

PROFESSOR PETER SELLARS

“The Art of Justice”

Thank you so much, that was tremendous. What an honour. Good evening, ladies and gentlemen, and distinguished and undistinguished alike.

One of the marvellous – one of the most moving parts of being invited to give this oration – and, if you don't mind, I'm going to try and stand here in an old-fashioned oratorical pose – is to really be the first cultural worker invited to make this distinguished address. And I'm very moved by that, because Dame Roma touched people's lives and brought, I think, something that has been described very movingly by the previous speakers this evening as warmth to what she did, to what could be said to be the cold workings of justice. What is that warmth? What is that presence of the human heart? The idea that justice is something that we see almost never in the world. In fact, we're surrounded every day by countless examples of injustice, partial justice, abrogated justice, negotiated justice, when in our heart we have an idea of justice that's much higher.

Justice is something you can't see out in the world; it's something you can only experience in your own being by setting the highest possible standards for your own conduct of your own life. In human events, everything always gets compromised one way or another, but that question of our own level of idealism that we maintain as we go into every single human interaction, where the kingdom of justice *is* alive in our heart, and every day we're going to try and touch it again. It's this idea in a community that is seen architecturally in the image of the great cathedrals, in the sense that there has to be a large space in the middle of town that is empty, which is a place you can go fill with these invisible principles and hopes to keep justice alive.

I come from a city, Los Angeles, where the chant is 'No justice, no peace.' And I have to say the cultural miscarriages of justice, where you have a system that is overwhelmed by cases it is not prepared or qualified to deal with... that is to say, we have had systematically over the last years in American society the shutting-down of educational initiatives or community-based initiatives – which leave the Los Angeles Police Department to deal with a range of issues that were *never* criminal justice questions. And, indeed, in both of our societies, we are currently handling in the

criminal justice field things that did not need to become questions of criminality. I would like this evening to focus on two issues that are before this country and certainly before my country, and I would like to speak with the understanding that I am going to base my examples on America, because – thank God! – you’re not there yet. On the other hand, you do have a series of zealots circulating using the terms ‘zero tolerance’ and I want to speak about the consequences of zero tolerance – and I’m going to speak about that culturally now.

Why?

Why not, first of all, deal with the fact that the world always has been multicultural – in fact, that every human being is multicultural, that each of us has many voices competing. Every human being is capable of all good and all evil at any given moment. There are not the ‘good people’ and the ‘bad people.’ The classically bad people... you know, half of the great Muslim saints, in their early years of Islam, were criminals and highway robbers whose lives were transformed – and then realised, after years of being murderers and gang leaders, that they had a debt to pay back to society, and spent the rest of their lives in good works and leading their communities forward. These were not lives that were made to be wasted. These were lives that were about the human cry and the human heart of when you are crying from the bottom and a kind of deep transformation of what it means to be a human being, and the difference between a human being and that lectern – because that lectern is pretty much going to be what it is until it leaves this world, whereas the hope is in each one of us, in each one of our lives, that we could be someone else tomorrow. Most of us are struggling with that every day, and hoping that we can transform ourselves, parts of ourselves that we’re not proud of and that we’re genuinely working on. And one of the most amazing ways in which spiritual power and that thirst and hunger for justice works is the famous Saul to Paul conversion of when the oppressor becomes the liberator, when people see the error of their ways, have behind them the most appalling record, and therefore become the most powerful spokespersons for living another way and for creating a zone of tolerance and understanding and hope, and a sense that nobody’s life should be thrown away – but all of us are just starting out.

So, multiculturalism is about these many voices inside each one of us, a voice every day and every minute that’s saying, ‘Do this,’ and the other voice that says, ‘No, please don’t do that; do this.’ And that voice... the battle of voices every day where we know somewhere inside that

there are going to be very dire consequences but we do it anyway because we think, ‘No-one’s looking,’ ‘Who will know?’ – all that stuff. And what we’re not getting is that the entire community is looking, and everyone will know. There’s no such thing as a secret act, because every secret act is actually what’s making the community. A community is formed not so much from the visible acts as from the invisible acts. Now, what we’re talking about is a culture of violence. We’re talking about why do you need a shelter for battered women? How do you introduce legislation so that there will be fewer women who are subjected to violence in the home? You can’t. It’s a problem that ends up in the criminal justice system but actually was never a legal question, and by the time it reaches the criminal justice system it’s too late. And you look at most women who are incarcerated in your country and my country today and you ask, ‘Why are they there? What was the chain of events that led to the act of violence?’

The other issue related to that, and related to immigration: In California we’ve passed in the last years a series of unspeakable referendums attacking immigrants, denying immigrants emergency medical care, denying immigrants access to an education for their children. These are now as law on the books in the State of California, where I come from. Now, a High Court judge is probably going to overturn these ridiculous, appalling laws – I mean, I would just say in 1933 the first laws proposed by the National Socialists in Hitler’s agenda was the law against the overcrowding of the schools. It was the Nazis’ first law that they got passed, which was saying, ‘We have a limited budget, limited resources. The children of these foreigners are taking opportunities away from our own children. We have to weed them out of the schools. We have to use the teachers as the first frontline of informers.’ And the chilling effects on education were felt instantly. The difference with that law and the law that’s on the books in the California is that the Nazis said, ‘This of course only applies at the secondary and university levels. Every human being deserves an elementary education.’ In California we’ve gone them one better. Now, a judge will overturn that, I hope, and at the moment there’s been a stay that’s been issued, but the question is the public voted for that. And so you can overturn it, but the fact is people are walking down the street with that in their heart. And that’s a bit what I want to underscore this evening, is that these are first cultural questions. It is a culture of intolerance, a culture of violence – or a culture of tolerance, a culture of mutual understanding, negotiation, giving everyone their space, respecting diversity, creating a society which insists upon diversity (biodiversity, as we now learn), which is absolutely necessary to sustain any life form.

So it's a question now – and, of course, I've spoken of this in the past – but in your country and my country most of the people in prison are people of colour. On the other hand, that's not most of the people that commit crime. What is it about the criminal justice system that is not only not colour-blind but in fact is triggered by the presence of people of colour, and why is it that people of colour are subject twice or three times more often to scrutiny by law enforcement? Certain kids in certain neighbourhoods get into trouble – well, let's put it this way: all kids in all neighbourhoods get into trouble. The question is in which neighbourhoods it becomes a criminal justice issue and triggers a larger system that goes into action.

I've spoken before here in Adelaide of two times ago, my last visit to Los Angeles, I spent a day in a boot camp for eleven to seventeen-year-old teenage girls – completely girls of colour. They had gotten into this camp by fighting in school, picked up on minor drug charges and so on. In Los Angeles, if you fight in school people are so panicked right now that someone will get shot that there is no discussion; you are simply expelled and immediately remanded to the criminal justice system. So, you know, two girls pulling each other's hair are spending three years in a boot camp in the hills on the edge of Los Angeles. You see the conditions where these girls... you know what a military-style boot camp is about is routine, aggressive, vicious humiliation. They are wearing ugly, baggy clothes; they are marched from building to building; orders are barked at them using their last names. The whole point of military-style discipline is to smash your own identity to a pulp to create a nonentity there who simply takes orders. What a thirteen year-old girl does not need is her identity smashed to a pulp. What a thirteen year-old girl needs is an identity. No mirrors are allowed anywhere in the institution, so you go into the bathrooms, the shower rooms – to be a teenage girl and not be able to see how you look in the morning? Unbelievable. I mean, the levels of subtle cruelty. And you would think, at the end of a day of non-stop humiliation, you could just curl up in bed, but in fact they're put to bed at eight-thirty at night, while it's still light out, and they have to sleep rigidly in military position with their legs and arms straight looking straight up at the ceiling. Now, who thinks of this stuff, and who thought this was helpful? What triggers a return to this institution is, of course, once they go back home they're on very elaborate curfews and a whole series of systems where people are checking up on them. If they get home after their seven o'clock curfew it's another year back in the boot camp. Now, imagine being thirteen years old and being five minutes late. Again:

imagine being your own age and being five minutes late, and that triggers another year in a boot camp.

I'm talking about these rather extreme situations because they're not fictional; they're going on at this moment at an unbelievable rate. The prison industry is obviously billions of dollars – SBS has had an extraordinary documentary that began to open some of that up two weeks ago, and I think there was one before that, but I would just really emphasise: you have to go to a court and sit for a sentencing. This 'Three Strikes' law is applied seventeen times more frequently to young men of colour than to anyone else. What it means when you're sitting there... what I did when Three Strikes came in is I just went to the court. I just spent my days in court every day, watching the law work, trying to figure out what was going on. So you see a young man brought in for possessing ten grams of cocaine, and when he is arrested he says to the officer, 'Oh, come on, officer, I have a family to support.' That is entered into evidence to prove that he's a dealer, and so with his young wife and one-year-old son sitting in the front of the court, those words are used to give him a 25 year sentence instead of a ten year sentence for possessing ten grams of cocaine. Now, if you talk about justice being blind, where a very important question of where, in terms of harm reduction, the 'war on drugs' is actually doing more damage than drugs in my country – and that is very serious. And we now have, as you know, two million people incarcerated in the United States of America. Eighty per cent of them are there on drug charges. Every 20 seconds an American is arrested on a drug charge. The numbers are unbelievable. The new prisons that have to be constructed to contain this is a billion dollar industry – doing very well on the stock market, creating devastation in entire communities.

Now, I just wanted to underline the reason I took this job here in Adelaide is because I'm truly fleeing from that. And I've been following, in particular, the immigration issues, and when Australia had the Pauline Hanson debate and then said 'No' to Pauline, to the One Nation ideology – not that it was easy; it was a genuine debate and it was fierce – I said, 'That's a place where I want to work.' Right now you are the only industrialised nation in the world that's said that. In the South of France, in East Germany, in Northern Italy, in the State of California, those ideologues were all put into office. In Australia, people had the courage to say, 'No, that's not the kind of country we want to have.' I have to say the question of the reception of immigrants at a time when, obviously, it is *the* issue globally – because we have the largest number of

refugees of any period in the history of the planet, we have a generation of children that grew up in tents and refugee camps for twelve, thirteen, fourteen, fifteen, sixteen years, their entire lives spent waiting to get a reply from the UN High Command for Refugees. And you have a very interesting situation, where the camps in Chechnya – one set of camps I know about, I have friends working there – the residents of the camp decided to shut their camp to the UN, to medical teams and to food shipments because everything came at a price. Somebody in the world was using them to make some point. They were being used, these people who've grown up in camps, as a political pawn. And so the only people they will allow in their camps are the musicians at the moment – the *Médecins sans Frontiers* can't get in right now – because the arts programs are the only thing that they can really feed their children with, that are keeping hope alive, and that are keeping a sense of empowerment and their own voice and the power of that voice.

Here in South Australia, obviously, the situation at Woomera, which was so powerfully reported, *Four corners* on Monday night... Just can't say: I mean, people who saw that just sat in front of the television sobbing their eyes out. Really tremendous. The depth of the issues of these refugees, what they have gone through in their lives to get here, and what people all over the world right now are fleeing from. And that is a real issue: why can't people stay in their own country? Well, the list of reasons is very powerful. How these people are introduced to Adelaide, you know, at the rate of a dozen a week. It's shocking. And I cannot tell you – I want to record publicly my admiration for the Premier, Mr Olsen, for his courageous stand, truly taking on the Federal Government and saying, 'This is not the kind of country we are.' And that's why I'm in Adelaide, because Adelaide has a long history of leadership, and leadership is not just taking the temperature. It's not just saying, 'What would be expedient?' It's not just saying, 'What do most people think?' Leadership is recognizing that what most people think is not informed enough or advanced enough and truly needs to be challenged and led. How many leaders are there now willing to stand up and say what needs to be said, even though the opinion polls say something else? That's where I feel Dame Roma has a legacy that's extraordinary, and where I feel Adelaide has had an extraordinary legacy in leading Australian public opinion and taking stances that are unthinkable and then later become whatever one's most proud of.

But the only thing we're really handing on to future generations is a stand for justice. The buildings will eventually fall apart; the social programs will all get changed. The trees will

eventually die. What is handed on is a stand for justice, a society founded on justice. The leadership the world is looking for is a society where people stand on principle. In this mad rush for globalisation where anything that can make money is acceptable, what it's going to take for poor little South Australia to recognize that this is the time to put up the flag again. What South Australia does not have to offer is an economic bonanza; what it has to offer is a society founded in principles of justice. The leadership that South Australia has to offer the world is that idealism: this is where that idealism is nourished, and where the breakthroughs are made. History is asking this generation to step up to the bar. Previous generations in Adelaide have made extraordinary breakthroughs. The issues are before us here, right now, in this society.

Others have spoken powerfully about the Reconciliation issues. In coming from abroad, the only thing I would ask is, again, just think Nelson Mandela and Desmond Tutu would suggest that truth comes before reconciliation. You can't just skip along to reconciliation; there has to be a truth-telling process first. Now, how does truth-telling work? How do people have the courage to say that which is unpleasant, unpopular, no-one wants to hear? What is the atmosphere of trust and tolerance that needs to be created, where difficult things have to be brought to the surface – because until those things are spoken of in public, no-one is safe? The Greeks invented theatre as preparation for jury duty. Electra and Arestes have to kill Mom. We get to meet Mom, Clytemnestra: she's not much fun. We realise, in the house of Atreus, that Dad sold his daughter so that his – sacrificed his daughter, literally – so his business trip would work out. And the Greeks hired a guy names Æschelus to write about this, because the court case that dealt with kids murdering their mother, right, remanded to custody, you know, *et cetera, et cetera*, doesn't deal with the depth of the social issues that are brought up by the fact that kids are doing this. And the question is, 'Can we not treat this as an open-and-shut legal question?' But can we say, 'What is happening in a society where kids are doing this?' We need a forum to discuss the fact that we all share this implication. This is not a private tragedy for that family. Æschelus wrote his plays, and the City Council of Athens made sure that every citizen attended the theatre. It was the same price as a mug of beer, and if you could not afford it the City Council funded your ticket – *but you had to be there as a citizen*. In the hills outside the city they carved a theatre, a giant, giant semi-circle where the entire community, across all class lines, could sit down and, through poetry, music and dance, say, 'What is going on here? How did you treat the prisoners in the last war? Can we talk about that?' You hire Æschelus, you hire Sophocles. The very issue

that no politician can bring up, you make the space for through culture. And then the climax of the Oresteia is voting – that’s what the first Greek trilogy ends with, and the third play is, ‘Well, we have to vote on this.’

But that jury duty was not prepared by legal briefs; it was prepared by poetry and dance so you could see into the heart of the young woman and her pain in killing her own mother. What actually that meant in her life – not simply to say, ‘Well, we have a victim here – mother, blah blah blah blah,’ but to deal with the fact that in fact it’s the perpetrators of violence who are the devastated people. Equally. And how do you heal and move to help *that* devastation? A kind of devastation that, yes, this particular person is the person who went over the edge today, but actually that same devastation is moving through the whole society. And until we can speak to that, we’re going to be just dealing with things on a case-by-case basis and filling up the prisons. And the fact is, this kind of crime – no matter what Draconian regulations you enact – the amazing thing in human history – and I have to say, standing here in a country that was founded by people who were subjected to Draconian legal decisions about being hung for stealing a spoon – did that eradicate crime? No. We have seen the most extreme penalties imaginable – they created the nation of Australia – and crime was not reduced. There is no reduction of crime in late eighteenth century, early nineteenth century London, when these Draconian laws were introduced. And let me say, since America has embarked on the 75 billion dollar drug war has drug usage lessened? No. The street price is higher. New prisons have to be built. And certain larger questions, which have to do with why in the history of humanity every society’s had hallucinogenics but understood as cultural practice – actually, people do dangerous things *in* a ceremonial context, *in* a social context, *in* a context where there’s an internal equilibrium, where there’s a culture that surrounds this practice – so that yes, while there are occasional extreme times when people go over the edge, mostly it’s a practice that is about sustaining a community and is recognizing a human need for an interior world, for a world of the imagination, for a free flight zone. And these hallucinogenics – you know, and again, we’re in a society that obviously has a double standard and is busy talking about a whole range of drugs while alcohol carries on full blast – and again, if you just wanted to look at the statistics for who’s being hurt by what, obviously it’s alcohol that’s hands-down favourite: why is that our legislation doesn’t reflect this? Again, I’m speaking, when I say ‘our’, I’m speaking as an American.

Actually, the drug war was a very direct approach to another political agenda, and that's the complexity of understanding our laws in a cultural context. Marijuana was criminalised by the United States Government in the '20s as a response to the Mexican immigration scare. In the US Congress, marijuana was highlighted as the drug of Mexicans and, in the laws that were passed to keep Mexicans out of the United States, the other very important element was that anti-drug legislation went hand-in-hand with the anti-Chinese legislation in California. And, in fact, the drug war and immigration have been both used by politicians to capitalise on middle-class fears that the entire nation is going downhill because these immigrants are polluting our beautiful society. The way these incoherent fears, things that people can't put their finger on – and I would say in the last generation in America it's been the fact that obviously most US corporations have shut down operations in America and moved them offshore where they don't have to pay health and benefits, and so that most American corporations are manufacturing in Juárez rather than El Paso, in the Philippines rather than in Seattle, that American middle-class is out of a job and feel that if somebody has a job they feel they could be out of a job quickly – there's a whole atmosphere in the society that's about fear, that's about an economic decline that you can't put your finger on and you're not in control of, and you need someone to blame and you also have a profound need for revenge, which is where we move into the area where criminal justice now resides in my country, which is not about rehabilitation but is about revenge.

And what it means, these mandatory sentences that are not about the fact that no two human beings' lives are the same and you need a human being to pay attention to another human being in order to find what a correct response would be – just the very idea of a mandatory sentence, that all people are alike and one sentence will do for everyone, is beyond belief. The idea that judges no longer – why would they even come to work with this mandatory sentencing in place? To watch mandatory sentencing functioning in – and again, I have to say it really does – in Los Angeles, it really makes Western Australia and the Northern Territory seem like a paid vacation, because what you're dealing with is mandatory sentencing means ten and 25 years. Obviously, you've seen the stories: young man stealing a fistful of chocolate chip cookies is serving a 25 year sentence in the State of California. I mean, it compares favourably with the laws that were in place that created Australia, but the idea that we're revisiting them is pretty incredible.

The new thing, of course, is that, now that the Three Strikes law has been in place for nearly ten years, the terror and havoc and desperation that it's now creating in communities has led to a new practice in the courts, which is – as you know, American courts, we elaborately shackle and humiliate people. People are not usually particularly dangerous but there's a giant shackling process so that they're treated as criminals and made to feel as criminals and so their court appearance, somebody comes in again whose sense of identity and wellbeing has been completely shattered by the treatment that was accorded them as they were making their way to the courtroom – the new innovation that we have in California, which you'll be pleased to know is a metal belt which goes right here, which the judge has a button which activates an electrical voltage which goes through the prisoner. So if the prisoner, when being sentenced – as we have frequently in California, I mean, huge numbers of people sentenced for nothing, for *unbelievable* trivialities and they're then told the rest of their life [will be] in prison – well, they don't go quietly. As a human being, you would try and protest. A nineteen year-old kid, a 20 year-old kid.

As I've probably mentioned, the legislation that created Three Strikes as a national phenomenon – I mean, we pioneered it in California and then it became a national phenomenon – the legislation that creates these life sentences, the same legislation removes educational programs and body-building equipment from prisons. So you can be sentenced to life in prison but not have access to an education. As you know, 92 per cent of the prison population are people who never made it past elementary school. So all of which is to say, the new thing in California is for judges to simply – when a prisoner is protesting – to simply press the button. The electrical charge has them writhing on the floor and they're picked up and carried away, and that is how order is being kept in the California courts at this moment. It's something to contemplate. I can't tell you; it's something else to witness. It is so shocking. And I'm coming to you from a society where this is not remarked upon in the Press; it is no longer even a topic. It is law. And in considering Nazi Germany we constantly say, 'Why were the German people silent?' And my question is, 'Are we all so self-absorbed with our little lives that we can't ask ourselves larger questions about justice in the society that surrounds us and then speak up about it?'

In this case, I would underline that all of this system, there's one beautiful, beautiful, *beautiful* ray of light – and I just want to mention that to you because I don't want you to have a sad

evening – and that is the Rampart Division scandal. Rampart is the Los Angeles Police Department sub-station that is in the Macarthur Park area, which – Macarthur Park is an area that actually I’ve done a fair amount of work over the years – it has the highest concentration of immigrants from Central America and the – – –. [break in recording, end of Side A; Side B begins] – – – people who have arrived ‘illegally’ – in most cases, Salvadorans and Nicaraguans who fled the death squads in their own countries and who cannot return home – who *do not* want to be in the United States, who *would* prefer to be in their own country, voting. Because they are not allowed to have immigration papers – they made it into the country one way or another – they, because the current immigration laws will not permit employers to hire anyone without appropriate papers, the only solution for this incredibly dense population is to be part of the unofficial economy because they’re not allowed to be part of the official economy. So that means this is the drug centre of Los Angeles. The violence in this neighbourhood... it has the highest homicide rate in the city, and the Police Department division there is quite extreme in its response. The violence in the Department is extraordinary. But what has happened is an officer, Rafael Perez, a year ago was caught himself disposing of five pounds of cocaine that had been confiscated from a suspect. In order to get a lesser sentence, this officer, who’s part of the CRASH Unit – oh yes, CRASH is one of my favourite acronyms: Community Resources Against Street Hoodlums. The CRASH Unit is a paramilitary unit that employs Green Beret, Vietnam-type activities, but in inner-city neighbourhoods: smashing down the doors, you know, dramatic middle-of-the-night arrests, helicopters, submachine guns, *et cetera, et cetera, et cetera*. It’s a Sylvester Stallone movie, but it’s actually happening where you live. And, in order to get a lesser sentence, he started revealing basic things that happen in the department. As it turns out, it started with a young man named Xavier Oviedo, a Guatemalan, who the Immigration Service wanted to extradite – but, in fact, the Rampart Division got to him first and the officer just didn’t like this guy and picked him up and decided to frame him, handcuffed him, shot his legs off and then planted a gun on him and testified against him, and he is serving a 23-year sentence for assaulting a police officer. Now, this officer began by testifying about this one incident, began to open up the reality of the Los Angeles Police Department. In the Rampart Division, 25 officers have been relieved of duty in the last six months as the investigation deepens; there are now over 300 wrongly-accused people in their early twenties that are serving life sentences that it is now clear that the evidence – the District Attorney’s

office is trying to have the cases turned over – the evidence has all been fabricated. And that is the tip of the iceberg. It is one officer in one division that started this. In fact, it runs throughout the entire Los Angeles Police Department. And when you start to look at the two million people who we have incarcerated in the last ‘Get tough on crime’ 20 years, you’re going to see that our society is going to be paying the price. For one thing, the Los Angeles City Council has set aside the several billion dollar settlement for cigarette companies as a legal fund to protect themselves against the next 20 years of lawsuits, and it will bankrupt the City of Los Angeles, paying off the lawsuits from the Rampart case.

So I just wanted to come to Australia and testify about this ‘Get tough on crime’ stance, this question of demonising drug offenders, using the drug war as a way to say, ‘These are not people, these are criminals, these are sub-human,’ and to open up another set of questions that justice, in fact, invites us all to reflect upon. In America, we are trapped in a hyper-legal system, where the most extraordinary, obscure points of law are routinely running through the system while justice is not being done. To watch the sentencing of these young people, where the judge never once looks at the offender... the sentencing takes about less than a minute, papers are pushed around, the person is taken away and another life.

Obviously, what it takes to become a model prison citizen, the prison culture that has been created, is quite profound. Now, I have spoken in the past, but I would just again emphasise what the ‘Supermax prison’ is right now in the United States. The idea is to prevent somebody from having any human contact of any kind. We’re building these prisons all over the country right now. People are held in subterranean cells that are solid cement boxes, twenty-three and a half hours a day; the food is delivered by an automatic dumb waiter; if you don’t put your tray back in time then you get to visit a human being – five people with clubs come in and beat you to a pulp and chain you to your toilet for three days. These Supermax prisons are particularly used on young people, because it’s felt in the justice system that you can get young gang members to testify on each other if you ‘crack’ them. And so young people are placed in these cells – now have been in there for five and six years – and they’re literally going mad. There’s been a class action lawsuit on this, but the results have been sadly ambiguous and not a clear-cut statement that this is inappropriate.

Now, the idea at the moment (and I'll bring this around in one moment, but I just...), the idea at the moment is young people, when they're arrested in Los Angeles – and that is, of course, the largest number of people who are arrested – basically have to plead guilty and accept in a plea bargaining arrangement a ten year sentence automatically, even if they are not guilty. Because if they plead not guilty it goes to a jury trial, and in a jury trial, if you lose, it means the 25 year sentence. And so it's better, if you're not guilty, to plead guilty and get a ten year sentence which only requires a judge than insist that you're not guilty and have the case go to a jury, where if it turns against you it will mean 25 years of your life. Now, the United States criminal justice system has processed enough of these young people on what we now see clearly has been fabricated evidence, but we have enough evidence that the jury believes the cop every time. Now, of course, we've exposed a giant culture of professional lying on the part of our enforcement officers. So we're in quite an intense situation.

And, when I talk about the cultural dimensions of law, what I would propose to you here and why I feel very moved to be able to deliver this address, is I feel as a society this question of justice is a deeper invitation for us to take on questions of multiculturalism – understanding different life choices. What it means that we all have laws on the books that criminalise certain types of behaviour that are, in fact, culturally understood differently in different communities, that indeed our legal process is understood differently in different communities. Indeed, in some communities, the failure to give evidence or the fact that you can't get anything out of anyone needs to be looked at culturally. In Pasadena in Los Angeles two years ago, a ten year-old kid shot another ten year-old kid to get a bicycle – and it was a giant question, and this is what created Proposition 21 last year in California, where the voters of California have said, 'We will now put people from the age of eleven on in adult prisons, giving them adult sentences.' That is now law in the State of California; that was passed by the voters in March. It was brought about by the case of this ten year-old, one of the key cases that became a media *cause célèbre*. The State appointed psychiatrists, spent time with this ten year-old and could find no signs of remorse. Therefore, the judge felt it was appropriate to give a life sentence. Now, what it means not to be able to find signs of remorse in a ten year-old has to do with not so much the ten year-old as a really profound cultural inadequacy that we're all experiencing. Right now, all over the world there is a serious breach, an absence of communication, across generations. There is a youth culture, I would say, anywhere you go in the world. So many people do not know how to

speak to their children, and it's a really serious crisis in the teenage years. Because, in our societies, we have no way to prepare teenagers for life – we don't have a series of coming-of-age rituals that most societies do have: the only ritual is buying Nike shoes – it means that a consumer culture is the only way you learn to grow up, and it means therefore the only way you can make a statement in that culture is to steal something.

What are the alternatives that we're offering our young people? In what kind of dialogue and conversation are we engaging? In general, in communities where people don't want to deal with their children, they're happy for the cops to do it, and that now becomes the question: can we take this away from the cops and bring it back into the community of how do you deal with young people? And understand this is a cultural question we are all facing, to give our young people the sense of belonging, the sense of rootedness, the sense of open channels of communication, the sense of possibility, of hope, of underlining their own creative capacities and chance to cultivate their own voice and achieve something – as opposed to a cycle which is about aloneness, inadequacy, failure to communicate. These are cultural questions that have ended up in the legal system.

So my plea tonight is for cultural action – is to recognize that the cultural workers who are doing the youth programs are not people whose careers failed and so they have to work with kids, but it's the opposite. And what I would request of Adelaide – a place where enough studies have identified this is an ageing population, 20 years from now there will be no young people and it will be an old folks' town – I think very aggressive measures are necessary to move in an opposite direction, to prioritise youth, to create a series of path-breaking youth initiatives in this State, to say we are actually paying attention to the people who are going to be here 20 years from now, and actually focusing our resources and our creativity in this direction and not just – as we have in America – making youth culture illegal. I mean, heading the move to criminalise rock lyrics because they're going to 'corrupt young people,' and the way the criminal justice system goes after rap artists – not getting that the 'danger zone' that those artists are entering is the danger zone that our kids inhabit, and those artists are some of the only people equipped to go into that zone, and those are our most important ambassadors, and they don't need to be serving a ten year sentence in jail, they need to be making more records,

because until gangsta rap can move through this culture of violence no-one is safe – and again not to shoot the messenger but to recognize people are trying to tell us something.

We have a generation at risk – that’s become a cliché in every government report. How can we move positively against this? Or, rather, *for* it? Cultural action. So what I would like to propose is how you get someone in the Vietnamese community to come forward with certain type of evidence, how you have someone who is in the Somalian community understanding what it is to testify because, of course, they come from a justice system where the jeep pulls up, the soldiers come in and people are just piled in the back of the jeep and you never see them again, so that means you’d better *not* talk to authorities. These are cultural questions now, to open up the workings of justice to our many communities here, and also to really recognize the double-standard of justice that is applying in a well-to-do neighbourhood and in a neighbourhood where people have no money, no hope, nothing for youth to do between visits to the clinic and visits to get a free meal. Can we spend our energies creating programs for those youths that give them meaningful alternatives to crime? But not make-work, not rising to the place of Assistant Manager in the local McDonald’s, because the drug phenomenon in America is about people who were told they had no future making more money than you or I will ever see. The drug phenomenon is about warehoused young people who were thrown out of school, who were told not to come back, who were failed on test after test, scholastic aptitude test after scholastic aptitude test, a seventeen year-old kid driving around in a Mercedes with gold chains because he’s rich, because the very person who the system rejected is making a lot of money through the only avenue that he had open. The point is, we’re squandering enormous talent, and what that person does not need to do is serve a 25-year sentence; it needs to be moved to the head of the Business Council and given a decent job because he’s shown that he has leadership capacity and he can keep a business going! And that’s not Assistant Manager at McDonald’s; that’s someone who’s clearing a six-figure income and is seventeen years old in a burned-out neighbourhood in central Los Angeles. It’s not that there is an absence of talent.

So, in conclusion, I would like to underscore two things – and I’m sorry; I meant to tell more jokes tonight. [laughs] I guess I got a little serious about this. Harm reduction is being practised in extraordinary ways, and I’m learning more tonight from Michael here in Adelaide and actually in Australia, and it’s my understanding that indeed the States have moved to decriminalise lots of drug activity, and the issue again – like the immigration issue – is going to

be tension with the Federal government and the question of what kind of leadership *can* the states exert in this field. I would only say right now, in America, we're at the point where, in terms of harm reduction, the drug war is more harmful than drug use and is doing more damage to a generation and, while I'm not – you know, I can just see the *Advertiser* headline tomorrow: 'Festival Director says legalise drugs, make Adelaide a drug haven' – I would just deal with the fact that most of the American criminal justice system has ground to a halt. The backload of cases is so severe, the waiting for sentencing, which now is up to taking years because the courts cannot handle the volume that the drug war has created. It also puts unbelievable pressure on officials in the criminal justice system, as I showed, the money that is changing hands to keep the drugs flowing – because, believe me, there are not fewer drugs available: it's the opposite. There are more drugs than there ever were after billions of dollars of a 25-year drug war. Now, what does that tell you? That tells you that somebody's making money and those people are using the drug war to prosecute the small fish while the big amounts of money are being pocketed by people in high positions. This will come out eventually, but frankly you don't need an advanced degree to spot it.

How could it be that the failure of the drug war is actually furthering the aims of certain politicians? You know, by any reasonable standard of objectivity you would say, 'This isn't working; let's do something else.' Now, why on earth is it continuing with greater and greater ferocity? It must mean it's about something else. It must mean it's part of a different kind of culture war that's being waged, and I think we have to look at that, and again ask ourselves when the legal system's fronting for other things, and can we make social progress in human understanding and get more sophisticated with – if I could contrast my own American culture, a culture of special effects with what the Greeks were asking for in their theatre, which is again you're not going to ask an *Œdipus Rex* how does somebody tear out their eyes; you ask why. That's now the question. That crime exists, fine. First of all, 80 per cent of what we call crime in America doesn't have to be crime. What it would be if that economy was part of the real economy! The Australian dollar would be worth a lot more today, I'm sure. But also to deal with the reality which is of the two million people in prison in the United States, the people who are in the criminal justice system for drug use – 80 per cent of that figure – that is three per cent of the people using drugs. Now, what does that mean: that there is this giant, widespread use of drugs that's understood, and yet the public legal stance is that it's illegal? Can we get real? Can

we start to not ask law enforcement to pursue a failed and hopeless campaign to mask our own hypocrisy?

And, finally, as Michael said so powerfully before, this question of being in someone else's shoes – the question of understanding. As always with your kids, punishment is rarely the solution. Yes, there should be some, of course, but if it's your primary resort you're not going to get very far. And I would ask for us to be a society that has the courage to love more deeply than we punish, and then we can talk about what really needs the work. Thank you very much.

TAPE ENDS.