

“Challenges for Reconciliation”

Andrew Hewett, Executive Director of Oxfam Australia

Engineers Without Borders

Friday 9 May 2008

Melbourne University

Lecture Theatre

Let me begin by paying my respects to the traditional owners and custodians of this country – to acknowledge the generous spirit in which they have shared this place and their culture for many years and to celebrate with them their vibrant ongoing culture.

Introduction

I thought, given the current climate, that it was probably a good time to share with you some reflections about the reconciliation process – to consider the impact of recent events and dare to be visionary about the future.

A recent article on the independent website newmatilda.com, published in the lead up to the 2020 Summit, observed that it is rare for people to be truly visionary about the future. More often than not if you ask people about their thoughts and hopes for the future they will tell you what it is they need or want now, in the present.

However, the question poses a challenge for all of us: what *do* we want Australia to look like in future? And not just look like, but what do we want it to *feel* like? This is an equally important factor which considers the mood of the nation and the level of pride we feel to be a part of it.

The challenge that reconciliation sets us is to be *truly* visionary in imagining our shared future.

And it must be a *shared* future.

We must ensure that we, the non-Indigenous majority, do not set the agenda alone. It is not for us to tell Aboriginal and Torres Strait Islander Peoples what the future will look like. The vision must not only be shared, but also based on respect and on a recognition that we must all work together to address the wrongs of the past.

Before I go further, let me provide you some interesting statistics about Aboriginal and Torres Strait Islander Peoples. I usually avoid describing

people in statistical terms, particularly given the tendency to define Indigenous identity by statistics – and those statistics are rarely of the positive kind. However, indulge me for a moment because some of these figures may come as a surprise.

First of all, does anyone know what percentage of the Australian population is made up of Indigenous people? Well, it's about 2.5%. And does anyone want to hazard a guess at where most Indigenous people live? Well, the highest number of Aboriginal people live in New South Wales, and about 70% of Aboriginal people live in urban and major rural centres. Less than 30% of Aboriginal people live in remote areas.

These figures are of course not reflected in the media's coverage of Aboriginal issues, nor indeed were they reflected in the policy focus of the last government or – so far – of this Government.

As one of Oxfam's Aboriginal health partner organisations likes to say: "the health problems are the same in Fitzroy, Victoria as they are in Fitzroy Crossing, WA". So, it's important to be clear from the outset exactly who we are talking about when we talk about Indigenous people in Australia. We need to be careful to avoid false assumptions about who those people are, where they live, and the problems they face.

After the apology what does reconciliation mean?

Let me turn to the question of what reconciliation means in this post-apology context.

And to my mind, it doesn't really mean anything different from what it meant before.

For many years, the proposals being put forward from various quarters about the steps that needed to be taken to advance the reconciliation process were often ignored. A very clear agenda for reconciliation was set out by the Council for Aboriginal Reconciliation in 2000, for instance.

However, our society now seems to feel different about the importance and urgency of reconciliation. And the apology, it seems, has been a big part of that. For those affected by the Stolen Generations the apology was obviously a very specific and personal acknowledgement of the wrongs committed against them as human beings. For many of us, it also created a huge groundswell of pride and a glimpse of what the future for Australia might feel like.

It was a moment in our history that represented hope and possibility. It represented – and represents – an avenue towards change, towards recognition of the deep-seated historical legacies that prevent us from fully coming to terms with our national identity. And for many Aboriginal and Torres Strait Islander Peoples it offered hope that history and its devastating consequences for Indigenous peoples could, perhaps, be addressed, and that there might one day be a resolution.

The position of Indigenous peoples in this country is the deepest and most urgent moral challenge facing Australia. A good friend of Oxfam's Indigenous Rights Coordinator, describes it by using a line from the classic movie, the Matrix. It occurs as the main character, Neo, begins to become aware of the existence of the Matrix, realising there might be something beyond what he's always comfortably believed about the way the world is. He is told (by Morpheus):

"You're here because you know something. What you know you can't explain, but you feel it. You've felt it your entire life, that there's something wrong with the world. You don't know what it is, but it's there, like a splinter in your mind".

The 'unfinished business' of reconciliation with Indigenous People is the splinter in Australia's mind. People know that there are extreme disparities in our society; they acknowledge that there is something wrong and it needs to change.

What steps need to be taken?

So, what steps do we need to take to bring about that change?

The first thing to say is that, while practical steps are vital, it isn't all about practical steps, and the process is not just about external things, such as legislation. There are bleak elements in Australian history and continuing racism in our community - both personal and institutional - that must be addressed, by all of us, if the reconciliation process is to move forward.

However, let me outline four key areas of action that Oxfam has long advocated as essential, and which should be given immediate priority at a national level. Those are: treaty rights; constitutional reform, land rights and self-determination. We believe these things go hand in hand with broader citizenship rights to a decent standard of healthcare, education, welfare and livelihood.

Looking at the first of these areas, the idea of a treaty was one of the recommendations made by the Council for Aboriginal Reconciliation in its final report to the Prime Minister and Parliament. However, the previous government argued that a treaty process would undermine the concept of a single Australian nation, with implications for national sovereignty and land ownership issues.

Yet there are many examples of successful treaty processes between sovereign states and their Indigenous peoples. Moreover, treaties are about reaching *agreement*, not about creating division. They can help to provide legal certainty and clarity regarding dispute resolution mechanisms – which are integral to the reconciliation process given legal uncertainty and unresolved conflict are key components of the 'unfinished business' we find ourselves still grappling with.

Professor Marcia Langton has pointed to the Canadian constitutional entrenchment of treaties as a model which could be implemented in the Australian context, observing "there is no evidence that there has been any detriment caused either to Canadian sovereignty or to the Canadian polity by these arrangements."

Sadly, the new government has said very little on the idea of a treaty other than that it will not pursue one in its first term.

Turning to constitutional reform, again there has been insufficient progress in implementing the Council for Reconciliation's recommendations. In particular, there is a need to remove section 25 from the Constitution (which envisages the possibility of persons of a particular race being excluded from voting in elections) and to recognise the status of the first Australians in a new Preamble to the Constitution.

Of course, it is vital for Indigenous people to actively participate in processes for bringing about constitutional change. Yet, the Government ignored proper consultation processes in developing the Preamble it put to the nation in the 1999 Referendum. Instead, it imposed its own wording and adopted an intransigent approach to any suggested amendments. This fostered a divisive environment which effectively ensured the referendum would fail. Clearly, there is a need for a more inclusive process next time around.

The other constitutional change recommended by the Council was the introduction of a new section making it unlawful to discriminate on the grounds of race. Given Australia's had a Racial Discrimination Act since 1975, you may wonder why there's a need to include such a clause in the constitution. Let me give you a very recent example to illustrate this need.

The legislative framework used to facilitate the emergency response in the NT, included a provision which suspended the Racial Discrimination Act so that it would not apply in the context of the emergency response. This would not have been possible if there had been a constitutional protection against racial discrimination.

Going beyond constitutional protection, there is also a need for the Government to consider its international human rights obligations. The new Government has indicated it will endorse the UN Declaration on the Rights of Indigenous Peoples; however such an endorsement is not legally binding, so there is also a need to go further in exploring ways to implement the Declaration through legislation and in social policy.

Fully implementing the Declaration in Australia would certainly require some legislative change. For example, there would be a need to reverse at least four of the amendments made to the Native Title Act in 1998, which contravene the UN Convention on the Elimination of All Forms of Racial Discrimination. Sadly, the Government has said it has no intention of changing any Australian laws in response to the Declaration.

Oxfam's clear and repeated experience internationally is that reconciliation of dominant cultures with indigenous peoples cannot be realised without addressing head-on the fundamental issues of concern to indigenous peoples, which invariably includes recognition of rights to land.

Finally, let me turn to self-determination. As part of the reconciliation process, and as a precursor to moving towards a treaty, Oxfam strongly supports setting up a proper organisational structure within which Aboriginal and Torres Strait Islander social, economic and political interests are properly represented. Whether that is a national representative body or some other model should be the decision of Indigenous peoples.

One of the reasons Oxfam advocates these big, nation-building steps, is because we believe they are essential to creating an environment that is inclusive and in which communities can prosper. Respect for fundamental human rights should be part of our law. That includes both the specific rights of Indigenous peoples as set out in the UN Declaration, and the basic, social, economic and citizenship rights that we are all entitled to.

The 'Close the Gap' campaign

This brings me to Oxfam's Close the Gap campaign

The CTG campaign was birthed from the Australian Social Justice Commissioner's report of 2005, which highlighted again what most non-government organisations, certainly all governments and, as our market research showed, most Australians already knew: that the life expectancy of Aboriginal and Torres Strait Islander peoples was significantly lower than that of other Australians. In fact, when asked, most people knew that the gap is around 17 years.

17 years is a long time. It's an entire childhood without a grandparent. It means a community losing its elders at 59, before other Australians are even expected to retire. It robs communities, not only of their elders, but also of opportunities to pass on to another generation the rituals, ceremonies and teachings that apply to marriage, birth and life.

Unfortunately, the 2005 Social Justice Report was not the first report to highlight the gap in life expectancy. Many other reports over the past 30 years have sought to draw attention to this disparity and have made countless recommendations to address it. Many governments have made statements about fixing health but rarely have they committed to take action within a concrete timetable.

The 2005 Social Justice Report was a call to action that did include a timetable. Specifically, it called on governments to commit to: firstly, closing the life expectancy gap within a generation, that is, 25 years; and secondly, achieving equality of access to primary health care and to an equal standard

of health infrastructure within 10 years. The report recommended that this be done within a rights-based framework.

These targets are intended to address inequalities: achieving them will not, of course, provide an immediate solution to problems in Aboriginal healthcare. The aim is not to deliver on 'a right to be healthy' – rather, it is to ensure that governments fulfil their obligation to ensure equal access to services by all citizens.

Healthcare is an area that is highly under-resourced. As an Access Economics report has pointed out, there is a \$460 million dollar underspend in primary health care alone. That is the level of additional investment required just to bring Aboriginal primary health care up to the same standard as the rest of Australia; it would not combat the plethora of other issues that need to be addressed if we are to truly close the health gap.

The fact that, 40 years after the 1967 referendum, when 90 per cent of Australians voted in support of equal rights for Aboriginal peoples, such a stark inequality in health status remains, is simply inexcusable and represents a gross failure on the part of successive governments at a state and federal level.

Oxfam's involvement in the Close the Gap campaign is reflective of our rights-based approach to community development. We believe that everyone has the right to essential services, such as health, education, water and sanitation; the *right* to an effective voice in decisions affecting them, and the right to *equality*, regardless of race.

It would be inconsistent for Oxfam to advocate for the realisation of human rights outside Australia while ignoring the ongoing struggle for Aboriginal and Torres Strait Islander rights here at home. It is important to remember that this is not about giving special privileges to Indigenous people, it is simply, to paraphrase Professor Mick Dodson, something Indigenous people are entitled to because they are human.

I think you will agree that the Close the Gap campaign has made a phenomenal impact in just over a year since its launch. The Federal Government has signed a Statement of Intent with peak Indigenous health organisations and has committed to work towards equal life expectancy within a generation and infrastructure equality within a decade. In a good sign that the Government intends to follow through on these commitments, Prime Minister Kevin Rudd, will present a report to Parliament, on the first sitting day each year, detailing the Government's progress.

The will to tackle Indigenous health inequality is not just confined to the federal level. The Queensland Government, for example, has signed up to the Statement of Intent with its peak Indigenous health organisations and the Council of Australian Governments has committed to closing the life expectancy gap within a generation and halving the mortality rate for Indigenous children under five within a decade.

Not bad for just one year of campaigning!

Next steps and long-term approaches

The Close the Gap campaign is about enabling Indigenous people to realise a basic right which applies to all human beings. There is, however, a challenge that arises when we attempt to define what we mean when we talk about the *specific* rights of Indigenous People, and how those rights might practically be realised within Australia.

In a recent statement, President of Chile noted:

“Some say the problem facing Indigenous People is just poverty, and that good targeting of subsidies would be the most appropriate policy. But we, on the other hand, maintain that it is a matter of rights, of a collective identity seeking expression in a multicultural society”

This statement was followed by a series of announcements, including a commitment to a National Representative Body, designated Indigenous Members of Parliament, and immediate restoration of areas of land previously taken from Indigenous peoples. There are also important amendments to the Chilean constitution currently being debated.

Now, while I certainly don't uphold Chile¹ as a bastion of human rights, and it is true there are those who are sceptical of how these proposals will work in practice, they nevertheless represent an interesting and, some would argue, progressive agenda. Can you imagine an Australian government making commitments like that - commitments that show a real determination and willingness to address the unfinished business head-on?

Importance of rights-based approach

I'd like to talk about the practical vs symbolic reconciliation debate and, in particular, the notion that it is more important to focus on practical measures such as improved healthcare, than to talk about a Treaty or about human rights, and that focussing on those big issues in some way detracts from the urgency of addressing the disparities.

Measures which focus on addressing 'disadvantage', without reference to 'rights' try to fix problems with an 'any means necessary' approach. This approach leads to blanket 'solutions' such as the compulsory quarantining of income support for *anyone* who lives within a defined area. Proponents of that approach often deride the 'rights-based approaches' as too time-consuming,

¹ In case you're wondering, the census in 2006 in Chile reported 6.6% (IPS New Agency article by Daniela Estrada, April 16 2008) of the population identified as Indigenous. This is thought to be an underestimation as in 1992 their population estimate put the population at 7.5% while the census put the population at only 4.4% (World Bank country report published 2001).

missing the point, and being ideologically driven without achieving 'immediate' results.

The truth is that pitting the realisation of human rights *against* the need for measures to combat disadvantage creates a false tension between two ideas that are not mutually exclusive, let alone inconsistent.

The problem with the 'any means necessary' approach is that it is *not* the 'practical' solution to indigenous problems its purports to be. When such an approach is divorced from respect for human rights and a clear evidence base, it simply doesn't work. This is evident in the case of the Northern Territory, where a plethora of problems have arisen as a result of the intervention.

Extreme, knee-jerk approaches do not provide sustainable solutions. Communities must feel empowered and any long-term approach must address the underlying causes of disadvantage, involve those affected and protect their rights as human beings. That is why it is important that practical steps go hand-in-hand with steps to address the 'bigger' constitutional, legal and human rights issues to which they relate.

When Marcia Langton recently argued that "kids can't eat the constitution", academics Megan Davis and Sarah Maddison responded with the following statement in an opinion piece published in the Brisbane Times:

"Kids may not be able to eat the constitution but without legal and constitutional reform to indigenous-state relations in this country, you can guarantee that, in 2020, today's Aboriginal children will still be going cap in hand to the government of the day begging for services, for education and, fundamentally, for a fair go."

Focusing on 'constitutional' or treaty issues does not have to be at the expense of delivering practical, front-line support for Aboriginal and Torres Strait Islander people. Australia has enough resources and capacity to work on nation-building, rights recognition and 'unfinished business' while ensuring the delivery of basic services and supporting and nurturing communities, whether they are urban, rural or remote.

The false dichotomy between practical and symbolic reconciliation – or a 'rights-based' approach and the 'any means necessary' approach – reminds me, in some ways, of the debate about rights versus responsibilities.

In the context of health, I don't think anyone denies that there is need for a level of personal commitment on the part of those affected. But, it is important not to overemphasise the relevance of personal responsibility. Focussing on personal responsibility fails to learn from successful public health strategies in the past, in a situation where we should in fact be looking for inspiring and innovative new strategies.

Take anti-smoking campaigns, for example. No amount of evangelising about the responsibility of smokers to quit smoking would have produced the reduction in the number of smokers we have witnessed in the last decade. On the contrary, successful anti-smoking strategies appear to be founded on the recognition that individuals have the *freedom to make their own choice* about smoking. Widespread and graphic public education campaigns have equipped people to make informed choices about the implications of taking up or quitting smoking, while support services and help lines have been made available to assist after the decision to quit has been made.

To sum up on this issue of a rights-based approach, the fundamental point is that any successful strategy aimed at tackling inequality and social disadvantage, linked to the broader reconciliation agenda, must acknowledge, and seek to address, the major underlying issues that contribute to social disadvantage. Those include not simply practical issues, such as tackling substance abuse and access to healthcare, but also the 'big' issues, such as denial of self determination, land rights, compensation and the history of colonisation that is not accurately reflected in our national identity.

In terms of a reconciliation agenda, we need to look beyond simply ensuring equal access to services that governments are obliged to provide to all their citizens. This is an unduly narrow view of the problems that need to be addressed. Most experiences from around the world confirm that there are multiple determinants of Aboriginal health, including material, cultural and personal loss following colonisation. Those losses create an environment of poverty, disempowerment, pain and anger, leading in part to self-abusive behaviours and violence.

With Aboriginal health in Australia, we know that a range of social, in addition to medical, factors contribute significantly to the disparity. Such factors include access to lands, self determination, and the impact of racism.

Reconciliation cannot, in my view, be just about fixing the physical divide between us – things that we all take for granted, like clean water and houses and healthcare centres. It must also be about reaching down inside ourselves, acknowledging the past and recognising, explicitly and unreservedly, the inherent rights that Aboriginal and Torres Strait Islanders have to this country and their lives and communities.

The role of Engineers without Borders

So, where does Engineers without Borders fit into the reconciliation process? Well, let me begin by thanking you and congratulating you on signing the pledge to Close the Gap in Indigenous life expectancy.

The pledge has been at the heart of the Close the Gap campaign and has now been signed by more than 100,000 Australians and a diverse range of organisations across the country from the Hepatitis C Council to the Uniting Church, and from Melbourne University to the Bacon Factories Union! By signing this pledge, and calling on governments to close the gap in life

expectancy, Engineers without Borders is not only supporting a campaign but becoming part of a movement.

Of course, you also have a range of excellent programs in Indigenous Australia, whether it is designing sustainable housing for remote communities using locally produced materials in the Pilbara and Kimberly regions, partnering with the Kooma Traditional Owners Association to develop a waste management plan at their Murra Murra property, working with the Gapuwiyak community on a water quality and management project for Lake Evella, or designing 'cool schools' in hot, regional centres.

Finding your place in the national endeavour to Close the Gap will require you to be willing to be led by Indigenous people without burdening them with your own expectations about how useful you can be. But it is important to be aware also of what you are able bring to the table.

I think, more than many organisations in Australia, Engineers without Borders has a strong understanding of the need to address public health issues and the social determinants of health if we are going to succeed in closing the gap in Indigenous life expectancy. In fact, estimates suggest that a range of social factors, such as housing shortages and overcrowding, are responsible for as much as *60 per cent* of the current life expectancy gap.

While primary responsibility must be placed on governments, the issues are undoubtedly also ones of community responsibility. By allowing citizens, business, NGOs and governments to work together with the leadership and direct involvement of Indigenous people we can turn the current situation around, and we can ensure that everyone has a stake in the reconciliation process.

Everyone's role in reconciliation

I have broadly outlined what I think is needed nationally to advance the reconciliation process. But what do we need to do personally? The most important issue for me is tackling racism, on a personal, political and institutional level. Racism continues to pervade mainstream Australian society, and particularly elements of our media. In a climate where the Government is asking Indigenous people to take personal responsibility for addressing inequality, it seems hypocritical not to ask ourselves, as members of 'mainstream' Australian society, to do the same.

Secondly, there is a need for us, as individuals, to insist on accountability – human rights are not a bargaining tool, but are the standards by which we expect all human beings to live. It is the responsibility of every Australian government to ensure that all its citizens have full access to the rights to which they are entitled. If a government is failing in this respect, it is our responsibility, as individuals, and as fully engaged members of the community, to hold them accountable, whether by individual lobbying, supporting the work of NGOs, or in other ways.

Thirdly, we should seek to contribute to a progressive national agenda. As Australians, we can sometimes be narrow-minded and insular, and can self-censor based on what we think our political environment is, or is capable of achieving. By contrast, we should seek to challenge the status quo and be bold in our ambitions for this country.

I find it difficult to think that countries like Bolivia and Chile can make bold policy commitments to advance the rights of their Indigenous peoples, while we are still celebrating such small victories as a Statement of Intent. Australia is a country which can afford to invest politically and economically in providing progressive leadership, it is merely a question of having the political and societal will to ensure that the rights of all our citizens are respected.

We all have a responsibility to ensure that Indigenous voices are heard, racism will not be tolerated, our leaders know we will hold them accountable, there will be a real effort to finish the unfinished business, and Australia will now move forward.

Thank you.