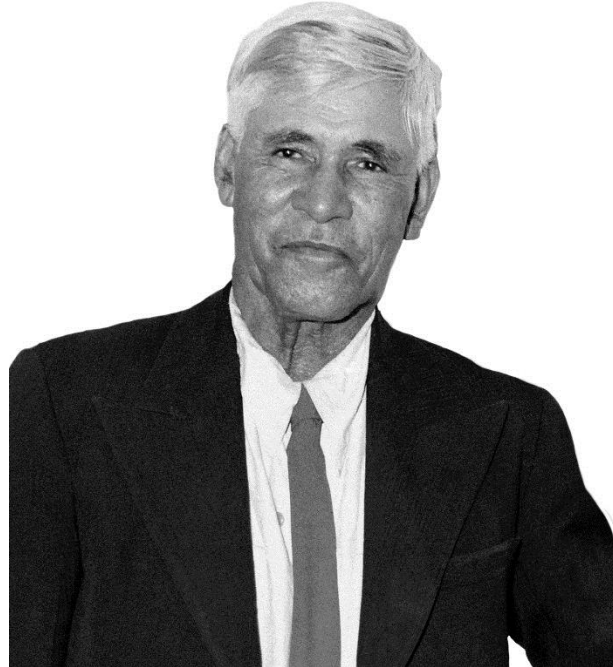


The Frank Archibald Memorial Lecture Series



1999 Lecture Notes

**Justice in Black Hands:
A new approach for a new millennia**

Dennis Eggington



The Fourteenth Frank Archibald Memorial Lecture
delivered in Armidale, NSW
18th November 1999

Justice in Black Hands: A new approach for a new millennia

Dennis Eddington

CEO, Aboriginal legal Service of Western Australia (Inc.)

Fellow members of our great human race, let me start as those before me, and pay my respects and secure our protocols.

To the old man whose inspirational life provided me with the opportunity to be here tonight—the late Mr Frank Archibald; I am truly honoured.

To Mr Archibald's family and to the traditional owners for welcoming me here to their country.

To a great institution for this series of lectures, and thus its contribution to the understanding of the nature and potential of the Australian Indigenous community, and of the challenges that face us collectively in our approach to a new millennia.

* * *

Distinguished guests, fellow Australians. I am grateful to be invited back to this special part of our great country—Armidale in the New England Tablelands—Spiritual lands of its traditional owners.

This is a place that has had a major influence on my life. Fortunately for me my relationship with New England seems to be permanent, and for me all roads seem to lead here, rather than to Rome, and now I am back delivering the Frank Archibald Lecture! Armidale is a place where I came as a young man of 19, eager to explore the world, for after all, I was finally away from home—and loving every minute of it!

The old Armidale Teachers' College ("TC" as we called it) certainly provided a good base for the start of my adult education, social and intellectual development. I am sure many of my colleagues of that time would argue that the Imperial Hotel on a Friday night was a science of its own.

It was an opportunity that came about through Aboriginal Study Grants and through the interest of two wonderful people by the names of Maryrose McGrath and Bill Rose. These are two people who came into my life and who will always have an everlasting impact. Many Koories from NSW will know both of these fine people as the people who introduced a lot of us young black turks to the world of higher education, using the techniques of encouragement, cajolement and even blackmail!

It was here in Armidale that I first came to understand the value of education (I have to admit here that high school, for me, was largely a hormone-charged journey through my teens). Armidale also thrust me into the world of Aboriginal politics.

I remember our Aboriginal Student meetings, attended by the likes of Johnny Lester, Neil and Boe Thorne, Gloria Chapman, and two who have passed on—Guy Kinchela and Harold Bamfield. Guests to these meetings were none other than the irascible Gary Foley and Tommy Smith, both of whom

were always recruiting new members for some National or United body, with membership costing a mere dollar. These funds were to ensure we had our own economic base free from government control. I always wondered who was going to control those two.

These experiences helped raise the political consciousness of us all. For me, this happened first when I found myself used as a political football. Let me explain.

On graduation, those of us on Commonwealth grants (and this meant all Aboriginal students) were not offered placements in NSW, although we were survivors of the NSW education system. This meant we had to teach in the ACT or the NT. I ended up at a remote school in Arnhem Land called Nyukurr. Twelve months later, obviously as a result of political manoeuvring and the hard work of those already mentioned, we were all offered special placements back in NSW—in towns with large populations of our peoples—like Brewarrina, Walgett, Bourke and Wilcannia.

I went to Bourke for what was intended to be a brief stay, but as have happened to many graduates before, and doubtless will happen again, I stayed for six years. Bourke will remain with me for the rest of my life as the place where my wife and children, and a great many of my ideals, originate. Experiences during this time influenced me to commit myself to the struggle for the recognition of our rights.

I remember a time when my friend, Warren Hastings, and I were driving with a famous Australian, David Gullpilil, when we stopped at Matarranka Roadhouse pub for a cold beer. We were told by the publican that we had to drink in the back bar, or more correctly, the black's bar. Our friend pointed out who we were with—a man of international fame. The publican's response was that he didn't care who David Gullpilil was, it was still a choice of drink out the back, or get out.

Down the road, Bourke wasn't any different. It was a town of segregated cinemas, clubs and bars. A town like any in our outback where Aboriginal people provided the economic base and indeed survival, but were seen as an exploitable financial commodity. The fact that this situation continues today is a National disgrace.

This was the 1970s—a time of protests and the establishment of the Aboriginal tent embassy. It was the time of Gough Whitlam and Vincent Lingiari. As Patrick Dodson said in his opening of the fourth Vincent Lingiari Memorial lecture in Darwin on 27 August 1999: "there have been many sunsets since Gough trickled a handful of red soil into the hand of the old man whose name and story we remember tonight". Who will ever forget that dramatic moment, when land rights became more than just a slogan but a major moment in the lives of so many. Remembering this and thinking how to approach this lecture prompted me to think through my own history and review some of the big events that have influenced and shaped my life.

In the mid-fifties, when I was born, Albert Namatjirra and Kath Walker were our heroes. During this time, right or wrong, my mother took out what she called her drinking rights. I was to find out later in life that this was in fact an exemption certificate, granted in 1957 two years after I was born! My mother's actions during this period proved to be successful. After all it was the time of Kath Walker's bunyips and their need to steal our children. I know now through access of welfare documents that those devils had their red eyes on us. The attempts to destroy our families and "for our own good" I might say, is now having its tragic consequences played out in the on-going battles over what has become known as the Stolen Generations.

This cycle of events is systematic of our recent history. In my traditional country, in the lower south-west of WA, Tasmanian blue gums are planted in the hope to reverse the destruction caused by

removing our Native trees and shrubs. We have a saying in Nyungar country, "Wadgella's got no sense".

Anyway, Albert Namatjirra aroused a nation's conscience with his beautiful art, and his tragic death. The tragedy of Namatjirra exemplified the problems that had been brewing in our relationship with white Australia over a century and a half. Having had a painting bought by the young princess Elizabeth on her maiden voyage to these shores, Namatjirra became the darling/curiosity of Australia's hoi polloi. Here is a black man, they said, who unlike all the others, is good enough to be white—and so in their wisdom they made him a citizen, in a land where the vast majority of our peoples were denied such status. As a citizen Namatjirra had the same rights as other white Australians, but in exercising those rights (by sharing a drink with his family on a hot and dusty Christmas day), Namatjirra fell foul of the law and was imprisoned. He was to die shortly thereafter a confused and broken man. Accepted, but rejected. It was turning point in Australia's race-relations history, attracting the attention of the international press. White Australia, deeply embarrassed, embraced a call for citizenship for all Aboriginal people, with attendant's rights, and was voted, yes en masse, for such changes in the 1967 referendum. But such goodwill was short lived.

Kath Walker, our greatest poet, armed with powerful words was soon to tour Australia asking, like Oliver Twist, for more. Land rights became the catch-cry, and white Australia retreated in fear from its temporary egalitarianism. But the referendum

in 1967 did make us subjects of the Queen, even though some would say we had not sought such a dubious honour and in fact had never asked if it was what we wanted. Pre-Walker, however, the groundswell for paternalistic goodwill by a majority of Australians did bring our two communities as close together as they have ever been in two centuries. The Federal Council for the Advancement of Aborigines and Torres Strait Islanders stands as a testimony to this.

It was also a time of change from within. Charles "The Phoenix" Perkins hitched a ride on the freedom buses in NSW and with a blend of courage and audacity, managed to largely avert racism off the map. As I was to discover personally however, the covert variety was alive and well and I was soon to encounter racism for the first time in my life. It was time for me to go to school.

I use the term racism but I hope that one day we can find another word that better describes the diversity among us. The term race has found a niche in our psyche and has been used as an excuse for the most horrific acts in mankind's history. But as far as I am concerned, we are all members of one race—and that is the human race. This we know from the man who studied peas in a pod.

The seventies brought us a new Labor Government, and a new Federal policy of self determination. Inspired by Kath Walker, her son Dennis (along with Gary Foley and a couple of other young NSW Aboriginal men) were determined not to allow the momentum for change, precipitated by our referendum success, falter. With the same audacity as shown by Charlie Perkins, our own black panthers established a tent embassy on the grounds of Parliament House in Canberra. Again the international media was fascinated, and we quickly cottoned on to the fact that here was a way to gain attention and support for our fight for freedom.

And then along came Gough, majestic in stature, to promise real change should he be elected, which, as history records, he subsequently was—it was **time**.

It was time for the establishment of a Federal Aboriginal Affairs Department, taking the power to make laws for Aboriginal people away from the States.

It was time for development of Aboriginal legal and medical services, for Aboriginal policy advisors, for government job-quotas, and for Indigenous graduations.

It was time for me, to begin my love affair with New England.

The seventies decade, more than any, is worthy of much greater in-depth study. I look around Australia today and note that much of the high level negotiations taking place in Aboriginal affairs is being done by Aboriginal people educated during this particular decade. I look at Aboriginal affairs today and understand that the seventies decade records the start of real and effective Aboriginal resistance to the status quo.

But as we grew in influence and determination, so did Australia, in retreat. Fearful of land rights, support for Aboriginal self-determination faltered swiftly. Having been welcomed into the Australian fold, we were now seen as greedy, and dangerous, and the move was on to deny us new citizens' access to the country's social, political and economic divvy up. As a consequence of the resulting dispossession, not of land this time, but of our recently found but short-lived equality, the eighties saw Aboriginal anger and frustration boil over.

Empty Labor government promises, Federally and in Western Australia, had not produced the expected land rights. While this manifested itself in marches across the nation, the continued marginalisation of our peoples resulted in continued social problems and jails full of our countrymen. Eventually leading to The Royal Commission into Aboriginal Deaths in Custody—a symptom of the times and an indicator of how far we had retreated from the heady days of the referendum.

During this period I was re-establishing myself in the West, using my teacher's education to launch into the heady world of bureaucracy and local politics. By sheer determination, Aboriginal organisations here in the West, as elsewhere, held on grimly despite growing resentment from the wider community, to their Gough-given place in the scheme of things. Again, as had happened so often, individuals emerged who were able, albeit to enormous personal cost as we were to discover, to withstand the onslaught of an insidious reactionism.

The nineties of course have been a decade of the Stolen Generations enquiry, Mabo and Wik and, oddly, reconciliation—like trying to mix oil and water. As a result our communities have drifted even further apart. Reconciliation has become Re-separation.

In the mid-nineties I was fortunate to attend the fourth working group on the drafting of the United Nations Declaration on the Rights of Indigenous Peoples. Two articles were up for debate. One dealing with individual versus collective rights, the other dealing with interpretation of self-determination.

Dr Pat O' Shane in her 1998 Frank Archibald Memorial Lecture, *Aboriginal Political Movements: Some Observations*, asked "what is the state of Aboriginal politics in this country?". The question might be, how far have we been able to close the gap between Wadgella and the Indigenous world views? Her observations that understanding the process within the framework of colonialism, identified for me two realities: that strong influences exist to maintain the status quo; and that Aboriginal people no longer needed military capacity to force the invaders to negotiate. Why? Because we have entered the age of negotiators, and it is important to understand how **their** politics have been shaped. As O' Shane rightly points out, "negotiations must come from the strength of the people, but often they merely reflect the agendas of individuals".

The eighties and nineties also brought us land rights and Native Title, but in my discussion I have deliberately separated the two issues. The early struggle for land rights was in fact not just for land (though land is pivotal) but for recognition of rights, and we were walked through this struggle by Michael Dodson in his own Archibald lecture.

The land in **Land Rights** and the land in **Native Title** separated. Suddenly our rights went from being universal to affording some people some of those rights back. This is my interpretation—we all had to leap tall buildings in a single bound. Once the building was up we were then placed at different distances from that building. No need to say what happened next. New storeys were added.

What emerged were the concepts of both Land Rights and Native Title which were spawned from within dominant non-Indigenous paradigms or understandings. This conundrum is constantly articulated in Indigenous debate.

As Doreen Kelly asserts in her paper "Mabo—Extending the Dispossession", the Mabo judgement brought the dominant law system in line with the country's history and established a basis from which past injustices can be addressed. However that basis is firmly grounded in the system of white Australian Law.

In the south west of my state we constantly ponder these very issues as we continue to assert our sovereignty under the authority of our Nyungar Nation. Hoping one day Australia's's non- Indigenous peoples will finally draw a line in the sand. We must **all** accept the reality of what has happened. That's why we are not talking of a separate sovereignty but a joint ownership in this country. That's our rightful place. Sovereignty and Nationhood will continue to be a focus within the new millennium. Ironically Native Title has opened the way by judgements like the Miriwung and Gajerrong where mineral rights were granted, these of course being the sole property of the crown. The other way was by ensuring everyone was not treated equally. The struggle continues.

So I think this is a good time to revisit my experiences at the United Nations in Geneva. I went of course with great expectations of this international forum, only to be surprised that the assembly had non-Indigenous government diplomats as equal partners in the process of developing a charter of Indigenous rights. While this seemed on the surface to be a sound principle, ie inclusion often leads to ownership, I was left with the question—will we end up with a charter of Indigenous rights that has been developed through a western world view?

Noel Pearson asserts that the world is saying to us: "this is the reality, what can you do about it?" Now the non-Aboriginal legal system has offered something in the way of rights, however narrow, and to fail to appreciate the rules and its limitations no longer seems smart. I disagree. I do not think we have any option, other than to continue to debate interpretations of words from our **own** world views as opposed to those of vested interests. To do otherwise would be to acknowledge and accept the inevitability of full assimilation, and I for one will **never** do that.

The tragedy at an international level is that representatives from countries which abuse by ethnic cleansing or systematic slaughter of rainforest peoples sit and debate such interpretations, while in their countries humanity itself seems threatened. One delegate was heard to say, "The same could be said of much that is said in Aboriginal affairs about us but not of us."

Next year will be my 45th on this earth and the beginning of a new century. No one can argue that the last couple of hundred years of this current century have been the worst for Aboriginal people by far. In the context of 50 000 years, 200 years seem insignificant. But we cannot underestimate the devastating impact of colonisation. A rape of the soul so profound as Kevin Gilbert called it.

The question for us today, and I mean black and white, is can we actually achieve Indigenous self-determination while confined within a non-Indigenous ideological structure? Can we realistically expect those in power, influenced by common social conditioning, to make the philosophical leap across the chasm of bias? A chasm which as Eve Fesl points out in her book *Conned*, "regards Aboriginal people as dependants in need of control rather than as independent individuals who should decide their own destiny". Like Eve I have my doubts, because remarkably, considering that 210 years have passed since we first met, Australia has not willingly embarked as a nation, on the hard but necessary road to de-colonisation. Today we have a government hell bent on control of a situation of which they are truly fearful; the full emancipation of the Aboriginal people.

During my life I have experienced a myriad of policies and programs designed to soften and repair the impact of invasion, while at the same time largely maintaining the status quo and I have arrived at a personal understanding that as Indigenous people, my community is entering new times with a desperate need to cling to and reaffirm our very humanity. A shining light in a world in which society's connection to humanity is threatened by the advance of science, and such disconnection is epitomised by unprecedented violence, physical, verbal and emotional towards others.

As I approach the end of my address I thus feel an obligation to address some thoughts to this academic institution and to other higher learning institutions throughout Australia. Education in the new millennia needs to reaffirm a spiritual as well as an intellectual basis if we are to achieve, for all of us, a strengthening of the spirit. It needs, in coming to terms with our needs as Indigenous peoples, to be open, accommodating, less rigid, more honest, more inclusive and most of all, wiser.

Education currently is geared toward producing professional doers—doctors, lawyers, politicians, journalists, butchers, bakers and candle stick makers. But what do we do about the increasing millions who will never aspire to such exalted professions—the poor, the illiterate, the socially and politically disadvantaged? Do we simply, uncaringly, ignore their needs and continue to increase the gap between rich and poor? Or do we rethink and restructure the system so that it becomes more compassionate/equal?

Do we concern ourselves with the individual human spirit or with the survival of the fittest? Rupert Murdoch last week told the Australian Government it must abandon humanitarian pretences if it is to seriously hinder the pragmatic attainment of ever-increasing economic growth. With contemporary thinking ready and apparently most willing to embrace such self-centred ideologies, what hope is there for the common man? The John Does of this world. Only that which springs from seats of higher learning such as this.

I feel that I came to this part of the world as a grain of sand and left here as a balloon. A created space that has the potential to be filled with the wealth of knowledge. Since that time I have been a strong advocate for venturing into the world wide web, aware nevertheless that we are not weavers of the web, only strands, and that once woven within it we run the real risk of losing individual control.

The challenge for Aboriginal Australia is thus to embrace the future without losing the past. The challenge for higher learning is to prepare wider Australia for such an outcome. As a student here I was obliged to provide answers to many of your questions. This one I gladly leave to those who taught me, and to their academic successors.

Enter into a journey with Aboriginal Australia to make the new century truly one of sharing, understanding and mutual respect.