Give Peace a Chance: a world in transition

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Tahuna/Queenstown

Tēnā koutou katoa,

I acknowledge the mana whenua of this area.

I'm grateful and appreciative of the hospitality they have shown me.

Greetings to Waitaha, Ngati Māmoe and Ngāi Tahu.

Tēnā koutou katoa.

I would like to begin by locating ourselves on this day in history. And it turns out this is an auspicious day.

Today, the 1st of December, 1955, an African American woman by the name of Rosa Parks, paid for a seat on a bus in Montgomery, Alabama, and sat in the section designated for African American passengers - that being in the back half of the bus. She was on her way home after finishing work as a seamstress in a department store downtown. As the bus filled up and more white passengers boarded Rosa and three other African Americans who were already on the bus were told to move further back so the white passengers could sit down nearer the front. The others complied but Rosa refused. Subsequently the police were called, Rosa was arrested and thus began a year long bus strike by the African American community and one of the most important turning points in the movement for racial equality and civil rights in America. Rosa Park’s simple act of individual courage, grounded in the truth of equality, inspired other acts of non-violent resistance across the country that ultimately transformed laws and lives and changed attitudes. The 50s and 60s in the US were a time of tremendous change and it is clear that the civil rights movement is still very much a work in progress. Its outcomes are yet to be fully realised telling us that transitions need time and correcting historic wrongs often take decades to be completed and just as long to heal.

On this day in 1955, it was a courageous decision by a woman on her way home from work who imagined a different future – a more equal, a more inclusive humanity - for herself, her community and future generations.

Years later Rosa Parks recalled that when she was asked by the bus driver to get out of her seat for a white passenger, she said she felt a determination cover her body like a warm quilt on a winter’s night.

Coming forward a couple of decades, on this day in, 1 December 1972, John Lennon and Yoko Ono launched the single, ‘Happy Xmas, war is over’ as a protest song to the ongoing involvement of the USA military in Vietnam. John Lennon described himself as a revolutionary artist and identified this song amongst many others, as reflecting his dedication to change.

I was seven years of age when this song was released and we had just moved from Queenstown to Dunedin. The radio was often on in our household especially in the mornings before school and during weekends. It was part of the soundscape for our family and I like to imagine myself listening to this song on our old bell radio.

It was around this age, that I first heard about the International Red Cross. I remember a community educator from the Dunedin Red Cross office coming to speak at my school about the organisation and its work in the Pacific and around the world. At that time the Red Cross was inviting schools to become involved in small projects to raise money for its activities with refugees and in war-affected countries. I remember the civil wars in Cambodia and Lebanon were prominent during my childhood years. I also recall hearing about atrocities being committed in Uganda under the regime of President Idi Amin where up to half a million people were persecuted, murdered, tortured or disappeared within a seven year period. I did not think that many years later I would work in northern Uganda on a conflict involving a militia group that was formed partly in response to the years of persecution they experienced under President Idi Amin.

I remember that when I was 9-10 years of age, the NZ Government began a programme of receiving and resettling Cambodian refugees, called Kampuchean refugees at the time which was the name used by the Khmer Rouge that had taken over the government by force in Cambodia. These were refugees fleeing the civil unrest and genocide committed by the Pol Pot regime.

I recall this issue being on the TV news, the local Red Cross office was talking about it and it was a big topic in our local Catholic parish.

I remember the nuns talking earnestly about it at school. I also remember my parents talking favourably about the arrival of the refugees from Cambodia. We were not a politically aware family, my parents were not involved in any organisations or social movements, we weren’t the kind of family that discussed politics or world events together, unless you count the All Blacks playing test matches oversees.

Listening to the discourse as a child, made the lives of Cambodian refugees important and their experience fleeing armed conflict was both shocking and exceptional. I think these kinds of exposure help to plant the seeds of empathy- and it is empathy that enables us to connect across difference.

Learning about the Red Cross made a deep impression on me. I remember feeling inspired by the idea that we could be connected to others around the world, and that our actions, even on a small scale could have a positive effect in the lives of others. It also sparked my imagination about a big wide world beyond our shores that I hadn’t met yet.

In addition to hearing about the Red Cross at school, I also learnt about it from my Grandmother, Iris O’Connell, who was a pioneering hotelier here in Queenstown opening accommodation that later became known as O’Connell’s Hotel in 1937 with my Grandfather, Jim O’Connell and Great Aunt Mary. Grandma was very involved in the local Red Cross group for many decades running fundraisers to support projects here overseas and coordinating the blood bank collection events in Queenstown. In fact, the blood collected was stored in one of the commercial fridges at O’Connell’s Hotel in large canvas padded bags to ensure it was kept at the correct temperature before it was transported to Invercargill. One of my aunts remembers looking for strawberries and raspberries in the fridge at the Hotel and being appalled to discover the bags containing the blood collection.

I think unconsciously hearing about events through the Red Cross, seeing it on the TV news, and listening to discussions at school and in the parish likely informed my decision many years later to work in the field of international justice and peace building.

There is one more childhood memory I’d like to share before moving on because for me some of the images are still quite vivid and because I think this was a turning point of sorts for our country. The 1970s was a period of some of the largest protests and amplified calls by Maori for the return of land confiscated by the Crown. This came to a head over Bastion Point as it was called in the media, an area known as Takaparawha by local iwi. Ngati Whatua Orakei wanted to prevent the sale of Takaparawha as it was one of the last remaining pieces of land that belonged to them. In the 19th century the iwi had gifted land to the Crown to establish what they thought would be the new capital city of Auckland. It had also gifted land to the Anglican Church. As well as these gifts, other land had been confiscated and appropriated by the Crown over many years. Takaparawha was one piece of land remaining that they wanted returned to them. Had it been sold and developed for high end housing, as was planned, it would have reduced the chances of the land being returned to them in the future. Members of Ngati Whatua constructed a makeshift settlement including a marae at Takaparawha/Bastion Point and for 506 days (about 18 months), they lived there as the iwi had done in the past, seeking to be reunited with their land.

The protest ended in 1978, when the government called in 800 police officers and army personnel with orders to surround the settlement of around 200 people and forcibly remove those living on the site. This protest and the use of force to end it was a turning point and highlighted our need as a country to engage in meaningful dialogue and to address long-standing injustices.

An important judgment in 1988 by Waitangi Tribunal recognised that Ngati Whatua Orakei were the rightful owners of Takaparawha/Bastion Point, their status as mana whenua had never ceased, and consequently this land was returned to the iwi as part of the treaty settlement. Of course as a child, the complexities and nuance of the issues were completely lost on me but later in life particularly in relation to my peacebulding and mediation work I came to appreciate the iwi’s use of non-violent resistance as part of the resolution process.

In the last few years I have started to become aware of the richness of some of our peacemaking practices and traditions in Aotearoa-New Zealand. One quick example is the Moriori philosophy of non-violence that was developed almost 600 years ago by Nunuku, a Moriori Tohuk (Tohunga/spiritual leader) on the Chatham Islands. Nunuku’s ideas were radical and respected. He banned the taking up of arms against those who came across the waters even when they came to conquer, and he also prohibited the use of weapons within the imi (iwi) as a means to resolve internal disputes and conflict. This philosphy has been practiced by Moriori on the Chatham Islands since the 16th century. Nunuku’s Law, as it has always been known, was publicly acknowledged in the Treaty of Waitangi Settlement with Moriori that was finalised just last week.

There are many examples like this in our history of peace making, pacifism, non-violent resistance and peaceful protest. It’s so important to know these kinds of stories, to learn about our philosophers, to appreciate our collective ancestors, and to understand the events that have shaped our communities, and molded us as a country. I know from my work in peace making and armed conflicts that it is always easier for a society to understand its present when it has understood and reconciled its past.

Armed conflict – International Criminal Court

In 2004 I co-founded an international women’s human rights organization that worked with communities most affected by armed conflicts in east, central and north Africa particularly in Uganda, the DRC, Sudan, Libya, the CAR, Kenya and as well as initiatives on the conflicts in the Cote D’Ivoire and Mali. These were all countries and conflicts where the International Criminal Court (ICC) opened investigations. The jurisdiction of the ICC came into force on 1 July 2002, and it is the first permanent court established to prosecute international crimes around the world, specifically, war crimes, genocide, crimes against humanity and more recently the crime of aggression.

The ICC is considered a court of last resort, meaning, that it recognises national sovereignty and the responsibility of countries to investigate and prosecute war crimes, crimes against humanity etc themselves if committed by its citizens or on its territory. But, should a country prove to be unable to unwilling to do so perhaps because some of those in power are directly or indirectly responsible for the commission of these serous crimes, the ICC is able to address the impunity gap by opening its own investigations for alleged crimes that fall within its jurisdiction.

As an institution, the ICC is an important bridge for humanity to help us move beyond a collective conflict consciousness. In some respects, the Court is emblematic of the both best and worst of humanity. It has the highest aspirations for curbing some of the worst human impulses. It is symbolic of a world in transition where both beauty and horror exist.

To date, indictees have included senior military figures, militia commanders, political leaders and heads of state. The ICC’s mandate enables it to reach those who are almost always beyond the reach of domestic courts because of their positions of power particularly for countries emerging from long term conflict where there may not be a functioning or trusted legal system.

The Court has opened a number of investigations on the African continent mostly because African Governments were the first to refer cases to the court inviting its investigations. The ICC has brought charges and cases in several of the countries I mentioned earlier. It has also opened investigations in Afghanistan and recently the new prosecutor announced the opening of an investigation in Venezuela.

Although it operates in highly politicised environments, the Court is expected to be driven by it’s jurisdiction and to act as an impartial arbiter accessible to all states outside of the power structures instituted after the Second World War in the form of the five permanent members of the UN Security Council, each with veto powers. The UN Security Council is able to refer situations to the ICC and it has done so on two occasions in relation to the conflicts in Sudan and Libya. But it cannot decide whether the Court opens an investigation and it doesn’t have a role in deciding upon who, if anyone, is indicted, it can’t influence the composition of the charges or which cases are brought to trial.

Currently 123 countries around the world, including NZ, are states parties to the ICC and have ratified the treaty underpinning this important court. This means that around 2.5 billion people, or almost a third of the world’s population, are now citizens of a member country of the ICC. To put this into perspective, there are about the same number of citizens of ICC states parties as there are Facebook users. Whilst we can’t claim that the ICC has the same global reach, appeal or influence as Facebook, nevertheless the scale of this endeavor suggests that the idea and concept of international justice and accountability have become a shared global norm.

We worked closely with the International criminal court as an independent human rights organization in three key areas.

Firstly, we advocated for the investigation and prosecution of sexual and gender-based violence as war crimes, crimes against humanity and genocide and monitoring and critiquing the jurisprudence that arose from these cases. We focused our efforts there because historically these are crimes have been persistently under prosecuted or overlooked altogether.

The second area, involved monitoring the Court and the governance of it by states parties in terms of their organisational practices, compliance and decision-making processes as an institution created in service to the public and for the public good. A part of the ICC’s legitimacy will be assessed by its impartial selection of cases and in the effectiveness of its prosecutions. But the other part of its credibility is in demonstrating its organisational integrity and its trustworthiness as a global public institution. We wanted to be sure that the culture and internal practices of the ICC were aligned with the nobility of its mandate.

The third area of our work was monitoring and advocating for the integration of gender and diversity principles within the Court. For exampled, we monitored the staff profile of the Court to assess gender equity and the geographical representation of member states. On gender equity issues we wanted to be sure that the Court was attracting and recruiting the most qualified and experienced people and that unconscious and institutional bias were not a barrier. On geographical representation, countries are particularly sensitive to their citizens being appointed to positions within international organisations. Regional diversity is important for equity amongst states, its also important for the sense of shared ownership of the ICC and it helps to maintain their motivation to collaborate with the Court. The ICC is highly dependent upon the cooperation of states parties to carry out arrest warrants for those indicted, to provide sentencing facilities for those convicted, and to fund and resource the budget of the ICC.

 Apart from the Court, we also worked with communities in countries most affected by armed conflicts.

This involved long-term collaborations with local partners on a range of justice and peace building initiatives. One area of our work involved a programme in the DRC documenting sexual and gender based crimes. This was to support both domestic cases through local courts including military tribunals when the perpetrators were soldiers and members of the national army. Based on our documentation programme, we were aware that at one time, the Congolese Army was the highest perpetrator of sexual violence in several provinces committed against the people they were meant to be protecting.

The documentation was also utilized to support international prosecutions through the ICC and contributed to the Court’s successful case against Bosco Ntaganda, a militia commander active in the DRC who was known amongst the communities he terrorised as ‘The Terminator’ because of the brutality of his attacks. This was a situation and a case we had worked on since 2006. In 2019, Ntaganda was convicted by ICC for rape and sexual slavery committed against child soldiers within his own militia group and under his command, making this judgment the first time in history anyone has ever been held accountable for these kind of crimes committed against children, both girls and boys.

We worked on several peace processes including in the DRC and on the Darfur peace process in Sudan where we worked with civilian members of political movements. Our most in depth peace building work was in Uganda. This included participating in the formal peace talks between the government of Uganda and a militia group called the Lord’s Resistance Army (LRA). This is the militia group that partly emerged out of the persecution experienced by the northern communities under Idi Amin.

The LRA was responsible for one of the longest running conflicts on the African continent. There had been many attempts at peace talks over the years and we were involved in the last process between 2006-2008. Whilst a number of important agreements were reached and northern Uganda has been living peacefully since this time, the LRA refused to sign the final ceasefire agreement and the militia group was never demobilized. It simply moved across the border to South Sudan and roamed between eastern provinces of the Congo and southern areas of the Central African Republic. It is a highly mobile militia group that has proved adept at surviving in harsh environments and evading capture.

One of the hallmarks of the LRA was its abduction of children to swell its ranks. Some figures estimate that up to 60,000 children may have been abducted by the LRA over the course of three decades. We got to know and work with young women who had been abducted as children. Some has been trained to be fighters, but most were assigned to tasks within the camps, including the bearing and rearing of children born as a result of rape. Once the girls reach puberty they were additionally enslaved as ‘bush wives’ to commanders.

We met them when they were now adults and after they had either escaped from or been released by the militia group after many years. Some were welcomed home by their families, clans and communities. But several experienced rejection by those they thought would embrace their return. Many in the community blamed the LRA for 30 years of suffering, the murder of loved ones, the disappearance of family members, the loss of land, the widespread poverty, the inability to grow food for their families and the severe and debilitating injuries they suffered. At the height of the LRA conflict, 2 million northern Ugandans were living in camps for those who have been displaced. Because of their association with the LRA, the young women who returned home often bore the brunt of the anger felt by the family and clans and were blamed for the communal suffering. They were treated with suspicion – perhaps they had returned home to harm their families? Perhaps the LRA had sent them to spy on their neighbours? Many were rejected even though they themselves had been abducted, had not joined the LRA voluntarily, they were victims of its violence and had suffered unimaginable treatment.

Having worked in this environment for 15 years, my own observation was that perhaps at times the parents, clan elders and civic leaders projected onto those who returned the guilt they felt at not being able to protect their children from the LRA. It was somehow easier to blame the young women than to face the feelings of helplessness and shame they felt in being unable to provide protection for their children.

It can take multiple generations to transition from the mentality of violence and the trauma of armed conflict. Many of those we worked with had severe physical injuries, some still had shrapnel in their bodies, many needed reparative surgeries, some had waited years for properly fitted prosthetic limbs.

There are also the complex mental and psychosocial needs of those abducted and the children they returned with, of former child soldiers and the community at large. Then there are the enormous social challenges for a society emerging from conflict dealing with the normative effect of intergenerational violence and rebuilding itself in the context of a highly traumatised population.

Against overwhelming challenges, Northern Uganda has now been peaceful for 15 years, children have been born and become teenagers without knowing armed conflict or the commission of mass violence, and they are the first generation to experience this since 1970. People are recovering, the young women formerly abducted have formed networks to support each other across the northern areas. We supported them with training to start income generation projects and savings and loans schemes and assisted with mediation programmes that supported the re-entry and reintegration of the young women and their children with their families and clans. Their aspirations are largely similar to those of billions of people around the world – they want a livelihood so they can support themselves and their children; food security- access to land to grow food; and to educate their children. They also want support in their personal recovery and to be reconciled with their communities.

Across the north, the economy has picked up, business are opening, roads and some level of infrastructure are being built, people have returned to their homes, replanted their crops and have once again been able to provide food for themselves and their families.

And while it has been rebuilding itself, the international justice system has continued its work. As a bookend to Uganda, last year the ICC convicted one of the LRA commanders for numerous war crimes and crimes against humanity including for the abduction of children as well as for the largest and most comprehensive list of charges relating to sexual and gender-based crimes ever brought before an international court.

Ecocide

As I mentioned earlier, in some ways the ICC is an important bridge for humanity. And in that light, there is currently a global campaign underway to expand the jurisdiction of the ICC to include crimes committed against the environment.

In 2017 a global campaign was launched to introduce ecocide - which is the mass destruction and damage of the environment - as an international crime and early this year we started a branch of the campaign here in Aotearoa of which I am a co-lead. There are now about 16 national branches around the world with support for the campaign growing quickly amongst influencers, leaders, indigenous nations and communities, the private sector, leading ecologists, journalists, artists, academics, faith leaders, civil society organisations, networks and local groups. In a relatively short period of time the campaign has gained significant momentum. In part, I think this is because of the urgency of the climate and ecological crises. It is also because it is an idea whose time has come and many more people are moving into a place of deeper care for the natural environment.

Polly Higgins, a Scottish barrister who was one of the co-founders of this campaign, had been working on these issues for many years and had dedicated the last 10 years of her life to this issue. Polly passed away at 50 years of age in 2019.

The aim of the campaign is both very ambitious and very discrete.

The stop ecocide campaign wants to amend the treaty of the ICC to include ecocide as the 5th crime against peace alongside, war crimes, genocide, crimes against humanity and the crime of aggression. All of the existing crimes are all focused on the protection of humans. The environment is not protected by international criminal law and we are seeing the repercussions of that gap now in the form of climate change, reduced biodiversity, marine pollution, and the loss of ecosystems.

If we’re going to use criminal justice at the international level to protect people and stop mass killings and other crimes, shouldn’t we also use it to stop people causing mass damage to the environment?

This idea is based on two related principles, the first being ‘do no harm’ as a founding guiding principle. The second is recognising that we have an ethical duty of care for the environment. Both of these principles foster the idea that we are one species amongst many sharing a common ecosystem. They also compel us to consider our decisions bearing in mind there impact on the balance of life within the natural world as well as the consequences of those decisions for current and future generations – several generations in front of us, those not yet born for whom we are their ancestors. The question is are we being good ancestors? The stop ecocide campaign wants to expand the ethical duty of care to a legal duty of care as well.

Ecocide would be considered an umbrella law, like genocide, that can’t be written around – you can’t write other laws to get around it.

We know that ecosystems are straining or breaking down, and that we are losing species at an accelerated rate – 1600 times faster than the natural rate of extinction and this is entirely due to human activity. We’ve known for decades that we can’t continue our reliance on fossil fuels and yet many countries, including our own, have not created enough alternative energy sources to support a steady, gradual transition and that the changes needed now are more decisive and urgent. It’s clear that we need to do much more, on a larger scale and more quickly now than if we had taken this seriously 40-50 years ago.

Data also tells us that globally we have over-farmed and over-fished to the extent that for the first time we have altered the biomass of species in the ocean and changed their proportional relationships with each other. We have messed with the equilibrium and the balance of nature in the ocean.

 Let’s be honest, as a species we’re not great neighbours. If I was a member of another species, I don’t think I would want to live next door to us.

There is a spectrum of harm playing out and people in different parts of the world are experiencing more or less of the symptoms of climate change and environmental damage depending on where they live.

The crime of Ecocide, on its own, won’t solve climate change or the ecological crisis – there is no single action that will do that, it’s going to take a global mobilization, lots of people adjusting our practices, large scale political leadership and private sector cooperation - but a crime of ecocide could assist in curbing the worst practices that are having a disproportionate effect on climate change and it could do that by holding those responsible for these actions accountable. Ecocide as an international crime is seen as a red line, a kind of course correction for those who persist in practices that cause severe, long term and widespread damage.

An international ecocide law would give governments safety in numbers and limit the ability of corporations to move their operations to other jurisdictions in order to avoid the law. It could create the enabling conditions making it easier for everyone do the right thing. For example, it becomes easier for environment ministers to refuse a license for conventional mining or other forms of traditional extraction if there is an international law preventing this.

An Ecocide law would create parameters for business practices and potentially level the playing field amongst those who are already doing the right thing, those who want to do the right thing and those businesses who want to continue their climate polluting operations. It can be difficult for businesses to change their practices if they feel that they may be economically or financially disadvantaged by adopting new (more expensive) environmentally sustainable methods. The law of ecocide could take humanity on a whole new path.

I should say that I don’t come to this issue as an ecologist, or scientist, or environmental expert. I’m coming to this issue from my work in the international justice field. I’ve seen first hand the impact of conflicts on the environment – the permanent loss of land for food production, the loss of trees for shelter, birds, animals and food, the reduction of biodiverse forests that are destroyed by the use of military weapons or cut down to flush out militia groups from their camps in the bush. Resource depletion is itself a major driver of conflict. And all of this needs funding. In a few of the conflicts I worked in, some of the military operations were funded by trading in wild animals and large scale mining – armed conflict requires significant infrastructure and once rolling every component of the infrastructure exacerbates more suffering, more poverty and more harm to people and the environment.

Conflict may seem like an extreme example and its not even our worse source of environmental damage, but our inclination towards conflict with each other mirrors the conflict we are collectively having with the Earth. It’s as if we are waging war against nature that is both brazen and stealth-like at the same time.

I’m also approaching this based on my work in peace making and mediation and having seen the violence ordinary people are capable of when they are disconnected from themselves. Disconnection is the breeding ground for conflict. It makes it easy to exploit differences across ethnic, religious, political or racial lines, when it comes to waging war. Disconnection has a numbing effect whether towards people or the natural environmental because it allows us to make decisions without considering or facing the consequences and impact of those decisions on current and future generations and for non-human forms of life.

The crime of ecocide provides the space for more people to move from a place of deep disconnection to a place of deep care. It’s a unifying idea, it’s about breaking the cycle of harm and it could be a catalyst of enormous change.

Several governments have already shown a positive interest in the campaign with a number of parliaments and ministerial committees recommending or indicating support for the exploration of the crime of ecocide. Some governments have passed related legislation e.g. France passed a climate and resilience act recognising ecocide offences. The UK Government is currently considering amendments to the Environment Bill to include ecocide as an international crime. The governments of Chile and Bangladesh are considering amendments to their domestic legal frameworks incorporating ecocide. Committees within the European Union (EU) have urged the EU to support ecocide as an international crime within the jurisdiction of the ICC.  The Belgian parliament has also voted to support this and to include ecocide within its domestic laws. Spain and Mexico are examining national legislation regarding the crime of ecocide. And Vanuatu and the Maldives supported by other states have requested the governing body of the ICC to consider the crime of ecocide within the Court’s Jurisdiction.

As an international law, ecocide represents a shift in consciousness. We are at a turning point where its going to take the leader in each of us make this change. Whereas in the past we relied on the leadership of a relative few, leadership is a democratic practice and it requires all of us to transition from a relationship of harm to a relationship of harmony.

I would like to end this presentation by asking this question of all of us: What can we do in our lives every day or every week to be the kind of good ancestor current and future generations need us to be?