

PROFESSOR KUNENE - SPEECH NIGHT

[Mazisi Kunene] [Graduation Ceremony, University of Natal]
[Wednesday] 05 APRIL 2000, [Durban]
[for Faculties of Human Sciences and Social Science]

I take very seriously, the honour and responsibility that has been conferred on me to address the graduating students of Social Science. Social Science although often down-graded by classifications that project physical science as the highest pinnacle of all sciences is, in my mind, incorrect. What indeed is the relevance of science to a society that is devoid of purpose, that is concerned primarily with explorations of the universe, the structure of things, without the study of society as we live it? It would seem to me that all our challenges relate to the need to reorganise society, to redefine our values as we enter each generation. It would indeed be disastrous if, we can celebrate physicality materially, without defining their relevance to an all-embracing and all encompassing social code. I refer to a social code that should at all times redefine, readjust and redevelop our lives in order to make it equal to the ethical principle of our existence. Indeed it is an error to focus on the physical at the expense of the social. Unfortunately what one observes is that, we are wrestling with a social code, that unsatisfactorily, defines our social existence and challenges.

From our human history we observe that humanity has always tended to advance in its physical plane while lacking in its study of the humanities. In other words we have technically advanced societies that are burdened with a large number of the socially disadvantaged. We are forced to accept advancement that only creates privileges for those who wield political and economic power. Numerous experiments have tried to meet these challenges; religion, economic advancement and doctrines such as democracy, liberalism, socialism, communism etc. But they are historically appropriated by a political elite or simply new doctrinal elites. Each religion or doctrinal, political, social order emerges or degenerates into an instrument of control instead of social enrichment. For indeed each regime as it emerges is concerned with its doctrinal purpose, that is, to enrich and uplift humanity. The slogan is often inspiring but soon degenerates into an idea of control of power. In short, an elite emerges with vibrant and inspiring social intentions. What I am talking about in these short comments, is not only relevant but deeply challenging to the graduating students of Social Science, today and in this era.

Never before has humanity faced such social challenges as existing today. We are discovering each other in various parts of the world; others in Asia, in Europe, in the Americas, others in our own world called Africa (named after a tiny town in the northern most part of our continent). In other words for the first time in human history we exist and coexist intimately in one planet.

“Globalization” in all spheres is a process or doctrine we now must live with. The big question is how do we establish an order that can suit the needs of this planet? How do we continue to live in this planet with all its diminishing resources? Some have even advocated abandoning the planet for other planets that coexist with ours. Other doomsday prophets have advocated one or other apocalyptic alternatives or an existence that reverses the social order to an earlier type of existence. Others have even advocated for a systematic elimination of uncomfortable human species leaving, a chosen few, to inhabit a huge but uncontaminated universe. Such dreams border on foolishness and avoid the profound challenge of our multicultural and global existence.

However, as the poet says; those who have tasted blood will hunger for more blood. Well good luck to them because eventually they shall consume themselves. We are challenged as never before to redefine and reexamine our doctrines, their origins, purpose, weaknesses, potential, in order to come out with fruitful solutions. In other words we are called upon to view globally our solutions not with defensive postures of the past but “evangelically” and fanatically in terms of the future of all human kind. We must, in the process, avoid to be labelled by future generations as the great heroes of folly and myopic foolishness.

You students of Social Science in the University of Natal in a place called South Africa, a part of the planet called earth, are challenged to emerge with new energies. You have to come out with new ideas and theories in a world which desperately needs new solutions and imagination. Other theories have failed dismally and you today are victims of these failures. But as you know there is a universal legend of the beautiful bird that emerges from the ashes . The theories that will succeed are those that will successfully encompass the idea of service as in battle, where men and women become great heroes and heroines through their sacrifices. You are challenged to come out with new ideas that will not focus on how to enrich your actions, solely on qualifications you have acquired here, but knowledge that evolves from the challenges that face our planet. For indeed, qualifications at University are not meant to be the answer but a preparation for a world in a state of change. Change is only possible through people, through the community, not through individual self. You shall be setting out as teams to learn from people in society who know and live the social problems. In other words it is not you who are the teachers, masters and doctors but those you shall encounter who will teach you. You are challenged to serve and serve effectively. You will be equipped with an intellect that is geared to react to the social realities that exist. The greatest minds shall not be those who merely enrich themselves at the expense of the community but rather those who shall be out to learn, to serve, and to enrich this emerging region of our planet.

GRA 3/3/17 (1)

Subject :**JUDGE CAMERON'S GRADUATION SPEECH**

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UNIVERSITY
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**UNIVERSITY OF NATAL, DURBAN GRADUATION
CEREMONY**

Saturday, 08 April 2000, at 16h00

FACULTY OF LAW

&

FACULTY OF MANAGEMENT STUDIES (DIPLOMAS)

ADDRESS

BY

MR JUSTICE EDWIN CAMERON

**ACTING JUSTICE OF THE CONSTITUTIONAL COURT OF
SOUTH AFRICA**

1. It is a great pleasure to be here today, and a particular honour to be invited to speak at this graduation ceremony.
2. A graduation is the ceremonial highlight of the University's academic year. It marks the formal culmination of the process of research, teaching and learning that is the embodiment of the University itself. So, for the University and its academic and administrative staff, this is an important symbol and celebration.
3. But, for you, the graduates, this afternoon's ceremony represents something even more. You have come a long way in order to be sitting here holding your graduation cards and hoods. The process of study, learning and enquiry is not easy. It involves long and often dispiriting hours of application. It involves the continuing challenge of self examination and re-assessment. For your families and friends and loved ones, it may have involved special sacrifices : it may even have required special patience.
4. For every one of you, the road must have had moments of doubt, anxiety, uncertainty. Think back to the worst such moment. It may have been a crisis of self-doubt, perhaps a family emergency, or a failed examination or test. Well, you survived it. You are here this afternoon.

BRN : 607699

Your are about to graduate. This afternoon is a celebration of your persistence and courage ; and I am honoured to be sharing it with you.

5. It is a particular pleasure for me to be invited to this ceremony, in which management faculty diplomats and law graduands are being recognized and honoured. The law and the economic life of a country should be a productive synergy though I should add that, unlike entrepreneurs, lawyers, themselves do not generate economic wealth. The law is an adjunct profession. Lawyers mostly facilitate other social processes and they generally make sure that they are rewarded in doing so.

6. I want to talk with this afternoon on a subject that is close to my heart. Whatever your feelings about it, it is a topic that whether your wish it or not, and whatever your views about it lies close also to your heart. It is AIDS.

7. Now, I'm sure your don't want a boring disquisition on the aetiology and social impact of a virus. So let me start controversially, by saying this :

"AIDS is syndrome that results from the destruction of the human body's immune system by a virus called HIV".

That didn't sound controversial, did it? Until recently, what I have just said was considered trite knowledge. But for reasons I shall return to, for some that does not appear to be the case that is no longer so.

8. What is certain is that, either personally or professionally, or both, AIDS is sure to affect your life. AIDS is perhaps the biggest health threat our country has ever experienced. KwaZulu Natal is at the very centre of the epidemic, and some of the highest rates of infection anywhere in the world are found here in this city and in the regions close to it. When you look around you on any street in Durban, of the first five people you see, one already living with HIV/AIDS. In some parts of this province, the rate of infection is twice and even three times that.

9. So it is certain that each of you already knows a person who has the virus in his or her body, or is already sick from it. For many of you, that person will be a family member, or a friend, or perhaps a lover. *For some of you, that person will be yourself.*

10. So whether you go out with your law degree or your management diploma to become an advocate or attorney or an advisor or a consultant

or manager or entrepreneur, AIDS will be part of the personal and professional reality you face. It already is.

11. There has been much talk recently about gaps in our knowledge about AIDS, and about the need for expert committees to consider these matters. It is true that there are things about the virus and how it is spread that we do not know. Let me mention four of those things. One is that we do not know why, in contrast to Africa, no heterosexual epidemic struck the populations of Western Europe and North America. The experts expected it, and it did not happen.

12. Equally, we do not know why the virus has spread with such virulence in Central and Southern Africa, but not in all parts of West Africa. We do not know why some people, a very tiny minority, become infected with HIV but apparently never go on to develop AIDS. We also do not know why sometimes, extremely rarely, people develop AIDS-like symptoms but do not test positive for HIV.

13. But these are peripheral matters. The central and brute facts of HIV infection, how it is transmitted, how it can be avoided, and what the devastating consequences it has for human well being and life, these have been reliably established and are extremely well known.

14. This is a virus whose constitution, natural progress and pharmacological weak spots have been subjected to more intensive research than any other virus on earth. We accordingly know more about HIV than any other virus, including the virus that causes 'flu and the common cold.

15. One certain thing we do know about HIV is that it triggers a state of psychological defensiveness in people that the experts call denial. At a personal level, persons engaging in behavior that may expose them to risk to HIV transmission (that is, persons who have sex) wrongly persuade themselves that somehow they will escape infection. They cannot, and do not; and denial at the individual level leads tragically to a high proportion of new exposures to HIV.

16. At a social level, the political and economic and human implications of the epidemic are so momentous that it is tempting to engage in an even more dangerous and destructive form of denial : a denial that AIDS exists at all.

17. One form of such denial is the suggestion, energetically propagated by a tiny group of fringe scientists, that the apparent link between HIV and the syndrome call AIDS is a mirage, that HIV is a harmless infection, and that people who are ill with what we call AIDS are actually suffering from other incidental debilitating causes that would exist anyhow without the virus, such as malnutrition and tuberculosis.

18. Professor William Makgoba, the President of the Medical Research Council, has attached these scientists as "psuedo-scientists" and has relegated the science they propagate as belonging to a cartoon world of fantasy. We are fortunate that our country has internationally distinguished medical scientists of Prof Makgoba's calibre and that they have the courage to speak so plainly on a topic of such vital importance to our nation.

19. For given the scale of the epidemic and the human social consequences it threatens to inflict, it is difficult to conceive of any more damaging suggestion than that AIDS does not exist , or that infection with HIV does not lead to AIDS; and it is difficult to conceive of anything more confusing and dispiriting to all those working in the AIDS field, and more deleterious to their efforts, than the suggestion that those responsible for the health policies of our government are flirting with such wayward and fanciful notions.

20. Ladies and gentlemen, I said that this topic was close to my heart and not to my head. In fact it is close to both, and I talk to you this afternoon not with authority of a specialist in medical virology or epidemiology, nor even as a lawyer or a judge : but as someone whose heart and head the virus that causes AIDS is a living presence.

21. And I speak on the topic with passion because in my body and in my life, I have felt the full force of AIDS, and it is my profoundest wish that others should be able to avoid or mitigate the personal, social and medical consequences of the disease that I have experience.

22. I was diagnosed as HIV positive in the 1980's. For years I engaged in one of the forms of denial that AIDS typically elicits at the individual level, namely the fervent hope that one will oneself be one of the tiny minority in whom HIV does not go on to develop into AIDS.

23. Hoping against hope that the virus would remain quiescent in my body, I continued my work, in the conviction that whether or not my infection proved fatal, I could make a useful contribution to society in my role as a human rights lawyer and later as a judge.

24. So I continued living and working. But the virus within me also continued its work, and by the late 1997 it was raging throughout my body, producing as it did four of the classical presentations full symptomatic AIDS.

25. And so on an October afternoon during a break from a criminal trial at a Circuit Court in Vereeniging I found myself facing a worried-looking radiologist, who told me that my gasping for breath was caused by a rare form of pneumonia that manifests itself only in the late stages of HIV disease.

26. I pause at this point to ask myself a question that I presume you are also asking. Why should I be sharing with you at your Graduation these immense and momentous and painful facts of my medical and personal history ?

27. For me there are a number of answers to this question, and I hope you will allow me to persuade you of three of them.

28. First and most important, AIDS is a pervasive reality in our population : yet it has all too little substance in our national life. It is a disease of four or five millions of South Africans: South Africans rich and poor, black and white, mighty and lowly, famous and obscure. Yet AIDS has almost no faces, almost no voices and almost no individual human presences.

29. The reason for the silence is palpable. It is the enormity of the stigma that still surrounds infection with HIV. That stigma is so acute that people fear diagnosis, they avoid treatment, and they are ashamed to live with what is in the end only a viral condition. That silence impedes healthy and constructive responses to the disease, both at an individual and national level.

30. So in explaining to you my first reason for talking as I do this afternoon, I place before you a paradox. To get AIDS to become more like other diseases, we have to break the silence about AIDS, and to break the silence we must treat it unlike other diseases. We must talk about it, treating it exceptionally, in order that it might cease to be exceptional. That involves talking about it.

31. That is only one of many painful paradoxes about AIDS. It is a paradox that lead me last year, in an interview before the Judicial Service Commission, to make a public statement about the fact that I was living with AIDS. My privileged position, as a securely tenured judge, surrounded by loving friends and family and colleagues, seemed to me to demand that I try, by speaking out, to create for other less privileged than me conditions of greater protection and safety in the epidemic.

32. The second reason for my speaking out about AIDS is one of those phenomena that the philosophers call self demonstration. I am here this afternoon, speaking at this happy occasion, because I am able to be here and that in a certain sense is its own justification. In speaking here, I am making the point that two and a half years after diagnosis with full AIDS, it is possible to lead a full healthy and productive life. This epidemic can be deadly and destructive - but it can also be contained and survived - and my life is testimony to that.

33. In fact, I am blessed today with more health and more energy and more vigor than I have had at any time in my life. This is the direct

consequence of the fact that on a judge's salary I can afford a combination of anti-retro viral medication that keeps the virus totally at bay. That medication is now routinely supplied to persons living with HIV/AIDS in North America, Australasia and Europe. But, because of its cost, it is unavailable to ninety percent of the people in the world living with HIV. They are people in Africa and in other resource -poor countries.

34. The medication is not expensive to produce. Its price is kept high by the drug companies that manufacture it on the basis of various considerations relating to their profit structures and their research and development needs. Whether these arguments are convincing is the subject of intense debate, and I am hopeful that the XIIIth International AID Conference, scheduled to take place in this city in three months' time will see substantial progress made in accommodating Africa's drug needs in this epidemic.

35. What is certain to me is that it is morally indefensible that I should be here today, live and well and healthy, when other people, purely because of their poverty, are already dead, or are falling ill from the virus, and can look forward only to increasing debilitation and death.

36. This, then is a second reason for talking to you today, the joyful, but morally troublesome (ambivalent) reason that I am able to do so at all.

37. Third, and last : there is the reason that draws most of us together here this afternoon. It is the law, and the role it can play in this epidemic. AIDS demonstrates the particular capacities, and the particular short-comings, of law. The law can be used in this epidemic to perpetuate discrimination and disadvantage and irrationally : or it can be used to advance the social goals that should underlie it namely, the aspirations of justice and rationality and fairness.

38. Given the fear AIDS, evokes, many take recourse to the view that coercion can be used to contained the epidemic. That approach is short-sighted and misdirected, since coercion can only work counter-productively in an epidemic in which consensual conduct is the main avenue of transmission.

39. That discreditable path of legal coercion was that chosen by the legislators of our apartheid past. In embarking on our experiment in constitutional democracy, our nation set itself against such methods.

40. So I return to my theme, which is how AIDS affects each one of us here today. In your work and your life as a lawyer or entrepreneur, you will encounter the issue. Your choice will be between humanely comprehending the disease and its consequences, and wisely ameliorating them, on the one hand, and exacerbating them through discriminatory and coercive and exclusionary conduct.

41. When the Chancellor of this University, Justice Pius Langa, was installed in October 1998, an important theme of his address was that ordinary South Africans must share the responsibility for making the Constitution work. He stated:

"We, the people, have to take responsibility for our Constitution and our ideals embodied in it". So the Constitution cannot be self-executing. It is a document to which ordinary South Africans must give embodiment through their own efforts and demands.

42. But in Justice Langa's exhortation to the people of this country to make the Constitution work there lies a special exhortation to lawyers. As lawyers and judges we carry a special burden of responsibility to make the experiment of constitutionalism work. And within that experiment, the legal regulation of AIDS poses very particular challenges to us.

43. Our commitment as lawyers, our belief in the ideals the system seeks to attain, our special efforts, can make South Africa's experiment in constitutionalism flourish, at a time when the awesome alternatives in Kosovo, in the Congo, and even in Zimbabwe suggest themselves too starkly to us. That depends on our choices and attitudes and actions. So I speak to you this afternoon, finally as one who is privileged to hold office under the South African Constitution, and as one who is privilege to be alive and well and healthy in an epidemic which has already claimed too much grief and threatens to claim too much more. If I exhort you to optimism and courage and hope in action as you set out on your careers, it is because I believe that the challenge this epidemic poses to us can be surmounted ; and that the principles and structures of the law offer us part of the means of doing so.

44. AIDS offers new challenges to each of us, in our personal and professional lives. Wherever it confronts you in your own life, in your family, in your colleagues or your employees, make sure that you approach it with the humane insight that is true to the foundational principles to which our nation has committed itself.

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BEARE HOLDINGS

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Ladies and Gentlemen!

I am very proud to be receiving an Honorary Doctorate of Social Science from the University of Natal in South Africa and I would like to express to the guests assembled here my appreciation and great pleasure at being honored with this academic degree. I sincerely thank the Vice Chancellor and Principal of the University, Professor Brenda Gourley; the Chairman of the Council, Professor Alec Rogoff; and Charge de Affairs Mr. Nicholaas Schoombie from the South African Embassy.

I am an architect by profession and I also worked in that field for a number of years. But after four years in concentration camps and the loss of my family and my friends I could not return to this work as if nothing had happened. I decided to devote several years to the pursuit of justice and the search for those who had committed this tragedy. I was naïve, of course, to believe that this work could be finished in a few years. Today I know that it will last until the end of my life.

BRN: 669514

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At the beginning of the 1970s, our attention was focused on the *Einsatzgruppen* – the special German task forces which murdered millions of innocent civilians behind the front lines, Jews, Roma and Sinti, Poles and Russians, as well as other citizens of the countries being invaded by the Nazis. At the time I was especially concerned with the crimes committed in Lithuania, where several hundred-thousand people had been killed, and with the special German task force that had been active there. I knew that some Lithuanian Jews had managed to escape via Sweden and other countries and I also had the names of some *Einsatzgruppen*-members whom I was looking for. My files even included photographs of some of them. I informed the Jewish communities throughout the world, including the Community in Johannesburg, that I was looking for witnesses who could testify to the Nazi crimes in Lithuania, where 90% of the Jewish population had been extinguished. In this

way I came in contact with a man in Johannesburg whose family had been murdered by the *Einsatzgruppe*. He himself had been only a child at the time and survived because a non-Jewish neighbour had kept him hidden. I sent him a photograph of a Nazi by the name of Gernulf Maier, who had been about 24 years old during the war, and soon received the reply that the man on the photograph was presumably the man who had killed his mother. A few months later I received an invitation from Johannesburg to come there and report about my work. My wife accompanied me on this trip and we spent three wonderful weeks in the beautiful country of South Africa. Especially our three-day visit to the Kruger National Park is one of my most unforgettable memories.

I have dedicated almost all of my adult life to the struggle against evil. Now at the beginning of the 21st

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BEARE HOLDINGS

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century, I look with a feeling of dismay at the newly developing movements of racism, fascism, and antisemitism. The evil in the world has survived the two greatest monsters of world history: Hitler and Stalin. Therefore we must draw our lessons from the greatest tragedy of mankind and combat all occurrences – all first signs – that could lead to a repetition. Because of my survival, I have always regarded this as the main responsibility of my life.

When we look around us today and see young people enjoying their freedom and all the advantages of our modern times – yes, even taking all this for granted – it becomes clear that we must step in and try to make them aware that freedom is like health: you don't appreciate its value until you've lost it. Especially my generation was made to feel the full force of this bitter lesson. Freedom is not a gift from the heavens, you have to fight for it every day of your life.



Photo: James Gourley

Mr Alec Rogoff (left), Chairman of the University Council, and University Vice-Chancellor, Professor Brenda Gourley, bestowed Simon Wiesenthal with an honorary degree at a ceremony in Austria in September

Simon Wiesenthal receives honorary degree in Vienna

NAZI hunter and Holocaust survivor, Simon Wiesenthal, was honoured with the bestowal of the degree of Doctor of Social Science (*honoris causa*) from the University of Natal in his home-town of Vienna, Austria on September 22. The function, at the residence of the South African Ambassador, was hosted by Charge d'Affaires, Mr Nicolaas Schoombie.

University Vice-Chancellor, Professor Brenda Gourley, and Chairman of the University Council, Mr Alec Rogoff, bestowed the degree on Mr Wiesenthal, which brings to 19 the number of honorary doctorates he has received from universities around the world.

Notable guests included the Commissioner for Reparation for Forced Labour, Dr Maria Schaumayer; the secretary-general of the National Fund for Victims of the Nazi Regime, Ms Hannah Lessing; former Cardinal of Vienna His Eminence Dr Franz Konig; the head of the Austrian Resistance Archive, Dr Wolfgang Neugebauer; and Human Rights

Speaker of the Socialist Party Walter Posch.

It is nearly six decades since the end of World War II but the world remembers the Holocaust. Jewish people around the globe still mourn those who died in Hitler's reign of racist terror, oppression and 'ethnic cleansing'. And 55 years on, the world still reels under racism and oppression, and one man still hunts Hitler's – and more modern – Nazis and other racist killers, through the world-wide Simon Wiesenthal Centre.

For Simon Wiesenthal, now 91 years old and ailing, the hunt is not just for the killers of his Jewish family, but a striving for justice to prevail and to inculcate a "memory against forgetting".

It is 56 years since he attempted suicide in Jankowska concentration camp and was told by his captors that "Jews could not die until commanded to death". In the remaining years of the war, he escaped death by firing squad twice. He survived a war which seemed doomed to take him to his grave, and he has

never forgotten the members of his family – and the family of humanity – whose brutal obliteration was the object of state policy and human enactment.

He said: "When I started this work, I said to myself, 'I will look for the murderers of all the victims, not only the Jewish victims. I will fight for justice'."

From the time he began working with the Allies at the end of the war to hunt down leading Nazis his efforts have been instrumental in bringing more than 1 100 Nazi officers to account. He attained world recognition in 1961 when Adolf Eichmann was captured in Argentina and the ensuing trial was crucial to world knowledge of the Nazi Holocaust.

The Wiesenthal Centres are today staffed mainly by young people to whom World War II is very much history. But their educated passion leads them to pursue perpetrators of all forms of racism, injustice and oppression.

(See also Last writes column on page 3)

Last writes

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Speech (slightly condensed) by Simon Wiesenthal, Nazi hunter and Holocaust survivor, on being bestowed with an Honorary Doctorate from the University of Natal in Austria on September 22 (See front page story).