

Self-Determination

“There is no greater sorrow on earth than the loss of one’s native land”

- *Euripides 431 B.C.*

Self-determination is a fundamental right that is protected by Article 1 of the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR):

Article 1: 1. All peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.

2. All peoples may, for their own ends, freely dispose of their natural wealth and resources without prejudice to any obligations arising out of international economic co-operation, based upon the principle of mutual benefit, and international law. In no case may a people be deprived of its own means of subsistence.

3. The States Parties to the present Covenant, including those having responsibility for the administration of Non-Self-Governing and Trust Territories, shall promote the realization of the right of self-determination, and shall respect that right, in conformity with the provisions of the Charter of the United Nations.¹

As Amy Maquire has noted in a submission to the National Human Rights Consultation in 2009,

The definition of self-determination under international law is necessarily flexible, as the right must be exercised in the particular circumstances, and for the benefit, of many distinct claimant groups. It has been recognised that self-determination is a right with many ‘faces’; rather than requiring the establishment of an independent state in all circumstances, self-determination may entail the exercise of group autonomy within the borders of an existing state. The claims to self-determination by Indigenous peoples around the world – and notably in Australia – take this form.²

¹ *International Covenant on Civil and Political Rights*, GA Resolution 2200A (XXI) (1966); *International Covenant on Economic, Social and Cultural Rights*, GA Resolution 2200 A (XXI) (1966).

² Maquire, A., *THE RIGHT OF SELF-DETERMINATION FOR INDIGENOUS PEOPLES IN AUSTRALIA* Submission to National Human Rights Consultation, 15 June 2009.

Ever since the first modern Aboriginal organization was founded in 1925 the key issues defined by Aboriginal people themselves have been Land Rights and Self Determination. Aboriginal people throughout Australia have consistently stated for more than 100 years that they seek the basic human right to determine their own destiny and regain their autonomy on land which belongs to them.

In the early part of the 20th Century these aspirations were contained and repressed by Governments who forcefully pursued policies of assimilation that were designed to quell Aboriginal ideas of self-determination and political independence. Nevertheless, Aboriginal peoples in many parts of Australia made attempts to assert their right to self-determination, with varying degrees of success.

An early example of this occurred in the Pilbara Strike in 1946 in the Kimberleys in WA, where Aboriginal stockmen began a strike for better conditions and wages, and also sought to create economically independent communities through small-scale mining ventures. The importance of developing economic self-sufficiency was seen as important if they were to achieve full control over their own lives again. The story of the Pilbara Strike became Aboriginal folklore in communities throughout remote communities in Northern Australia, and was a significant inspiration for the Gurindji people when they went on strike in 1966.

In southern Australia there had been important attempts by Aboriginal people in Corranderrk and Cummeragunja in Victoria to establish self-sufficient farms that could provide employment and income for the people on those communities. The same had occurred on the north coast of NSW, but in both instances these successful farming ventures were broken up by the Aborigines Protection Board as part of its broader policy of assimilation. But all of these early attempts at regaining economic self-sufficiency clearly illustrated that Aboriginal people had both the desire and ability to control their own affairs, despite government attempts to inhibit those desires.

The quest for self-determination really began to gain ground and become a national movement when the Gurindji people walked off Wave Hill Station in 1966, initially for better conditions and wages, but soon becoming a demand for the return of their

land so that they might run their own cattle station enterprise. The Gurindji people inspired Aboriginal people nationally to call for Land Rights. This message resonated in the largest Aboriginal communities in Australia in the late 1960s in Sydney, Brisbane and Melbourne where young urban activists began developing strategies to alleviate problems confronting their communities.

In Melbourne by 1969 Bruce McGuinness had created a Black Studies group at the Aborigines Advancement League where young future activists developed an understanding and analysis of their situation and began to think of ways to extend these ideas into action. The same situation was occurring in the black community in Redfern in Sydney where young Aboriginal men and women were being subjected in the late 1960s to a brutal regime of police harassment and intimidation. Their response in Redfern was to adopt and adapt ideas from a diverse range of sources and develop the first, free shop-front legal aid centre in Australia.

The Redfern Aboriginal Legal Service, which was established in 1971, was the first of a new type of Aboriginal organization in that it had been conceived, developed, established and controlled by members of the Aboriginal community. This was an important new development in the quest for self-determination because at that time virtually all organizations for Aboriginal 'welfare' had been set up and controlled by non-Aboriginal people. Indeed, the only national Aboriginal political organization, FCAATSI, which had run the successful campaign for a YES vote in the 1967 Referendum had been controlled by white people throughout that campaign. So Aboriginal control of Aboriginal affairs had become a key issue of debate in organizations such as FCAATSI and the Victorian Aborigines Advancement league in the late 1960s.

The establishment of the Redfern Aboriginal Legal Service meant that Aboriginal people were now less inclined to get embroiled in trying to change existing organizations that were run by non-Aboriginal people, but rather would design, create and run their own organizations. The rationale was that the real 'experts' on the problems confronting Aboriginal communities both urban and rural, were in fact the people who lived in those communities. Consequently it was believed that the

best placed people to create and control Aboriginal organizations that operated in any given community should be the Aboriginal people from those communities. This would mean that people who knew and understood what the problems were would be the ones to determine priorities and set the agenda for change.

The Redfern Legal Service was controlled by a Board of Directors of whom the majority was elected from the local Aboriginal community. Because at the time the Legal Service as created there were NO Aboriginal law graduates, the legal services were initially provided by a group of volunteer white lawyers, mostly drawn from recent graduates of UNSW law school. But the most important personnel in the Aboriginal Legal Service would be the Aboriginal Field Officers whose job it was to liaise between Aboriginal clients and white legal representatives. It was also their function to observe and ensure that Aboriginal client and community interests were respected and maintained in dealings with both the white volunteer lawyers and the legal system in general.

The founders of the Redfern ALS called the new organization a community-controlled, community survival programme. This spelt out the belief that the ultimate answer to Aboriginal dispossession and disempowerment would only be possible with the granting of Land Rights that would provide communities with a base from which could be developed a level of economic self-sufficiency that would in turn allow genuine self-determination. Until such time as Land Rights became a reality then it was believed that community controlled organizations could alleviate specific problems confronting the community in areas such as health, the law, housing and women and children's welfare. This would enable the community to survive as a viable entity until such time Land Rights and meaningful economic and political progress could be made. Hence the term "community-survival programs".

Very soon after the establishment of the Aboriginal Legal Service a new group led by Redfern Matriarch "Mum Shirl" Smith and ALS Field officer Gordon Briscoe formed a committee to establish the first community-controlled Aboriginal health clinic. Thus the Redfern Aboriginal Medical Service opened a free clinic in Redfern in 1972 based on the same model as the Legal Service. This meant that, again because there were no Aboriginal doctors in 1972 the clinic as staffed by a volunteer

white doctor, and an Aboriginal nurse and receptionist. The Board of the Medical Service had a majority of Aboriginal people but included some eminent doctor supporters, in particular eye surgeon Prof. Fred Hollows.

In the case of both the Legal and Medical services it soon became apparent that the community need exceeded the meager resources of the two organizations that were still operated on a voluntary basis. Soon after the Whitlam government came to power, they recognized the effectiveness of the new Aboriginal organizations and began to provide federal funding albeit minimal. Also soon after the two Redfern organizations were established there were two identical bodies set up in Fitzroy in Melbourne, based on the same concept of community-control.

Within two years the movement among Aboriginal communities to establish community-controlled health clinics and legal aid centres spread quickly. Redfern and Fitzroy Aboriginal Health Services joined forces to assist local communities in rural areas to establish their own clinics by providing advice, medical equipment and recruitment of city doctors. Part of the problem at that point was that the Federal bureaucracy insisted that all new Aboriginal-run health clinics should function without government funding for the first 18 months of their operations. This was allegedly because of the need to prove their viability to a still paternalistic Canberra bureaucracy.

So Redfern and Fitzroy assisted the fledgling health clinics to survive their first 18 months in order to become eligible for Federal financial assistance. Over the period 1972 – 1980 more than one hundred and twenty Aboriginal community-controlled health clinics were established across eastern, central, northern and north-western Australia. In the mid-1970s these Australia-wide Aboriginal community-controlled health clinics formed a national umbrella organization to represent their interests, the National Aboriginal & Islander Health Organisation (NAIHO).

By the end of the 1970s the major success of the community-controlled Aboriginal Health services was being acknowledged in numerous government and independent surveys and studies. It had been found that Aboriginal people who lived within 50km of an Aboriginal community-controlled health clinic were in better general health

than those in areas where no similar type of clinic existed. A Study of the Victorian Aboriginal Health Service (VAHS) in the 1970s, titled "A Home Away From Home" , found that Aboriginal people felt more comfortable in, and had more confidence in, a health clinic they knew was run by their own people. This in turn led to more frequent attendance for check-ups and follow up treatment, which had not been happening when Aboriginal people in Melbourne had only access to the local white hospital for their health care. The VAHS had become as much a social congregation point as a health clinic for the local Aboriginal community, and it provided a place where the community could meet and organize community events.

The VAHS also had a definition of Aboriginal people's health that differed from the western perception as practiced in the white health care system. The definition of the VAHS said that:

"Aboriginal health" means not just the physical well-being of an individual but refers to the social, emotional and cultural well-being of the whole Community in which each individual is able to achieve their full potential as a human being, thereby bringing about the total well-being of their Community.

The Fitzroy based VAHS is a typical example of an Aboriginal community-controlled health clinic and the multitude of community programs that can evolve from such bodies. In the first fifteen years of its operation VAHS helped to develop the following programs in the Victorian Aboriginal community: -

1. Dental clinic and mobile dental surgery for rural areas
2. Community Organisation education course at Swinburne College
3. Supported Fitzroy Stars Football and Netball clubs
4. Assisted establishment of George Wright Hostel and Half-Way House
5. First Aboriginal radio program on 3CR in 1976
6. Fitzroy stars youth club Gymnasium 1977
7. Establishes Under-50s health care program 1977
8. Assisted Port Augusta community in SA set up their own health clinic 1978
9. Sponsors Yappera Aboriginal Child Care Centre 1980
10. Funds Aboriginal Community Funeral Service 1981
11. Establishes Koori Kollij Aboriginal health worker training program 1982

12. Koori Information centre (KIC) opens in Fitzroy
13. Assists Nindeebiya Workshop to become incorporated 1983
14. New VAHS mobile dental mini bus operates with existing caravan 1985
15. HACC (Home & Community Care) project funded 1986
16. Victorian Aboriginal Mental Health Network is set-up 1987
17. Under 5's program becomes fully funded 1988
18. Cervical cancer screening program 1988
19. Koori kids mental health network begins 1988
20. Aids education program 1988
21. Hepatitis B program 1989

So it can be seen that a community-controlled health centre was an important community resource that could inspire and assist a wide range of ancillary activities and programs. It is therefore little wonder that community-controlled health services had become so highly regarded by the 1990s.

The problem was that whilst health clinics run by Aboriginal people were proving to be where Aboriginal people who had a choice preferred to receive their health care, the Federal Government funding agencies remained committed to providing the greater part of commonwealth monies to the State Health Departments. This was despite the fact that the State government health bodies did not use federal Aboriginal health funding to deliver primary health care programs (doctors treating patients). Instead the States ran only what they called 'preventive health' programs that encouraged Aboriginal people to access the mainstream public health care system. This was a controversial policy given that the whole community-controlled health care system had been created because of the failure of the public health system to adequately deal with the special health needs of Aboriginal peoples.

It should be remembered that at the time of the creation of Aboriginal controlled health clinics that Aboriginal people suffered the highest infant mortality rate in the world and general health statistics that were comparable to third world nations. The appalling state of Aboriginal health at that time had to be due to extreme neglect on the part of State and Northern Territory Health authorities who had been exclusively responsible for Aboriginal health since 1901. Yet the Federal Government in the

1970s saw fit to give the lions share of federal Aboriginal health funds to support the failed ideas and policies of the State Governments. By the mid-1970s the amount of funding provided for Aboriginal health by the Commonwealth Government was approx \$20million. Of that total more than \$16million was allocated to the various State Health Departments with the Western Australian Health Department receiving more than \$7million per annum. By contrast, a total of more than 50 community-controlled services around Australia were expected to divide the remaining \$4million between them. This inequitable situation remained in place throughout the 1970s and it could be argued that this policy was responsible for the failure to significantly improve the national Aboriginal health situation and statistics over that decade.

In Central Australia the NAIHO had assisted the Pitjanjatjara and Yunkatjatjara peoples establish the largest community health care network in the world with the Nganampa Health service that straddled the Pitjantjatjara homelands. Also in the Northern Territory, the Central Australian Aboriginal Congress health service had been developed with assistance from Redfern and Fitzroy, as well as a clinic set up and staffed by VAHS personnel at Kintore. This support from NAIHO was to help the homelands movement in the NT to consolidate the gains it had made with the passing of the Northern Territory Aboriginal Land Rights Act in 1976, which had been the impetus for the dramatic proliferation of homeland settlements in its aftermath.

The Homelands movement was one of the strongest expressions of self-determination in that era. It provided opportunities for those who sought independence and freedom from the pressures of living in large government and mission run communities, and enabled families and clans to reconnect with their traditional lands and reinvigorate cultural practices and language among the younger generation. The major improvement for those moving into homelands settlements was in terms of their health. Both NAIHO and Federal Government sponsored studies have consistently shown that the general health of both young and old in Homeland communities enjoy a significantly better level of health than their fellow Aboriginal people who live in towns and major settlements in the NT.

Other community-controlled self-help organizations that emerged in Redfern and Fitzroy in the early 1970s included Housing collectives, Women and Child Care groups, Black theatre and Dance companies and community education programs.

This upsurge in Aboriginal community action stimulated a new pride in people who had been indoctrinated into thinking they were inferior under the recently discarded system of Assimilation, and Aboriginal communities began to reflect a new found self-confidence, especially in view of the early successes of the community-controlled, self-help movement. The inseparable political component of the movement also reflected this new confidence through increasing political agitation throughout the 1970s and the NAIHO became the dominant national organization as Aboriginal issues remained prominently on the national political agenda.

The key political demand that grew out of the movement for self-determination was Land Rights. This was simply because Land Rights was seen as the most important precursor of self-determination. Aboriginal people had no chance of beginning to process of reconstruction and recovery unless they had ownership of lands upon which communities could live with security of tenure. This is why the 1976 Northern Territory Land Rights Act saw the proliferation of homelands settlements after it came into effect. When Aboriginal people in the NT had new options of living on their traditional homelands under the 1976 Act significant numbers chose to leave major urban centres and settlements and move to their homelands.

New government policies that seek to coerce Aboriginal people in the homelands should be regarded as a retrogressive step. That the UN Special Rapporteur on Indigenous Rights understood that homelands are widely understood to have lower levels of social problems, such as domestic violence and substance abuse, than more populated communities, is in itself a strong endorsement of the effectiveness of local community-control and decision making (self-determination). Therefore, government efforts might be better directed to offering adequate resources and support to homelands centres and to local-community controlled Aboriginal agencies Australia-wide, rather than sacrificing the gains made over the past few decades. It is important not to throw the baby out with the bathwater, and so whilst addressing problems of disadvantage and domestic violence it is important that governments do

not undermine and destroy some of the structures and organizations that Aboriginal people have fought for many decades to establish.

Politicians and bureaucracies need to examine the failures of their own policies over a protracted period of time if they are to fully understand the continuing disadvantage and alienation of the majority of Aboriginal people in Australia. Rather than reverting to an old tactic of blaming Aboriginal people for the problems that confront their communities, perhaps an examination of precisely why the \$60,000,000,000 (\$60Billion) spent by Government since 1972 has had virtually no effect in terms of improving Aboriginal poverty, health, education and imprisonment statistics. On what was that \$60Billion plus spent? Who were the recipients of that expenditure? How much of this money ended up in the pockets and paypackets of non-Aboriginal people, and how much Federal Government expenditure simply went to State Government coffers with zero benefit for the intended Aboriginal recipient communities?

These are questions that need to be asked and answered by Government's if they genuinely wanted to know the reasons for continuing Aboriginal disadvantage. They are important questions because the present massive Government expenditure on the NT Intervention is being largely allocated in the same manner as the previous \$60Billion in that little of the money is going into programmes that might promote Aboriginal self-determination and local community control. We are back in an era when Government knows best. We are also back in an era when governments seem determined to repeat all the mistakes they have made in the past.

Conclusion:

The Australian Human Rights Commission has strongly stated that, 'The assertion that Indigenous people do not have a right to self-determination must be rejected outright. It is not a matter of theoretical debate whether Indigenous people have a

right to self-determination, but a matter of practical reality.’³ Yet the actions and policies of successive Australian governments have operated to thwart this basic aspiration on the part of Aboriginal peoples in this country. Governments appear to have felt threatened by the possibility of Aboriginal peoples controlling their own affairs, despite extensive evidence being collected over the past three decades that shows that programs that are designed, implemented and controlled by members of the relevant Aboriginal community are far more cost effective and cost efficient when it comes to improving the lives of people within that community. This is especially so in the design and delivery of health care programs, women and children’s centres, pre-school education and the operation and management of homeland communities.

It is time for a major review of government policies that seek to inhibit Aboriginal self-determination and which seek to impose non-Aboriginal designed concepts (such as the NT Intervention) that are implemented without consultation. One would have thought that if there was any accountability of administration Government agencies would have conceded long ago that their externally imposed ‘solutions’ have failed and that a new approach was needed. Instead, we have seen the latest Government report on such wastage of expenditure be recently announced and quickly pigeonholed with barely a mention and no analysis in the public arena.

It is time for accountability in Government, and it is time for Aboriginal people to be given a greater, meaningful say in their own affairs. After all, it is now 42 years since the Australian Government and then Prime Minister Gough Whitlam promised us as much. It has been understood by Government officials for that same 42 years that without meaningful Aboriginal involvement (self-determination) programs created for their alleged benefit will fail. All it needs is for a government to accept this basic principle and we may begin to make headway. In the meantime, it would be disastrous to implement Government policies and programs that undermine what little gains Aboriginal people have made in terms of controlling their own affairs over these past 42 years.

Gary Foley

³ “Self-determination and effective participation ‘within the life of the nation? An Australian perspective on self-determination ” <http://www.hreoc.gov.au/social_justice/international_docs/self_determination.htm>

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