

THE HEART OF THE MATTER – BUILDING AND LIVING IN A DECENT SOCIETY

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Call to country

First let me acknowledge that we are meeting here on country traditionally owned by the Aboriginal people who have lived here for thousands of years, the Nyungar people; and to acknowledge the elders who are still the traditional custodians of that land today.

Context

I was invited to address this conference because I was seen as “a person who has held many roles in engaging with many diverse communities and groups”—a kinder way of putting it than the headhunter who said when he viewed my CV that it was a travelogue not a resume.

I said that I would try to say something about why so many individuals are driven from our real communities and families and other institutions, and what the designers and inhabitants of a therapeutic community learn and could teach us about how society—and we—ought to treat people, and what is really important.

Then, and only then, I did a bit of research on therapeutic communities and realised that the reason fate brought me to this podium was because of something the organisers didn't know. I am a Friend of Odyssey in Melbourne, but that's not as important as this. More than 25 years ago, I lived in one.

My therapeutic community

The definition of *therapeutic community* was a bit broader in the 1970s. Mine was a kind of a commune, with both professional and lay therapists for whom “drug-

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free” meant no tranquilizers, no pot and no booze (and no smoking). It was a community committed to personal growth and self-realisation. It was totally different from the community I had been brought up in, in Dunedin: conservative, conformist, mono-cultural, Presbyterian (I was not allowed to talk to Catholics), and family-oriented. That was the kind of community in which the “mad”—such as the NZ novelist, Janet Frame—ended up in the grim locked wards of psychiatric hospitals, as she did, in our local loony-bin, Seacliffe, where she was nearly lobotomised—she would have been if she had not won the equivalent of the Booker Prize the week before it was due to be done.

My therapeutic community was different again from the community of Perth which was recently captured in truth in Robert Drew’s memoir, and the television mini-series based on it, *The Shark Net*: insular, self-congratulatory, repressed and conservative too.

My therapeutic community was a place that encouraged honesty and self-expression and the expression of feelings. I remember that one of us smashed all the windows in range to express his rage (he had to be responsible and replace them later, and I recall it took him a year), and another howled like a dog in the kitchen as we ate our dinner. It was the only place, looking back, that I could possibly be accepted for and myself accept the person I was then. It was where I learned to swim through the maelstrom that pulls you down when leaving your native land and extended family, contracting a challenging and finally broken marriage to an alcoholic, adopting an emotionally shattered child, and losing your religious belief is chained to the baggage of unresolved childhood and intimate and family relationship issues, and becomes the great anchor we now call depression – but now I would say was perfectly understandable despair.

I chopped a lot of firewood, did a lot of primal screaming— I don’t think it helped much— I still do it, but that’s at work— and how to grow and even eat broccoli, and to live with and manage my feelings and relationships.

My therapeutic community was, at least then, a safe haven, which is the original and true meaning of *asylum*.

Asylum has become a term of abuse, not just because it is associated with our gross discrimination against people with psychiatric illnesses but also today because its meaning has been perverted into a reason to discriminate against refugees: “We will decide who may come to this country, and the circumstances in which they come,” both Hanson and Howard’s words, has been used to justify the mandatory, indeterminate jailing of desperate men and women and children in conditions that drive them mad. We can only inhumane treatment of children in immigration detention by labelling them “asylum seekers” and dehumanising them as “illegals”.

We diminish our own safety by allowing cruelty to children because it is “legal” and they are a new class of “illegitimate” children.

I made full use of my opportunity to come to terms with my past and enter the here and now. I remember the happiest Christmas of my life was that year, spent beside a pool in the company of my equals, without any tensions or long, hot trips in the car to meet family obligations without joy. I look back upon that time with wonder and deep affection for the friends I made then, some of whom are still my friends, though I have travelled far, since.

I learned a lot, too, when the community imploded, later, about the proper uses of power.

I went on to establish my own law firm, then chair the WA Law Reform Commission, become Victoria’s last Commissioner for Equal Opportunity. The position was abolished after we frustrated the Kennett government’s plan to decommission all women’s prisons and incarcerate the women in the Jika Jika

wing of Pentridge Men's prison, which was declared unfit for habitation after five prisoners burned themselves to death in it, because it discriminated against women. I became a Human Rights Commissioner and a consultant in anti-discrimination law to a national law firm working from Melbourne and Sydney, a columnist for *The Age* newspaper and the journal *Eureka Street* and a twice-published author before I went to London in 1999 to establish the Office of the Children's Rights Commissioner for London.

This non-statutory "children's commissioner" was funded by philanthropists and run for and by children, to ensure that children genuinely participated in their government and helped frame its policies so that they took their rights and interests into account, and were effective in making them work for children.

One of the Office's great achievements was to demonstrate that the participation of children in political and administrative planning and community consultation can be achieved, with children of any age, and that it actually improves the quality of governmental decision making. On 8 April 2003 the Mayor of Greater London, Ken Livingstone, published the first children's strategy for a major world city to be based on meeting its obligations under the UN Convention of the Rights of the Child — to protect and promote children's right to protection, provision of the necessities of a decent life, and participation in decisions and the life of the community. It is unique, too, in that it includes real targets, was developed after consulting with children on their experiences of life in a huge metropolis that has never taken on children's priorities and concerns, and that must be taken into account in mainstream government planning and evaluation of its strategies for economic and spatial development, public transport and public housing, public safety and infrastructure, not "child protection", education and "family values". It is a strategy based on the rights of children to be taken seriously, which makes government accountable for its performance, to children.

I also wrote a few books. The most recent is a best-seller, *The Women's Power Handbook* (Viking¹ which I wrote with Joan Kirner, the first woman premier of Victoria, in 1999. My first sold modestly well, too. It was called *Rooting Democracy: Growing the Society We Want*, an unfortunate title. It sold less well. And now I am an Anti-Corruption Commissioner.

My career may be varied, but it has always revolved around a concern with the proper uses of power and making sure that those who are the most vulnerable, and have the weakest voices, in our community, are able to use the power they have.

Our community

A community is a hotbed of contradictions because every one in it has their own rights, interests and preferences, but live together because there are real benefits from living together—shared resources, companionship, safety and opportunities. There are common interests and there is such a thing as “the common good.” But what does “the common good” mean today? I think we have forgotten and tend to accept that it is something like the marketplace.

I began my first book, *Rooting Democracy*, with a story. I would like to share it with you today.

“Imagine this. Near a country town is a tiny, beautiful bay. The sand is white, and the clear water teams with fish. All the locals go there to swim; the children build sandcastles and explore the rock pools on the shore. Then the local skindivers set up a tourist business, using the beach as their base. Soon they are running six trips a day. A few people build beach houses to rent out to the visitors. Land values skyrocket, but the bay is not as pleasant as it used to be: The beach is scattered with equipment, and the tranquillity is broken by the noise of the boats going in and out.

“When some of the locals complain, the divers say they have every right to be there: the beach, after all, is common property. The people with beach houses back them up. “You can’t get in the way of progress,” they say. McDonald’s sets up a franchise. Soon there are takeaway containers in the rock pools, and paper scraps blowing on the beach. The sand becomes a little greyer, the water a little dirtier. The fishing falls away. Business suffers as the bay becomes degraded. “There’s nothing to see here,” the tourists say, and they move on. Everyone is worse off than they would have been if the divers and the townspeople had shown restraint.

This is the Australian version of the tragedy of the commons. “

The point of the story is simple. The public interest is more than the sum of a lot of individual interests. People who live together must co-operate to achieve their best interests.

All communities have governments, and good government protects and promotes the public interest.

Whether it achieves this depends on the values, the institutions and the processes that determine how our collective priorities are set. If our values privilege some groups over others, if the processes do not work fairly, if the institutions are inaccessible, then the community is gradually afflicted by a kind of malaise. The powerless become angry, frustrated and apathetic; their voices are not heard; their interests are overlooked; and democracy suffers.

A community is a place for conversation among neighbours. A functional community recognises the tensions and contradictions between the rights and interests of individuals, ethical dilemmas about accommodating conflicting rights and priorities, and what to do about protecting the interests of the vulnerable,

given that power is the one thing that is never equally shared — nor, I might add, permanently possessed.

Our communities need to be much stronger, in these times of such great change. It is in our interests to have communities that function properly and produce a decent quality of human life. We need a climate in which we may claim our own rights, respect the rights of others (the other side of the coin), and challenge powerful interests without simply substituting our power for theirs.

We live in a community of individuals, and each individual wants as much freedom as possible and gives up as little autonomy as possible. But the price of our freedom is fear.

Experts tell us that “freedom” is achieved through freeing up the market which will offer us a greater range of choice. But there are always people who, from time to time, or all of the time, have nothing to exchange for what they need, nothing to bargain with. Freedom comes at a considerable price, if it means no safety net to catch us when we jump at the wrong choices. Most of us feel more secure when we know that there is one, and that if we fall we may live to take advantage of a second chance.

Communities that work are those in which ordinary people cooperate with and trust one another for no other reason than they are neighbours, not because they have anything to sell or that they wish to buy or exchange, or because they have more power and influence.

Robert Putnam found in his review of regional government in Italy, *Making Democracy Work: Civic Traditions in Modern Italy* (Princeton University Press, 1993), that the most effective and efficient governments were to be found in regions where people voluntarily participated in public affairs and set up strong networks of community associations, with resilient connections, in which there

was little patronage but an expectation of equality, and the people were, “bound together by the horizontal relations of reciprocity and co-operation, not by the vertical relations of authority and dependency. Citizens act as equals, not as patrons and clients, nor governors and petitioners.”

Putnam also found that the people living in such cultures are much more willing to obey the laws, and expected others to do so.

The communities that work are based on trust— that our neighbours wish us no harm and will meet certain standards of civilised behaviour; that we will accept responsibility for the happiness and wellbeing of others, not because we must, but because we want to, because we are involved or engaged with other people— in our leisure and recreational and community associations, from football clubs to choral societies— and because we recognise a reciprocal benefit— courtesies and consideration to our neighbours because they would do the same for us— and the real purpose of co-operation: survival.

Where these qualities exist, life is less risky. We are less wary. We are more willing to agree on acceptable behaviour (and tolerant of minor deviations) — and more willing to obey the written and unwritten rules about it.

Our Australian culture is emphatically concerned with the pursuit of individual self-interest. In his book, The Selfish Gene (Oxford University Press, 1976), Richard Dawkins suggested that human beings are genetically programmed to put their own interests ahead of others— a “ruthless selfishness” necessary for survival and “success.” He said,

“Be warned, that if you wish to build a society in which individuals cooperate generously and unselfishly towards a common good, you can expect little help from biological nature. Let us try to teach generosity and altruism, because we are born selfish.”

The results of recent genetic discoveries such as the Human Genome Project suggest that this is not entirely true. Our observation of other mammals who share most of our genetic inheritance is that they, too, tend to live in communities and act altruistically. Altruism is a survival characteristic, too. On a day-to-day basis all of us surrender small freedoms in the public interest, and our own interest in being part of the public. Some acts are more than self-interest, as treating a red light as an order, rather than a suggestion, really is. Being polite to strangers is one, helping someone find a lost dog is another. These voluntary acts recognise the worth of other people's feelings. Our "natural" self-concern becomes identified with the wider community – provided we feel we are part of it.

The values of civilised behaviour are based on our experience of being valued, and valuing others. Where do these values come from? We learn them from our parents, families and communities. They are ethical principles, which the ethicist Peter Singer argues are drawn from family and community connections that tie people together and provide an ethical background to what each individual does. These ties or "moralnets" are built by social ties and emotional warmth between members of the community, and a safety or insurance net for hard times. They are the threads of the safety net we need for the times when our towers of assumptions fall.

What really matters is our human relationships.

The essential quality of "civil society" is people living together with what Ronald Dworkin calls "equal concern and respect for persons," according to which we must treat all people as beings capable of making intelligent choices about how their lives should be lived— or, to be really old-fashioned, according to a moral or ethical code.

Human rights are elements of this code, a code we have to apply to not just our rights claims but the claims of others. They are the values we teach to our children— or fail to at our peril.

What therapeutic communities can teach us

What can therapeutic communities teach us? People retreat from their community for many reasons. They may be sick, or sad, or defeated, or angry. They may simply have a greater need for their own space— Greta Garbo really did want to be alone, and got her wish for 40 lonely years. But if they retreat because the community discriminates, condemns and refuses them moral equality, the community is itself weakened.

I understand therapeutic communities to be one way of providing safety and second chances to people whose human relationships have failed, whose faith in themselves and in others has been betrayed, who do not expect promises to be kept or who cannot make and keep promises of their own. It is meant to be humane— why are our own not humane? A therapeutic community seeks to heal wounds, and its first and foremost rule is to do no harm. It is a community in which participation is expected of every member, and power must be shared, and where conflict is not a problem to be solved with a right or wrong answer, but a dilemma that must be discussed, explored, considered and resolved: a culture that provides a disciplined structure to explore doubt and find resolutions, in which dependencies are not exploited and in which conversation replaces accusation or directives: respect, sharing, tolerance and understanding are the purpose.

That is what these communities can teach us, about how to live.

I am interested in these things: what makes us human, and what makes life worth living; where power lies and how it can be induced to shift and be used for

the common good; justice, ethics and truth, not because I am a lawyer, or because I am a woman or someone with a chip on my shoulder, or a victim or an advocate for the rights of people with a disability, but because I am an ordinary human being, and a fallible one. I have had the experience of being vulnerable and the privilege of protecting the rights of other vulnerable people, and of helping to create the circumstances in which power is not misused: by making connections and reasons for hope.

I started this paper with a story from my book *Rooting Democracy*. Let me end with another one.

Patricia J Williams is a black academic who writes a lot about civil liberties and the philosophy of law. She tells a story:

She compares the different ways in which two academics— a white man and a black woman— negotiated leases for their apartments. He handed over a sizeable cash deposit to strangers with whom he had shared a few moments of pleasant conversation; there was no lease, no exchange of keys and no receipt, but he thought the handshake and good vibes were enough to establish trust. She insisted on signing a lengthy formal contract with the friends who offered her accommodation.

Many would interpret her behaviour as prickly, and respond more freely to his more relaxed style. To understand their differences you need a sense for where each is coming from.

For her, explicit rules are necessary, because in her experiences informal, implicit codes disadvantage her and people like her. Having experienced sex and race discrimination, she cannot take acceptance for granted, and needs the security of rights protected by law. For him, by contrast, it is easy to be liberal. He

has the confidence that comes with the experience of power, and he can dispense with the formalities. Trust is implicit in his relationships.

We cannot establish trust by assuming that everybody else is going to behave just as we do. If we criticise those who are different and “difficult,” we turn difference into division, and erect a barrier across which there can be no exchange.

I want to learn about how we can live together, in times of turbulence and uncertainty, well. I want a society that offers a decent life for all its citizens. How do we build it together? By having reason to trust one another. And that is what we have to learn from therapeutic communities.