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UN photo by Eskinder Debebe

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The lawyer as an activist

Extract of address to candidates on the occasion of their admission to practice as Australian lawyers Wednesday, 26 April 2006

THE HON. JUSTICE CHRIS MAXWELL,
PRESIDENT OF THE COURT OF APPEAL

Now, at last, you are on the threshold of what you have been aiming for all these years. You will have had during the last year a good taste of what legal practice involves. As from today, you can practise in your own right.

We wish you luck. It is a great adventure. There will, however, be times when you wonder whether this is what you really want to be doing. You may find yourself as the most junior member of a large litigation team, so that your hopes of writing learned letters of advice seem rather distant.

My advice to you is: do not be deterred. You are fortunate now to be the possessor of a qualification which enables you to make a difference. In talking to young lawyers recently, I have been exploring the notion of the lawyer as activist. To me, an activist lawyer is one who uses her or his skills to make a difference, assumes the responsibility, and seizes the opportunity, to make a difference.

The first step is to realise that you can make a difference. The larger the firm with which you are working, the less immediately apparent it will be that you can make a difference. You may well be working for clients for whom access to quality legal services is regarded as a matter of course, but you should never be diverted from recognising just how important your work is.

If you need any reassuring about this, offer your services to a community group, a sporting club, a non-profit organisation, a primary school. You will find that what you have to offer is precious indeed.

Our ideal of legal practice is that every person in the community should have sufficient access to legal assistance to be able to assert and defend legal rights when that is required. In practice, unfortunately, we have very significant inequalities of access to legal assistance – and this is only mitigated to a limited extent by the efforts of the Legal Aid Commission, the community legal centres and those many lawyers in private practice who do pro bono work. As individual lawyers we should all strive to bring the practice of law in Victoria closer to the ideal of equal access.

And you can be an activist in the firm in which you work. Remember that, while your duty to your client is fundamental, your duty to the court is paramount. Where the two conflict, the duty to the court must always prevail. On no account must the court be misled.

The activist lawyer quickly develops a reputation for integrity, for adherence to principle and for a readiness to speak up if, in any respect, important principles are being neglected. Be bold for justice.

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