in six children are being bullied because they are overweight or for some other reason and that acceptance is the state that is beyond tolerance to the point where we can accept the diversities, and I think that is something which we should all be aiming at.

I must put in a word for the excellent book reviews. They are only a page and a half but boy they are readable, and they give you a desire to read the books that are mentioned. One of them is about Louise who is a local person whose body was affected by thalidomide, and she tells her life's story. There's some criticism of the way she does it with the help of a journalist, but it none the less gives you a real snippet of an insight that makes you want to read the book. The other is about Kenny Fries in the United States who, as it is said, got the triple whammy: he was Jewish, he was gay and he was disabled, and he tells his life's story about coming to grips with these aspects of his reality and that is also a very interesting book.

My feelings after reading this, is that we don't hear enough in legal journals and other journals about disabled people and their perception of life, but I suspect that if you dig deep into their exclusion you would find that there would be very many aspects that are similar to exclusion of gay people, especially ideas of aesthetics and ideas of bodily image and of similarity and the infantile attitude that everybody has got to be the same. Well we're not, and we have got to get used to that.

So Australia as a multicultural society and I believe Logan as a community within Australia as a multicultural society has a really big chance to be a noble country and a symbol for the whole world. We have more people from more communities outside our country in Australia than any other nation in the world, I believe than Israel, and so we've got people from every country and we continue to receive people from every country.

We have made a distance on the journey since I was young in the age of Aboriginal denial and White Australia. We have definitely made progress, but what I think this journal is going to have to do is to try not only to record the issues of inclusion and exclusion but to try to influence and chart the way ahead. It will take time to get it from the pages of the journal into the policies of the major political parties and into action by the bureaucracy but ideas are very powerful engines and once you lay them down, collect them and get the data, and collect it and present it, it can burrow away at the national consciousness and make a difference. I think in that respect that Fiona's essay begins the process of drawing the threads together and looking at issues of cosmopolitan and tolerant and accepting attitudes.

All of the essays demonstrate that the top-down process is not the most effective one and that we have to include those who are excluded. Another message I think from the essays is that we have got to use the new technologies. An email that I got last week from Griffith, which had nothing to do with this event, was about the new technologies including in the law. One of them is an essay on how you can use Twitter to build your law firm. Quite possibly Twitter and the new technologies, the networks, can be used to make people included and to express things directly into the minds of other people in a fashion that wouldn't have been possible in earlier generations. So I was very glad to hear that this journal has a Facebook page which is a very good thing I think and it is going to reach out to all those people who are spending their time at 4.30 in the morning looking at Facebook trying to find out new ideas that they can get today. I do think that social sciences and social work need to include more men. I gather that about 20% of the intake is men and about 80% women, and I asked Ann this morning why it was so, and she said because the money in social work tends to be less professionally. Well, we should be thinking about how we can change all that. When I started in law back in Methuselah's time, there were 5 women in our law class of 100, so 5%

were women - mind you one of them was Bronwyn Bishop, so she would count for a few I think, but we've got to really change the stereotypes in social work and make sure we reverse that in social work just as in law. Now most of the students coming in to law are women and that is going to make a difference I hope not only to the presentation of the profession but also to its substance, and it's also important, and it is mentioned here in the book that the Federal Government, the present government, and we were told that the quote this morning came from the Prime Minister Julia Gillard, our first woman Prime Minister, has this policy of inclusion, and that's a good thing, and it's a good thing when political parties adopt that, but we shouldn't make the mistake of thinking that all goodness is on one side of politics. Goodness is on both sides of politics. People in all parties are good people overwhelmingly and we've got to encourage all political leaders to embrace this notion of inclusiveness, just as it was Malcolm Fraser who encouraged Australia to embrace the notion of multiculturalism, and he says it was one of his really big achievements. I think many good things have been done in the last few years in relation to gay rights, for example by the enactment of laws that remove the pension disabilities, but going that extra step to provide recognition of relationships, issues important to people's sense of dignity, of their inner human worth, has not been accepted by either of the major political groupings, so, it's a journey. Similarly with refugees, I see in the newspaper this morning that this is, according to the Murdoch press, the really hot button issue in Australia for the coming election. Well if it is that is a rather sad phenomenon. We receive a trickle in Australia of refugees in comparison to Europe - a trickle. They get them coming in in cars and buses all the time, and we get this tiny trickle and there is this element of xenophobia in our midst. In dealing with issues such as this we can't count on only one side of politics, we must count on changing the mindset and ensuring that all of our political leaders seek the wisdom of inclusion, see the strength in inclusion, and that's where this journal comes in because it will collect the data, contain the information, involve the persuasion and provide the inspiration for the next generation of Australian leaders.

So, Ian O'Connor really put the weights on me to do this and then he didn't turn up today - I think it's a diplomatic illness, but I am delighted that Marilyn [McMeniman] was here to do the honours. I thank her for her speech. I'm very glad to be back at Griffith and to have the privilege of launching the *Journal of Social Inclusion* 1(1), 2010, online, on Facebook, in hard copy, available to everyone, and I think copies should be sent to every candidate in the forthcoming general election so that they will read, digest and understand, reading with their mind and also with their heart. I launch it!

Biographical Note

Michael Kirby was Australia's longest serving judge when he retired from the High Court of Australia on 2 February 2009. His distinguished career had many highlights including his role as Acting Chief Justice of Australia. He continues to serve on national and international bodies in his fight for a more just world.