

KEY-NOTE ADDRESS TO NSW COMMUNITY RELATIONS COMMISSION
11TH ANNUAL SYMPOSIUM
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“MULTICULTURALISM: WHERE DO WE GO FROM HERE?”

Acknowledgement of country

Thank you to Eran and Stepan

I would like to focus on two broad areas – education and the law.

1. The multi-faceted role of Education

Most of what I want to say focuses on a couple of questions about education and language and skills development. I am not going to go into the minutiae of the current English language programs that are available through the Adult Migrant Education Program and ESL. Suffice to say that these programs do not always result in participants acquiring functional English language proficiency, and this creates obvious problems for the future – for them and those with whom they interact. Also, since ESL-targeted funding was abolished in 2010 we no longer have national performance measures to cover ESL students. So we are in the dark about how school-aged new arrivals, as a cohort, are faring at school, and here too we could well be creating problems that will need to be addressed in the not too distant future when these students enter – or fail to enter – the workforce or higher education, and when the cost of dealing with the problems will be higher.

But I want to raise two broader questions. Do we need a new National Language Policy? If so, is there a case for incorporating education about values into it and, more broadly, into the new National Education Curriculum?

- **National Language Policy**
- (a) The last National Language Policy was adopted in 1987 when the Hawke government was re-elected. In essence the policy stressed the need for everyone to have a good knowledge of English, called for all students to study at least one other language (especially Asian languages) and gave specific support for building up accredited translation and interpreter services. It recognised that English language proficiency and the ready availability of interpreters are crucial for access and equity, and for what we today refer to as social inclusion. Yet it also celebrated the importance of bilingualism, and argued that language skills are socially and economically necessary in the development of Australia.

A crucial factor in the introduction of that policy was a push from the business sector which saw trade advantages in an increased focus on Australians learning Asian languages. The logic that supported the adoption of a National Language policy in 1987 has not changed. Indeed it has become more compelling as

Australia's economy has become more integrated into the global economy. But while logic may point us in one direction, politics points us in another.

Let me digress very briefly by considering Australia's broad approach to multiculturalism. The current policy environment, supported by the major parties, stresses the *responsibilities* of new arrivals to Australia, and to our system of ethics and law, as the essential pre-requisite for the acceptance and successful integration of new migrants. A distinctively Australian model of multiculturalism is now being asserted, which rejects the failed models of Britain and Europe, where decades of lax policy and lax administration are currently fuelling a backlash in the form of the biggest resurgence in white supremacist racism since the Nazi period. That is the potential outcome that is staring us in the face here in Australia if we don't get our policy right. And the Government's recent re-commitment to multiculturalism might be our last chance to do so.

Under the current policy announced in February by the Minister for Immigration and Citizenship, Chris Bowen, those who make their home in Australia must give their "first loyalty" to their new country. He also said that in any conflict between ethnic culture and Australian values then "traditional Australian values win out". New arrivals must therefore accept that, to the extent of any inconsistency, Australian law trumps all other law in governing their behaviour towards others. They must accept Australia's Constitution, rule of law, democracy, freedom of speech and religion, gender equality and English as the national language.

So, returning now to the issue of language education, the new policy says nothing about the virtues of bilingualism and instead emphasises English language proficiency within the rubric of the primacy of Australian values and the need for integration. This is the emphasis that is likely to inform any new National Language Policy, if one emerges in the foreseeable future, and that's a big 'if' given the funding it would require. My question is: If the new policy emphasises English language proficiency within the rubric of the primacy of Australian values, why don't we teach those values as a part and parcel of teaching the language?

- **Values education**

- (b) Combining the teaching of language and culture is hardly a revolutionary idea. I think that combining English language education - even in the existing AMEP and ESL programs - with education about Australian values would be an eminently sensible way of addressing the conflicts of values and culture alluded to by the Minister.

The need to address conflicting values and cultural mores should also in my view determine which values should be emphasised. Personal freedom, which includes the freedom of everybody, including women, to make their own choices in life, is perhaps the value that clashes most frequently with other, more traditional cultures. Newcomers to Australia from many backgrounds may be accustomed to social rules in which any sense of personal freedom is superseded by the overriding requirements of family, community, religion or ideology. True integration into Australian society may require them to adjust to a reversal of the order of priorities to which they are accustomed. And that inevitably takes patience and effort.

But it would surely not take vast resources, for example, to prepare a video or series of videos in many languages, including English, to illustrate real life situations in which cultural misunderstandings and clashes of values can occur, and to explain how Australia's legal system will resolve those clashes if the parties themselves cannot or will not do so. The settings for the kinds of situations covered could include the workplace, family conflicts, learning and teaching institutions, social occasions, shopping, disputes with neighbours and the use of public services. The same videos could be shown overseas to all applicants for entry into Australia, and could contain other practical information about accessing services and so forth.

The values that are taught should be presented in contrast to the values of extremist and totalitarian ideologies, whose historically destructive effects need to be highlighted. It is Australia's adherence to the values of democracy, human rights and the rule of law, and the rejection of values which are inconsistent with them, that has made Australia one of the world's most stable, just and peaceful democracies and one of the most desirable countries to live in. Indeed, all of the attractions of Australian society that continue to draw new arrivals to our country are made possible by the prevalence of those values. The more explicitly this message is conveyed, the more likely it is to be heeded.

For that very reason, there is also a strong case for teaching about these values to all Australian students, including concepts of human rights, anti-discrimination and acceptance and appreciation of different cultures, including indigenous cultures. The introduction of a National Education Curriculum provides a potential vehicle for achieving these outcomes, although it would not be without its challenges. There are approximately 9,500 schools in Australia and almost 3.5 million students. Two-thirds of them attend public schools. How best to achieve the desired outcomes is something about which we would need to hear from expert educators. The academic literature supports the concept of embedding the teaching of values within the relevant course content.

Whether or not the Australian government decides to introduce values education into the National Education Curriculum, I do hope there is some possibility of introducing students to the concepts and techniques of critical thinking. Preparing students for a lifetime of learning should be more than just a *cliché*. Critical thinking is an essential skill which should be integrated in the curriculum beginning in primary school and reinforced in courses in history, literature and the natural and social sciences in secondary school. Again, the academic literature supports the concept of embedding skills like critical thinking and problem-solving within the relevant course content. This would be the antithesis of the current disastrous emphasis on rote learning, memorization and recitation in our primary and secondary educational systems.

Knowing how to research and adopting a sceptical and analytical approach to all information, especially from online sources, should be so deeply instilled in students that it becomes second nature. Questioning assumptions and seeking and weighing alternative views should become a habit. This would provide a framework for giving students an insight into the validity of Enlightenment values and undermine the potential appeal of simplistic, extremist ideologies. It would

also provide much-needed inoculation against racism and ideas of racial or religious supremacism.

2. Anti-racism legislation

In any model of multiculturalism that commits to fairness, equality and inclusion for all people in Australia based on a balancing of rights and responsibilities, there must be zero tolerance for racial discrimination and incitement of racial hatred. I welcome the Minister's announcement last February that the government will be implementing a new Anti-Racism Partnership and Strategy.

In asserting the primacy of Australian values, and preventing and counter-acting racism, education cannot provide the whole answer. The ultimate sanction of the law must be able to be invoked if necessary. Although freedom of expression is a cherished Australian value, it does not include the freedom to harass, intimidate or threaten harm to others.

Significant differences exist between Federal and State laws and between the laws of the various States that deal with civil prohibitions and, in some cases criminal sanctions, against incitement to racial hatred. In launching Australia's Human Rights Framework in April 2010, the Attorney General, Robert McClelland, promised to harmonise anti-discrimination and anti-vilification laws and make them more 'user-friendly'. I would strongly caution the Australian Government against embracing any concept of 'harmonisation' that might result in the adoption of a 'lowest common denominator' legislative regime, which would wind back hard-won legal protections that are now in place in some jurisdictions in Australia but not in others. It would be especially regrettable if Western Australia's criminal sanctions against racial intimidation and harassment, which have proven their effectiveness in actual litigation, were to be lost in the harmonization process. If we are going to harmonise these laws, let us harmonise them towards the highest standards, not the lowest.

Another problem area concerns the reformulated criminal sanctions against racially motivated violence which were introduced at the end of 2010. The Commonwealth *Criminal Code* was amended by the creation of new offences of urging violence against groups and members of groups on the basis of race (see Part 5.1 - Division 80 - Subdivision C).

Whilst the introduction of the new offences was an improvement upon the pre-existing legislation, my principal concerns are that:

- (a) the elements of the new offences have been formulated so restrictively that it will be effectively impossible for a prosecutor to secure a conviction; and
- (b) the availability of so-called 'good faith' defences under section 80.3 to charges under the new sections is completely misconceived.

Without going into the legal detail, under the new law a prosecutor would need to prove not one, but two, elements of criminal intent. It would have to be proved beyond reasonable doubt that the accused (i) intentionally urged another person, or a group, to use force or violence against a targeted group or supposed member of the targeted

group and (ii) did so intending that force or violence will occur. And even if these things are proved, the accused can still plead, as a complete defence, that he or she acted in good faith. It is beyond my comprehension how any circumstances could exist in which someone who intentionally stirs up racially motivated violence with the intention that violence will occur can be said to have acted in good faith. If there is good faith, there cannot have been intent.

I doubt that anyone will ever successfully be prosecuted under the current provisions of Division 80 - Subdivision C of the Commonwealth *Criminal Code*. In fact I doubt that any such prosecution will ever be launched. From time to time we will see apparently compelling cases of racial incitement go un-prosecuted, as has been the case in NSW. I shudder to think how serious a case of racially motivated hatred and violence it will take in order to create the political will to enact effective laws in this area.

Conclusion

The success of any package of policies under the rubric of multiculturalism will depend crucially on the level of public confidence and support which those policies can engender. In Australia, sport has great untapped potential for breaking down barriers of fear, prejudice and isolation. Soccer for example is a kind of universal language instantly recognisable to most people from all parts of the world which provides a ready-made mechanism for social interaction and inclusion. I think much more could be done in this area by government and community organisations.

In the final analysis, however, public support for multiculturalism will depend on political leadership. Even though the treatment of asylum seekers to Australia is a separate policy area, it has to be acknowledged that if the public were to lose confidence in Australia's asylum seekers policy, whatever policy may ultimately be adopted, then that would impact adversely on public support for immigration policy generally and for multiculturalism. That is the one and only comment I will make on asylum seekers.

Political leadership is also critical for setting the terms and the tone of public discourse about multiculturalism. There are large numbers of Australians including many immigrants who, for all sorts of reasons, are opposed to large-scale migration and to multiculturalism. It is wrong to dismiss all of them sneeringly as racists. The vast majority of them are nothing of the kind. Governments and community leaders have a responsibility to engage them in good faith discussions about their concerns.

Of course if their discourse lapses into racism they need to be called on it. Governments and community leaders must never shirk their obligation to go into ideological combat, privately and publicly, against the promotion of anti-democratic values coming from any quarter, especially those based on racism or ideas of racial or religious supremacy. But I have no doubt that most Australians who are opposed to, or have reservations about, migration or multiculturalism are open to rational and civil engagement. Public respect and support for what the nation does in these policy areas will depend, at least in part, on how successfully they are engaged.

And on that note, Mr Chairman, I would like to thank you once again for giving me the opportunity to share my thoughts with this important symposium. I wish you all well with your deliberations which, I am sure I do not have to tell you, are of the highest importance for our country's future.