

**Keynote address - Bending the Arc towards justice
Colleen Pearce, Public Advocate, Victoria**

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The arc of the moral universe is long but it bends towards justice.

Most of you have probably heard the quotation on which my address is based. Martin Luther King said these words in a memorable speech on civil rights to the Southern Christian Leadership Conference in 1967. He borrowed the idea from Theodore Parker, a nineteenth century Unitarian minister who was prominent in social reform movements in America and was fervently committed to the abolition of slavery. For Theodore Parker, it was a statement of hope, that though we cannot understand fully the nature of the moral universe, we can use conscience (or as we might say today, our moral compass) as a guide and look forward in hope. Today I am going to borrow these words again to reflect on our hope for a just society.

If we take the words of Martin Luther King out of their context and history, it is tempting to suggest that it doesn't matter much what we do because, in the end, justice will prevail, if, indeed, the arc of the moral universe naturally bends towards justice over the long term.

However, the true lesson from Martin Luther King is the exact opposite because the arc doesn't bend on its own, it doesn't bend smoothly and sometimes it bends in the wrong way. It takes effort, it takes thinking, it takes new ideas. It takes action, energy and commitment.

That is where we come in because Martin Luther King also said:

Human progress is neither automatic or inevitable ... every step towards the goal of justice requires sacrifice, suffering and struggle: the tireless exertions and passionate concern of dedicated individuals.

I am honoured to be asked to address this gathering of dedicated individuals who are committed to the values of the work of Anglicare, an organisation with a long and honourable tradition in our community of working for social justice. The theme of this conference, "From strength to strength: ideas that transform" has nudged me to look at the importance of transformative ideas in bending the arc of the moral universe through the work that we do. I am looking particularly at the area of disability because, as the Public Advocate, my work and that of my office is dedicated to promoting the rights and interests of people with disabilities.

There is no shortage of ideas in the social justice area. Those of us who have been in this field for a while have seen how successive waves of new ideas and concepts may gather support, shape policy, legislation and practice and inspire people to action and service for a period of time, even for a generation. Where they are significantly

different from what went before, we tend to call them paradigm shifts.¹ The best definition I can find of a paradigm for the sort of work we do is that it is

A set of assumptions, concepts, values and practices that constitutes a way of viewing reality for the community that shares them.

Ultimately, the social paradigms of one period tend to be overtaken by different ideas or by new ways of looking at the same reality, the same underlying questions and issues. The shifts are partly driven by changes in social and political circumstances.² We also have a very human need to be part of something new and inspiring, something that will change the way people think and will swell the support for social justice.

At a more prosaic level, we are part of a society where marketing is important. It is easier to obtain funding for so-called “new initiatives” than for doing the same thing better. So, we brand our ideas as new and emphasise their differences from what we have now. We stress their efficiency and cost-effectiveness and learn to speak the language of economists and accountants.

For example, there was a recent report on ABC radio recently (25 August) of research by Mission Australia where homeless men were provided with stable housing, a case manager and range of supports for a two year period. Due to stable housing, better health, less contact with the justice system and fewer visits to emergency departments, the research found that the costs of the supports were significantly lower than the projected costs if the men had not received the assistance. It is a sad reality that we have to justify much of our work on the basis of saving money rather than on the basis of social decency and justice.

So, I think that it is helpful to recognise three things:

- First, that transformative ideas in our field are embedded within a whole range of assumptions, concepts and values that we do not necessarily examine and that underpin more areas of our society than the one in which we work
- Second, when we look more closely, we find that the ideas of each era or generation are rarely new. They generally build on what has gone before and offer a different angle or perspective. This idea was best expressed by Isaac Newton³ when he said “If I have seen further, it is because I stand on the shoulders of giants”. I wonder why we do not acknowledge that so much today?

¹ The idea of paradigmatic thinking originated with Thomas Kuhn in *The Structure of Scientific Revolutions* (1962) where he described a paradigm as an exemplar. He says that repeating such things as scientific experiments (or thoughts and actions) moulds the way that we perceive reality. We gradually focus our perception and cognition in certain ways and leave out other ways of seeing and thinking.

² . But I think it is also partly because we don’t necessarily examine the assumptions and concepts that are part of a particular paradigm.

³ The quote can be traced back to Bernard of Chartres in the 12th century

- Third, by the time that a paradigm shift has taken place, has gained support and been adopted as the basis for legislation, policy or practice, it has often been leached of much of its complexity and ambiguity. We all like to have clarity, coherence and a strong sense of direction in our work but in seeking this, we can sometimes forget what was important in the ideas that went before.

I would now like to look at some of the ideas that have shaped perspectives on welfare and disability over the past thirty or so years that I have been involved in this area. From the many available, I have chosen to look at ideas around protection, risk, human rights and equality.

Protection

The idea that the vulnerable in our society deserve protection and assistance has a long and honourable history. Our legal systems are based on the concept of the king having three fundamental responsibilities:

- to maintain law and order,
- to defend his realm from outside invasion, and
- to care and protect those unable to care for themselves – children and those with disabilities.

The institutions and asylums of the past were intended to be places of safety for those who lived there and it is interesting that the true meaning of the word asylum has now been reclaimed when we talk about refugees from persecution in their own countries seeking asylum and a place of safety in Australia.

Institutions for people with disabilities and mental illness sought to provide people with shelter, security, care and protection from the dangers that they would face if they had to make their own way in the world. For much of the 20th century there was little contact between those living in homes and institutions and the rest of the community and most people had very little contact with those with disabilities. One consequence was that those who were different were often feared and avoided. So, protection became a two-way street, where the rest of society was protected from having to come to terms with the reality of disability.

Ideas began to change around the 1980s, particularly with the International Year of Disabled Persons in 1981, and there was a gradual change towards accepting people with disabilities as equal citizens who should live in and be included in society like anybody else. In Victoria, the legislation of the late 1980s, in intellectual disability, mental health and guardianship reflected this change in thinking with the focus moving from protection and separation to independence and inclusion. However, whilst many celebrated this shift in thinking and policy, the reality for some who were moved into the community was isolation, poverty or homelessness when necessary levels of support were not provided.⁴ Somewhere along the way we started to think that protection was a negative for vulnerable people and that they needed to become

⁴ See reports by Brian Burdekin on homelessness.

more robust and resilient, take responsibility for themselves as far as possible and have the freedom to make their own decisions.

This all sounds fine until we recognise that civil societies are built on interdependence and that systems that provide protection from harm for everyone are necessary for societies to survive and flourish.

Risk

When the idea of protection started to fall out of favour, we began to talk more in terms of risk.

The concept of risk first came into focus in disability services as a reaction against the limitations that an overly protective approach placed on people with disabilities. Taking risks was seen as a positive, enabling people to grow and develop. We began to talk about the dignity of risk. But how much risk was too much? Questions were asked about the duty of care owed by professionals towards people with disabilities. If you are working with someone who is vulnerable, and you are working with them because they are vulnerable, then you owe that person a duty of care. The concept of duty of care comes out of the law on negligence. So considerable thought and energy went into trying to work out where dignity of risk ended and duty of care began.

At the same time, public policy generally appears to have discovered risk. Risk talk and risk-based practice has been dominant in Australia's welfare sector since the 1990's. Constant reference is made to "risk indicators", "risk reduction" and "risk management". The risk paradigm is applied not only to clients, but also to staff, organisations themselves, legislation, policy and government. With the paradigm of risk permeating the practice of human service professionals working directly with individuals, families and communities, significant problems arise from the point of view of a civil society and a welfare framework that is worth having.

I think that there are two particular issues with framing welfare policy around risk. The first is that it requires us to work out who is "at risk" and who is not. We do this by developing "risk indicators" and risk indices. These are based on characteristics such as having a disability, being vulnerable to domestic violence, lacking a support network and so on. The attention is then directed towards managing risk and minimising risk with those working in human services becoming risk managers. That sounds reasonable until we realise that there is little capacity within this framework to change and transform the underlying situations of those who are deemed to be at risk.

The second issue is that the concept of risk is divisive. Categorising people in this way is problematic. Nobody fits neatly into any one category. We will all be "at risk" at various times in our lives or in particular circumstances. We will all be vulnerable: We will all be "lifters" and we will all be "leaners". We may well be lifting others and ourselves at the same time as we are relying upon or leaning on community support.

Perhaps the clearest examples of how the risk paradigm operates are to be found in child protection. Child protection legislation, policy and practice is based on risk assessment. In most English speaking countries it is child focused and the best

interests of the child are determined through assessing whether a child will be at unacceptable risk of harm if they remain in their present situation. In Victoria, the major parental risk indicators for child abuse and neglect have been identified as the parent having

- intellectual disability,
- a mental illness,
- suffering domestic violence,
- abusing substances or alcohol and
- having been abused as a child themselves.⁵

Recent changes to child protection legislation will move children more quickly into permanent care or adoption if they have been removed from the care of their parents. These changes have been officially described as “giving parents an initial 12 months to resolve issues so that they could resume the care of their child. At the end of this period either an additional 12 months would be provided if parents could demonstrate good progress was being made or permanent alternative care would be sought”.⁶ There is, however, little indication that improved support will be provided to parents to enable them make the changes that have been identified so as to keep their children in their care. Also, there is little acknowledgment in these amendments that the community as a whole bears a continuing responsibility towards children. As the Public Advocate, I particularly note that only one of the identified parental risk factors, substance abuse, is in any way within the direct control of the individual parent.

International studies have shown that countries with a well-functioning welfare system remove fewer children from their families than those without.⁷ Everybody wants children to be safe and to receive the love and care that they need but my concern is that by seeking to address the short term risks to individual children when we remove them from their parents’ care, we may be subjecting them to greater long term risks than if we more strenuously supported families to remain together.

It is the nature of risk assessment that immediate risks are more concrete and more easily quantifiable than long term risks. That does not mean that the long term risks are less important. Certainly the intergenerational issues of families that have involvement with the child protection system suggest that placing children in care away from their parents and siblings is more likely to result in them having intervention from child protection when they become parents themselves.

Many of you may not agree with what I have said about child protection. My intention is to suggest that placing child protection within a risk framework and locating the source of that risk wholly or largely with their particular parents rather than more broadly within the community is problematic for the long term good of society as a whole. Maybe we can draw something more from the African proverb: It takes a whole village to raise a child. We certainly need to think very carefully about what

⁵ Cummins P et al. *Protecting Victoria’s Vulnerable Children*. Victoria. 2012

⁶ Website of Minister Wooldridge www.marywooldridge.com. Retrieved 8 September 2014.

⁷ Gilbert N, Parton, N Skivenes M (eds.) *Child Protection Systems: International Trends and Orientations*. OUP, Oxford. 2011

approaches will better bend the arc of the moral universe towards justice for all our children.

Human rights

In our areas of work, we think a great deal about human rights.

The ideas around human rights are largely a construct stemming from the concept of human dignity, the idea that all human beings have innate value by virtue of being born human. All people deserve to be treated with respect for their human dignity. We recognise this when we give people a name and call them by their name. Taking away a person's name and calling them by a number, as has happened in concentration camps and prisons is a conscious stripping away of a person's human dignity.

Although ideas about human dignity go deep into history and culture, they were further developed during the Enlightenment in Europe. Philosophers such as Immanuel Kant maintained that humans have the right to autonomy, to set the direction of their own lives according to their own beliefs about what is a good life, so long as this is not harmful to others. This was largely a reaction against the prevailing order where princes and priests could decide and direct what people should believe and how they should live their lives. Of course, autonomy was not particularly relevant at the time to slaves, to women or to men of the lower classes.

The concept of universal human rights probably became mainstream with the establishment of the United Nations after the Second World War in 1946 and the Universal Declaration of Human Rights in 1948. The Declaration grew out of the experience of the Second World War and was the first expression of the human rights to which all people are inherently entitled.

The Declaration of Human Rights has been followed by the International Covenant on Social, Economic and Cultural Rights and the International Covenant on Civil and Political Rights. Conventions on the Rights of the Child and the Rights of Persons with Disabilities have also been adopted.

The Convention on the Rights of Persons with Disabilities has been hailed as representing a paradigm shift in the way in which people with disabilities must be treated. It was particularly significant because it was the first convention that was negotiated with the civil society. It was negotiated with disability organizations rather than between countries or States as had always been the case previously.

Instead of being dependent on the goodwill and beneficence of others, people with disabilities have the right under the Convention to a wide range of freedoms and supports to live full and independent lives. Australia has signed and ratified the Convention, committing government to implementing the convention into our laws and policies.⁸

⁸ Victoria is the only state in Australia that has brought in a Charter of Human Rights and Responsibilities that set down a range of political and legal rights. At this stage, the Charter does not include social and economic rights

The idea of universal human rights has had a profound impact on the way in which we see our legal and moral responsibilities towards others in our communities and throughout the world. It emphasises the extent to which we are all the same by virtue of all being human. It is a powerful statement of universality. At the same time, it can minimise and de-emphasise our differences. But it is only by knowing and appreciating the differences between us and between people of different races, culture, religion and history that we will ever be able to live together in peace and harmony.⁹ We cannot begin with the universal, we must and always do begin with the particular. We learn about loving and getting on with other people from particular individuals, usually as children from our parents.

A human rights framework can transform the way in which we treat each other but it can also be profoundly challenging. Think about someone who has lived a fiercely independent life, and is quite isolated in her community. As time goes on, she becomes less able to care for herself and more determined not to accept help that is being offered by social services. She may not trust banks to look after her money and may not accept the medical help that most would regard as necessary. She may be assaulted or robbed when word goes round that she has a large amount of money hidden on her property. With an emphasis on her human rights, what do we as a community say about this situation? She is not harming anyone else unless we want to use the “No man is an island” argument that suggests that everyone is affected by what is happening to our neighbours. While she remains able to make her own decisions, there is very little that can be done except to continue to offer assistance. What do we, as a society, say about this? We place a great deal of emphasis on individual choice and freedom from interference in our lives. The danger is that we are seeing people more as atomised individuals rather than as part of a group or community all responsible for each other as well as for ourselves. Where does justice lie in situations like these?

Equality and inequality

I would now like to turn to ideas about equality. Ideas about equality tend to move in and out of fashion. Sometimes we treat it more seriously and rate it more highly than we do at other times.

To some extent attitudes vary, depending on what sort of equality we are talking about. Western societies have consistently valued the principle of equality before the law. We do not have different laws for different sections of society. But, as Anatole France wrote in 1894 “the law in all its majestic equality forbids the rich man and the poor alike to sleep under the bridge, beg in the streets and steal loaves of bread”.¹⁰ He was, of course, pointing out that equal laws do not necessarily lead to equal justice.

There are many problems about the lack of equality of access to justice for disadvantaged people. For many years, the Office of the Public Advocate has been working to improve the situation of people with disabilities in the legal system. A particular example is that of women with disabilities who are the victims of sexual assault. Their situation is even worse than that of women without disabilities who are

⁹ Sacks, J : *The Dignity of Difference: how to avoid the clash of civilisations*. Continuum, London 2002.

¹⁰ France, A *Le Lys Rouge (The Red Lily)* 1894.

sexually assaulted. Very few sexual assaults against women with disabilities result in a conviction against the alleged perpetrator.

Australia also places value on equality in political processes through the principles of one vote, one value, almost universal suffrage, compulsory voting¹¹ and the regulation of election processes through an independent commission. Australia has much to be proud of in the equality of its political processes, despite some concerns about contributions to political party funding and the level of influence of powerful interest groups. However the justice and strength of our political system depends on the strength of the social contract that underpins it and on acceptance of the principle that the elected government must govern for the good of all, not only for those who elected it.

It is in the areas of economic and social equality that the greatest debate takes place. When democracy and communism were political opposites, democracy was associated with capitalism, liberty and economic inequality whilst communism was associated with a command economy, equality of outcomes and lack of personal freedom. The existence of each provided a restraint on the excesses of the other.

The political demise of the USSR coincided with the rise of neo-liberal economics and an increased emphasis on individual freedom. The result of this has been a dramatic increase in inequality of outcomes. The prevailing ideology was that economic growth benefited everyone and that “a rising tide lifts all boats”. The incentive of increased profit was perceived as being necessary to persuade people to take the risks associated with capital investment and new enterprises.

However, in recent years the impact of increasing inequality has been the subject of considerable research. For example, a study by the United Nations Development Fund found that the transition to market economies in many post-communist societies had produced a “demographic collapse” with the life expectancy of Russian men dropping from 63 years to 58 years between 1980 and 1999.¹² Whilst the life expectancy of Russian men has increased to previous levels over the past five years, it is still 12 years lower than that of men in the European Union.

The Spirit Level is the title of a study by two British epidemiologists, which demonstrated that the greater the level of inequality within a country, the poorer that country performed on a whole range of social indicators, from teenage pregnancies to life expectancy, from crime to educational outcomes for ALL people, the rich as well as the poor.¹³ American Nobel prize winner Joseph Stiglitz who is the author of *The Price of Inequality* recently visited Melbourne. He argues that the politics of austerity, which increase inequality and disproportionately affect the poor, do not

¹¹ Compulsory voting means that political parties must take notice of all sections of society because everyone has a vote and will vote.

¹² British Medical Journal Aug 21, 1999; 319(7208): 468.
Russian men losing years to vodka The Guardian. 1 February 2014.

¹³ Wilkinson, R and Pickett, K: *The Spirit Level: why greater equality makes societies stronger*. Penguin 2009.

ultimately benefit the society, lead to sustainable growth or even benefit the rich.¹⁴ It seems that the tide of thinking about the impact of inequality may be changing, or is at least being opened up to re-examination again. Unfortunately, there is little indication that these ideas are gaining any traction in Australian economic policy today but it is so important that these ideas are emerging, holding open the possibility of transformation in the future.

Conclusion

Today I have briefly looked at some of the ideas around protection, risk, human rights and equality. All of these ideas have been transformative in one way or another in building a fair and just civil society. They all have the potential to continue to be transformative. Inevitably, they also carry the possibility of becoming rigid and destructive of a just society.

In civil society today, we must be aware that the old adage still holds: “The price of liberty is eternal vigilance” or as I would rather say, “the price of a good and just society is eternal vigilance”.

I return again to Martin Luther King and finish with this thought:

We must all hold onto our hope of a fair and just society and strive to keep the long arc of the moral universe bending towards justice.

Thank you.

¹⁴ Stiglitz, J: *The Price of Inequality: How today's divided society endangers our future*. WW Norton 2012