

Imagining Childhood Children, Culture and Community

**Speech by Mick Gooda
CEO of the Cooperative Research Centre
for Aboriginal Health**

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Let me begin by acknowledging the Traditional Owners of the country upon which this Symposium is being held. I am from the Gangulu people from the Dawson Valley in Central Queensland and we salute you mob for the leadership you have shown in the ongoing fight for our rights, particularly land rights.

Let me also acknowledge Gary and Ute who convened this important meeting. When I first spoke to Gary about my attendance here today I mentioned my interest in this most important of subjects.

How we treat our children says a lot about who we are and the kind of society we want.

My interests, like all of us in the room, go almost to the heart of the human condition.

Why are we put here if not to make things better for those who follow - our children?

Before I go on I think it would be useful to provide a bit of my background. At the moment I am the CEO of the Cooperative Research Centre for Aboriginal Health. It is an organisation base in Darwin that has as its vision:

‘Sustainable improvements in Aboriginal health through strategic research and development.’

I work to a Board, the majority of which is Aboriginal, made up of representatives from the health industry and research bodies. The Board has decided that we will only do research that benefits the Aboriginal health sector and not research that adds little but a few letters to the names of researchers.

In this aim I think we are doing alright. The Board recently prioritized research concepts in our Comprehensive Primary Health Care Program and included some very interesting themes such as:

Quality Standards in Aboriginal Primary Health Care

Workforce Models and Benchmarking

Structuring Aboriginal Health Funding to Improve Aboriginal Health Outcomes

Improving the Culture of Hospitals for Aboriginal Patients and Staff

I am looking forward to the development of our research agenda for our programs on Social & Emotional Wellbeing and the Social Determinant of Health which have the most impact on the issues I speak about here today.

Prior to my appointment at the CRCAH I was the CEO of ATSIC and its last employee.

As you can imagine this position provided some challenges and I want to speak about one of those challenges that have reference at this Symposium, the development of the ATSIC Family Violence Policy.

The development of this Policy presented some great opportunities for ATSIC to get on the front foot in one of the most confronting issues facing Aboriginal people in this country. At the time ATSIC was not recognized very widely on the development of this Policy but upon its endorsement it began to make an immediate impact.

In developing this Policy I worked with a group of people who were insistent on righting some of the wrongs that were either real or perceived in the way ATSIC went about its business. One area of constant conflict was in the provision of legal services to Aboriginal people coming in contact with the criminal justice system. It seemed to a few of us within that system all we (ATSIC) ever did was to provide resources to ensure the perpetrators were represented with the victims left to fend for themselves.

I should say at this point there are many studies showing that victims of violence are overwhelmingly Aboriginal and of those there are a disproportionate number of female victims, with an alarming growth in the violence against children.

That ATSIC Family Violence Policy sought to redress this imbalance.

Amongst other things that Policy declares that:

Family and sexual violence is not part of the Aboriginal or Torres Strait Islander culture.

We will stand against it in our families and communities and personally commit to changing and reducing its escalating and unacceptable levels.

We must help break the silence by empowering our peoples to speak out and at the same time protect them from reprisals.

All interventions must focus primarily on the child and provide protection under both lore and law, and therefore must be culturally appropriate.

Women and children have the same rights as men before the law and their interests must be represented equally in public policy.

At the national, community and state level we will advocate for action and actively monitor and report on progress to achieve a significant reduction in the incidence of family violence, in line with our statutory obligations.

We will formally engage Federal, State and Territory Governments, non-government and community in developing a responsible, coordinated, partnership and holistic approach to bring about change and healing for Indigenous family violence.

We will place the highest priority on delivering locally appropriate strategies through ATSIC regional plans.

We will engage all levels of our communities through capacity building and collaboration, building on their strengths and resources in advocating action to eliminate the underlying causes of family violence, for example, lack of employment and overcrowded housing.

I think ATSIC drew a line in the sand with this Policy and even though the Commission is now gone it is a policy that retains its relevance.

At the time of this Policy being accepted by the Board of Commissioners there was a case underway in the Northern Territory that involved the sexual assault of a young woman under the guise of a customary marriage. I remember pointing out to Commissioners at the time the implications of the policy being presented with a particular reference to this case, namely that culture could and should not be used as a means of mitigating a serious assault upon a child.

Commissioners bit the bullet and went ahead with their endorsement of this policy.

I thought that we were finally making some headway. ATSIC had mostly run the line that other agencies such as the police and welfare departments had statutory responsibility for the protection of women and children but had now accepted their responsibility to represent those same people and if not ATSIC then who and if not ATSIC then why have a national representative organization?

At the same time ATSIC was running a rights agenda. This agenda included our human rights, the fundamental rights and freedoms that are inherent to everybody, part of our humanity; our citizenship rights, those rights people hold as citizens of this country; and what we called our inherent rights as the first peoples of this country. For example, Indigenous peoples have a right to self determination and effective participation in matters that directly concern

us as part of the general right to self determination encompassed in Article 1 of the International Convention on Civil and Political Rights.

The general view was that the rights agenda was developing into a good body of work until someone raised the issue of the hierarchy of these rights. When questioned on the concept of one set of rights overriding another, the general consensus was that they are all equal and no correspondence would be entered into.

A couple of us pursued this concept and generated intense discussion and debate within ATSIC about how these rights can be prioritized. Does the right to one's culture override the right to an education? Does the right of access to one's land override the rights to live in a safe and secure environment? Do collective rights override the rights of the individual?

Some people will argue that these are not mutually exclusive and to a certain extent I agree. But in my experience, there will come a time when choices must be made.

I have come down firmly on the rights of children taking precedence over all others.

When I talk about the rights of children I find it is useful to visit the Convention on the Rights of the Child adopted by General Assembly on 20 November 1989 came into force on 2 September 1990 with Australia ratifying it in 1991. Some of the most important rights include:

Article 9

1. States Parties shall ensure that a child shall not be separated from his or her parents against their will, except when competent authorities subject to judicial review determine, in accordance with applicable law and procedures, that such separation is necessary for the best interests of the child. Such determination may be necessary in a particular case such as one involving abuse or neglect of the child by the parents, or one where the parents are living separately and a decision must be made as to the child's place of residence.

Article 19

1. States Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child.

Article 27

1. States Parties recognize the right of every child to a standard of living adequate for the child's physical, mental, spiritual, moral and social development.

2. The parent(s) or others responsible for the child have the primary responsibility to secure, within their abilities and financial capacities, the conditions of living necessary for the child's development.

Article 28

1. States Parties recognize the right of the child to education, and with a view to achieving this right progressively and on the basis of equal opportunity, they shall, in particular:
 - a) Make primary education compulsory and available free to all;

Article 34

1. States Parties undertake to protect the child from all forms of sexual exploitation and sexual abuse. For these purposes, States Parties shall in particular take all appropriate national, bilateral and multilateral measures to prevent:
 - (a) The inducement or coercion of a child to engage in any unlawful sexual activity;

I want to give you a heart-breaking practical example. I want to talk about the Swan Valley Nyungah community in suburban Perth. The death of a teenage Aboriginal girl at this Community presents a chilling account of a young person's tragic life.

In her short life this young girl encountered sexual violation, violence, and the ravages of alcohol and substance abuse. In desperation, and despite contact with several Government agencies, she died in tragic circumstances

at the age of 15. The Coroner commented that this story is by no means unique and that sexual abuse of children is endemic in Aboriginal communities throughout Western Australia.

His report prompted the Government to undertake what is now known as the Gordon Inquiry. The terms of reference for the Gordon Inquiry included:

Examine the issues raised by the Coroner's inquiry into the death of Susan Taylor in relation to the way that Government agencies dealt with the issues of violence and child sexual abuse at the Swan Valley Nyoongar community.

Examine how State Government agencies respond to evidence of family violence and child sexual abuse that may be occurring in Aboriginal communities generally.

Report with recommendations on practical solutions for addressing incidents of sexual abuse in Aboriginal communities, including any necessary legislative and administrative measures.

Specifically the Inquiry is to:

- v Examine the activities of State Government agencies in addressing complaints and the reporting of sexual abuse in Aboriginal communities;*
- v Identify the barriers and capacity of Government agencies to address the issue of family violence and in particular child sexual abuse in Aboriginal communities;*
- v Comment and make recommendations on the mandatory reporting of*

*sexually transmitted diseases occurring among children and juveniles;
v Comment on any limitations of DNA testing in the Aboriginal community;
and Propose support measures for children reporting abuse.*

The Inquiry is to consider current research into the prevalence, causes and solutions to Aboriginal family violence.

After the Inquiry's completion and its 640 page report and over 190 recommendations the same people were in power in the Swan Valley Nyungah community.

Despite the report the Government, when asked, was not being able to guarantee the safety of women and children. On the very day I was approached by the Premier's office to meet and discuss this matter there was a young family in a safe house in Perth hiding out from those in power in that community.

Taking into account the ATSIC Family Violence Policy and its view that the rights of children take precedence it was decided the ATSIC would support the closure of that community. We gave that support conditional upon the interests of women and children being paramount, women and children were offered alternative accommodation and that the land would be preserved for the benefit of local Aboriginal people.

This intervention was supported because Governments just cannot stand by and see the most vulnerable being put at avoidable risk.

When questioned about an alleged conflict between the Government's intervention and the community's right to self determination I challenged the questioner about whether he could provide evidence that Swan Valley women and children were exercising self determination. Only then might I accept that argument. Self determination for the strong only is not self determination.

So I came here today to present the case for intervention. I think I come here with some runs on the board, however, I am always prepared to sit down and debate this and am quite prepared to listen to the alternative argument.

For me the word intervention has all of the nasty connotations of taking the children away. That would be the ultimate intervention and we should not shy away from even that in the cases that would merit that response. More on that later.

But interventions should always be about what's best for our kids. In some cases this intervention will be no more than a concerned relative or friend asking a parent or carer if they need a hand when they see that parent or carer struggling to cope.

If they see a child beginning to show the first signs of neglect surely this is the signal for some type of intervention. But as we all know this is easier said than done. There is the shame to consider for the parent or carer, and there is the almost certainty of a breakdown in the relationship between carer

and intervener but, ultimately, we can not avoid the fact that a child may be at risk.

This is the first level of intervention and from my observations over the years any intervention that can be generated from within the community will have the greatest chance of producing a sustainable success.

The next level of intervention I want to address is when society intervenes, usually in the form of a Government welfare agency. Again, I think this level of intervention should seek to support the parent or carer. There are many parents out there who need this level of support. It needs to be appropriate to the level of risk and needs to be sensitive to the particular cultural circumstances but most importantly tailored to the needs of the child.

It is the next step, when the two previously described levels of intervention have failed, that intervention takes on a whole new meaning; when the risk to the child is so great that it is no longer about sensitivity but about the child's immediate safety

Dare I say it, but let's use the R word; removal.

I believe we have become too sensitive about this word. Visions of the Stolen Generation will come to mind and believe me when I say there is no way I am advocating a return to those times. But having said that I strongly argue that child-protection intervention can and must be about the best

interests of the child rather than about the colour of its skin or the planned destruction of a culture.

There comes a time when someone has to say enough is enough. I say if the situation warrants, then removal must be an option that is available. How removal occurs and where the child goes has undergone massive change since the days of the Stolen Generation. For instance, where ever possible most States will place Aboriginal children within Aboriginal families.

Having removed a child the responsibility for that child then rests with the Government and these days there is no Government welfare agency in the country that has not been intensely scrutinised and criticised about their failure to adequately protect a child. We have to make sure that they are not leaping out of the fry pan into the fire.

We even had the Beattie Government in Queensland not so long ago fight an election on this matter. He got re elected but the jury is still out if he has fixed the problem. We should not be coy about this type of intervention. Governments are the final safeguard for our children, when all is failing a child the ball is in the Governments court.

There is another type of intervention I want to address; the type undertaken in Western Australia where the Government closed down the Swan Valley Nyoongar Community.

When does a Government intervene on a community basis?

Let's look at another WA example. One of the Gordon Inquiry's recommendations was to build police stations on nine communities to provide a permanent police presence. This was basically done to address an almost forgotten aspect of Aboriginal/Police relations; that of community protection.

Soon after I arrived in Western Australia in 1997 I was approached by the WA Police to fund what they call back-to-back patrols through the West Kimberley. My response was to query whether the citizen in Peppermint Grove in downtown Perth contributed to their police patrols and when the answer was negative I then queried why the protection of Aboriginal people should be funded differently.

I was told one particular community was so bad that even the police did not want to stay overnight there. My immediate thought was that if it is too unsafe for police what about women and children? Thankfully that situation has now been rectified.

But protecting the most vulnerable, particularly children, is where governments should be most purposeful about intervention.

But responsibility rests with our own Aboriginal community as much as it does with governments. The frontline of Aboriginal child protection is Aboriginal families and communities themselves.

It is essential that we take on this responsibility ourselves because if governments do intervene they often do so through the criminal justice system with the result that more of our people go to gaol.

I am not defending perpetrators of child abuse here but simply making the point that protection of children is generally best organised by that child's community rather than the often clumsy hand of state intervention.

I will end by reminding you of the theme of the Symposium.

How we protect our children says a lot about who we are and the kind of society we want.

I also mention the oft quoted line that societies are judged by how they deal with the most vulnerable and ask you - Are there any more vulnerable than our children?

Let's be pro-active, show some courage and leadership and intervene early and appropriately, before we condemn another generation of children to neglect.