

Mahatma Gandhi Inaugural Oration

University of New South Wales

January 30th 2012

****EMBARGOED 6.30PM – CHECK AGAINST DELIVERY****

Ngaji Gurrjin?

Ngayu nilawarl Patrick Dodson

Ngayu ngamburlan Yawurungany buru.

Acknowledge the Gadigal people of the Eora Nation on whose lands we are gathered and on which this fine University is built.

I acknowledge the Consul General Mr Amit Dasgupta, Premier of NSW Hon Barry O'Farrell, the Vice Chancellor Professor Fred Hilmer, Vice Chancellor, Academic, Professor Richard Henry, and Mr Neville Roach of the Australia India Society, UNSW Dignitaries and other distinguished guests.

When the Vice Chancellor, Professor Hilmer and Mr Neville Roach of the UNSW node of the Australia India Institute generously invited me to deliver this, the inaugural Mahatma Gandhi Oration, I felt not only humbled by the great honour at having been asked to undertake the task, but also apprehensive as to my own ability to do justice to the achievements of a man whose physical being left the world on this day 64 years ago, but whose life and achievements have inspired every Human

Rights struggle that has been undertaken on this earth since his death in Delhi in 1948.

When one is given the honour of delivering orations that have been created to honour and recognise great people and their achievements there is bestowed a great responsibility, to not only give just and fair acknowledgement to the work and reputation of the person for whom the oration is named, but to interpret the values, lessons and messages that are the true legacy that people of greatness bequeath to later generations.

So let me begin by acknowledging that I am not an expert on Gandhi or his teachings. There are no doubt many here who are far more familiar with Gandhi's writings and teachings, and are better placed to give scholarly interpretation to his work.

Gandhi's philosophy of non-violent resistance included *sat-ya-gra-ha* (the removal of tyranny through civil disobedience), and *swa-deshi* (the economic boycott of foreign goods). At the same time, he lived by his ideals and ethics and devoted himself to a higher purpose – *sat-ya* - the search for truth.

Mohandas Gandhi did not invent the concepts of pacifism, non-cooperation, non-violence and peaceful resistance solely as weapons to achieve political outcomes. He certainly personified and applied such concepts to an extraordinary level to himself and for the freedom of India. For Gandhi, the essence of non-violence as a technique was 'to liquidate antagonism but not the antagonist.'

He believed such values were essential for the future of human kind in a world rebuilding itself after two world wars and engaging in the drivers of modernity: global trade and resource exploitation.

Like all great thinkers Gandhi looked to history to help define his philosophy of political struggle.

When the great Russian writer, Leo Tolstoy wrote in his *Letter to a Hindu* in 1908 that he believed that the use of love as a weapon was the only way in which the native Indians would be able to remove the colonial oppression of the British Empire, Gandhi sought his permission to reprint the letter in his native Gujarati language.

In Gandhi's words: *"I thus begun to call the Indian movement Sat-ya-graha, that is to say the force which is born of truth and love or non violence.*

Gandhi never received the Nobel Peace Prize, though he was nominated several times. His contribution to peace, however, is not diminished by the absence of accolades

Gandhi's legacy to peace endured in the inspiration that he gave to other great leaders, like Martin Luther King Jr, Nelson Mandela and Aung San Suu Kyi - all of who were influenced by Gandhi in their own struggles against tyranny, oppression and racism.

But what of our own experiences with oppression and tyranny in Australia?

The Vinegar Hill rebellions in 1804, the uprisings in the Victorian Goldfields in the 1850's which led to the Eureka Stockade, even Ned Kelly's attempt to set up the Republic of North East Victoria, all failed because the main avenue chosen was an unequal violent confrontation between governments and the oppressed.

It is notable that in the most successful challenges to oppression and injustice by Aboriginal people in Northern Australia - the Pilbara Strikes in 1946 and the Gurindji peoples' walk off from the servitude of the Vestey properties in 1966 had parallels with the non violent resistance used by Gandhi.

In both incidents, the strategies used so effectively by Gandhi – the removal of labour, the boycott of economic activity and non-violent opposition - were used by leaders to resist attempts by those with power and money to force Aboriginal people back into the cages of oppression and slavery.

Vincent Lingiari succeeded with his walk-off where the Bunuba resistance fighter Jandamarra could not with his guerrilla war. The spirit of resistance that Jandamarra stands for today still burns bright, but in the stand of the Gurindji we see how the armoury of resistance was adjusted to include non-violent forms of protest.

I am also reminded of the leadership shown by my dear friend Michael Long, a star AFL football player from the NT who embarked on foot

from Melbourne to Canberra seeking an answer from those in political power to the question: Where is the love for my people?

Michael had sore feet at the end of his 700-kilometre trek – I am sure that Gandhi may have been similarly afflicted after his long Salt March to the sea.

There are other examples where Aboriginal people have resisted attempts by the state and others to trample their rights without resorting to violence and the use of brute force. Noonkanbah in the Kimberley and the Tent Embassy in Canberra spring to mind, though recent events in Canberra may have tainted this perspective of the tent embassy for some.

It would be simplistic however, to condemn outright the behaviour of protestors associated with the Tent Embassy last week without considering the sense of oppression that some of our people still feel towards our Governments on a whole range of matters.

I will always condemn bad manners and unnecessarily aggressive behaviour by whom ever. But I will always defend people's rights to assert their political position and try to look to the heart of why people feel so oppressed that they feel violent confrontation is the only recourse to the resolution of their position.

Each nation's journey is different and each person's experience within the nation is unique to the truth of their own circumstance. In life's

journey, time, circumstance or fate can take us in many different, unexpected, perhaps disconcerting directions.

My own life has taken several directions. Its foundations have often been highly influenced by events over which I have had no control.

My parents both died within three months of each other in very tragic ways in the early 1960s. I became a ward of the state and the property of the Native Protector, who, but for the will and struggle of my older sister would have sent me to a mission home, leaving me cut off from my family, my community and my culture.

While in her care I ran away to go droving with a family I knew in the Katherine region of the Northern Territory. But like Gandhi's initial endeavour to establish himself in law practise in Bombay my droving career was short lived and as a career possibility, unsuccessful.

I was retrieved from the camp by a family friend, returned to Katherine and then sent off to "exile" in Victoria to a catholic boarding school for boys – Monivae College, in Hamilton on the vast sheep breeding plains that had been named "Australis Felix" by Major Thomas Mitchell a century before but which has been the ancestral lands and waters of the Aboriginal people of that region for millennia.

It was in Victoria that I learnt about difference, race, and the importance of learning. It was here that I gained an understanding of the society which had been overlaid on the domain of the Indigenous society of my family, and where I became more aware of the consequences of government policies.

With this learning began an analysis of my future directions and the burden of the opportunities that fate and circumstance had placed before me. The needs of others as against individual fulfilment had been well planted in my formation at this point.

But, on reflection, the tension between what profession to choose in order to meet the physical and spiritual needs of others as well as myself was put as a false binary, with greater emphasis on the religious necessities and the practical needs being relegated to a secondary position.

I will always be grateful for the education that I received at Monivae, and to the many lifelong friends it bequeathed me.

The years of further learning and study after leaving Monivae were spent within the constraint and ambivalent embrace of the Catholic Church in the period leading up to my ordination as a priest and my work as a practicing priest.

But like many others who had embarked on a similar journey I soon found myself at the crossroads, confronting an intersection of political, cultural and religious divergence.

The tension between injustice and salvation never seemed to resolve itself successfully.

In my mind, there was the need for my people to hear the “good news” of spiritual redemption, but also the practical liberation of improving their

lives for themselves and others through the alleviation of poverty and the redressing of injustice.

I chose the path of political and social activism and sought to underpin the values and principles of my activism with the spirituality and culture of my Aboriginal inheritance. This did not mean charity and good works were not a necessity.

I regret that I have never been to India or been a student of its ancient history, religions, traditions and diverse cultures. Nor have I studied India's colonial history, its transition to nationhood or the modern developments that this great country has since achieved.

As an Aboriginal child growing up in Katherine, in the Northern Territory, India seemed an exotic place, as distant and far removed from my reality as England. What little I knew of India, I learned from social studies and geography lessons at primary school, and from what I saw at the picture shows.

Yet, when I look back to the India of my boyhood construct, there were some parallels. A history of colonisation by the British, for instance, was something we shared here in Australia. In India the British presence arrived in the form of the East India Trading Company, in Australia they arrived by boat to set up a prison.

It is perhaps ironic that the ship which first brought the British Naval Captain James Cook to the eastern shores of this continent in 1770 and

began our colonial experience was named The Endeavour. Ever since that April day when the Aboriginal people of Australia, (represented by the people of Botany Bay) and the Colonising peoples, (represented by Cook and his crew) we two peoples have been locked in an endless endeavour. That endeavour is to come to terms with each other's place on this continent.

The modern Australian nation has of course come along way since then, and we have taken many positive steps together in terms of improving Indigenous – non-indigenous relations. The good will and support shown by everyday Australians in our journey towards reconciliation has been a very important part of the gains that we have made.

However, as a nation-state, we have not succeeded in achieving a just accommodation of the truth concerning the sovereign Indigenous peoples who occupied this continent prior to the arrival of the British.

While it may be convenient for some to want to forget this point, it nevertheless remains that the Australian nation-state that came into being in 1901 was founded on a historical legacy of colonial dispossession and silence about the presence of Indigenous people.

As a nation, we may have the possibility - should we go to a referendum - to address this by recognising Aboriginal and Torres Strait Islander Peoples in the Constitution of Australia.

But even now, in the second decade of the 21st century, full and proper recognition of the status of Indigenous Australians as First Peoples - with the rights and responsibilities that go with that status - is regarded with

alarm by some within our community. This is despite the fact that countries like Canada, New Zealand, and Norway demonstrating that it is possible to give substantive recognition to Indigenous people without that recognition leading to the downfall of the nation-state.

Indigenous Australians have never been recognised as an equal people in our own lands. Australian courts have generally ruled that we are subject to the jurisdiction of the settler state. Our own customary laws, which have sustained our societies for millennia have been set aside and discarded as worthless.

The wealth that the nation state of Australia enjoys comes from the exploitation of our land and waters. The price for this has been our dispossession and displacement, and our dependent relationship with the settler state.

Australia is one of the wealthiest nations of the world, yet we seem incapable of lifting the vast majority of Indigenous people in this country to anywhere near parity on any social indicator with non Indigenous Australians.

In the midst of the mining boom many Aboriginal people are finding immediate relief from the poverty besetting many of our communities by gaining employment in the mining industry.

But I question whether in the long term our participation in unbridled exploitation is not in fact adding to the diminishment of our custodial responsibilities to humanity, global sustainability and resilience.

It is 20 years since the handing down of the Royal Commission Report into Aboriginal Deaths in Custody, and yet we are still over represented in state prisons and institutions and on average dying 10 to 17 years earlier than other Australians.

Our National governments present a different face when dealing on the international stage to what they do domestically in their treatment of the Aboriginal and Torres Strait Islander peoples of this land.

I struggle with this hypocrisy, particularly when they seem happy to intervene in the affairs of other countries, but become very defensive when criticised for their treatment of the First Peoples of this land.

When I reflected on Gandhi in preparation for this oration, there was something that he said in Hind Swaraj that struck a chord with me.

In Hind-Swaraji (Home Rule) Gandhi notes that; while religious difference and conflict existed before the arrival of the British, Indians did not define themselves solely in terms of this difference.

It was British Colonialism that formalised division and difference by resetting the foundations of power and civilization to those based on western principles of commerce, industrialisation and rule of law as determined by the Empire.

India, Gandhi writes in his chapter on the Railways, was one nation before the British arrived – an undivided land once connected by the

pilgrimages of holy men who spoke each other's languages and paid homage and respect to each other's ancient holy places.

This particular description by Gandhi's resonated with me.

It reminded me of how we, as a diverse Indigenous people, from the saltwater, to the river, to the desert and hills are connected through ancient song lines that cover our entire continent.

Our song-lines, the ancient tracks of our ancestor spirit beings, created a sense of nation or oneness out of people who spoke different languages and occupied different landscapes.

This, I suggest, was our common Law. It was a law system that emanated from what we Yawuru call the Bugarrigarra. A social, religious and legal code that informed our kinship systems predicated our rights and obligations to country and created common bonds and obligations.

The nationhood we experienced was not of the design of the Empire.

Despite our highly complex social systems, our customary laws and territorial organisation, we were deemed to lack a polity with a system of property rights that the British could equate with their own.

So it was that the land that our ancestors had occupied for thousands of years was declared *terra nullius* - a land belonging to no one. This legal doctrine prevailed until the High Court overturned it in 1992 in the landmark, Mabo Case.

But our own customary laws, which sustained our societies for millennia remained subjugated to laws of the settler state. Native title claimants must under this system abdicate their unique commonality for adjudication by courts and lawyers.

Our history has dictated that we, the original owners of this land must share our countries with peoples from many other lands.

We acknowledge the need to share and recognise the interests of those who have come and now occupy and exploit our land and waters. Yet this understanding is not always understood, shared or reciprocated.

Throughout my own working life, the discourse has usually been about us having to conform to some new party policy, a new set of rules or to be inducted into yet another set of implementation strategies, all authored by outside agencies to lift us out of the dependant state that we find ourselves in after more than two hundred years.

If there is any parallel with Gandhi wanting to get the Empire out of India it would be the desire to displace the authoritative position of the public service from the lives of the Aboriginal people so that some of the values that have underlined our society prior to the British occupation might again find useful expression and contribute to our resilience.

The opportunity, in 1991, for me to chair the Council for Aboriginal Reconciliation arose after years of work with others in seeking to have the land rights of Aboriginal people recognised, to get federal laws to

deal with Aboriginal heritage and to have national representative entities established in the hope of governing our own affairs.

It was also a recommendation out of the Royal Commission into Aboriginal Deaths in Custody, in which I was one of the commissioners.

A formal process of Reconciliation coming soon after the promise of a treaty by the Labor Government was seen as an opportunity to improve our relationships.

But the divisive debate that followed the High Court's decision in the Wik case in 1996 challenged the resolve for reconciliation. In Wik, Native Title was found to co-exist with the grant of pastoral leases. Yet, this recognition of co-existence, where the rights of leaseholders still prevailed, was met with a legislative regime under John Howard's 10 Point Plan that eroded our rights, and ensured that extinguishment, which is an abhorrent concept in customary Aboriginal law, was a feature of native title.

Under the Howard Coalition Government, we saw a shift in reconciliation away from the rights agenda towards practical reconciliation.

Reconciliation it seemed was redefined as the provision of "practical" measures to address discrepancies in our socio-economic status, rather than the root causes of our exclusion.

Practical short-term measures were to be pursued to achieve assimilation with the mainstream, while dialogue with Indigenous people about substantive issues of equality was completely disregarded.

The polemics of the rights and responsibility discourses were posited as opposing binaries, effectively reducing to a clash of competing ideologies what should have been a constructive discussion of our collective failure to address the historical inequity and exclusion experienced by Australia's Indigenous people, and the disadvantage to which it gave rise.

I was disheartened when Aboriginal suffering was politicised and used by those in privileged positions to gain kudos or score political points in the media.

More and more we were being defined in the language of disadvantage and gaps, portrayed in the media as impoverished welfare mendicants who were incapable of uplifting ourselves from a state of disadvantage, dependency and social malaise, despite the largess of the Australian nation-state.

There is no doubt in my mind that there is a need to ameliorate disadvantage, reduce welfare dependency, and address abuse and the debilitating social problems experienced in Aboriginal communities.

I do not disagree with Noel Pearson, when he says there is a need for our people to take responsibility and eliminate dependency. But we must avoid false dichotomies around rights and responsibilities and symbolic and practical forms of reconciliation that obscure the need for a balanced approach.

This year I have had the privilege of working with an Expert Panel comprised of Australian people from diverse backgrounds, and political persuasions. We were given the task by Prime Minister Gillard to search for ways for Aboriginal and Torres Strait Islander peoples of Australia to be recognised in the Australian Constitution.

Our report was handed to the Prime Minister earlier this month. We have recommended five specific changes that would entail the removal of two sections and the insertion of three sections to the body of the Constitution.

Currently the Australian Constitution, the founding legal document of the Commonwealth of Australia, does not recognise Aboriginal and Torres Islander Peoples.

Aboriginal and Torres Strait Islander peoples were not involved in discussions about federation, nor were they included in the constitutional conventions that led to the drafting of the Australian Constitution.

When the Australian Constitution was passed by the Westminster Parliament in 1901, the only two express references to Aboriginal people in the Constitution related to our exclusion.

Section 127 excluded us from being counted in the Commonwealth census, while section 51(26) stated that the commonwealth could make laws for all other races, “other than the Aboriginal race in any state”.

In 1967, the Australian people voted overwhelmingly to repeal section 127 altogether, and amend section 51(26) to enable the Commonwealth to

make laws for the people of any race for whom it is deemed necessary to make special laws.

However, section 25, which gives the states the ability to disenfranchise people on the basis of race, still remains in our Constitution today.

Problems still arise with having a race power under section 51(26).

The dilemma is that section 51(26) in its current form enables the Commonwealth to pass laws that can adversely affect any group of people by virtue of their race, including Aboriginal peoples.

Yet without this head of power, laws such as the Native Title Act could not be passed.

The task of recognition was complicated by the fact that preambular recognition – the form of recognition most expected to be put forth – is not as straight forward as originally thought.

The challenge before the Expert Panel was how to recognise Aboriginal and Torres Islander people and their unique place in the nation, and provide the Commonwealth with the power to pass laws for us without resorting to outmoded identifiers such as race.

For this reason, amongst others, the Expert Panel proposed a new head of power called section 51A. This new section would incorporate a statement of recognition similar to a preamble, and also give the Commonwealth parliament the power to pass laws for Aboriginal and Torres Islander peoples.

In this way if there were legal consequences to the inclusion of a statement of recognition, they would be limited to this new section and not impact other sections of the Constitution.

The Panel also recommended that a non-discrimination provision (section 116A) also be inserted in the Constitution. Such a provision provides for formal equality by prohibiting discrimination on the grounds of race, colour, or ethnic or national origin, but still allows Commonwealth and state parliaments to pass laws to address forms of inequality or disadvantage amongst any group of people, if required. Such special measures could otherwise be referred to as forms of affirmative action (positive discrimination).

This is not a one clause Bill of Rights.

Nor is this proposition something that is radical or new. The Constitution of countries such as Canada, South Africa and India all contain similar non-racial discrimination provisions to that which the Panel has proposed. Such a provision would bring us into step with international standards.

The Expert Panel has been criticised for over-extending its reach by proposing such a recommendation. There will of course be some who argue against and some who argue in favour for such a provision.

No doubt there will be those who reject both constitutional recognition of Indigenous people altogether, and who will regard our task as a waste of time. For some of my own Indigenous people our recommendations will

not have gone far enough, for other Australians it will appear to have gone too far.

On this point I can empathize with Gandhi who left the second round table in December 1931 disheartened by the tone and direction of the negotiations.

I hope, however, that we as a nation can have an informed and mature conversation about such matters, without resorting to divisive commentary or cheap political point scoring.

Ultimately, to achieve any of this requires a Referendum to be conducted that delivers a double majority - that is a majority of voters in a majority of states.

This of course comes after the proposition to be put to the voters and the States has been agreed and a law passed in the federal parliament.

If there is no cross party support for the proposition then it will more than likely fail if pursued. If our politicians cannot agree then we should not consider a referendum.

This is a relatively simple matter of recognition of the First Peoples of this land. Whilst this would be belated, it would set a new foundation for our future relationship.

We will have to wait to see how politicians and the country deal with this most important challenge for us as a modern nation.

Australians generally do believe in justice and tolerance and are not racist, but we are perhaps too accepting of the racism and intolerance in our midst.

The terrible attacks on Indian students, the demonising of Muslims and the Cronulla riots tell us how far we still need to go to address racism and intolerance in our society.

But intolerance and racism is something that many Indigenous people are confronted with on a daily basis.

We feel the hostile judgment by the dominant society whose growing understanding of past injustices has evaporated under an avalanche of public commentary about the ideological righteousness of blame and individual responsibility which has no historical context or analysis.

We have seen the demonizing of our cultural identity and ridiculing of our traumatic history by Australia's political leaders who label the "Indigenous rights agenda" as meaningless symbolism that has no positive practical outcomes.

What we have not seen is an honest dialogue about the impacts of the settler state and its intertwined history with us. What we do see are the consequences of modernity upon our ways, cultures and spiritual values. This is why a dialogue is essential

I believe that racial discrimination should not be tolerated in our society, and enshrining this in our constitution would be an act that enhances us all.

But intolerance and the death of racism cannot be constructed by legislation alone.

To be rid of racism, we must reflect on how we treat and view others who are different to us. This, like true reconciliation, must involve a process of engagement based on mutual respect, trust and a deep understanding and commitment to agreed objectives.

Gandhi would no doubt add that preparing to achieve such a relationship would require personal reflection and a spiritual openness to find truth and love through the engagement.

As a nation we have found this almost impossible to contemplate.

Several years ago, it became clear to me and some others that there was a need to establish a new philosophical basis for the relationship between the settler state and the Aboriginal peoples - a need for a new dialogue between our peoples.

We were seeking a Dialogue that would address the need for tolerance and non-discrimination and respect for diversity in this country. A true dialogue, not a regurgitation of the woes of the settler state - but a dialogue to establish a new foundation befitting the history, context and challenges of the modern era.

So too in more recent times, Aboriginal people have sought a full and open dialogue about how this nation can incorporate Indigenous knowledge systems and experience into how we are to deal with the damage that has been done to our environment and landscape.

Yet, even in this most critical of areas Indigenous people are being relegated to the back table as an afterthought rather than people with vast knowledge and experience in such matters as land and sea management.

In traditional Indian culture Gandhi saw great strength and resilience, but he despaired at the propensity of Western civilization and its ideas of modernity that made people slaves to industrialisation, the pursuit of money and material wealth. This was a civilizing intent that hypnotised people and disconnected people from their spirituality and connection to nature.

The consequences for Indian peoples of British Colonialism and the pervasive spread of a commercialised modernity were not lost on Gandhi. For him the disconnect in the politics of modernity was that the poor became poorer and less resilient as they lost village skills that for centuries had sustained meaningful livelihoods for them, whilst the wealthy champions of modernity became richer and more powerful.

One of Gandhi's greatest skills was his ability to expose the inequities of a system that spoke of equality but never delivered it. We should draw from his insights, and rethink the approach of development at all costs - driven solely by market imperatives, or because it is deemed good for the economy. There is a need for ecological and social balance to be restored,

not only to ensure our own resilience but our very survival as human beings.

There are many challenges facing this country today including the future management of our lands and seas which is overshadowed by Global warming and our own past poor management of our lands, waters and forests.

We are capable of meeting all of these challenges with our science, technology and our imagination.

Gandhi's experience shows that while the round table conferences failed, persistence of the issues remained so that eventually the major objective - the independence of the Indian people would be met.

The trade mark of the British to divide and conquer, and then rule via the restructure of peoples was evident in the life of Gandhi who understood well how a unified India required respect for diversity.

He saw no value in a nationalism that promoted division between Muslim and Hindu.

On my reading of Gandhi, assimilation was not about conformity at the expense of one's difference, so that one cultural order prevails over another.

Unity has to be about accommodating difference through dialogue so that common ground can be found. It is on common ground – where we meet as equals on the basis our difference – that we find unity.

When we can achieve a Dialogue that results in a just and true Reconciliation between Indigenous and non-indigenous Australians, then and only then will we be able to say that our nation-building task has been completed. We will then, perhaps, have faced our truth, our Satya.

On this day of Martyrs, I would like to conclude with words of one who knew the Mahatma better than most, and whose own journey of life was as complex as his friend and companion.

On the granting of Indian Independence on the 14 August 1947 Jawaharlal Nehru said:

“On this day our thoughts go to the architect of this freedom, the Father of our Nation {Gandhi}, who embodying the old spirit of India, held aloft the torch of freedom and lighted up the darkness that surrounded us.

We have often been unworthy followers of his and have strayed from his message, but not only we but succeeding generations will remember this message and bear the imprint in their hearts of this great son of India, magnificent in his faith and strength and courage and humility. We shall never allow that torch of freedom to be blown out, however high the wind or stormy the tempest.”

Kulia
