

INDIGENOUS HEALTH AND THE TREATY DEBATE
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One of the puzzling features of the debate about health in Australia is how much of it is focused on the delivery of health services and, in particular, gaps in the delivery of those services. Discussion about the causes of illness are more muted and confined. So in my home state of Western Australia, waiting lists for elective surgery and the number of ambulances forced to bypass overloaded hospital emergency services are a government threatening issue, while the critical issue of factors leading to illness receives relatively little attention.

There is some debate about public health issues and the impact of social and economic factors on health but it seems to be largely a discussion among aficionados. Pronouncements on the significance of absolute incomes, of relative incomes and of the social gradient of health, all of which suggest that current economic and social policy might need to be challenged, never seem to result in wider discussions of related public policies.¹ I am not aware of any systematic interaction between health professionals, including public health professionals and epidemiologists, which engage economists and political scientists to challenge the status quo. I don't recall being told that results of the current hegemonic post-Thatcher ideas of general reliance on market forces and competition, which dominate the current thinking of all major political parties, might be making us sick.

In the current intellectual climate there is something almost heroic about trying to link health to a treaty. It flies in the face of the prevailing practical approach to both social policy generally, and reconciliation in particular, and might even invite ridicule outside the circles of those who choose to see things through the prism of their public health expertise. As a result, attempts to link health with ideas of a treaty could be dismissed as elitist.

Much of the community, I suspect, sees Indigenous ill health as largely self-inflicted anyway.² Violence, substance abuse, malnutrition flowing from inadequate diet, excessive weight, smoking and lack of exercise all involve choices. They are all critical contributors to the dreadful health statistics. I recall a researcher from the Menzies Research Centre in the Northern Territory observing that there was no medical solution to

¹ see R Wilkinson & M Marmot (eds) 1998 *Social Determinants of Health: The Solid Facts* Centre for Urban Health WHO Regional Office for Europe Copenhagen, Denmark www.who.dk/tech/hcp/index.htm.

² In discussing Indigenous health issues Phillips argues that the current (and false) paradigm is to look at problems as "representing merely individual medical pathologies, rather than also as intimately tied to their collective and individual historical, cultural, political and socio-economic circumstances," G Phillips 2003 *Addictions and Healing in Aboriginal Country*, p.23.

the epidemic of renal disease in central Australia which could only be remedied through lifestyle change. There is plenty of ammunition for the sceptics relating to apparent lifestyle choices yet the evidence is clear that the factors which produce such a cocktail of bad health factors have a substantial structural element.

It is widely acknowledged that social and economic status significantly determines people's health status. The World Health Organisation describes the correlation between poor health and low income and social status:

People further down the social ladder usually run at least twice the risk of serious illness and premature death of those near the top. Between the top and bottom, health standards show a continuous social gradient... The social gradient in health reflects the material disadvantage and the effects of insecurity, anxiety and lack of social integration.³

Moreover, inequality in the distribution of incomes in society has been shown to lead to poorer health for the society as a whole. "Research suggests that countries with a more egalitarian distribution of income have better health outcomes, and that policies which aim to reduce health inequalities must first address inequities in income distribution."⁴ In the Australian context, the gap between incomes of Indigenous and non-Indigenous people is alarming, and this issue of relative income needs to be addressed at the level of policy if the health issue is to be successfully addressed.

How you feel about yourself is another big part of the health story which has been acknowledged by the current Federal Minister for Health.⁵ "Continuing anxiety, insecurity, low self-esteem, social isolation and lack of control over work and home life have powerful effects on health."⁶ The relationship between psychological and physical wellbeing is emphasised by Gregory Phillips in *Addictions and Healing in Aboriginal Country*.

...(F)or Indigenous peoples, health is related to concepts as diverse as spirit, creation, emotions, cognition function, knowledge, culture, land, place, cultural obligations to land (to protect story places), body chemicals and reactions, history, and collective familial and community wellbeing.⁷

How do many indigenous people feel about themselves? I copied a bit of graffiti on the gate of the Leonora Community Recreation centre last November which seemed to me to capture the despair, hopelessness and lack of self-esteem that exists for too many Indigenous people:

³ R Wilkinson & M Marmot (eds) 1998 *Social Determinants of Health: The Solid Facts* Centre for Urban Health WHO Regional Office for Europe Copenhagen, Denmark www.who.dk/tech/hcp/index.htm, p.1.

⁴ Royal Australasian College of Physicians- Health Policy Unit, *For Richer, for Poorer, in Sickness and in Health: The Socio-Economic Determinants of Health*, p.10.

⁵ See also Royal Australasian College of Physicians- Health Policy Unit, *For Richer, for Poorer, in Sickness and in Health: The Socio-Economic Determinants of Health*.

⁶ R Wilkinson & M Marmot (eds) 1998 *Social Determinants of Health: The Solid Facts*, Centre for Urban Health WHO Regional Office for Europe Copenhagen, Denmark www.who.dk/tech/hcp/index.htm, p.2.

⁷ G Phillips 2003 *Addictions and Healing in Aboriginal Country*, p.27.

You're a nigga
when ya born
you're a nigga
when Die quite
tryen Nigga your
A Nigga for life

The real question is whether treaties or something like treaties are really likely to impact on that crushing sense of despair which in any community, not just Indigenous communities, tends to lead to violence and so many forms of self harming behaviour.

While a treaty would hold great symbolic significance in terms of reconciliation, and could settle the vital question of the relationship between first nations and the rest of us, my suspicion is that not many Indigenous people currently think treaties would make a significant difference to their daily lives. Although holistic framework agreements, which encompass strategies for dealing with the social issues such as education, welfare and housing that are detrimental to the health of Indigenous Australians, could have a profound influence on health. We don't have access to ATSIC's research on the treaty and attitudes towards it within the Indigenous community. I suspect if it showed a lot of interest in a treaty among Indigenous people we would have heard about it.

Reconciliation Australia, which I represent here today, is an independent civil society organisation established by the Council for Aboriginal Reconciliation to provide ongoing leadership in reconciliation. We have seen the issue of a treaty or treaties as an important piece of an unfinished business in the path to reconciliation. We have supported ATSIC's program of research and consultation about a treaty and the work of our co-sponsors of this Forum, The Gilbert + Tobin Centre of Public Law. We remain of the view that this is a long term exercise with much to be done before the Australian community can attempt to respond to Indigenous aspirations in this area. For myself, I believe that we are making more progress in the practice of agreement making than in the theory of treaty making.

I have direct contact with a number of current agreement making processes between Aboriginal polities and other elements of the Australian community, in particular mining companies, through my work with the National Native Title Tribunal. Negotiations between miners and Traditional Owners seem routinely to concentrate on Indigenous desires for access to education, training and employment, and economic developments which will reduce their disadvantage. Even in these comparatively benign negotiating circumstances, however, there are gaps which may well see more well-meaning efforts founder. For example some Aboriginal groups in Western Australia are getting extensive high order native title rights without there being a solid supporting and mentoring structure which will enable them to capitalise on newly recognised property rights. Nowhere I know of are all the dots of relevant policies being joined to enable a holistic approach to ensure that good intentions across the board are translated into sustainable outcomes. There is a danger therefore that even carefully negotiated agreements may not produce expected outcomes leading to further despair.

In this context the current Council of Australian Governments (COAG) trials are an attempt to achieve more holistic approaches. But they are so far no more than that—trials. We are yet to see:

(a) how effective they are in improving top-down administration and bottom-up capacity and,

(b) how sustained that bi partisan intergovernmental commitment will be.

Notwithstanding those limitations, my personal view is that there is a real opportunity being offered by governments and oppositions in the COAG trials and it should be possible to build on their acknowledgement of the critical importance of Indigenous engagement to achieving change. If the top-down /bottom-up improvement which is planned succeeds, and if the focus on regions and hence naturally on Aboriginal nations are maintained as the basis for government/Indigenous interactions, there are real possibilities that changes will be based on consensual, that is agreement based, models. We are more likely to achieve treaty like outcomes which will benefit Indigenous health through this pragmatic process, than we are to win a theoretical debate about the relevance of treaties to Indigenous health.

In wrestling with this topic I returned to a paper given by Hal Wootten QC at an ATSIC NSW Policy Forum on 2 November 2001. Let me quote a cautionary paragraph from his typescript and its accompanying footnote.

...there is no golden key, although people keep hoping they have found one—equal rights, self-determination, land rights, recognition, an apology, a treaty. Each of these things has played, or could play, a valuable role. They are steps in a journey but none is a golden key. Don't waste energy looking for the golden key, but seize those opportunities that now and then come along to give things a little nudge in the right direction.

And the footnote:

I am not opposed in principle to the idea of a treaty, which is one way in which an ultimate settlement or reconciliation between Aboriginals and those who have taken over their country might be expressed. However its time would come only after an appropriately representative Aboriginal political structure had developed to be party to such a treaty, and when there was some consensus developed which it was desirable to record in a formal, binding way. By all means think about a treaty, but the devotion of large amounts of limited funds and energy to it while acute problems of alcohol abuse, family violence and economic dependence are not effectively addressed seems equivalent to fiddling while Rome burns.