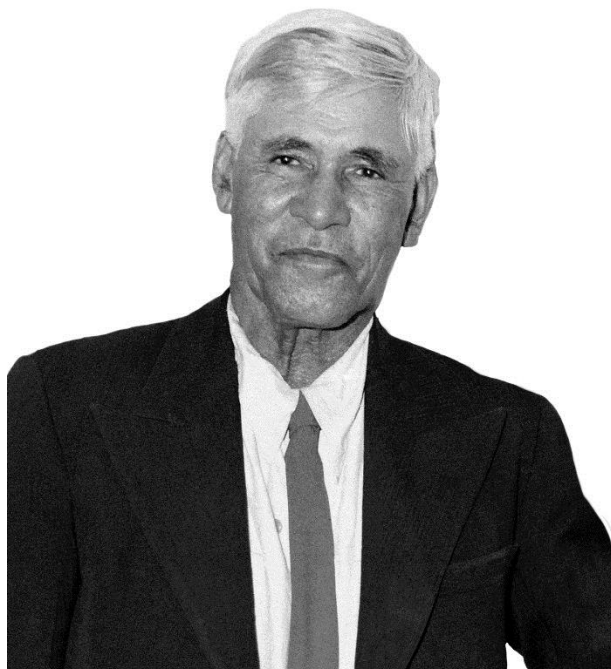


The Frank Archibald Memorial Lecture Series



1994 Lecture Notes

Cultural Rights and Educational Responsibilities

Michael Dodson



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Cultural Rights and Educational Responsibilities

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Ladies and gentlemen

I would like to acknowledge the Anaiwan people as the traditional owners of this country, and to thank the University of New England for the honour of presenting the 1994 Frank Archibald Memorial Lecture.

I believe that the greatest tribute to a man who so fully committed his life to learning and sharing the wisdom and knowledge of Indigenous peoples is to dedicate our own lives to making that wisdom the basis of the daily reality of all our peoples. Realising that objective is both a duty and an honour.

When I was thinking about what I wanted to speak about tonight, it struck me that no matter what aspect of education we're looking at, we must retain the integrity of our cultural heritage.

In my view it is a fundamental human right that Indigenous peoples be guaranteed an education, which respects and strengthens our cultural heritage. A right and not a privilege.

Gross and systematic violation of the rights of peoples belonging to particular groups has been, and continues to be a perennial component of social relations throughout the world.

Even given the efforts of the United Nations in the last 50 years to promote universal respect for human rights, it remained clear to members of oppressed groups, and anyone else who cared to see, that control over wealth, political power and knowledge has remained in the hands of the same dominant groups, albeit under the proviso that they ought to try not to discriminate too much.

As the efforts of the international community to overcome oppression continued to fail, it became clear to us that we would only attain true freedom if we insisted on the right not only to be part of the game, but to write the rules.

It became clear to us that it was the structure of social and political relations that oppressed us, and that our freedom would only come with a genuine shift in the shape and the structure of the system when we speak about equality, we do not simply mean letting everyone speak English for example, but about letting us speak our own languages. In every sense.

Peoples denied of their freedom will always fight to break out of the cages which confine them. And that freedom means not simply participation, but equality in our differences.

In fact, it is only relatively recently that the international community has even begun to acknowledge that Indigenous peoples were being systematically deprived of the basic rights to which all human beings are entitled.

It is even more recent that there has been some acknowledgment that Indigenous peoples may have a right to our own voices. It is only beginning to dawn on people that our disappearance as distinct peoples is not inevitable.

Even in the field of human rights, the rights articulated in the major instruments, and those rights which have gained the greatest International attention have been the rights defined by western non-Indigenous peoples. What that has meant is that human rights have been framed in terms of the rights of the individual, and it has been assumed that all that was necessary to achieve social justice was for all people to be guaranteed those Eight.

There is no denying that all peoples must be guaranteed fundamental rights such as the right to adequate food and health and just treatment.

But what has been missing from the human rights framework is an appreciation of the importance of culture and identity. The dimension of the rights of peoples.

As Indigenous peoples increasingly take our place in the international arena to reclaim our rights, we are asserting that a concept of rights limited to the rights of the individual does not reflect our conception of our own freedom, and will not overcome the profound oppression we continue to experience, even when it appears that "we are participating".

On the one hand Indigenous peoples are absolutely clear that human rights are indivisible, and that the recognition of all rights is a prerequisite for our reclaiming our dignity as human beings. On the other hand we do not accept that our freedom from oppression means leaving behind our cultural heritage. It is simply not enough to open the door to the mainstream system and 'let us come in'. No program to "give to us" will ever work for us because it is in our own heritage that we can find the source of our power and liberation.

At the heart of the identity of Indigenous peoples is our distinct culture, deeply rooted in our traditions, our knowledges and the lands of which we are a part. Our being is steeped in the wisdom we have inherited from our ancestors.'

We cannot survive as distinct peoples, nor can we exercise our fundamental rights as peoples unless we are able to conserve, revive, develop and teach that wisdom. Without the connection with our cultural heart, the enjoyment of all other rights is a superficial shell.

The draft declaration on the rights of Indigenous peoples articulates the key rights of Indigenous peoples, and throughout emphasis's two consistent and related themes. The first is our right to self-determination, the second is our right to practice, revitalise and transmit our cultures. Together these rights provide the foundation of all other rights.

That means that in every aspect of our lives Indigenous peoples have the right to determine the way in which we exercise our rights in the context of our own cultures.

The right to self-determination in particular has been held up by Indigenous peoples as the pre-eminent right of peoples, a right which "is to peoples what freedom is to individuals; ... The very basis of their existence."² But even self-determination becomes an empty concept for Indigenous peoples unless we are free and supported to live according to the values, practices and systems, which we have created for ourselves.

Madame Daes, the Chairperson of the UN Working Group on Indigenous Populations described the intimate relationship between cultural rights and practices and self-determination, and I quote~

The protection of cultural and intellectual property is connected fundamentally with the realisation of the territorial rights and self determination of Indigenous peoples. Traditional knowledge of values, autonomy or self government, social organisation, managing ecosystems, maintaining harmony amongst peoples and respecting the lands is embedded in arts, songs, poetry and literature, which must be learned and renewed by each succeeding generation of Indigenous children. These rich and varied expressions of the specific identity of each Indigenous people provide the required information for maintaining, developing, and restoring Indigenous societies in all their aspects.³

Article 27 of the International Covenant on Civil and Political Rights, provides that no person shall be denied the right, in community with other members of their group, to enjoy their own culture, profess and practice their religion and use their own language.

Australia has agreed to uphold that right.

But for our cultural rights to be enjoyed in fact, and not merely supported in rhetoric, it has to be understood that cultural rights cannot be relegated to the private sphere, but are communal rights embedded in the enjoyment of social, economic and political rights.

A people's culture includes all the spiritual and material values which structure its way of life, and the way of life itself. Culture encompasses the whole complex of the identities and products of a people, all that it inherits and transmits, its knowledge, its language, its laws and ethics, its religion and ceremony, its social organization and kinship structures, its customs, its philosophy and art and song and stories.

As Indigenous peoples, we are acutely aware that our survival as peoples depends on the vitality of our cultures. The deepest wound that colonisation has inflicted has come from a process of stripping us of our distinct identities and cultures.

Culture, for Indigenous peoples, is not a theory we carry around in our heads, or a segment of our lives relegated to Saturday nights and Sunday afternoons. It is an intimate and integral part of everything we do. It is woven into the structures of our families and communities. It is embedded in the way we live on the land.

And it is because our cultures are embedded in every aspect of our lives, that our cultures have been eroded with each blow that colonisation struck. Each violation of our economic, social or political rights interferes with our ability to maintain and protect those practices through which our cultures are lived and revitalised. Conversely, the protection of our cultures depends upon the guarantee of our economic, social and political rights, and a share in economic, social and political power.

To take a few concrete examples. Begin with land. The land which is the heart of our culture.

The removal of a people from their land is not simply a violation of their economic rights. Where a people's cultural identity is firmly embodied within the context of land, their cultural identity is deprived of its life blood if the land is torn away from them.

Again, the connection between land and culture is intensely practical. Hunting, fishing and harvesting are not merely economic activities or the exercise of property rights. As older people walk the country they teach the young, tell the stories, and teach the responsibilities. The distribution of oldie catch or harvest enables kinship obligations to be learnt and fulfilled. The denial, loss or impairment of hunting, fishing, or harvesting rights amounts to a denial, loss or impairment of the

opportunity to maintain and participate in the enjoyment and exercise of Indigenous cultural life and to transmit culture from one generation to another.

I recently heard a person from the Torres Straits say: 'the sea is our supermarket the sea is our church'

Stop the people fishing and they cannot pray.

Another basic practical violation of cultural rights is the widespread practice of state-sanctioned removal of children from their families and the disruption of Indigenous families and kinship structures. This once took place in the name of hygiene, assimilation and economic restructuring. It now takes place in the name of juvenile justice.

Indigenous family and kinship relationships are like the circulatory system of cultural life. It is through the veins of those relationships that culture and Indigenous values, beliefs, knowledge and practices are transmitted. Sever those veins, and you cut off the circulation of our cultures.

The prohibition on Indigenous languages in schools, and even between Indigenous peoples took away the most fundamental vehicle of cultural transmission. Think how much of your own cultural transmission and the practice of your own culture depends on your native tongue, your mother tongue. To have it cut out is to be culturally orphaned; to be landed in a country with no familiar landmarks, and no point of orientation.

Then there is the very obvious abuse of cultural rights in the theft and the decimation of cultural and intellectual property, including all products of our peoples, human remains, burial grounds and sacred sites.

To understand the implications of the theft or misuse of the products of our peoples, you need to go beyond a western conception of property. When Indigenous peoples talk about cultural and intellectual property, we do not just mean property in the sense of something that we own, we also mean something that is a property of what we are. For us, all products of the human heart and mind flow from the one source, the net of relationships within which it exists: the relationship between the people and the land, the kinship relationships between the people and with living creatures sharing the land, and the relationship with the spirit world.

What a western culture might see as property in the form of objects or knowledges, we would see as an intimate part of our heritage and ourselves.

Our heritage is "a bundle of relationships", and the use or care of the objects and parts of that heritage are ways of honouring those relationships, and fulfilling the responsibilities they entail. For example, if I am the custodian of a song, and someone else wishes to share it, there will be a set of protocols

I must follow, involving all the people to whom the song belongs. When we share it, a new relationship is created between givers and receivers, and the way that the object or knowledge is used is regulated by that relationship.

Compare that with the Western concept of individual purchase and permanent alienation of objects of art or ideas from the peoples from whom they emanate. On the one hand you have a set of respected and time honoured relationships with the total environment, on the other you have a system of economics removed from human value or experience. It is the latter which has justified the plundering of our cultural heritage, which now fills art collections and museums across the world.

For Indigenous peoples, the impact of separating us from our heritage goes directly to the heart that pumps life through our peoples. To expect a people to be able to enjoy their culture without their cultural heritage and their sacred belongings is equivalent to amputating their legs and digging up the ground and asking them to run the marathon.

But just as the framework, which has supported the abuse of our cultural rights has been our lack of social, economic and political power, so too empowerment in the economic and political dimensions can be the basis for the reassertion of those rights. If you look at cases in which Indigenous peoples have either retained, or reasserted their rights in the economic and political spheres, cultural rights are given a very different priority.

Compare the dominant juvenile justice systems in this country with the system in New Zealand. Here, where a young Indigenous person breaks the law, the legal system removes them from their community, and dishes out what it considers to be a just response. When a young Maori breaks the law, the response is negotiated between the justice system and the Maori community. Firstly, this process takes into account the views of the Maori community, but more importantly, it directly supports the transmission of Maori cultural practices associated with correct behaviour, law and morality.

The reason such a system can operate in New Zealand is because there is a social-and legal recognition, firmly based in the Treaty of Waitangi, that the Maori people have rights to determine the practices which will affect them. By contrast in this country, where there is no such legal recognition, our young people are condemned to alien and alienating systems of punishment which rarely take any account of Indigenous cultural forms of justice; and even where they do, it is seen as a concession, rather than as a right.

In the lands -of the Navajo nation in the USA where the Navajo people have economic and political rights, Navajo workers on BHP have negotiated a health scheme which includes "medicine man insurance.

That is, a Navajo can claim insurance to cover the costs for themselves, and at times their extended families, to partake in healing ceremonies with their traditional medicine men.

Compare this with the situation of countless Indigenous peoples around the world, whose lands are plundered for minerals or other natural resources, and who maybe lucky to escape with their lives, let alone assert their rights to benefit from the development and retain their distinct cultural practices.

Unfortunately I could continue all night with examples of the exploitation which can happen when peoples are deprived of power; but those where Indigenous peoples are supported by a framework of rights are few;

To fully understand how this extraordinary systematic violation of Indigenous rights has occurred in virtually every part of the world, you need to go beyond the purely economic and political, and look at the ideologies of colonisation.

Whatever its particular form, colonisation of Indigenous peoples has taken place with a tenor of moral, intellectual and cultural superiority. Indigenous cultures and social systems have generally been regarded as backward and inferior; the relics of the past beyond which Europeans had thankfully developed; perhaps we were seen as curiosities worthy of study and collection in the safety of institutions, but rarely did the colonising cultures meet our peoples as equals to be respected and understood. And rarely, if ever, did they consider that they had an obligation to

negotiate with us the social and political organisation which they would impose on our lands. Rarely if ever did they see an obligation to take into account the pre-existing systems and values, which had maintained our peoples for thousands of years.

Even where the non-Indigenous cultures saw "value" in the Indigenous cultures, they considered that they had the right to exploit this value to their own ends. At one time it was our bodies alone and the objects we produced which were considered valuable, and were stored in institutions across the world. Today, as non-Indigenous cultures develop a fascination with the living aspects of our cultures and our intellectual property, they are rapidly turning these into the commodities of academia, new age religion, pharmaceuticals, art markets and tourism.

Where can we find a meeting between peoples in the spirit of equality and respect? -

Where can we find a recognition that the culture of a people belongs to that people, and that the people has an inherent right both to live according to that culture, and to control that culture?

And with that, we come right back to where we sit at this moment, the institutions of knowledge and education.

If the currency of non-Indigenous societies has been a pervasive disrespect for, and abuse of Indigenous knowledge and culture, then the central bank and the mint have been the educational and academic institutions.

At the simplest level, Indigenous peoples do not enjoy our right to equal access to education. We have been, and continue to be explicitly and implicitly excluded from participating in the educational institutions of non-Indigenous society.

At another level, educational institutions have propagated, and continue to propagate ideas and histories, which devalue Indigenous cultures and exclude Indigenous realities. It is only now that the history of this country is being rewritten to acknowledge the truth of colonial violence. And even now we have to fight the proliferation of myths as basic as "settlement".

And at yet another level, educational institutions continue to operate from assumptions and ideologies, which are alien to and inappropriate for Indigenous peoples.

We have our own unique ways of knowing, teaching and learning, which are firmly grounded in the context of our ways of being. And yet we are thrust into the clothes of another system designed for different bodies, and we are fed ideologies, which serve the interests of other peoples.

What are the values that the education system is transmitting to Indigenous peoples? Is it the dignity of Indigenous peoples and knowledges, or is it our invisibility and so called "disadvantage"?

This alien imposition and sense of "misfit" is felt by Indigenous peoples throughout the world. I quote you some words of the Nunavik people of Northern America:

For thousands of years our people had a very effective education

Then things changed. We inherited institutional system of learning that was designed and controlled elsewhere. Or the Mapuche people of Chile, who speak of their Indigenous Mapuche Kimu, an education system which encompasses Indigenous wisdom, value and technique. They observed how 500 years of cultural imposition and ideological acculturation has detached Indigenous children from their cultural roots and Mapuche wisdom and how these foreign structures of learning accelerate a child's loss of identity.⁵

Article 30 of the International Convention on the Right of the Child states that:

A child who is Indigenous shall not be denied the right, in community with other members of his or her group, to enjoy his or her own culture, to profess and practice his or her own religion, or to use his or her own language.

This is an obligation Australia has promised to fulfill.

Is it keeping that promise? Or is it providing a system, which insists that the Indigenous child check his/her wisdom at the door, and fill his/her bag with its commodities of knowledge? A system, which denies that child his/her history and culture and ground of being in the world and leaves him/her lonely and lost. A system, which takes him/her from his/her own wise heritage and leaves him/her an orphan. Is that the system that we have promised to provide?

Surely if peoples' rights can be violated in the name of education, so too can the truth of education be the most powerful vehicle for the restoration of those rights.

The UNESCO declaration on The Principles of International Co-operation reads, and I quote:

One: each culture has a dignity and value that must be respected and preserved; Two: every people has the right and duty to develop its culture, and; Three: in their rich variety and diversity, and in the reciprocal influences they exert on one another, all cultures form part of the common heritage belonging to all mankind.

Indigenous peoples fully support these principles. Our interest is not only in the preservation and vitality of our own peoples, but in the wealth and survival of the peoples of the world.

We are not seeking to exclude all other peoples from our cultural heritage. On the contrary, it is both our connection with our distinct heritage, and our ability to share aspects of that heritage with others that gives us our dignity and value.

But that cannot happen unless there are structures in place, which support our right to both enjoy and control our own heritage. If that is guaranteed, then our rich heritage can be shared at appropriate times and in appropriate ways.

In this era of reconciliation where interest in "things Indigenous" is increasing across the world, people need to be educated about the correct protocols that must be honoured when coming into relationship with other cultures.

And I think it comes down to some pretty basic principles. Ensuring that a people retain the right to practice, transmit and central their cultural heritage; and understanding that any relationship with the objects or knowledges of a culture is a relationship with a people, and requires respect.

An education system, which both embodied and taught those principles, would provide us with a solid ground for reconciliation.

I would like to conclude with the words of my Nunavik brothers and sisters:

Wisdom cannot be nurtured effectively unless there is a wise structure in place so support it ... The simple and the certain don't lead to a powerful education in our age. They are not the paths for structuring a democratic society (let alone cultural democracy), and they don't provide a base for optimism about the world.'

But in the spirit of optimism I would urge us all to take inspiration from our ancestors like Frank Archibald, and create the structures of wisdom.

Endnotes

1. Much of this discussion is drawn from the paper by Erica-Irene Daes, Special Rapporteur of the Sub-Commission on the Prevention of Discrimination and an Protection of Minorities, Discrimination Against Indigenous Peoples; Study on the Protection of cultural and an intellectual property of Indigenous peoples, Economic and an Social Council Paper, E/CN. 4/Sub 22/1993/28,28 July 1993.
2. Nasser Addine Ghazali, "Opposition to violations of human rights", In UNESCO, Violations of Human Rights, 1984, quoting in part Karel Vasak, "Human Righis: As a Legal Reality", in Vasak, K. (ed.), The International Dimensions of Human Rights, Unesco/Greenwood Press, Paris/Westport, Connecticut, pp. 3, 1982.
3. Erica-Irene Daes, op cit., para 4.
4. The Pathway to Wisdom, Final Report of the Nunavik Educational Task Force, February 1992, pp. 3.
5. Paper entitled Status of Mapuche Education in Chile, 1993 World Indigenous Peoples Conference: Education Conference.
6. The Pathway to Wisdom, Final Report of the Nunavik Educational Task Forée, February 1992,17-18.