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Brotherhood of St Laurence
Working for an Australia free of poverty

Right and responsibilities:

towards a genuinely Australian understanding

2006 SAMBELL ORATION

Delivered by

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Our Social Rights and Responsibilities Conference

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I feel privileged to be delivering the Geoffrey Sambell Oration at the Brotherhood of St Laurence.

The Brotherhood has been at the forefront of tackling poverty and researching its causes and consequences. Under the influence of pioneers like Father Tucker and then Bishop Geoffrey Sambell (later Archbishop of Perth), it has raised the standard of debate about our nation and how it should imagine and organise its affairs.

It has brought together the prophetic an the practical in a way that would be appreciated by its founders. Indeed one of Geoffrey Sambell' s successors at the Brotherhood, Michael Challen, has pointed out to me that he saw a need for a holistic, creative and effective response to the Gospels.

Today's proceedings could do well to follow that advice. Let's start with the Old Testament.

To use concepts like rights and responsibilities is to enter the world of the Old Testament and the invitation its God sends to human beings to become His partners in the world of creation. As Jonathan Sacks puts it:

> The God who gave us the gift of freedom asks us to use it to honour and enhance the freedom of others. 1

God's gift of freedom to which Sacks refers is the freedom to choose.

How we choose determines the type of society in which we live. Decisions - even non-decisions - will all have their consequences. We can never escape from freedom - it is inherent within the human condition.

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We live in a society whose declared intention is to uphold the human rights of its citizens. What does that mean and how does it relate to our personal and collective responsibilities in today's society?

In order to answer this question I intend to pursue three lines of inquiry.

Firstly, I will look at the concepts of rights and responsibilities and see what a preliminary analysis of them tells us.

Secondly, I will examine the concept of social rights from the point of view of the English liberal and radical tradition as it expressed itself in early capitalism, mature capitalism and post-industrial capitalism.

Thirdly, with the insights gained from this conceptual and historical overview I will move on to look at mutual obligation in the contemporary Australian context.

HUMAN RIGHTS

Rights are inalienable and possessed by all human beings. They signify a particular commitment to the dignity and the autonomy of the human person. They also signify the *equality* of all, whatever the race, religion, nationality, or background.

Talking about rights takes us into the territory of human relations. It is a relational concept. The context may be relations between people generally or it may be relations between a government and the people.

It is our responsibility to respect the rights of others and it is the responsibility of Government to protect the rights of its citizens.

Although obviously pertinent to any discussion of rights, the role and special character of the right to national self-determination will not be addressed today.

Back, then, to a society underpinned by a doctrine of human rights.

What are our rights?

The earliest proponents of a rights-based philosophy spoke of the rights to 'life, liberty and property'.

As time progressed and the concept was clarified in practice, a distinction was drawn between civil rights, political rights and social and economic rights. In a sense the first were our liberal freedoms, the second our democratic freedoms and the third a mixture of property rights and welfare entitlements. The latter are usually referred to as our social rights and were woven into .the fabric of public policy throughout the twentieth century.

When put together, these rights give us a concept of 'community'. To talk of community without reference to 'liberty', 'citizenship' and 'solidarity' all at once ought to leave a feeling of incompleteness. Indeed it is because we live in a rights-based society that there is so much debate about restrictions on freedom, limitations on participation, gaps in accountability and conditions on welfare.

However, the unfortunate reality is that the incorporation of rights into law and the application of these laws to specific situations do not happen without complication.

Rights have to be defined and their boundaries marked if they are to provide the basis for law. What are the limits of free speech? How is the right to vote institutionalised and voting organised? What are the range and type of benefits available to a citizen? Just how free are health and education?

At the same time, we know that rights can come into conflict. In concept there ought to be·no hierarchy of rights, but in practice decisions have to be made that may mean the setting of priorities and the creation of compromise.

Both of these issues - the definition of rights and the application of rights in the real world- are matters for intense debate in a society such as ours, where terrorism has emerged as a challenge, Australian traditions of labour market regulation are being undermined, and mutual obligation is being applied to our welfare system.

RESPONSIBiliTIES

Rights without responsibilities are pure abstractions. Responsibilities without rights are empty.

My right is your responsibility to respect it. My right is the Government's responsibility to protect it.

There are, however, other connections.

My right is my responsibility to *care/or* and *exercise* it. It is not just a case of freedom/rom but also a case of freedom *to.* If th~s wasn't the case what would be the point of saying we have rights?

This is what we might call our personal responsibilities not only to ourselves (and, I would say, our families) but also to the wider society.

Sometimes we actually make these personal responsibilities legal responsibilities. For example in Australia we not only have the right to vote, we have a legal duty to enrol and vote.

More generally, our responsibility to respect the rights of others is captured in law and various punishments follow from any transgressions.

Responsibilities, then, are well and truly part of the rights equation. They personalise and socialise human rights.

What does this account of the concepts of rights and responsibilities tell us?

Firstly, that each needs the other. Without responsibility, freedom is either inactive or in danger of becoming licence. Without rights, responsibility is emptied of the ballast it needs to promote human welfare and it is unleashed on a journey that has seen it take up residence in the provinces of nationalism, authoritarianism and fundamentalism.

Secondly, that there is no simple formula available to define our rights and provide boundaries for their application. This requires a dialogue within the community involving not just general principles but particular circumstances and real people.

Such a dialogue has produced contention in all areas, but today I am going to focus on our social rights. To do this I am going to refer to the English liberal and radical tradition of thinking which has taken these rights seriously and which argues for their proper place in a true community. These writers were the first to aspire to a system of welfare capitalism, they helped bring about such a system and they have been arguing for its reform in more recent years.

THOMAS PAINE: SECURITY AND OPPORTUNITY

In this theory they start with an imaginary state of nature without society and government. In such a state all have access to subsistence and that which they access is theirs so long as they leave plenty for others.

Even though the context changes with a division of labour and the formation of civil society, the principle of natural rights remains the same. In the state of nature all were given access to the means of subsistence. In civil society all should have access to the capacities required to earn a living in what had become a complex society. Nature provided humans with equal opportunities and society should ensure that this principle was maintained.

Note that in this theory work was both a right and a responsibility. It was acknowledged, however, that there would be those who would be unable to work through age, illness, injury or incapacity. They too should be provided for, in order that no-one fall into misery and destitution.

This theory of welfare capitalism took shape throughout the seventeenth and eighteenth centuries, starting with the Levellers and reaching its high point with Tom Paine's *The rights of man: part* 2 (1792) and *Agrarian justice* (1797).

Paine made it clear that individuals had a claim not just to relief but also to mobility and opportunity. This meant making the tax system fair by removing the burdens it was placing on artisans and labourers and distributing the revenue so that distress was relieved and opportunities provided. Paine aimed to tackle the want associated with being blind, lame or poor and to 'furnish the rising generation with means to prevent their becoming poor,.2

In *The rights of man,* Paine proposed child allowances, old age pensions, birth and funeral benefits, workshops for the unemployed and child education to be paid from the savings coming from the abolition of the monarchy and the revenue from a progressive tax on landed estates.

In *Agrarian justice,* he proposed to give everyone a lump sum payment on reaching 21 years of age and an annual pension on reaching 55. This was to be paid for by death duties often per cent on land values.

Paine and his radical colleagues from this era of early capitalism saw the connections between liberty, democracy and solidarity. Their enemy was monopoly - in the economy, society and polity. They were the friends of liberty and opportunity for all.

They believed that the real solution to what became known as the 'social.question' was a move beyond the Poor Law approach to welfare to an equal opportunity approach based on economic and social rights. However, without reform of both the revenue raising and expenditure sides of government, such equality could not be achieved.

They understood that rights could not be properly exercised without good health, literacy and numeracy, a decent income with provision for old age and death and, importantly, the capital and skills necessary for work.

In other words, for rights to be exercised individuals needed capacities and these could not be assumed beyond a basic human aspiration for happiness. Individual rights came with personal responsibilities and the obligation on the part of the government to ensure that its citizens had the capacities necessary to exercise those rights.

T.H. MARSHALL AND THE WELFARE STATE

Although many of the principles underneath Paine's thinking were realised throughout the next one hundred and fifty years, this occurred in the context of an industrial form of capitalism.

When he wrote his famous essay *Citizenship and social class* in 1950, T.H. Marshall was able to reflect upon the changes that had occurred largely as a result of the democratisation of politics and the influence of trade unions and reformist political parties. The ideas and policies for change came from thinkers such as John Maynard Keynes and William Beveridge. Indeed it was Beveridge who spoke of the five 'Giant Evils' of Want, Disease, Ignorance, Squalor and Idleness.

Marshall takes us on a journey from civil rights to political rights to social rights. He writes:

> Citizenship requires a bond of a different kind, a direct sense of community membership based on loyalty to a civilisation which is a common possession.[3]

Like Paine, Marshall believed that:

> Status differences can receive the stamp of legitimacy in terms of democratic citizenship provided they do not cut too deep, but occur within a population united in a single civilisation, and provided they are not an expression of hereditary privilege.[4]

Marshall spoke passionately of the need not just to abate 'the obvious nuisance of destitution' but also to modify 'the whole pattern of social inequality'. He continues:

> What matters is that there is a general enrichment of the concrete substance of civilised life, a general reduction of risk and insecurity, an equalisation between the more and the less fortunate at all levels - between the healthy and the sick, the employed and the unemployed, the old and the active, the bachelor and the father of a large family.5

This is the doctrine of the Welfare State at its best, emerging as it did after a war that saw social classes united in a common effort and after a depression into which no-one wished to descend again. The development of an economic theory which produced strategies for full employment was also an essential element in this post-war version of welfare capitalism.

Inasmuch as there was a development of this model from the 1960s and 1970s it was in the area of active labour market initiatives to guarantee the continual upgrading of skills so that the challenges of structural and technological change could be met. As the pace of ch,~nge gathered momentum, the status of these initiatives took a significant leap forward.

What, then, do we learn from these pioneers of the system of social rights which developed last century?

They understood that rights were only meaningful if the people had the capacity to develop them and it was important for the state to facilitate this development.

They understood that there were times when people needed support because of age, incapacity, illness, or some other circumstance.

In the case of the Keynesians, they also understood that there was a link between macroeconomic policy and social rights. Unemployment was seen as a condition that could only be tackled in a capitalist economy with a mixture of demand management, industry and job training initiatives.

ANTHONY GIDDENS AND THE NEW RADICALS

Over time, of course, the range and type of benefits associated with the Welfare State changed as society and the expectations people held about standards of living changed. Not only were there changes but there was an expansion in the range of benefits made available to people deemed in need of support at various stages of their life and in different family circumstances.

As is the case with all human institutions, the system took on a life of its own and serious questions began to be asked about its functioning, if not its relevance for the era of globalisation and post industrial capitalism in which it now found itself.

For social democrats looking for solutions to problems, elements of the neo-liberal critique which followed the questioning process had a distinctive but not decisive influence. As Anthony Giddens remarked:

> ... third way politics sees these problems not as a signal to dismantle the Welfare State, but as part of a reason to reconstruct it.[6]

The role of welfare, Giddens said, was not to take society beyond the market but to work with the market to expand opportunities. He called this 'positive welfare' in a 'social investment state' .

In language that echoes Paine more than Marshall, he spoke of the need for an 'entrepreneurial culture', with those currently excluded given the chance to enter the mainstream. Policy ought to involve initiatives to help those without skills acquire them, those with outdated skills to update them and those with a lack of confidence to be encouraged.

Giddens recognised the significant changes that had come to the economy due to the influence of information technology, the growth of the service sector and changes in family patterns. Entrepreneurship associated with small business emerged as a key capacity along with traditional job skills.

The transcendence required was not beyond the market but beyond the narrow income-based supports that were showing every sign of defeating the very purposes for which they were established:

> Benefit systems should be reformed where they induce moral hazard, and a more active risk-taking attitude encouraged, wherever possible through incentives, but where necessary by legal obligation.[7]

It should be noted, however, that such a legal obligation was seen as only one part of a strategy to lift people out of disadvantage.

Addressing family supports and family dysfunction, social capital and social networks, education and training, emotional and psychological development and employment opportunities all had to be brought to bear on what came to be seen as 'welfare dependency'.

What the current issues associated with welfare are revealing is the assumptions that lay behind the proposals of reformers like Paine, Beveridge and Keynes. They assumed functioning families, social order, a desire for self-improvement and an acceptance of personal responsibility. By providing security and opportunity, the State would allow all to share to the full in the 'social heritage' of the times.

Today we can point to sections of our nation where such assumptions no longer apply and where 'law and order within' and 'law and order without' have crumbled in the face of a range of pressures, temptations and moral hazards, to the degree to which they are now 'the issue'. As has so often been the case in recent years, Noel Pearson has come up with the words to describe our predicament: 'It's now a question of personal responsibility as well as legacy,.8

Let me put it in these terms. For the advocates of welfare from Paine to Marshall, personal responsibility was assumed and the role of government was to allow it to work by guaranteeing rights and helping develop individual capacities. For the new radicals like Giddens and Pearson, responsibility cannot be assumed and the role of government is to recover it where it has been lost.

Hopefully, then, this analytical and historical overview provides a context for the discussion of mutual obligation in Australia today:

- our rights and responsibilities are linked,
- exercising our rights requires capacities,
- social rights developed to equalise opportunities and to look after those in need,

and

- all too often personal responsibility was assumed rather than being made the subject for attention.

Less said but equally important in this more sophisticated analysis of modem welfare was the recognition that the *way* the State operated in respect of its service delivery was also important. Giddens speaks of a 'top-down' approach that gave insufficient attention to 'personal liberty' .9 Pat Dodson was even more to the point when he noted that 'mutual obligation' should be 'a real negotiation' involving not just changed behaviour in Aboriginal communities but changed 'public sector behaviour' too.[10]

Also noted in the approach of Giddens and Pearson is the recognition that the overall approach of a community to its individual and collective responsibilities will have an impact on 'inclusion' and 'exclusion'. Giddens talks of the 'revolt of the elites' manifested by fortress communities and a pull out from public education and public health systems. 11

Pearson has not only emphasised the way the system of income supports worked in the specific context of Aboriginal communities to trap many in poverty but also he understands that many of the attitudes of mainstream Australia about history and dispossession, Aboriginal culture and languages, and autonomy and self-determination are part of the prob1em.[12]

They are both making a profoundly spiritual point: we are all in this together and assumptions and attitudes are part of the fabric that help define who we are and what type of society we create.

MUTUAL OBLIGATION

Today mutual obligation policies are all the rage.

Why shouldn't those who receive benefits meet certain conditions? Isn't this just a reflection of the fact that we all have responsibilities as well as rights?

In particular, why should those who receive benefits that enable them to avoid work be supported? Isn't it only fair that they seek work or undertake the training necessary to find it? If they are not willing to act in this way, why shouldn't they lose the benefits?

These are the sorts of questions that are behind mutual obligation policies. The lines of reasoning they have been used to back this up are as follows.

Firstly, we see the view that social and economic rights are 'negotiable claims that balance' not only the freedom and autonomy of the claimant, but also the concerns and voices of other members of society,.13 This leads to the conclusion that obligations should be imposed on welfare recipients on behalf of the taxpayers.

Secondly, we see the view that social and economic rights are undermining personal initiative and the desire to work. Obligations should be imposed on recipients in their own interest, even if they did not recognise it immediately. It is called 'compassion with a hard edge'.

Like all policy proposals of the 'social engineering' variety, mutual obligation carries a high degree of risk - particularly for the recipients.

As the report by the Brotherhood of St Laurence and St Vincent de Paul in 2003 showed, those with social, intellectual, mental health, addiction, education or communication difficulties - particularly in Indigenous, recent migrant or refugee communities - were the victims of strictly and narrowly applied mutual obligation po1icies.[14]

Rather than being uplifted into the mainstream, many find themselves displaced and looking for support from family, state government or charitable organisations. Such displacement has also been the experience in the U.S.A. of an estimated 10-15 percent of former welfare recipients. IS

Pat Dodson and Noel Pearson hit the nail on the head when commenting on the application of mutual obligation principles to Aboriginal communities:

> Aboriginal people and those community leaders who are charged with engagement between the community and governments have a responsibility ... to obtain the resources needed to sustain their culture, language, physical wellbeing and other aspects of their lives to the future of our people - but not at the expense of the basic human rights of those whom they represent. [16]

They point out that in many Aboriginal communities there is 'a legacy that has ruptured the natural reciprocity and responsibility that underpinned their traditional society' .[17] Exactly the same point could be made about those for whom drug and alcohol abuse has undermined the basic elements of personal responsibility.

In assessing any mutual obligation regime, we should look beyond the theory to the actual consequences. This means situating it in the real world context of individual capacities and circumstances and labour market conditions.

For many the process of capacity development and the recovery of responsibility can only happen within a timeframe much longer than that imposed by the government or required by the labour market. Whether or not they will be better off will be determined by the nature of the job they gain and the wages and conditions attached to it. Indeed they are usually being pushed into low-wage labour markets.

In the United States, an evaluation of the 'workfare' measures by *The Economist* magazine concluded that a good deal of 'idleness' and 'dependency' was overcome, but not poverty. 'America's second challenge', they say, 'now that so many former welfare mothers have ended up in low-paying jobs, is to raise the incomes of the working poor' .[18] In Australia this would be less of an issue, but with the changes now occurring in the labour market one cannot expect it to stay that way.

Once rights are seen to be negotiable - either in the labour market or in the context of welfare provision - such problems are bound to emerge.

History and experience tell us that once the balance between collective support and individual initiative is upset, life can quickly become 'solitary, poor, nasty and brutish' for too many. [,19] Mutual obligation policies can become, as the *Much obliged* report of 2003 puts it, not so much a case of 'welfare to work' as 'welfare as work'.

We are still left, however, with the conundrum that personal responsibility is necessary if our rights-based society is to work. All too often our policies and our implementation of them ignore the personal (and indeed the locational elements of poverty and disadvantage).

Talking of the personal is challenging but necessary. Dealing with the personal is even more challenging but still necessary. We need government and non-government agencies to be responsive and we need individuals and communities to accept responsibility. However, this can't simply be assumed, as it needs to be developed along with, and in concert with, initiatives to develop the skills and capacities needed for people to participate in the modern economy and for communities to properly organise their affairs.

AN ENABLING STATE

My view is that the problem with the modem welfare state is not that it is a welfare state but that it has yet to become a truly *enabling* state. In the first place, we see regular outbursts of ideological overkill from left or right. In the second place, there are timelines and resource implications here that are much longer than the regular election and budget cycles of modem government. All too often, then, the difficult areas of government are put into the 'too hard basket' to wait for another day and another idealist.

The fact is, however, that we now have a range of policies and initiatives that we know can work, including strong law enforcement in respect of domestic violence and child abuse, new models of delivering health, education and training, linking individuals and communities to job opportunities, support for leadership development, measures to improve parental and community responsibility, and the use of place and case management.

For all of these measures to work there needs to be a focus on the longer term. This means a re-prioritisation of government activity towards:

- early childhood development,
- capacity building and lifelong learning,
- family-friendly work places,
- localised and personalised service delivery

and

- developing community leaders.

Such an approach takes us back to where we started with the early radicals - social rights as a platform for participation and a support in times of need. In this context, I commend the Brotherhood of St Laurence for their own strategy of working not just to alleviate, but to prevent, poverty. [20] .

None of this will work without an understanding of the personal, the historical, and the circumstantial. Nor will it work without a substantial commitment by government, business and community.

However, more than anything else connections need to be established between individuals, communities, and the real economy. It is partly the responsibility of the business community to develop such connections; and we have seen how it can be done in the mining industry throughout regional Australia. These initiatives need to be directly supported by government and also backed up by education and training programs. All too often we have postponed economic development in favour of income support because, as Noel Pearson has observed, 'it is just too hard to figure out how to assist disadvantaged people, especially if they are indigenous' .[21]

Put into this broader context of social and economic supports, mutual obligation can have a place. It may complement the sorts of measures outlined above, but cannot replace them; and it can only work if it is genuinely mutual, with obligations being accepted by service providers. It involves responsiveness as well as responsibility.

There are no shortcuts when it comes to our individual and collective responsibilities. We have to be purposeful, patient and realistic. Indeed in this whole debate we all too often see bold assumptions and narrow categorisations of human nature, to the extent that it is sometimes hard to recognise real people living in real communities.

What we ought to have learnt is that human welfare requires rights, capacities and responsibilities. Rights need capacities and capacities need to be exercised. And it is not just about 'them'; it is also about 'us'.

What we do know is that when our nation's commitment to equal opportunity is effectively discharged and combines with a desire for change and improvement on the part of individuals and communities, significant results follow.

Indeed I would call it liberation.

Jonathon Sacks puts it this way:

> When light is joined to light, mine to yours and yours to others, the dance of flames, each so small, yet together so intricately beautiful, begins to show that hope is not an illusion'. [22]

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