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Joan Kirner Social Justice Oration

Communities in Control Conference
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An address on Australian human rights law by

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About the oration:

Sometimes, those who try to change the world for the better are forced to deal with criticism from those who would much rather things stayed the same. Professor Gillian Triggs' five-year stint at the helm of Australia's human rights watchdog exemplifies this: her relentless pursuit of justice, particularly in relation to children in detention, was met with political pressure to fall back. We all need to ignore the critics if we are to lead change.

Professor Gillian Triggs

Thank you, Denis, and thank you for inviting me. This is extraordinary to see so many people from the community here this afternoon. I'm not sure it's a great idea to be the last speaker of the day but I shall do my best to keep you with us.

Can I firstly, of course, acknowledge the traditional custodians of the land and acknowledge that we meet on their land and respect their elders, past and present. I am, of course, deeply honoured to have been asked to give the Joan Kirner Oration in recognition of a truly remarkable woman who made an outstanding contribution to Victoria and who emphasised the importance of strong family support, compassionate and healthy communities, very much the topic of today's discussion.

She was an advocate for equality in education. She understood the needs for a merit-based approach to educational opportunity. As Australia's - well, certainly Victoria's first (female) Premier, she took up the reins of government at an extremely difficult time politically, rising to the many challenges with a sure state of political leadership and a vision for social and legal equality for all Australians, a vision that I think is sadly lacking today.

She was personally very popular with the electorate. And, having failed to win a fourth term for government, she went on to work for the community, for Landcare. She set up, among others, the EMILY's List. She has been a strong supporter of young people and a strong supporter for the role of women in the public arena, so I really am delighted to be able to speak at this oration.

We do share a number of things in common, not least of which being our attraction to cartoonists, and Joan did attract more than her fair share and so did I. I have about 40 scurrilous cartoons, some of them very funny, a lot of them not quite so funny, that I will be sharing and explaining to my grandchildren as the years go by. Can I especially also acknowledge Ron Kirner here. I've only just met him, but I think it's a real privilege to have you here and to know that you were able to come to this oration.

Well, the theme of this conference is “communities in control”. In exploring this, I'd like to understand what it means in practice, and I start from the position that communities and citizens need to take back control of their lives to ensure that their legal rights to social justice and fairness are protected and advanced. By communities, I mean the role of civil society as a powerful force for equality and justice. But in exploring this theme today, I'd like to emphasise the importance of a legal and human rights approach to social justice. It's not only ethics and morality or a sentimentality or a sense of charity and what's right. It's also a reflection of the law and laws that apply equally to Australia as they do to Victoria and to all governments.

I'd like to propose to you that I think there's an urgent need for a national Charter of Rights in Australia, broadly similar, but (a) strengthened version of the Victorian Charter that has proved to be so influential over the last few years.

Our international visitors here might be surprised to know that Australia is the only democracy in the world that does not have a Bill or Charter of Rights, and I think it's time for us now to take action and to think clearly about the need for a Charter of Rights to protect legal rights through the legal system at the federal level.

Well, first it's important to understand the economic and political environment in which I'm making this proposal and in which you do your work within the community.

Both the economic realities and the perceptions of inequality will, I expect, be key issues for the next election. There is a wide perception of inequality in the community, especially for older Australians, for homeless people and for those trying to enter the property market. The evidence is of growing income inequality in this country, despite a period of sustained economic growth for Australia and prosperity for the country as a whole.

It's for this reason that it's important that the national debate about fairness and social justice is informed by the facts and by the evidence. Not entirely easy, of course, obvious though it may be, to people, certainly of my generation, but we talk about the facts and evidence to inform policy, but we live in a contemporary post-truth world in which there's a surprising tolerance for alternative facts, for so-called mis-statements and false news, for the rejection of expert advice, enquiries and reports in favour of subjective ideological views.

In fact, a colleague of mine, the Dean of the School of Government at Harvard, produced a book called *Do Facts Matter* and she produced this book in the year of the election, campaigning for the last presidential election in the United States, and you won't at all be surprised to know that the result of her research *Do Facts Matter* was that facts don't matter at all once you have a clear ideological and subjective view. Now, that phenomenon is catching, and it's been catching in Australia, where we are increasingly willing to ignore the facts for ideological and subjective views and I think it's extremely dangerous and it's something that is really affecting the capacity for communities to be powerful as they should be.

My particular interest in communities and communities in control is relatively recent because I have been, of course, president of a government agency. Believe it or not, I was president of a government agency in relation to a government that was very reluctant to listen to the facts and to the law and to the evidence that supported it, but my more recent experience of the community is in joining Justice Connect as Chairman of the Board, and I've really been understanding in that context just how powerful the community can be, how powerful the not-for-profit sector is.

There are about 600,000 not-for-profit groups in Australia, 10% of them being charities that alone have a combined revenue annually of $143 billion, employing nearly 11% of the Australian workforce and engaging about 2.9 million volunteers.

This, I think, illustrates something of the strength of the community and civil society that should be able to use its strength to achieve the social justice outcomes that Joan Kirner was so determined to achieve.

Well, Justice Connect runs, among other programs, a not-for-profit law service that provides free legal information, advice and training to thousands of not-for-profit groups and individuals. Help is ensured to ensure support for some of the most vulnerable people in our community: the homeless, the poor, often single mothers, older Australians, asylum seekers and refugees living in our community — about 30,000 of them, most of them without legal status because the government refuses to consider yet their claims to asylum seeker status or refugee status — indigenous Australians, of course, and people with complex health and legal problems.

Justice Connect's Homeless Law program helps to reverse evictions of public housing tenants. A recent example is the report of Victoria's public housing authority, the Department of Health and Human Services, documenting the forced evictions of over 2,000 tenants in the last seven years - almost one eviction a day - typically for falling behind with the rent, damaged caused by domestic violence and mental illness, or the general state of the property. Justice Connect's Homeless Law has been helping people to manage these issues, particularly before VCAT. It's notable that VCAT reports that the Director of Housing is the largest single litigant lodging 11,000 applications over the last year in relation to tenancy matters. In my view, and I'm sure in many of your views, eviction is a last resort, if only because it creates a range of new problems that are even more costly for the community to resolve. In particular, homelessness and further violence, and ill health.

Well, the need to understand and to support community groups and civil society is especially important today as our politicians and the federal parliamentary system have in my view failed adequately to respond to fundamental societal problems.

In addition to those that I've mentioned, we have rising out-of-home care, especially for indigenous children who are 10 times more likely than other Australian children to be in some form of foster care and yet there is far too few people willing to take on foster care in those cases where it's necessary.

Sustainable funding for the disabled through the NDIS is also at risk, as we've seen in the recent tax debates. It's all too quick — as governments — to reduce or to threaten that funding where they see another political advantage. Funding to address domestic violence is grossly inadequate and refuges for those suffering domestic violence are forced to close. Too many women remain economically disempowered, something I know that Joan Kirner would have been concerned about. And, as you may know, the fastest growing group of homeless people in Australia are women over 55 years of age.

It's quite shocking that the World Economic Forum's global index for gender equality has reduced Australia by 16 places over the last few years. We were ranked two years ago at 46th in the world when comparable countries: Canada, New Zealand, United States, France, Germany, Britain, are all up in the first 10 or 15 ranked nations. We are consistently falling back in the economic empowerment of women. In the political engagement, we're something like 56th in the world. Not surprising, when you look at the number of people who are currently in Cabinet.

While the Labor Party, I think it's fair to say, has done well in getting women into parliament, getting women preselected, that is not true across the political spectrum and we remain really not playing the role that we should be playing in the public and political environment generally.

In addition to those problems that I've briefly outlined, the World Health Organisation estimates that about 16% of older people experience elder abuse, figures that appear to be very similar in Australia and creates an area of practice that Justice Connect also works in, to assist older Australians to avoid or to manage threats of elder abuse, particularly, sadly, children leaning on their

parents to provide them mortgages and guarantees, are doing so in ways that are very often detrimental to the parent.

We also, sadly, live in an age in which racism, Islamophobia, even anti-Semitism for this day and age, and anti-migrant sentiment are increasing in Australian society.

I fear moreover, that in that environment that I very briefly set out, the power of civil society and of community advocacy is under threat. The Federal Government has demonised civil society organisations, threatening the funding for community legal services and proposing legislation to parliament that will have a chilling effect on the ability of charities and advocacy groups to raise funds or to speak up for their communities.

A very typical example of this, and one that I think most Australians are oblivious to, is the introduction of several pieces of legislation. But one of them, the Electoral Legislation Amendment (Electoral Funding and Disclosure Reform) Bill introduced late last year — a lot of these kinds of laws, I might add, are introduced in November/December when Australians tend to be thinking of summer holidays and Christmas — but this particular one is one that's extremely worrying. It's done in the xenophobic environment in which we fear so-called foreign involvement in Australia. Which, of course, has been a feature of Australia since we were established over 200 years ago.

The bill that I am particularly concerned about, and there are others, captures a broad range of donors who are no longer to be allowable donors to charities and it establishes a regime for registration and financial controls to be enforced by severe penalties, including 10 years imprisonment.

If the bill is passed, it will impose a system of reporting that is significantly more onerous than in the United Kingdom, Canada or New Zealand, and it's likely to have a significant chilling effect on advocacy for social justice by charitable groups in this country.

And I think that we have - I know that this law is complex, it's hard to understand and it's fed by this fear of external influence (something, of course, we should be concerned about in some respects), but we need proportionate and sensible responses to it and I fear that the bill is an attempt to stop the international nature of charity funding, because those charities have become increasingly effective and communities have become increasingly effective in putting an adversarial or advocacy view that the government considers is entering the political arena. So the charitable status will be taken away from groups if they speak up against policies which breach fundamental rights.

And that really does bring me to my key point that I wanted to speak to you about today. And that is that, in my role as President of the Human Rights Commission over the last five years, it's become very clear to me that the State of Victoria is very different from the rest of the country. Victoria now permits euthanasia, it's engaged in treaty negotiations with their indigenous peoples, it has a well-established Charter of Rights — albeit a weak model — and the Courts have employed that charter to protect civil social rights within the community.

A recent example that many of you here will be well aware of is a recent decision of the Victorian Supreme Court that juveniles may not be detained in adult facilities. You will recall that young 16-, 15-year-olds were being held as juveniles in a maximum-security prison in Barwon. That the decision by the Supreme Court using the Victorian Charter of Rights, required that those young juveniles be returned to the Parkville facility, or to an appropriate facility for juveniles.

We tried to achieve the same result in Western Australia, where children had for many years been held in adult facilities and have made efforts, without success.

And one of the reasons for that is that Western Australia does not have a Charter of Rights in the way that Victoria has.

So, in speaking to a Victorian audience about why I think it's so important that we have a Charter of Rights in Australia, I think not all Victorians understand that this is a very unusual jurisdiction in which it's possible to appeal to fundamental provisions in that Charter to protect the rights of children, the rights of families, the rights of indigenous peoples to culture, and so on.

But my perspective inevitably, in my last job, has been a national one, a federal one, that's informed by international human rights law and by the treaties that Australia has played such a significant role in negotiating and ratifying.

Some of you in this room will know that, if we go right back to the days of that remarkable feisty, brilliant lawyer, Dr H V Evatt, he was there in the drafting days of the Charter of the United Nations, he was invited back by Eleanor Roosevelt to negotiate the Universal Declaration of Human Rights and, extraordinarily by today's standards, he was President of the General Assembly with about 52 members at that time, in which the Universal Declaration of Human Rights was passed without a single negative vote. An absolutely extraordinary foundation that he helped to provide for modern Australia.

That Human Rights Declaration became the foundation for all of the treaties that have informed my work: The International Covenant on Civil and Political Rights; the Covenant on Economic Social and Cultural Rights that I think we need to understand and learn about much more; Convention on the Rights of the Child; the Refugee Convention, of course, in '51; Genocide Convention; the Race Discrimination Convention; Sex Discrimination Convention, and so on. The entire body of modern human rights law was founded in this Universal Declaration that Doc Evatt was so significantly important in developing.

Now my point in going to this amount of detail, is to say Australia really did punch above our weigh — to use that phrase — in the international legal environment in negotiating and ultimately signing and ratifying these fundamental treaties.

But the great tragedy is that Australia did not give effect to those treaties in our domestic law. And you'll all understand that you can't go into the international diplomatic environment and negotiate treaties on human rights, and expect them to be part of domestic law, without them passing through parliament first. That's a normal process. It respects the sovereignty of parliament and the sovereignty of the people.

But sadly, while we had the leadership to ratify those treaties, right up until 1996, with the Rome Statute for the International Criminal Court, Sir Ninian Stephen, whom you'll know here in Victoria, a major ambassador for that treaty. We were a founding member. He was very important in promoting it. Right up until that time, we had a really strong commitment to human rights, but we failed, unfortunately, to give them effect within our domestic law.

Well, perhaps you might say, "Doesn't matter a lot." If we are getting it right domestically, then we don't need these treaties to form a benchmark. But the trouble is that, at least since 2001, I think it's fair to say we have been in retreat in protection of fundamental freedoms in Australia. If I'm to draw a point in history as to when I think this happened, I think it was probably 2001, when we had the lie - the alternative fact, if you want to put it that way - the false news, of typically Muslim asylum seekers allegedly throwing their children overboard to ensure that coastguard officials rescued them and brought them within the jurisdiction of Australia, and thus amenable to the law which gave them the right to claim asylum.

Now that mis-statement was untrue, but it wasn't proven to be untrue until we had a Senate enquiry nearly a year later that demonstrated it to be false. In the meantime, the Howard government won an election, at least in part, because of that false allegation, and the creation of what we now see as rising Islamophobia in Australia.

A few months later, we saw the Tampa by that Norwegian captain sailing the Tampa into (Australian) waters, and again the furore that developed from that

about the rights of asylum seekers, but within weeks of the Tampa we had the 9/11 terrorist attack on the Twin Towers and the Pentagon in the United States.

And sadly, from that time on, if you can draw a line in the sand - from that time on, we've seen a diminution in protection for human rights generally, and a rejection by government of community advocacy. That I think is at least how I would put a timeline on this.

We have, I think, become increasingly isolated and exceptionalist in Australia in relation to human rights law, and one of the reasons, not only the failure to implement in our domestic law those core provisions of economic and social rights - civil and political rights - but we also have a constitution that protects very few rights. We have a right to judicial review, very often rejected by government and parliament in specific legislation, particularly in the migration area. We have a right to freedom of religion, despite what people said in the marriage equality debate. Again, another example of the alternative truth.

We also have a right to compensation if our property is taken. But other rights common to modern constitutions are not mentioned. Freedom of speech is not included, although the High Court of Australia implies a right of political communication, which is not the same thing (quite). Our constitutional founding fathers didn't mention the rights to privacy or freedom of movement and association, nor did they prohibit arbitrary detention.

We might note, and you might remember, that the Papua New Guinea Supreme Court found unanimously that the detention of refugees on Manus Island (and about 700 men remain there) was contrary to the Papua New Guinea constitutional provision that protects the liberty of the person.

Within a few months of that decision, the Australian High Court had found the detention and the transfer from Australia to Manus of these refuges was constitutionally valid.

The point of contrast is extraordinary: that we have a relatively modern constitution — 1975 for Papua New Guinea — that has all sorts of provisions that protect liberty and social justice. These don't exist in our constitution. We have no provisions that prohibit torture, slavery, or racial or sexual discrimination. The rights of children, the disabled and the aged are not mentioned, and certain constitutional protections that do exist, do not apply to the states and territories, particularly religious freedom.

We have introduced some international treaties in our domestic law, the most important being the Race Discrimination Convention, which has been, as you know, under significant attack by this government in an attempt to repeal or amend Section 18C, that prohibits racial abuse in the public arena.

We've also introduced one of the most important international human rights conventions, which has been the Sex Discrimination Convention, and that's really been a major influence on Australian law, that I think we really have to value, That and the Race Discrimination Act are probably the most powerful protections for our basic rights that we currently have.

We also have, of course, legislation now on age discrimination and disability discrimination. Interestingly, there's no international convention on age discrimination. We are a leader again, a leader on that question. So, we're very odd in relation to some of these questions. We don't certainly form part of the international environment in which we speak the language of human rights. We do not really tend to do so in Australia.

The Australian Human Rights Commission, of course, provides a role in hearing about 20,000 enquiries and complaints a year. But, as you've heard, we are and have been consistently under attack for managing the complaints that ordinary Australians bring to the Commission for conciliation. Not for judicial determination but to try to conciliate them in a way that meets the concerns of employers, in particular, government bodies and individuals who come in free.

All the advice, all the conciliation processes are provided free. But nonetheless it is rather under threat. And it's also subject to a very particular problem. And that is, that the mandate for the President of the Commission is human rights law. And yet, as you can already see, when that human rights law is not part of domestic law, it's very difficult for me to speak to the Minister or go to the High Court of Australia and argue for the rights that exist and on economic and social rights or political and civil rights. Because the Minister will say to me, "That's very interesting, Gillian, but it's not been enacted as part of Australian domestic law," and we have no constitutional or other provisions which will allow that to be argued.

But we have, I think, it's fair to say, adopted an essentially parliamentary approach to liberty, to freedoms and to rights in Australia. And that's fair enough. It's not unreasonable to say that we would develop our own approach. Rather than being litigious and going to the courts, we would rely on parliament to protect our rights, and they have. Parliament has traditionally been the guardian of our common law rights and freedoms, and maybe we could evolve along those lines.

The sad thing is that in fact that's not happened. Some years ago, you might be aware the government, after an attempt by the Brennan Enquiry to propose a Charter of Rights, accepted then by the Labor Party, it failed, and we'll come back to that, but the compromise was to establish a parliamentary committee in Canberra that was called the Human Rights Scrutiny Committee. And I was very enthused by this at the time - I wasn't then President of the Human Rights Commission. And, being a spy novel fan, a le Carré fan, I wrote an article published *Australian Human Rights Coming in from the Cold*. I thought that now finally we'd got a mechanism within parliament - not where I'd quite like to see it with the courts, but within parliament, that would give us some benchmark for fundamental human rights to be considered at the coal face. In parliament itself, before laws are legislated that breach those rights, or where we fail to provide legislation to meet those rights.

Well, the Scrutiny Committee has been exceptionally disappointing. It breaks down on exactly the same party voting lines as parliament itself breaks down on. It's headed by Philip Ruddock as its chair, so you won't be entirely surprised by that outcome, but it's extremely disappointing, because I felt that if parliament was going to protect our fundamental rights, even if we hadn't introduced legislation to give effect to it, at least we have parliamentary committees that the public will be comfortable with and that would … provide a scrutiny role and a benchmarking role that we could be sure we would meet our rights.

This has really failed. And that, I think, is now quite clear with the indefinite detention of asylum seekers. But also something that we've not talked about a lot in the community, and I think we need to understand more. And we learnt about it within the Human Rights Commission. And that is the detention of people with cognitive disabilities.

It seems extraordinary, but many people are unfit to plead to criminal trials because of cognitive disabilities, particularly foetal alcohol syndrome that some of you will be well aware of, particularly in indigenous communities. They're not fit to stand trial, but they nonetheless go to maximum security prisons. And the great danger with pleading unfit to stand trial, is that there's every chance you'll be held indefinitely at the discretion of the minister, and we've found cases throughout Australia - the Marlon Noble one being an example of that - of people simply held there because there was nowhere else to send them.

The ministers didn't want to be responsible for releasing into the community people who might be dangerous. And therefore, they have virtually no rights and it's only when we become aware of them, that it's possible to get some kind of recognition that they need to be moved to better medical facilities but certainly out of maximum security prisons. But also, we have a growing prison population. In effect, of people whose visas are being cancelled on character grounds on the discretion of the minister.

And people who have already served their sentences as criminals who are determined by the minister to be dangerous to society. These are very, very dangerous changes in the way in which we use our prison systems and it's something we need to be alert to.

You will all be aware of the Royal Commission into Aboriginal Deaths in Custody, 25 years ago. There are more Aboriginal deaths in custody than we've ever had in the past. Something like 320 Aboriginals have died in custody in Australia since that Royal Commission was introduced and we have growing evidence of racism in the delivery of our health services.

We have, I fear, failed these people in our community, and we continue to do so in an environment in which our parliament has become increasingly dysfunctional.

We do not have the tools to deal with emerging issues in our digital age, laws of privacy, problems dealing with elder abuse, workplace discrimination against the disabled. We need better processes to deal with sexual assaults and harassments, even in our universities.

So, in summary, I think Australia has reached a position in which our fundamental freedoms are diminished by the failure to have the legal tools available to comparable countries.

What are the solutions?

One is to strengthen parliamentary processes, but I'm not particularly optimistic about that.

We need more education about democracy. Some years ago, a survey was conducted amongst Australians as to whether or not they knew we had a Constitution.

Forty five per cent of Australians thought we have no Constitution.

The next question being asked was do we have a Bill of Rights, and something like 65% of Australians said we do. It reminds me of a story in Queensland - and apologies to any Queenslanders here — of a man who had killed his partner (a woman) — we know one woman a week is killed in domestic violence.

And as the cufflinks were being encircled around his wrists, he asked if he could take the fifth amendment. The problem is that we know far more about our rights, so called, from American television than we do from our own education system.

And I deeply believe - I know it's long-term but I deeply believe we need much more education about our democracy and about the kinds of things that I've been talking to you about today.

We need strong political leadership.

We need visions of the kind of visions that Joan Kirner had about education, about equality, and about ensuring that women play an equal role in the political system.

But in the end, I think, what we really lack, because I do believe in the legal tools. We really lack a Charter of Rights.

I'm not suggesting a constitutionally-entrenched Bill of Rights on the US model. Or even I, as a supreme optimist, don't think that the body politic in Australia is yet ready to agree to such a profound change, especially as our political leaders see constitutional recognition of indigenous peoples as a bridge too far.

We have rejected ignominiously, and without question, the Uluru Statement from the Heart A statement that was developed after much consultation, much serious thought and debate. We have rejected that community voice for our indigenous people without any real substitute.

I wouldn't want to give the Courts of Australia the kind of power that American Supreme Courts have.

You might recall the Obergefell case in the United States Supreme Court, a majority decision, which simply determined for the time being in America that same sex marriage must be recognised by all the states within the union.

We couldn't really do that in Australia. Although I think as a lawyer, I see it as a valuable mechanism of finally reaching a legally-based answer on the 14th amendment, the principle of equality before the law. I think it's a way of resolving such complex questions within the US system. I don't think it's something we could do.

What we could do, however, is have what's called the dialogue model, which operates here in Victoria, where a piece of legislation could be found by the High Court of Australia to be incompatible with fundamental human rights and freedoms and send it back to parliament to renegotiate and redraft the law. And it seems where that occurs in Victoria, that is what happens. That is what happens in the New Zealand model, for example.

I think that's a workable compromise, and at least would give us the opportunity for the High Court to rule on indefinite detention for various reasons. On the failure to provide proper housing, on the failure to protect women from domestic violence and so on. I think it would provide us with a benchmark to determine whether we're treating people with fairness and justice.

There's a great deal of objection to the idea of a Charter of Rights.

One is that it will open the floodgates to litigation. Well, so be it, if that's what gets us the right answers. But secondly, let's look at the facts. In the ACT, where there is a Human Rights Act, that was passed in 2004, the Act itself has been referenced by the Courts only 8.1% of cases since its enactment.

And in Victoria, the Charter for Human Rights and Responsibilities has been mentioned by the Court only in 1.6% of cases. In other words, it's not really at the Court level that Charters of Rights are so powerful. It's at the level where decisions are made. They are symbolic, educative and informative.

They restrain parliaments from acting laws that infringe our rights and they ensure that administrators, the people who actually administer the law on a day-to-day basis, do not impose policies that also impinge those rights. Human Rights Charters form a scaffolding for a social culture that respects rights for communities and for individuals.

One argument that perhaps is an especially Australian argument is we don't want to give the judges that much political power.

Many politicians simply say sovereignty lies with the people and their representatives in parliament. We do not want to give the Courts the power to change the law, to reinterpret provisions.

Well, my answer to that is: Where do you think we got common law rights and freedoms in the first place? They are judge-made law on a case-by-case basis emerging from the 12th century. That is where we got those laws, and that is how we got Mabo Number 2 in the Mason Court and the Court for the Tasmanian dams case that acknowledged the role of international treaties, or the Teoh case on the rights of children and legitimate expectations.

We are the concept of a legitimate expectation: that public officials will read the treaties, at least take them into account, before they pass their judgments in determining what happens to children in care or deporting people from Australia.

So, I think we have to acknowledge that we have very fine judges in Australia.

The idea that they're going to become left-wing activists overnight is really an absurd suggestion. I think we desperately need those standards.

Well, in conclusion then, timing is everything in politics. Australia has now been elected to the United Nations Human Rights Council and it might be that engagement with that Council will help Australia persuade our politicians to meet our international human rights obligations.

The recommendations of the Human Rights Council's universal periodic review two years ago, does diminish Australia's credibility in chastising other nations for their human rights abuses.

Our colleagues, our allies, our traditional friends in the international community were forthright in that universal periodic review in criticising our policies, predominantly in relation to asylum seekers and refugees, secondly in relation to the treatment — incarceration in particular — of indigenous Australians, and thirdly the failure to respond properly to domestic violence.

But when we have political leaders that say, "We will not be lectured to by the United Nations," we can see it's very, very difficult for the community to understand the importance of these international standards.

And that is why again I think we are in such desperate need of leadership with the vision and the courage to argue for these principles, that people like Doc Evatt brought into the Australian community as part of our international obligations.

The road ahead is not going to be smooth or easy, but I think we have some movement at the station. Queensland is now, I understand, drafting a Charter of Rights. I believe Tasmania is looking at it, and even the Northern Territory is considering one. So I think it's time and it's rather ironic that the move might very well come from the states and territories rather than the federal level itself.

But I think, to come back to your concerns as members of the community, I am really convinced that the power and the sovereignty lies with the community.

If this conference is about control, bringing back control to the community, I say take that control, take that leadership and vision that's so lacking at the federal level and use your power to insist that fundamental human rights are recognised within the Australian community and that we can achieve social justice through the law, and ultimately through a Charter of rights.

I do hope that Joan Kirner would have approved of this, but I know she would at least have understood the sentiment that underpins it. So, thank you all very much and good luck with your work.

ENDS

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