

**FIXING FEDERALISM: A FEDERATION
FIT FOR PURPOSE IN A CHANGING AND
CHALLENGING WORLD**

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Any responsible business or NGO will regularly examine its structures and processes — from policies and procedures on the ground to board arrangements at the top — to make sure they are right to meet the challenges and opportunities of the times. A nation should be no different.

Today I want to claim that our federal model is the right model for a period in which major global trends and forces are reaching into every nook and cranny of our economy, our society and our daily lives. But it is also time to look at the way that federal model is operating, and how it might be improved.

Today I want to point to some of the trends I think will most shape Australia's future; I want to identify some problems with the way our federation is currently working and suggest some ways forward; and I want to examine the currently live question of Indigenous recognition in the Constitution.

I GLOBAL TRENDS

Let me begin with the global context. To my mind, there are five major trends that will affect every individual, every family, every community, and Australia as a whole.

They are the return of Asia, the movement of peoples, the shifting disease burden, the advance of technology and the changing climate.

For reasons I will explain, I think that each of these trends, which are global in both their causes and their effects, are best addressed in Australia through a cooperative federal framework. Let me briefly describe them one by one.

A Return of Asia

At the centre of the return of the Asian region to a position of global predominance is the growth of China.

The Chinese economy is now, in purchasing power parity terms, bigger than the US. But per capita, the US is ahead by a factor of about six. If you think, as I do, that the Chinese Government will not be content to leave their citizens six times poorer than those of the US, then you know they will aggressively pursue growth for many years to come. We sometimes hear talk of a 'slowdown' in China. But that is a slowdown to around 6.5 per cent per annum off a \$14 trillion base. As Reserve Bank Governor Philip Lowe recently pointed out, when China's per capita GDP hits around 50 per cent of the US, its economy will be twice as large.

Whether you welcome the rise of China or fear it, the one thing you cannot do is ignore it.

B Movement of Peoples

Linked to the return of Asia is the movement of peoples. There are more than 60 million refugees in the world today. Large-scale migration and its backlash have arguably led to Brexit in the UK, populism in Europe and Donald Trump in the US.

But it is not just refugees. International tourism is also increasing rapidly. In 2010, the UN World Tourism Organisation predicted that there would be 1.4 billion annual

international tourists by next year. Instead, it happened last year. This was an increase of 6 per cent on the year before — at a time when the global economy grew by just 3.7 per cent. And the major driver of that growth is Asia, particularly China.

C Shifting Disease Burden

Another global trend is the shifting disease burden. For several hundred years, as societies got wealthier they also got healthier — investments in public health and hygiene led to a massive reduction in the spread of communicable disease.

Today, increasing wealth and the associated lifestyle changes mean a massive rise in non-communicable diseases such as heart disease, cancer, obesity and diabetes. The World Health Organisation says: ‘These are among the most democratic of all diseases, affecting populations at every income level in every country, but the poor suffer the most.’

In Australia, almost 6 per cent of our population now has diabetes — over 1.2 million people. Apart from the massive human cost in terms of health complications and premature death, this is contributing to an unsustainable rise in the financial cost of health to state budgets. On current trends, health will completely swamp the budgets of some of the smaller states within a few short years.

D *Technological Change*

The fourth global trend is the dramatic increase in the rate of technological change. Information Technology is now more pervasive, more interconnected, and more intelligent than many of us have yet come to grips with. More than 20 billion devices are currently connected to the internet — and therefore potentially to each other — and this number is expected to grow exponentially in the years to come. New currencies in the form of encrypted codes store value in exactly the same way as the money in our wallets — but without government or central bank oversight. Artificial Intelligence already operates in realms of discovery beyond the capability of the human brain. The confluence of 5G, the Cloud and Artificial Intelligence present enormous challenges for governments to make sure technology works well for all of us.

E *Climate Change*

And finally, while in Australia some people still argue about the science of climate change, the economics tells a very different story. The Governor of the Bank of England, Mark Carney, recently said that any company that ignored the crisis of climate change would ‘go bankrupt without question’, and that ‘the most important thing now is to move capital from where it is today to where it needs to be tomorrow’. The International Energy Agency predicts that in the next five years, renewables will account for 40 per cent of global energy consumption growth. By 2023, renewables will account for one third of electricity generation.

II GLOBALISATION AND FEDERALISM

As the effects of these five inter-related global trends are felt in Australian communities, it has never been more important for governments to respond to local concerns in all their uniqueness and particularity. We are seeing, if you like, the revenge of the local in the rise of so-called ‘populism’, which is driven by the frustration of people on the ground who feel distant from the ‘elites’ in control. Even if populists such as Donald Trump are offering the wrong answers, this does not mean the questions themselves are illegitimate.

If you were designing a system with all this in mind, you would want a strong, coordinating national government, as well as flexible, innovative, and responsive state governments — and you would want the principle of subsidiarity built in.

In other words, you would want the kind of system our founding fathers designed and embodied in the Australian Constitution.

In fact, in their 2007 study prepared for the Council for the Australian Federation, Anne Twomey and Glenn Withers said:

Federalism is regarded as one of the best governmental systems for dealing with the twin pressures produced by globalisation — the upward pressure to deal with some matters at the supra-national level and the downwards pressure to bring government closer to the people.

III SUCCESSFUL REFORMS UNDER THE FEDERAL MODEL

How do we know that a system designed at the tail end of the nineteenth century can handle the reforms made necessary by the pressures of globalisation? Because we have seen it before.

The Hawke-Keating economic reforms of the 1980s and 1990s happened because they had to — the world was telling us that we needed to change. The old closed-in model of high tariff walls, currency controls, protected banks and industries — in fact, the very economic model many of the founding fathers thought would serve us very well indeed — was breaking down under the pressure of global forces and an interconnected global economy.

Hawke and Keating changed all that — and they did it without constitutional change and with the cooperation, in many cases, of the states and territories.

There are many other examples of successful reforms under the federal model in Australia.

Some of these were led by the Commonwealth. I am thinking, for example, of Prime Minister John Howard's changes to gun laws in 1996. Watching the news in the past week you cannot help but be reminded of the difficulty some other nations — principally the US — have in regulating private gun ownership. John Howard got the job done here in Australia, and with the close cooperation of many of the states: Australia's National Firearms Agreement was achieved through the mechanism of the Australasian Police Ministers Council.

Another example of Commonwealth leadership is the National Competition Policy that passed through COAG in the last year of the Keating Government. In the early nineties, Prime Minister Keating recognised that the Australian economy was being held back by artificial advantages given to government-owned businesses and public sector monopolies. Many of these were owned by the states. And a lot of burdensome regulation was on state books, not federal. The answer was a National Competition Policy. The reforms were agreed, not imposed,

between the state and federal governments. The states were given freedom and flexibility to determine exactly how they would achieve the reforms. An independent body — the National Competition Council — was established to monitor implementation of the reforms.

Most importantly, the benefits of reform were shared. If you grow the economy, the federal government will benefit disproportionately because they collect the company and income tax. The National Competition Policy acknowledged that and compensated for it via National Competition Reward Payments to the states. And it worked. The Productivity Commission has argued that the National Competition Policy played a big role in our quarter century of unbroken economic growth.

One of the strengths of the federal model is that any member of the federation can take the lead on an issue. If it works, well and good. Others may follow. If it fails, the damage is limited. In recent years, some of the most profound reforms — particularly social reforms — have come from the states. My government in Victoria led the way in providing a free Parliamentary debate and vote on the issue of abortion law reform. Many other jurisdictions have followed our lead, and New South Wales looks set to do the same. More recently, Victoria has again led the way with a free Parliamentary debate and vote on Voluntary Assisted Dying legislation. It seems to me highly likely that other jurisdictions will go the same way.

When you think about all these state-led social reforms, and add to that the Commonwealth reforms to the *Marriage Act* that took place at the end of 2017, a definite trend emerges: in the last decade or so, Australian parliaments have been extending choice and rights to Australians — and they have been doing it through genuine parliamentary processes involving real debate on the floor and free votes. When we decriminalised abortion,

for example, we had MPs with a wide range of opinions on both sides, and some even spoke of changing their minds as a result of the debate.

Even those who do not like the particular policy results I have mentioned should appreciate the value of parliaments across the federation working the way they are supposed to. In my view, this momentum will continue, and we will see it applied more widely; including on questions of Indigenous rights and recognition. I will come back to that issue in a moment, but before doing so I want to briefly mention three other things we can do to strengthen our federal model.

IV FUTURE REFORMS

First, if our successful system of co-operative Federalism is to continue, we need to address the continuing fiscal imbalance between the Commonwealth and the States. I have pointed out in many places — going back to my Hamer Oration in 2014 — that this question is inextricably linked to the question of tax reform and that by far the best way to address this imbalance is to increase the GST, compensate lower-income Australians through the tax and benefits system, and distribute the proceeds fairly between the Commonwealth and the States. The reality is that with a growing and ageing population, the pressures on the States and Commonwealth for increased spending on health and aged care are inescapable.

Second, we need to make COAG work better. When COAG works well it can be a great facilitator of change and reform — a great asset to the Federation. But when it does not meet or it works badly, it is a deadweight that drags everyone down. As I have pointed out in a number of places, COAG needs reform to remain fit for purpose. It should have an independent secretariat,

regular meetings, and an agreed forward agenda of major strategic issues to discuss.

I remember, as Chair of the COAG Reform Council, addressing COAG in 2014 on these very issues, and saying to them that I would recommend putting energy policy on the agenda for the March 2015 meeting, because energy policy in Australia was a shambles, and it needed a cooperative COAG effort to get it right. But history shows that it has taken the better part of four years to get on top of what everybody could see was an emerging train wreck.

Third, we need a new COAG Reform Council. The decision by the Abbott Government to abolish the Reform Council in 2014 was a retrograde and backwards step. The COAG Reform Council existed to independently measure and report on the progress of the COAG Reform Agenda — an ambitious and worthwhile set of goals agreed to by every government in Australia to improve social and economic participation, reform regulation, increase competition, improve health systems and tackle Indigenous disadvantage. We need a similar set of objectives today to lift productivity and the performance of our nation. But whatever is agreed, it will require an independent body to monitor and report on results. What gets measured, matters.

V VOICE, TREATY, TRUTH

Finally, let me briefly address the big constitutional question of the day, and that is Indigenous recognition. Aboriginal people have made clear what they hope for, and it is summed up in the theme of this year's NAIDOC Week: Voice, Treaty, Truth.

The Uluru Statement from the Heart is short and direct: it calls for 'the establishment of a First Nations Voice enshrined in

the Constitution.’ We, in this room, rightly celebrate the achievement of federation in 1901, but we should also acknowledge that there was a voice missing from the process. It does not detract from the achievement of the founders to point out their blind spots. Australia is not the only nation to carry the wounds of a founding injustice. But great nations have the capacity to address them.

First Australians Minister Ken Wyatt is right to say that when it comes to the question of treaties: ‘it’s important that state and territory jurisdictions take the lead. When you consider the Constitution, they are better placed to undertake that work.’

Victoria’s treaty process is well advanced. There is a Victorian Treaty Advancement Commissioner in place (Jill Gallagher) and a First People’s Assembly is about to be elected by Indigenous Victorians. Commissioner Gallagher says she is hopeful a treaty will be negotiated in this term of the Victorian Parliament. Queensland, the Northern Territory and Western Australia have all made moves towards treaty-like arrangements.

But if reconciliation is to truly heal the nation, we will need a national approach, and a national acknowledgment of the truth of our past. This is consistent with the views expressed recently by two former Chief Justices of the High Court — Murray Gleeson and Robert French — who in separate speeches have both publicly endorsed the proposal for Constitutional recognition of Aboriginal and Torres Strait Islander peoples. As *The Conversation* noted in an article of 1 August: ‘The intervention of two esteemed and vastly experienced judges in a controversial and complex debate is significant and provides an important signal of hope in finding a way towards political agreement on the issues.’

VI CONCLUSION

We are extremely fortunate in Australia to have been gifted a model of governance that is, as Twomey and Withers said, ‘regarded as one of the best governmental systems for dealing with the twin pressures produced by globalisation.’ It has served us through successive waves of reform, and has the capacity to accommodate the changes that are needed in an emerging world order defined by the return of Asia, the movement of peoples, a shifting disease burden, the advance of technology and a changing climate.

If we can better align the roles and responsibilities of the Commonwealth and States, reduce the fiscal imbalance, elevate the status of COAG and maintain our faith in cooperative federalism, we will have a federation fit for purpose in a changing and challenging world.

And we can further do justice to our people and our Constitution, I believe, by recognising our Indigenous peoples in it.

