

Keynote Address by Judge Fred McElrea

at the UNESCO forum to mark the launching of

the International Year for the Culture of Peace

Te Papa, Wellington, 14 September 1999.

UNESCO is to be commended for this wonderful initiative in peace making. A culture of peace is exactly what is needed to escape the cycles of violence that we live with at all levels. For it is a culture of violence that threatens to overwhelm us, or at least trap us within its stark compound. As APEC energies have been diverted to East Timor the timing is appropriate for this forum.

It is also appropriate that a judge should make this address as the courts see the ugly and violent side of our culture all the time. We also see the good and hopeful sides of people, and that is encouraging. What becomes apparent is that violence comes in many forms.

Serious physical violence is the most obvious and newsworthy but it is a mistake to see it in isolation. It often grows in a culture of sexual and emotional violence, as the Family Court knows. It goes hand in hand with the abuse of alcohol or other drugs, resulting in violent deaths on the roads as seen in the traffic courts. Violent upheavals caused by industrial strife spill over into the Employment Court, and unsafe systems of work can result in prosecutions in the District Court. Rape and pillage of the land brings work for the Environment Court. Youth Court judges see the results of some students traumatically suspended or excluded from schools often without real hope of completing their education as citizens. Racial prejudice and other forms of ethnic injustice represent a further ugly face of violence which different courts and tribunals grapple with.

As the Mennonite writer Howard Zehr has noted, at the heart of most violence is disrespect. So I suggest a culture of peace must engender respect – first and foremost respect for other people, but also respect for our forebears and future generations, for other ways of thinking, respect for creation, and self respect.

In fact these issues are all interconnected, so we will not make significant progress on the topic of peace until we accept the need to address disrespect and violence at different levels. For this reason I am one of the organisers of an international conference that over four days next April will address questions of peace at the personal, community, national and international levels. Entitled Just Peace? Peace Making and Peace Building for the New Millennium, it will be held at Massey University's Albany Campus and could have a major impact on practice and policy making towards a culture of peace. (All offers of financial sponsorship will be gratefully considered!)

Although some media like to portray New Zealand as a violent society, I ask you to be careful about some of the statistics that are used, and wary of any editorial policy that treats “crime news as prime news”. It can create a false impression and engender a culture of conflict and fear. A neighbour of mine in her eighties was so sure that she would be a victim of home invasion that whenever her husband went out she would go in the car with him. A recent New Zealand Herald series on violence started with a front page story about New Zealand being second only to South Africa for crimes of violence. The article almost totally ignored the warnings that accompanied the statistics quoted, which meant that the conclusion was quite unreliable. In fact apparent increases in levels of violence can represent progress towards eliminating violence, such as when the police stopped treating violence in the home as just a domestic incident and started charging the offenders with assault.

Many who work in the justice sector are now coming to see the limitations of the traditional western adversary model of justice that we have inherited. In fact New Zealand has also a quite different model operating in the Youth Court, which is sometimes called restorative justice. There the emphasis is on holding offenders accountable in a way that is meaningful to them by making them face up to their victims in a family group conference. It is a consensus model which can produce good outcomes for all parties. It is a peace making and community building model of justice which gives victims a better deal. Court hearings allow offenders to avoid taking responsibility whereas a face to face meeting helps the offender to see the impact of crime on the victim and the community. The element of direct personal encounter is more powerful and effective than the ritual and drama of the courtroom.

New Zealand's youth justice system led the world when it enshrined these principles in practice ten years ago. Now it is time to take the next step and to create this option for adults. In fact commentators overseas are puzzled that we have not already taken this step. It would not replace the adversary system, which would still be used to try defendants who deny the charges, and even at the sentencing stage the courts would still be needed but with a reduced role. The potential savings through reduced use of courts, prisons and other services are substantial, and were immediately felt when our new Youth Justice was introduced. Further, in areas where restorative justice has been professionally applied there have been marked reductions in offending. This city, Wellington, is one example. Timaru is another.

It is a mistake to think that restorative justice is only there for petty crime, or property offences, or first time offenders, or just for young people, or at the discretion of the police. It has the potential to apply in all criminal courts and to all categories of crime. Of course no victim would ever be compelled to meet their violator, but restorative justice is healing justice, and the deeper the hurt the greater the need for healing and closure, especially for the victim.

Peace is more than the absence of war and physical violence. The position in East Timor demonstrates that violence comes in many forms and a culture of peace must be based on self respect, respect for others and respect for differences. These principles apply to nations and between nations, and well as to individuals and within families and communities.

Restorative justice is one way of contributing to this. On a recent visit to Northern Ireland to talk to professionals and community groups about restorative justice, I was amazed to find how closely the processes being followed there to try and achieve an end to violence mirror the principles of restorative justice. However so far they have omitted the key element of letting the victims of violence tell their stories. This applies in my view not only to today's manifestations of violence - the bombs and the knee-cappings - but also to the memories of past humiliations and injustice. Those ancient memories also need healing. The

inclusion of Crown apologies in some Waitangi Tribunal settlements is a reflection of this truth. In restorative justice conferences and for many cultures the apology is a prerequisite to making peace and moving forward. The bare words may mean little to others but a lot to the parties. Where they signal a change of heart then reconciliation becomes possible and the cycle of violence broken

So how do we in Aotearoa/New Zealand go about encouraging a culture of peace? I suggest that we already have the makings of a culture of peace. We should take heart from some of our other successes and build on them.

- There is cross-party support for the anti-nuclear stance taken by New Zealand – difficult at the time but widely supported. This is not the weakness of wimps but the wisdom of old soldiers - the veterans of Galipolli, Flanders, Crete and El Alemain, and the memories of the countless families of those who never returned.
- Our restorative justice initiatives are a distinctively New Zealand contribution to jurisprudence and to peace making, incorporating indigenous as well as spiritual values. Although more widely valued overseas than here, they are most applauded by practitioners, people like me, who have seen their benefits. They need support at a national and local level, and more programmes like the wonderful Hokitika Police Youth Aid programme that featured on Holmes recently.
- Promoting a “clean, green” image is consistent with an outdoors culture, is environmentally healthy and part of a national identity that is good for tourism and trade. If smoking is now socially unacceptable why should not violence become so?
- The COOL SCHOOLS peer mediation programme run by the Foundation for Peace Studies is a brilliant initiative working successfully in several hundred New Zealand schools and some overseas. It complements a drive by the Commissioner for Children to eliminate bullying in schools. The message must start in our homes and schools.
- Our soldiers have a growing reputation as peace keepers. Following the Ministry of Foreign Affairs key role in brokering a settlement in Bougainville it was an inspired decision to send troops without guns, who by their example – kicking a ball around in the street with the local kids - helped life to return to normal.
- The welfare state will never return in its old form, but its legacy amongst older New Zealanders is a belief that you give a helping hand to someone “down on their luck”. Today untold numbers of community groups and organisations keep alive the belief in a decent chance for all. Our response to the victims of conflict, both at home and abroad, flows from a huge reservoir of peace, of decency and goodwill amongst ordinary people, especially our womenfolk who so often have had to cope with the fruits of violence and yet keep alive the life-giving elements of our culture.

These and other strands in our culture should be recognised for what they might be – the foundations of a practical culture of peace, to be consciously nurtured and, with leadership, promoted as part of our national identity. Far from being just words they are, I believe, the way most New Zealanders would like to see themselves and their country. But it needs to be articulated and supported.

In the process of helping others we also help our selves to build stronger communities, for a culture of peace requires a culture of community, and vice versa. Peace can never be just everyone “doing their own thing”. Without co-operation there is chaos, at any level of endeavour. This of course is one of the

foundations of law. Yet we are in danger of encouraging chaos if we place an excessive reliance on individual rights and a competitive society. In a competition between conflicting rights the most powerful individuals will usually win because they have more resources for the contest. What is missing in our legislation seems to be the rights of groups or communities and of society, and a statement of the obligations of individuals to others. One classic instance to the contrary is section 4(f) of the Children, Young Persons and Their Families Act 1989 which spells out the objective that young persons committing offences be held accountable, and encouraged to accept responsibility for, their behaviour, and encouraged to develop in responsible, beneficial and socially acceptable ways. Perhaps we should say the same for offending adults and groups?

Finally, what a wonderful phrase – “a culture of peace”! It expresses exactly what is needed, not only in the usual sense of culture, as an ethos of beliefs and practices, but also in the laboratory sense of a climate in which things can germinate and grow. UNESCO is to be congratulated on this vision and its leadership. It deserves the support of all people. I wish you well in the year ahead, the Year for the Culture of Peace.