

MICHAEL DONALD KIRBY

CITATION FOR AN HONORARY DEGREE

Mr Chancellor, it is my privilege to present to you for a degree of this University, Michael Donald Kirby, Justice of the High Court of Australia.

Justice Kirby is one of Australia's, and indeed one of the world's, most outstanding jurists. Born in 1939, he was educated, like three of his most diverse High Court predecessors, Edmund Barton, Dr HV Evatt and Sir Garfield Barwick, at Fort Street High School, and then Sydney University, where he studied law and economics. As you might expect of an intellect so engaged with the world and its problems, he was active in student politics, becoming, in succession, President of the Students' Representative Council, President of the University Union, and a Fellow of the University Senate. He practised briefly, first as a solicitor and then as a barrister, and became one of Australia's youngest-ever judges when he was appointed as Deputy President of the Australian Conciliation and Arbitration Commission in 1975, at the age of 36.

This was only the beginning of Justice Kirby's long, illustrious, and still incomplete career. In one of the Whitlam Government's most inspired moves, he was appointed in the same year as foundation Chairman of the Australian Law Reform Commission, where he not only made a major contribution to improving the substance of Australian law and the operation of the legal system, but also pioneered the process that we take for granted today, reaching out into the community for comment and opinion and publicising the work of the Commission in the media.

Justice Kirby served for nine years on the Australian Law Reform Commission, and after a brief period as a judge of the Federal Court of Australia, was appointed as President of the Court of Appeal of the Supreme Court of New South Wales in 1984. He served in that position for twelve years, until his appointment as a Justice of the High Court of Australia in 1996.

It would take most of the afternoon to list all of the national and international positions Justice Kirby has held over the years. They include President of the International Commission of Jurists; United Nations Special Representative in Cambodia; President of the Court of Appeal of the Solomon Islands; member of the Ethics Committee of the Human Genome Organisation; member of a number of expert panels, national and international, on AIDS, HIV and human rights; and Chancellor of Macquarie University. This sample of Justice Kirby's extra-judicial activities gives but a small window to his commitment, as a citizen of the world, to human rights, the rule of law, and social justice, on a grand scale.

We honour Justice Kirby today for many reasons. We honour him first of all for his work on the High Court, where his determination to frame and resolve the great legal issues of the day as he sees them—that is, against a background of international and comparative law and by reference to underlying purpose, justice, and contemporary need—has led him to be in dissent more than any other judge in the history of the High Court. We acknowledge his propensity to dissent, not as a badge of honour or dishonour or as a comment on the direction or integrity of mainstream doctrine in the High Court, but rather as a measure of Justice Kirby's deep commitment to the values and attributes we expect of all of our judges: transparent reasoning, fearless independence, and unremitting courage.

Of course, what is right and what is wrong in the higher reaches of the law is infinitely contestable, and a judge's written reasons for decision are in part an exercise in justification and persuasion—persuasion, not least, of the community of legal scholars and informed critics. We thus honour Justice Kirby, secondly, for his scholarship—manifested not only in his closely-reasoned, wide-ranging and lucid judgments, unusually attentive to the arguments on both sides, but also in his prolific output of occasional addresses, lectures and speeches.

We honour Justice Kirby, thirdly, for a quality that underlies his prodigious output, and that is his generosity of spirit. He gives generously of his time, to the legal profession, to academics, to community groups, and to students. On a cold, dark and rainy night in 2001, he drove from Sydney to Bowral to give an after-dinner talk to the Law Faculty of this University, who were on a residential retreat, and then back to Sydney afterwards. This year, after the court had finished its business for the day, he gave the after-dinner address to a small workshop of our research students in Law, on his way to Canberra airport to return to Sydney. He is patron of the ANU Law Students' Society, and an active member of the Advisory Board of the Law Faculty's Centre for International and Public Law. These are but examples. He is totally dedicated to furthering the ideals of the law and the legal system, and uncommonly generous with his time.

Mr Chancellor, there is a distinct resonance between the national and international charter of this University and the national and international dimension of Justice Kirby's work, and between the law reform and social justice 'ethos' of the Law Faculty and Justice Kirby's lifelong commitment to those ideals. Mr Chancellor, it is with great pleasure that I present to you Justice Michael Donald Kirby, so that you may confer on him the degree of Doctor of Laws, *honoris causa*, on the grounds of his scholarship and his distinguished creative contributions in the service of society.

Professor Ian Chubb AO
Vice-Chancellor
The Australian National University

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