

ETHNIC AFFAIRS COMMISSION OF NEW SOUTH WALES
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SEMINAR, 4 JUNE 1983, UNIVERSITY OF SYDNEY

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MULTICULTURALISM FOR ALL AUSTRALIANS?

The Hon Mr Justice M D Kirby CMG
Chairman of the Australian Law Reform Commission

A PAPER FOR COMMENT

Professor Jerzy Zubrzycki is Chairman of the Australian Ethnic Affairs Council and Professor of Sociology at the Australian National University in Canberra. Professor Zubrzycki is one of the finest intellects in the country and in addition (it does not always happen so) is a gentle, kindly, thoughtful man. He has become one of the intellectual strengths of the movement in Australia for a more tolerant, diverse and multicultural society.

A few weeks ago, to publicise the forthcoming English Speaking Union's World Members' Conference in September on 'The Role of the English Language in a Multicultural World', he suggested that Australia led the world in its migrant policies. He said that these policies offered newcomers extraordinary opportunities to improve their wealth and social positions. Within one generation an extraordinary measure of upward social mobility had taken place. This was proved by a recent study comparing the attainment of a group of second generation Greeks and Italians with the rest of the community. It found that the profiles were virtually a matched set.

Professor Zubrzycki is also a member of the Council of the Australian Institute of Multicultural Affairs. I too am a member of that Institute. In 1981 he also led a team in the Australian Council on Population and Ethnic Affairs in the preparation of a policy discussion paper titled 'Multiculturalism for All Australians : Our Developing Nationhood'. The paper is a valiant effort to define features of multiculturalism as it is emerging in Australia in the last decades to the 20th Century. That this is a worthy objective is demonstrated by the numerous carping statements concerning multiculturalism

and the complaints by popular Australian journalists about the undefined and imprecise content of the terms. The purpose of this paper of mine is to inform participants in the Seminar about the discussion document and to invite debate on its analysis.

Despite the widespread 'official' use of the word and ideal of multiculturalism, it must be conceded that its content is still rather imprecise. Furthermore, it is probable that the majority of the Australian community lingers still with the ideal of assimilation or integration. One very useful feature of the discussion document is that it mentions the wider intellectual context within which discussion of multiculturalism in Australia must proceed. This is a context that seeks to destroy stereotypes and to release people from inescapable classification which will otherwise limit their ability to flourish as human beings and as members of the Australian society. So the purpose of this paper is to offer a few comments on the policy discussion paper. I realise that many participants in the seminar may not have seen it. However, I hope that these comments will draw attention to it. For it touches some of the most important policy issues that will be faced by Australia in the decade ahead. If we have a tolerant, multicultural society it will be one in which different generations of migrant families can live in greater harmony with each other and with the rest of society.

A PHILOSOPHY OF DIFFERENCE

Until quite recently in Australian society, the accepted ethos was the opposite of multiculturalism. Unless a person were a white, Anglo-Celtic, English speaking preferably male individual, who drank beer and talked sport, he was denied full membership of the 'Australian club'. It is only in the past 20 years or so that the acceptability of this stereotype has come under challenge. In part, the challenge is itself an outgrowth of the large post-War immigration program, with the consequent impossibility of imposing such a simple classification on a society which was increasingly seen to be more varied. In part, it is the outgrowth of the new media of communications which bring into the livingrooms of the nation, variety and difference. In part, the decline of this stereotype can be traced to intellectual movements of revolt which probably grew out of the general prosperity that followed the Second World War, in which prosperity, liberal causes could flourish. In part, the restiveness of the 1960's, the development of alternative lifestyles, resistance to war and the growth in appreciation of the environment, of historical buildings and so on explain the enhanced toleration of personal difference and variety.

In proposing its vision of Australia as a multicultural society, the discussion paper does not seek actively enough, at least in my view, to put the Australian moves towards the acceptability of multiculturalism in the wider context of tolerance of difference within Australia. This is a very important movement and the more we talk about it, the more we will understand and embrace it. A willingness to tolerate variety, lack of conformity and variance from stereotypes is relatively new in Australia. Multiculturalism is but one facet of the diamond. The tolerance of difference may itself come under challenge because of technological advances (the vulnerability of the wired society) or social and economic conditions (the economic downturn and prolonged unemployment). Of course it may be too late to reverse the climate of toleration of difference. But this climate is the environment in which multiculturalism can flourish in Australia. Multiculturalism will be placed on a much firmer foundation if it is seen in this wider context than if it is merely perceived as a few tinkering changes with Australian laws and practices to cope with the influx, particularly of non-English speaking migrants. The only real reference to this very important general context is found in the discussion paper's reference to the changing position of women in today's society and some reference to the special and unique position of Aborigines. These are but three of many classes which illustrate the growth in Australian tolerance of variety, difference: a kindlier society which has begun to reach for the mature view that, at least within certain limits, letting people be themselves does not undermine the necessary minimum of the political stability of society. On the contrary, it may even reinforce that stability because the result is a more contented, less artificial, more tolerant and less oppressive society. This attitude of mind is important, as I have said, for second generation migrants. But it is even more important for first generation migrants. Acceptance of difference will ensure their comfort in our society. It will help to reduce tensions both between migrants and the rest of the Australian community and as between migrants and their families.

A NATIONAL IDENTITY?

Chapter 1 of the discussion paper seeks to define an Australian identity. I must admit to serious reservations about this effort. These reservations arise both from the fear that an effort to define an Australian identity by reference to such idiosyncratic features as a 'laconic sense of humour', a 'dislike of tall poppies', etc. might itself contribute to the perpetuation or even revival of stereotypes. Furthermore, I question why it is necessary to define at all 'our Australian national identity'. I realise that this is an obsessive concern in some quarters; but it has always seemed to me to be misguided. If the 20th Century teaches mankind anything, it should be that narrow nationalism, an

obsession about national identity, racial purity, social cohesion, community unity and so on, are potentially very destructive forces. With occasional exceptions, such as during times of war, Australians have tended to get by without too much examination of or concern about their national identity and without tarrying to try to define it too closely. In part, this can be explained historically by a fact which is understated in the discussion paper (as in many documents in the multicultural industry). I refer to the indisputable phenomenon that until the 1960s, at least during the 20th Century, Australia was a decidedly British country. Its national identity was as a Dominion of the British Empire. In such a situation, close attention to local cultural factors was seen by many Australians to be provincial or irrelevant. Such was the power of the British Empire (real or perceived) in the first half of this Century that it was a matter of pride and loyalty for most Australians (notable exceptions apart) to be part of that international identity. Identification with the Empire and with Britishness relieved Australians from the necessity to define more closely the features of difference which marked Australia out from other parts of the British Dominions. I realise that this historical fact is uncomfortable for many modern Australian nationalists. It is a source of embarrassment to many current Australian historians who search amongst the embers of the past for exceptions and local patriots. But even in the lifetime of people of middle age in Australia today, it is within their memory. What I now want to question is whether in post imperial Australia we should expend a great deal of effort seeking to define the features of the Australian national identity as, for example, the discussion paper seeks to do. It is at least open to argument that Australia, as a community with greater variety of ethnic membership than any other on Earth, is itself a microcosm of the future world order. Dr. Michael Novak in the Second Australian Institute of Multicultural Affairs Lecture called us a 'planetary people'. Indeed, this very idea is hinted at in the last words of the discussion paper:

The building of a richly diverse, tolerant and vibrant society which will not only be attuned to the needs of the next century, but will also represent a model to be followed by others.

It is my view that this approach should have been preferred and that we in Australia should be developing the point strongly more strongly.

Nationalism, patriotism provincial concentration on national identity may be seen by future centuries to be on the wane at the close of this century. I should not want feelings of defensiveness about multiculturalism in Australia to force the Australian community, against its past traditions, into too active a concern to define features of local national identity. In other words, multiculturalism in Australia may be actually

pointing the way for the future of mankind. That way may involve less coherence, less racial purity, less stereotyped national unity (comfortable and thrilling as all of these can sometimes be). It may, on the contrary, involve much vaguer national identity and a much greater willingness to accept variety and difference even within the one political unit. It may even involve what Dr. Michael Noval called 'a zest for differences' - a 'community not of sameness but of differences'. It is at least possible that in the age of nuclear fission, we cannot afford the luxury of sharply defined national identities. It is possible that a country of continental size and ethnic variety such as Australia can give a lead to countries of the world which still hold to a tight national identity. I am suspicious of looking backward to narrow nationalism. Yet that seems to be an assumption widely held in Australia. It is one voiced in the discussion paper. Only in the last sentence is there a hint that our multiculturalism may be a testing ground for multiculturalism in the wider world community. That narrow vision disappointed me.

CORE INSTITUTIONS AND LAWS

The discussion paper also puts forward the oft-repeated and fashionable view that one aspect of Australianism is the notion that we all accept certain core institutions. But even these core institutions are being, and should be, adapted. Educational institutions are being adapted with ethnic education. The law is being adapted including by work in the Law Reform Commission. Attention is now being paid to the appointment of judges and magistrates with a non-Anglo-Celtic background. Government is being adapted, though slowly, by the entry of 'ethnic' Australians into the public service and more lately representative bodies. Any statement that there must be one set of legal provisions is both too dogmatic and too superficial. It is true that there is and probably should remain one common source of laws whether in Federal, State or local Government, the judiciary and the executive. But this statement understates the necessity to adapt the content of our laws so that, though coming from a common political source, they operate equally by providing, sometimes, different rules for English speaking and non-English speaking people in Australia. I have mentioned examples in recent speeches. Some are mentioned in the Evaluation by the Australian Institute of Multicultural Affairs:

- * availability of interpreters in court and for police investigations;
- * alteration of the law concerning provocation in cases of homicide;
- * alteration of insurance law concerning the obligations of the insured to disclose circumstances to the insurer;
- * the evaluation of the reasonableness of the refusal of surgery in workers' compensation cases.

See generally [1982] Reform 139.

The last thing we want to encourage the thought that our laws and our legal institutions are immutable. They have never been so. It is one of the strengths of the common law system that it can adapt quite rapidly to changing social circumstances. If it has atrophied during the last century, we must now make sure that it can adapt to new social positions. One of the most relevant social reasons for change in Australia is the sudden influx of many people from differing cultural and linguistic backgrounds. The recognition by the paper of a special situation of Aboriginal Australians (pages 15, 29-30) is accurate and desirable. The Law Reform Commission is examining the recognition of Aboriginal customary laws. There is now a growing recognition of the fact that common fairness and the efficient operation of the legal system require changes in the present Australian laws so that there will in fact be differing rules for a majority community and the minority ('ethnic') community. The differences will be tolerable because they are designed to equalise the position of people before the courts, e.g. by the provision of interpreters and the alteration of substantive rules which discriminate against, say, people not fluent in English.

PRINCIPLES OF MULTICULTURALISM

The discussion paper also makes an effort to state the principles of multiculturalism. This is courageous. But it has significant dangers. For many Australians stated briefly and therefore with a degree of dogmatism, assertions such as 'social cohesion', 'cultural identity', 'equality of opportunity in access' and 'equal responsibility for commitment to and participation in society' may appear too authoritarian for many Australian tastes, including mine. I have already stressed the more relaxed view that I have concerning social cohesion. A degree of lack of cohesion and vagueness of cultural identity may be the way of the future. It may be something that we should not be too concerned about. The acceptance of a variety of lifestyles, languages, cultural habits and customs is itself an aspect of tolerance and the very lack of cohesion which is a special mark of the Western liberal traditions that may be particularly true of Australia today. The notion of adding a fourth principle is understandable because, if analysed, the first two principles compete with each other (social cohesion versus cultural identity). Likewise the fourth principle may be seen to counter balance the third. In this sense the ACPEA may be simply stating the relevant thesis and antithesis in each case. But I am frankly suspicious of an assertion that everyone in Australia must have 'commitment to and participation in' society. It has a ring about it of the Collectivist State favoured by Mussolini. I say this without intent to insult but in order to make the point. In our more relaxed, individualistic and pluralistic society, people have an important option. It is an

option not to participate very actively in society at all. Of course, in Australia, by the compulsory vote we require some degree of participation. Likewise for the compulsory Census, compulsory tax returns (for most) and various other compulsory features of modern life. But whether or not you choose to be committed to or participate in society, or just to live a tranquil private life without much degree of social commitment, is something we have left to individual choice. I do not believe that the advent of large scale migration from non-English speaking countries should alter this.

This discussion touches on an important point of difference that has marked the approaches to the State, its institutions and the role of the individual in English speaking and non-English speaking countries. It has been summed up in the dichotomy between the concept of the State and the rights of the individuals in the common law and the civil law tradition. Some writers have sought to encapsulate the differences by reference to the Gemeinschaft view of the modern state - a community perception of strong coherence generally with a firm social ideology and the Gesellschaft type of law and legal regulation which arises out of the growth of individualism and is linked with social and geographical mobility, with cities, commerce, the rise of the middle class and of the role of the individual. There is a discussion of this different approach to the world in Eugene Kamenka, 'What is Justice?' in Kamenka and Tay (eds.) Justice, Edward Arnold, 1979. I suspect that the writers of the ACPEA discussion paper are rather more influenced by a non-English speaking concept of the state (and of the role of the individual in relation to it) than would be shared in many quarters in Australia, including amongst the general population. Although Australians may be as noisy as the next bunch, when the call to arms goes out, I rather suspect that most other times there is a general relaxation about 'commitment' and 'participation' in the State. There is freedom to participate or not to participate. This privilege is inimical to authoritarian government. It is therefore, in my scale of values, something I should prefer to retain and not to substitute by importing artificial and hitherto alien notions of 'commitment to participate in' Australian society. These notions are far more active than would be expected of native born Australians. I see no reason why such a standard should be imposed on non-natives. I realise the good motives behind the suggestion. It may be designed to quiet the fears of those latent integrationists and assimilationists who still exist in abundant numbers - theory always taking time to catch up with reality in an undisciplined community. However, some recognition of the lack of obligation to participate actively in the Australian community and of the privilege to participate or not to participate should, I think, be recognised.

I am heartened by reading that my views on this subject are shared by Dr Paolo Totaro, Chairman of the Ethnic Affairs Commission. Writing in Meanjin, March 1983 on 'Multiculturalism for Some Australians : A Personal View' he states:

The document has an authoritarian, dogmatic streak which is revealed by the language in which it is written. ... One of the lessons we learn from the great movements of the 50s and 60s is that one of the features of contemporary democracy is that a great number of people do not want, indeed cannot, actively participate in some important dimensions of society — and it is their freedom not to participate and not to be victimised if they do not.

Amen to that. We should aim for a society that facilitates participation and allows non-participation, permits and even encourages diversity and difference. There will be plenty of room for reconciliation and consensus. But the definition of tyranny is a society where we all march to the beat of the same drum. And that is the message that should go out to migrants and natives, and to first and later generations. Ours is a society that accepts difference and just lets people be themselves so long as they do not harm to their neighbour.

Acceptance of this philosophy will reduce tensions:

- * between New Australians and Old Australians;
- * between White Australians and Black Australians; and
- * between first generation migrants and the generations yet to come.