
Narratives of Oppression

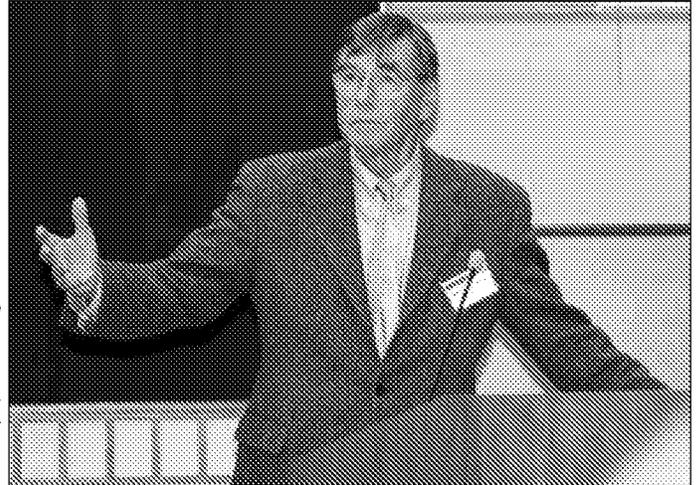
by Michael Tigar

The following piece is based on Professor Michael Tigar's keynote address delivered at the "Strategic Litigation in International and Domestic Fora" event on October 12, 2009, at the American University Washington College of Law (WCL). Professor Tigar is a Professor Emeritus at WCL and a Professor of the Practice of Law at Duke Law School. Ten years ago, he founded the UNROW Human Rights Impact Litigation Clinic, which has represented, among others, the indigenous people from the Chagos Archipelago in their lawsuit in United States federal court. The Chagossians were forcibly uprooted from their homeland in the Indian Ocean in the 1960s and 1970s by the United States and the United Kingdom to make way for the U.S. military base on Diego Garcia.

Although I hope there are some general lessons to be drawn from my remarks, I am going to focus today on our continued struggle to secure justice for the Chagossian people. We have litigated this matter in the courts of the United States,¹ in the courts of the United Kingdom,² and now in the European Court of Human Rights. I am proud to have participated with UNROW students, with co-counsel in the United Kingdom and Mauritius, and with the lead plaintiff, Olivier Bancoult, in building a narrative about the fraud, violence, coercion, condescension, and unconcern that characterized the actions of the United Kingdom and the United States against the Chagossians.

Despite some remarkable successes, in many instances we were rebuffed by judges who spoke with condescension and in a certain imperial tradition about Olivier Bancoult and the Chagossian people. They seemed to say, "How could it be wrong what was done to the Chagossians? After all, we didn't do anything more to them than we have done to other colonial peoples at other times and in other places."³ Therefore, in some kind of Jonathan Swiftian sense, it must be right. As Swift pointed out, decisions against common justice are written down by lawyers so that they may be cited and followed in the name of precedent and authority.⁴ Or as Karl Marx put it more pungently, this backward looking view of history "shows nothing but its [sic] a *posteriori* to the people, as did the God of Israel to his servant Moses."⁵

The narrative of oppression needs to be not only a narrative about what is done *to* people, but also about what is taken *from* them. It is our job as lawyers to look at this from two perspectives: first, that of the imperial power that regards what was taken from people as valueless, and therefore not subject to compensation; and second, the progressive, or left, perspective on national liberation (sometimes called self-determination) which has, at times, characterized the progressive dialogue. The imperial tradition, in which we were raised and educated, helped us to fashion a powerful narrative. The question that then arises is:



Courtesy of Michel Tigar.

UNROW Founder, Professor Michael Tigar.

What do lawyers need to supply to represent indigenous populations and to do an even better job in the future?

First, I turn to the empire's perspective. For the empire, the value of indigenous people is based only on what could be extracted from them. It was irrelevant to the colonial design that whole cultures were dispossessed, or that tribe was set against tribe, population against population. As the British historian and Africanist Basil Davidson famously pointed out, the colonial powers virtually sabotaged all possibility of stable governing structures in liberated colonies because they systematically destroyed all of the institutions of social cohesion and power upon which people — having gained the right to govern themselves — would base a society.

This imperial attitude is not a new one. At the 1903 debates in the Belgian Parliament, the socialist parliamentarians, led by Emile Vandervelde, called out the horrors of colonial rule. Referring to the use of the *Force Publique*, which was designed to set tribe against tribe, they declared that "the work of civilization, as you call it, is an enormous and continuous butchery."⁶

Hugh MacDiarmid, the Scottish poet who tried to establish the independence and value of Scottish culture in the 1920s, found that, from the perspective of the imperial power, Scotland had been a part of the United Kingdom since 1707. That was simply the end of the discussion. MacDiarmid famously remarked that the British conquered other cultures simply by ignoring them, which is another way of saying that they did not attach any value to them.⁷

All this was done in the name of something with which lawyers are very familiar: the myth of transparency and universality of language. In turn, this view leads to the myth of transparency and universality of *cultures* based on language, and the impo-

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sition of dominant cultures on other cultures. The legal rules might speak of rights and states' duties, but the content of those rules was always based on the idea that the law meant what the rulers said it meant.

All this is familiar history because we live in the center of the empire. But let us turn to the progressive perspective and ask what has been missing from it. What was it that perhaps made it more difficult for us on the left to see the Chagossian people's struggle? Here, I must confess that much of what I say I stole shamelessly from the work of Professor David Vine, author of *Island of Shame: The Secret History of the U.S. Military Base on Diego Garcia*.⁸ Progressive people have had difficulty imagining a liberationist perspective and putting it into our worldview. The attitude that progressive forces have tended to take towards colonial liberation has made it hard to fashion a narrative that can be used to describe what has been taken from colonial peoples. To prevail, we must describe what is taken as the measure of exploitation, lay bare the laws of motion of the system of colonial oppression, and then take that narrative and weave it into our claim for justice.

Since at least the beginning of the twentieth century, many progressives have decried imperialism. In 1913, Joseph Stalin wrote *Marxism and the National Question*, acknowledging that the problem of nationality did indeed exist, but that the task of the left was to create an international movement that would bring about an entire world based upon more just principles, and therefore an asserted universality. The task of the left was to form such a movement and to frame and to enforce ideas about justice with the same characteristic of universality as the imperialist counter-narrative. Now, had *Marxism and the National Question* simply gone into a library somewhere or been denounced by Nikita Khrushchev in 1960, all might have been well. But, beginning after the First World War, many on the left submerged the national liberation idea in the name of the international struggle to discountenance movements for the liberation of peoples. Thus, again a Universalist narrative, which rests on this same myth of transparency and universality of language and values presented in a language that purports to be international, got in the way.⁹

Between the First and Second World Wars, the international leftist movements opposed nationalist tendencies among progressive groups and tended to dismiss them as bourgeois. I concede that national movements can carry within them dangers of pitting group against group, based on supposed differences and characteristics. However, much if not most of those situations are the products of deliberate sowing of differences as a means to divide people, who despite their differences have common objectives. That was the design by which Belgium controlled the Congo; it was the way in which people were set against people in Ireland; and the list goes on.

This is not just a phenomenon that exists in foreign countries, but is also reflected in the African-American movement for liberation in the United States and in the manner in which whites in position of power attempted to divide workers to prevent the organization of labor in the American South. W. E. B. Du Bois referred to "the pent-up resentment" of the oppressed. He wrote, "Some day the Awakening will come, when the pent-up vigor of ten million souls shall sweep irresistibly toward the Goal, out of the Valley of the Shadow of the Death, where all that makes life worth living — Liberty, Justice, and Right — is marked 'For White People Only.'"¹⁰ Throughout the rest of his life, Du Bois had to contend with sniping from those who regarded his perspective as a diversion from a supposedly internationalist movement that required people to submerge their individual differences.

I want to emphasize that this phenomenon is not simply a matter of a choice of values, neither of which can be rationally preferred over the other. This is about ideas that have demonstrably contributed to the wellbeing of peoples, and that were systematically destroyed by the colonial powers. The colonial powers began by taking land, then imposing their language, and then imposing their customs, eventually destroying ways of being. The Chagossian saga illustrates the destruction of an indigenous culture with particular eloquence and poignancy. Family ties, methods for educating children, the most intimate aspects of human development, and the most powerful motivators of social formation were destroyed. The colonial powers dispossessed people. They took from them — and not simply in ways that can be measured in free enterprise capitalist terms.