

**TREATY TALKS: THE ROLE OF ANTaR AND THE
PEOPLE'S MOVEMENT IN SUPPORTING INDIGENOUS
CALLS FOR A TREATY PROCESS**

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Firstly, I'd like to acknowledge the traditional owners of the land on which we meet today, the Ngunnawal people. I'd also like to thank AIATSIS for inviting me, as National Coordinator of ANTaR, to contribute to this important seminar series and, more generally, to compliment them for the valuable contribution the Institute has made over many years to research and debate about Indigenous issues.

ANTaR is an independent, national, and mainly non-Indigenous organisation set up in 1997 to help protect native title rights and advance the reconciliation process in Australia. ANTaR's beginnings trace to the height of the Wik backlash in 1997, when angry images from the bush were appearing nightly on television news, together with very emotional appeals from individual farmers to save the family farm. The Howard government and farmers' organisations were in full swing whipping up fear and spreading misinformation about the consequences of Wik.

In the midst of this, representatives from a number of non-government organisations were invited to a meeting in Canberra of the National Indigenous Working Group on Native Title or NIWG. Represented at this historic meeting were the Australian Council of Social Services (ACOSS), the ACTU, the Australian Council for Overseas Aid (ACFOA), Oxfam/Community Aid Abroad, World Vision, the Australian Conservation Foundation, the Australian Youth Policy Action Coalition, the Edmund Rice Centre and the Australian Catholic Social Justice Welfare Commission. The NIWG asked these NGOs to join with a huge grouping of individuals expressing concern about extinguishment of native title. The result was a peoples' movement which became known as ANTaR. The first Sea of Hands was held in front of Parliament House here in Canberra in October 1997.

The circumstances of ANTaR's beginnings are different from those we find ourselves in now. While the people's movement has grown considerably since that time, we now face a changed political climate, with the urgency of a native title 'crisis' largely neutralised within complex policy and judicial processes, and a hiatus in the reconciliation process. This changed climate has required us to reconsider and adapt our goals.

When ANTaR was set up, there was little consideration of how long it would need to exist as an organisation; however, we have recognised the importance of being here for the long haul. Not surprisingly, these factors have also been central to the re-emergence of Indigenous calls for a treaty process. In the language which has emerged at the end of the first decade of the reconciliation process, it seeks to set an agenda for dealing with the 'unfinished business' of reconciliation. I think by now we all realise that achieving the goals of this agenda will take many years. Just as the first decade of the reconciliation

process has been required to get us to this point, the likelihood is that it will take at least another decade of hard work to begin to see the fruits of a treaty campaign.

In furthering consideration of the issue of a treaty process, what I'd like to focus on today is the significance and needs of educating and securing support from non-Indigenous Australians for a treaty process.

As part of the 'national conversation', as Evelyn Scott has put it, the need for education in the non-Indigenous community about the issue of treaty is paramount. Specifically,

- majority support from non-Indigenous Australians will be essential in convincing any federal government to embark on such a process and in seeing it to fruition;
- there is an obvious public interest in the issue as one which will fundamentally shape the nation's future, and;
- there is already underway a parallel process of education and consultation within the Indigenous community about the issue.

This last point is particularly significant for non-Indigenous Australians. As you may know, ATSIC has established a s.13 committee, the National Treaty Support Group, to advise on, amongst other things, an Indigenous information and awareness campaign and plebiscite on the issue. The information and awareness campaign is already underway and a plebiscite is planned for 2002.

In doing this, ATSIC has recognised the need for broad Indigenous support and endorsement for a treaty process before formal negotiations can occur. Apart from anything else, it is unlikely that governments and non-Indigenous Australians will take the initiative seriously unless broad Indigenous support is demonstrated in such a way. It is appropriate, then, that a parallel process of education in the non-Indigenous community occurs at the same time.

The other important implication for non-Indigenous Australians is that any non-Indigenous campaign of support must respond to, rather than attempt to lead or pre-empt, the Indigenous agenda. Indigenous people must be given the opportunity to form a consensus about what it is they want and, as importantly, what the process should be. Process, in relation to such an issue, and particularly given the diverse interests and locally-based perspectives of sovereignty within the Indigenous community, is as important as the final product of a treaty process.

This is a point on which we need to be very clear. There is at present, in my view, undue focus by non-Indigenous people on the content and form of a treaty document or documents. This is understandable, but nonetheless not helpful. It is just as important to educate non-Indigenous Australians about the central significance of process and to explain to non-Indigenous Australia that the form and content of any resulting documents or agreements will flow from the processes established in the first place. The quality of the outcomes will depend on the time and attention paid to ensuring that the processes are right.

This issue was discussed in some detail in ANTaR's submission last year to the Council for Aboriginal Reconciliation's discussion paper on the legislative requirements of reconciliation. Our submission pointed out that a major reason for the success of the treaty process in Canada [does this refer to estab of Nunavut? – explain briefly] was that

it was given plenty of time, with a great deal of thought and discussion allowed for preliminary issues, giving later negotiations over substance the best chance of succeeding.

In the present Australian context, the federal government refuses even to support discussion of the idea of a treaty process. The Indigenous position is still in the preliminary stages of taking shape. We need to guard against getting ahead of ourselves, both on process as well as on matters of detail. I am not suggesting that questions of content should not be discussed at this stage. There is, in fact, much that Indigenous people have already consistently argued for that is relevant here. The strong support that has been expressed recently by Indigenous leaders and from within the broader Indigenous community for a treaty process has a long history, of which non-Indigenous Australians need to be made aware. Indeed, an understanding of this background is essential to understand the current calls for a treaty process.

Over the last two decades, for instance, there have been a number of initiatives and reports which have raised and given substance to the idea of a treaty process, and to the kinds of issues which could be the subject of a treaty or treaties. One was the Aboriginal Treaty Committee's call for a treaty in 1979, taken up by the National Aboriginal Conference, but called a Makarrata to allay concerns about using the term treaty. The Bicentennial year of 1988 saw the then Prime Minister Bob Hawke's commitment to negotiate a treaty. This was called a compact for similar reasons. Significantly, this offer was made in the context of and in response to the Barunga Statement, a set of demands including the call for a treaty, which was presented by the Northern and Central Land Councils to Hawke at the Barunga Festival in the Northern Territory in 1988.

In 1991 the Royal Commission into Aboriginal Deaths in Custody released an extensive report and list of recommendations, many of which focussed on structural issues underlying racism and Indigenous disadvantage.

But perhaps the most significant background to the current debate came in the wake of the 1992 Mabo decision. The process of negotiation between the Commonwealth government and Indigenous representatives resulted in an agreement by the Commonwealth in 1993 to a three-tier response to the Mabo decision. These were:

- the enactment of native title legislation which validated existing land titles and enabled Indigenous peoples to assert their property rights in land under a new regime
- the establishment of an Indigenous Land Fund and the Indigenous Land Corporation to enable the purchase of land for Indigenous peoples and to re-establish an Indigenous land base; and
- a commitment from the Commonwealth government to negotiate package of social justice measures to address the widespread disadvantage of Indigenous peoples as a result of colonisation and dispossession. This package of measures was to be called the 'Social Justice Package'.

The third stage of this agreement has never been enacted. However, extensive research and consultation was conducted in 1994-95 with Indigenous people throughout Australia, who were well aware and informed about the proposal for legislative and other measures which were to be aimed at equitable outcomes.

ATSIC, the Council for Aboriginal Reconciliation and the HREOC Aboriginal and Torres Strait Islander Social Justice Commissioner were invited to produce submissions on the Social Justice Package. These submissions – the product of extensive consultation and discussion within the Indigenous community – were completed in 1995 and detail the elements of a broad Indigenous agenda for change that is essentially being revisited in the current debate over a treaty process. They represent an Indigenous consensus on the major issues.

The Indigenous consultation process undertaken in preparing the three submissions revealed widespread, in principle support for a treaty process, linked to associated regional agreements or sub-treaties.

ATSIC's view was that 'A treaty must forge the ground rules for relationships between Indigenous and non-Indigenous Australians, based on justice and equity and the proper recognition of Indigenous rights.' It saw a treaty as a living document, capable of accommodating change and evolution as both cultures change and evolve.

Further, the submissions pointed out that, *as a priority*, poor public services and living standards *had to be addressed*. As the Council for Aboriginal Reconciliation submission pointed out, Indigenous rights include such matters 'as a right to the socially accepted standards of housing, community environmental health services, personal health services, education, empowerment in the political system, equality under the law – in short, the range of rights which most members of the wider Australian community not only enjoy in their lives and take for granted for themselves, but assume are enjoyed by all others.'

These submission recognised that the persistent failure of governments to meet basic Indigenous needs required new frameworks. However, the reports not only saw no inconsistency, but in fact proposed a fundamental linkage between so called practical reconciliation measures and a broader rights agenda, including a treaty.

Of course, history records that the Social Justice Package was ignored by the present federal government on its election in 1996, repudiating the agreement negotiated with Indigenous leaders in 1992.

Instead, we saw the Howard government react to the High Court *Wik* decision with un-negotiated and adverse amendments to the Native Title Act. Ironically, this approach helped to galvanise the people's movement for reconciliation and, in turn, bolstered by the extent of non-Indigenous support which the people's movement represented, the renewed push by Indigenous people for a treaty process.

The other significant event has been the winding up of the Council for Aboriginal Reconciliation and with it the formal process of Reconciliation begun in 1991. CAR's final report stresses the need for a formalised national process for dealing with unfinished business and recommends, among other things, pursuing treaty talks.

As with the many significant reports before it, the Commonwealth government's response has been to ignore CAR's recommendations. Instead, the government has initiated a policy response it terms 'practical reconciliation'. The term is meant to convey the idea of realistic and genuine outcomes which should be measurable in practical terms. In reality, 'practical reconciliation' appears to be nothing more than a meagre rehash of the old policy order of inadequate programs in health, housing, education, and the like. In this case, the Commonwealth's policy is specifically framed to counter and discredit a

rights-based agenda. The neo-assimilationist and anti-self-determination character of so-called 'practical reconciliation' represents a significant road-block in terms of national progress towards reconciliation.

While the present government's refusal to consider a legislative framework and formal process to advance the reconciliation agenda (let alone more symbolic initiatives, such as a formal national apology to the stolen generations), is clearly counter to the recommendations of the Council for Aboriginal Reconciliation. It is a fact that all governments, both Coalition and Labor, have a history of ignoring or failing to implement the recommendations of inquiries and reports.

Experience with the Native Title Act has shown that non-binding agreements struck with Indigenous representatives offer no security against repudiation by a subsequent government with a temporary majority. This underlies the need for new approaches which will provide for outcomes which are binding on governments. Which brings me now to the ongoing role of ANTaR and the people's movement in supporting an emerging Indigenous treaty campaign. An important point I would like to stress is that we should not imagine that the current road-blocks will be removed simply by removing the present federal government or Prime Minister. The significance of the present government's approach lies not just in its control of policy and the machinery of government. It also relies heavily on the ongoing entrenched attitudes and ignorance about Indigenous issues held by many, probably the majority, of non-Indigenous Australians. Many non-Indigenous Australians remain fearful of the past and of what revisiting that past may mean for their own futures. Public opinion and attitudes remain vulnerable to campaigns of deliberate misinformation.

The AC Nielson Age poll which indicated that 53% of Australians supported the idea of a treaty is an encouraging sign. The result is particularly significant given that there has been virtually no public education about the benefits of a treaty process and given the current federal government's public opposition to the idea. But the reality is that this figure needs to be boosted considerably for a future government to feel confident in running with the initiative.

Public attitudes and opinion are therefore arguably the most important areas to be addressed by any campaign in support of a treaty process, not least because convincing a future federal government to embrace a treaty process will require the demonstration of significant majority support from non-Indigenous Australians. It will also require a significant expression of bipartisan support. And we need to be prepared for the fact that a treaty process, once initiated, will take a long time and will require the long term engagement and interest of the wider Australian population.

Against this, our main strength remains the existing network of national, state and local reconciliation bodies which have built and sustained the people's movement for reconciliation. There are currently three national reconciliation bodies – ANTaR, Reconciliation Australia, which replaces the Council of Aboriginal Reconciliation, and the Federation of State Reconciliation Councils. These bodies support hundreds of local reconciliation groups which carry out a wide variety of activities and events focussed mainly on community education. Local reconciliation groups have already been particularly active in holding public meetings on the issue of a treaty. This network needs to be strengthened and developed, a task made more difficult with the demise of CAR

and the reduction of federal government funding for the reconciliation process. Capacity building is currently a priority of these organisations, including ANTaR.

The experience of ANTaR is illustrative here. From its commencement, ANTaR has worked with various sectors of the (largely) non-Indigenous community in an attempt to broaden the base of non-Indigenous support.

However, important as this network is, there is also a need to increase the engagement of other non-government organisations and sectors in educating about and supporting a treaty process. The experience of ANTaR is illustrative here. From its commencement, ANTaR has worked with various sectors of the largely non-Indigenous community in an attempt to broaden the base of non-Indigenous support. For instance, in the lead-up to the passing of the Native Title Amendment Act, ANTaR worked closely with a number of sectors, with effective results. These groups included the Ethnic Communities Councils, Lawyers for Native Title, who developed and launched a statement opposing the amendments, and ACFOA, the Australian Council for Overseas Aid, which was assisted to coordinate support from aid agencies. Australian aid agencies generally have a very human-rights-based approach to development, which they brought to bear in support of Indigenous rights in Australia. Then there were AYPAC, the Australian Youth Policy Action Coalition, which has since been defunded by the present Coalition government, and the National Union of Students, who along with ANTaR's youth wing were able to disseminate a great deal of information to youth networks. Again, youth networks remain an incredibly important sector that needs to be engaged in terms of any treaty campaign. Then, of course, there were the faith groups, particularly the major Christian churches and the Jewish faith, who took a very strong stand against extinguishment. And, lastly, environmental groups and ecological scientists helped to develop and promote their opposition through the perspective of environmental protection and respect for Indigenous relationships to land.

ANTaR also assisted Rural Landholders for Coexistence (RLC) to promulgate an alternative view from the bush. RLC was formed to represent the views of farmers who disagreed with the approach of the main farmers' associations and was launched in November 1997, at the big Sea of Hands outside Parliament House. RLC members presented the view that coexistence with Aboriginal people was possible through dialogue and negotiation and that the rights of native title holders deserved the same level of respect as the those of other property holders. RLC has conducted a series of workshops in rural Australia and has produced a Statement of Principles and a publication to guide farmers seeking to enter agreements, *Talking Common Ground*. ANTaR and RLC are currently developing plans for new ways to work together for the near future.

ANTaR has also worked closely with ACOSS since that first meeting in Canberra. Although ACOSS joins very few other organisations, it is a proud and active member of ANTaR. ACOSS some time ago voted to make Indigenous issues one of its priority policy areas. Last week, for example, ANTaR and ACOSS held a joint seminar here in Canberra, entitled Practical Reconciliation or treaty Talks: Which way forward for Indigenous social services? The purpose of the seminar was to provide accurate and detailed information to NGOs in the social and human services sector about the developing Indigenous treaty campaign and to compare a treaty process with the 'practical reconciliation' proposals of the current Federal government.

Important as this network is, there is also a need to increase the engagement of other non-government organisations and sectors in educating about and supporting a treaty process. ANTaR plans to hold further seminars in the future targeted at other sectors. In doing so we recognise that ‘practical reconciliation’ rhetoric incorporates the most significant arguments against a treaty process. Practical reconciliation arguments are persuasive because they harness a plethora of common prejudices, factual errors and negative attitudes which exist within the broader community. An essential task is to understand this broader attitudinal environment so that effective responses can be formulated.

ANTaR has been researching prevailing negative attitudes in Australia and is identifying the dominant arguments against a treaty process, including the underlying arguments and values which form the ‘sub-text’ of the debate. This sub-text, if not addressed and resolved, will undermine and subvert any attempt to persuade people about the potential mutual benefits of a treaty process for all Australians.

Many of these arguments are long-standing and have proven effective and powerful over time. Whether they are applied to Aboriginal land rights, human rights or the prospect of a treaty process, they will continue to touch deep chords with the general public.

The following are arguments put forward recently by Northern Territory Chief Minister Dennis Burke in the Northern Territory parliament, in support of reducing Aboriginal land rights in the Northern Territory. The Territory is a place where issues of division have been part and parcel of the power base of the Northern Territory government. The sorts of arguments here are ones that we also see in other sectors of the public media and from commentators – issues like:

Northern Territory Chief Minister, Dennis Burke - Aboriginal Land Rights

- Aboriginal people want to take our property, take land and resources, and then shut us out.
- It’s true that ‘real’ Aboriginal people have traditional rights, but they still should not be able to do anything which negatively affects ‘our’ interests.
- Indigenous rights create disastrous delays for industry.
- Aboriginal institutions are demanding more powers than elected governments, effectively taking away governments’ supremacy. governments will lose the capacity to regulate in the most basic things, like access to the seas.
- We will become a society beholden to Aboriginal people, having to grovel for permission to do things which we should have every right to do.
- This is not an abstract threat; this will affect you very personally. You will lose personal things like your right and ability to earn a living. Your whole life and your family’s could be ruined.
- Rights like the ‘historic public right to fish’ will go, a core part of the great Aussie tradition will be lost.
- Indigenous rights and land councils are way out of step with prevailing values. We should all have the same rights and be treated equally.

- Aboriginal rights are the opposite of a stable, harmonious and industrious society.
- Aboriginal people really just want pots of money.
- Even those who support Indigenous rights are misguided. It is not even in the interests of Aboriginal people if industry collapses, division deepens etc – supporters are being gravely misled. How will more money to spend on grog help Aboriginal people while society and business collapse around them?

I won't discuss each point here, but I think you get the gist of the arguments that are commonly put in relation to issues such as Indigenous rights, particularly rights in relation to land.

I suppose the point is that in the wider domain of daily newspapers and politicians' speeches, the kinds of statements that Denis Burke regularly makes are used as arguments specifically against a treaty. These include such things as:

- It would divide Australia.
- It would create two classes of Australians.
- It's beside the point – the sensible and responsible approach is to get health, education improvements and the like.
- It's not what Aboriginal people want, just what some radical 'black arm band' leaders want.
- It would not be good for Aboriginal people.
- The economic and social costs would be astronomical, while the benefits would be largely theoretical, so it's just not worth it.
- Why should a treaty process have any chance of reducing indigenous problems, when nothing else seems to have?
- A treaty is simply shorthand for a separate Aboriginal nation; Australia's sovereignty would be threatened.
- The status of Aboriginal people is not a question which is up for discussion. They are Australians like the rest of us, end of discussion.

There are also overt arguments aimed squarely at the moral position of those who support Indigenous rights and a treaty process. Many of these are used in support of practical reconciliation, arguing that we need to attack the poverty and other human needs problems first. Not that practical reconciliation could possibly do this, though.

These are some examples of why we should not have a treaty. Others – and this is courtesy of Gary Johns – are an attempt to create a moral high ground, based essentially on assimilation:

- The great moral claim on which the treaty proposal is based is no more than 'We were here first.'
- The principles of Western civilisation will deliver much more for Aboriginal people than a treaty, for example the great principle that all people are created equal.

So these arguments are being developed, recycled and promulgated within the broader community. Many of them are very difficult to argue against, particularly when the general public does not have a firm understanding of the issues and the subject of those arguments.

As well as these sorts of arguments, ANTaR has also identified five psychological strategies or covert arguments being used to undermine public support for a treaty process. Some of these are fairly obvious ones:

1. 'Divide and Conquer':

- keep the stakeholders apart and misinformed, fearful of each other and alienated.
- people who are pushing for a treaty are urban middle classes, radical blacks and lawyers – this means these are 'tricky' people who are trying to trick trusting supporters.
- treaty is a dangerously radical proposal which will DESTROY what reconciliation has achieved so far.
- a treaty will lock in a permanently unequal status for Indigenous people - separate development will ghettoise them.

2. Focus on our Own Social Identity:

Then there are arguments that focus on our own social identity. This strategy keeps us divided and is closely related to the first approach. By getting us to separate into two camps, we come to focus on the qualities and needs of our own in-group and correspondingly to argue against those of the out-group. These kinds of argument are very evident in the examples that I put up before, from Denis Burke.

3. Misinformation and Disinformation:

The less people are informed and feel confident of the facts on issues around a treaty, the less they will support it:

- there is already SO MUCH legislation giving special rights to Aboriginal people
- Aboriginal expenditure has risen massively over recent years and is now A HUGE \$2 billion per annum.

Most ordinary people lack the necessary detailed knowledge to see the fallacy of such arguments.

Many arguments advanced against a treaty process are simply intended to produce a feeling of such uncertainty about the facts that the will to act dissolves. For example, the argument that intermarriage is already deciding the future, because the majority of Aboriginal people are already married to non-Aboriginal people. Without even mentioning the treaty proposal, the covert message is that a treaty process is already obsolete because Aboriginal people are voting with their feet not to be separate. Such arguments can be very disarming for many supporters, let alone people who are already feeling fairly antagonistic or not wishing to support the idea.

Part of the misinformation strategy is to covertly instil fear, as when Paddy McGuinness, for example, warned in the *Sydney Morning Herald* in February last year that

'reconciliation' is a word being used to 'cloak other agendas'. Fear is used to create mistrust. Even his use of the word 'cloak' there suggests deception.

4. Ignorance and misconception, acceptance of negative images as a norm

When people do not see much of a minority group like Indigenous Australians, and most of the images they do see are connected with poverty, violence, ill-health, corruption and so on, they tend to interpret those features to be the norm of that group as a whole. Once these impressions have been created, people are likely to absorb and believe negative interpretations about the culture as a whole. These arguments come down to very, very basic points. For example:

- Aboriginal people are lying about the spiritual and cultural importance of traditional country, and would sell the land for money as soon as look at it;
- self-determination would simply be more money for grog.

5. Attributing Blame

Finally, attributing blame, something that we all do. When we see others in a situation of disadvantage, we tend to attribute their situation to intrinsic causes. In other words, we assume that the situation is their own fault. This natural tendency has been extensively exploited in arguments designed to reduce sympathy for Indigenous rights. A similar powerful belief which many of us relate to as the 'Protestant work ethic' suggests to many non-Indigenous people that Indigenous Australians have to earn the right to a treaty process. They must be felt by non-Indigenous people to have earned it, to be deserving of a treaty. This value base is evident in many of the arguments which can be found in the media and in statements of politicians and others against a treaty process.

Related to this 'blame the victim' area: arguments which appeal to a sense that it is all far too hard and hopeless are also popular. For example:

- a treaty won't work because there is too much internal infighting amongst Aboriginal people;
- no single Aboriginal group would be allowed to represent Aboriginal people as a whole in terms of negotiations and agreement;
- Australia has tried devolution of authority to Aboriginal institutions, but they mismanage things. They are corrupt, or incompetent or untrained;
- Aboriginal organisations are run by self-interested whites calling themselves black.

These arguments represent a great challenge to us and particularly for the community education and confidence building which need to take place in order to advance the cause of a treaty process. The old adage 'Know your enemy' is one we certainly need to take to heart, for by far our biggest enemies are fear and ignorance.

By way of concluding I want to comment briefly on one of the more positive messages by which we can be communicating about a treaty process in order to overcome the fear and ignorance we face. That is to draw attention to the fact that the process of 'treating', as it is called, or agreement-making, is one which this country has embraced in many different ways. This culture of agreement-making is one of which few Australians are aware. There is good reason for this because by and large such agreements have been uncontroversial, struck as a result of the pragmatic need to recognise legitimate interests

and make relationships work. I refer here to such things as native title agreements that have been struck, regional agreements, Indigenous Land Use Agreements, agreements between mining companies and Indigenous custodians and landowners, local government agreements of various kinds, national park joint management agreements – the list is really considerable, and there are literally hundreds of them already in existence.

To my way of thinking, this is the good news story, and fertile ground on which we can build public confidence that a treaty process is the right way to proceed. Australians need to be made aware that a treaty process is not, in this respect, a huge leap into darkness. A treaty process can in fact provide us a secure, lasting framework for reaching agreement on a wide range issues, and for squarely facing the Unfinished Business of reconciliation. Thank you.

Discussion Session

Speaker A: You mentioned alcohol as one of the major problems in perceptions of Indigenous people. I think this is simply a scare and that a treaty won't make Aboriginal people feel better and then be less likely to drink. One of the things that I don't think contributes to reducing this sort of despair is economic independence. And I think Noel Pearson talks about addressing the responsibilities, that if people have responsibilities maybe they are less likely to be getting drunk.

You didn't want talk about the content of a treaty but you mentioned the rights of Indigenous people. Do you think that a treaty process would further a better idea of responsibility as well as rights, so that moving towards greater economic independence and responsibility, to family responsibility, to community self governance which is enshrined in a treaty would really make a difference, just as much as more funding for housing or welfare services provided by government?

David Cooper: Well, that is a possibility. I suppose one of the big issues about treaty and the debate at the moment is just trying to give it some shape – not necessarily specifying exactly what the document would be or exactly what it would contain, but to give it some shape in terms of the kinds of possibilities that are there. Really, the possibilities are limitless. It really is a matter for the negotiations and the sorts of issues that Indigenous people want to include within a treaty negotiation process.

Obviously, a further factor is the structural aspects of the process - how documents or agreements might be given certainty or some kind of constitutional basis. The basic message, I think, is that there is a lot that is possible and could come within a treaty negotiating framework. So yes, those things are possible, but really it is a matter for Indigenous people who are going to be negotiating this process to ultimately decide what is relevant to them and what is not.

Speaker B: I would be interested to know what the treaties in Canada or New Zealand contain of pertinence. Can you look at their outcomes in terms of the well-being of people, some statistics of life expectancy and so on. Are you able to do any of the research and get some of these facts out in the community so that people actually say, 'Well, other countries are doing something which looks a lot more creative than what we are doing'?

David Cooper: What I wanted to do in this paper was to point out that we do have a very big task in addressing prejudices and misconceptions which stand in the way of progressing understanding. But certainly you have to look at what the positives are, what other sorts of experience there have been, and to use them as a guide and a way of educating people about possibilities. So yes, we are looking at that and certainly trying to make this information available.

I think, though, that they are only guides about what is possible. I think ultimately a solution within Australia is something that needs to come from the particular conditions that are here, and maybe none of those models that have worked overseas are going to be the right one for here. But, as you say, they can give you a sense of what is possible and the kind of success that could come from that.

Chair Luke Taylor: I should mention that we should not ask ANTaR to do all this work. There are a few such projects around right now. In fact the Institute and ATSIC are jointly funding some of this sort of research, in association with Jumbunna at the University of Technology, Sydney, and the University of Melbourne. The project is to look at existing treaty style documents within Australia and Canada. The results will be put on the ATSIC web site. And also we are putting other seminars in this series on the web, so there is in fact a general amount of information on the web.

Speaker C: Luke, is there anywhere that we might read at the moment?

Luke Taylor: In addition to the presentations given in this series, The Institute's Treaty Seminar Series, ATSIC has a TreatyNow web site.

Speaker D: I recall a Radio National program some years ago with a range of Aboriginal speakers. They had a range of thinking. Among the points made was a fear of white people hopping on the bandwagon of the idea of a treaty. Instead, the treaty should be something that is discussed primarily within Indigenous circles. One speaker said he didn't care how long it might take to draft a treaty and that he didn't expect the treaty to come through in his lifetime or maybe even his children's lifetime. He said the most important thing was that it was discussed within the circles of Indigenous people first, what they wanted.

David Cooper: In terms of getting anything up that is going to result in substantive change of present models, there is a lot of work to do. Whether it is a treaty or some entirely different kind of process that may be decided on, I think the fundamentals are the same. It has to be a process that is based on proper negotiation between governments and Indigenous people. Really, in that sort of context it is up to Indigenous people to decide what they want out of those negotiations, what the aim of them should be.

On the other side of the coin, to get those kinds of processes happening we have got a lot of work to do in the non-Indigenous community, trying to educate people and trying to turn around some of these negative views that exist. Ultimately, if this is not done, it will always block governments from taking up these initiatives seriously. So it is a bit of a double-edged sword.

I tried to point out that we really need to be very careful about not running ahead of the Indigenous agenda here, realising that these processes need to be fully discussed within the Indigenous community. That is paramount. But the Indigenous community is putting it to us as well to help educate non-Indigenous people about this issue. So it doesn't mean

that the discussion of this is totally off the agenda. It is something – an exploration, I suppose – which is timely in terms of processes within Australia and particularly the reconciliation process.

I take your point and understand that kind of concern. I did refer to this undue focus on the content of a treaty, but I have seen public meetings that have been organised basically along the lines of, ‘Come along and say what you want in a treaty.’ This misses the point of what is required at this present time, to be positive and mindful of the process.

Speaker E: I just want to pick up on a point you mentioned. I think a really important point is the whole question of resources. When you listed the five strategies used by opponents of a treaty to undermine the treaty, a lot of it was explicit, but implicit was the way opponents of a treaty are also trying to defund and take away resources from good processes. I think the needs of the Native Title Working Group and the lack of resources for some sort of national body and process so Indigenous representative bodies can work together and come up with a political position is a real key issue. Do you want to say something about how ANTaR is approaching the issue of dealing with resources and funding to work on these issues?

David Cooper: This is something relevant to the reconciliation process itself. The government has basically removed a funding base for the process, which makes it difficult for all the reconciliation organisations. Basically, we have to look to funding from the general public or from corporate sources just to get the basic processes of community education occurring. We can’t necessarily deal with the issue of the lack of resources in the Indigenous sector, but it is, as you say, a really significant impediment in terms of progress.

From ANTaR’s point of view, most of our fundraising is done through individual supporters. That is something that is really cause for optimism, because there is an incredible preparedness of just ordinary Australians to help fund this work. But yes, funding is a very big issue and ultimately, if these processes are going to get any kind of green light, we are going to need to increase the funding base to be able to get the community education happening and, on the Indigenous side, to be able to fully undertake the processes of consultation and consensus-building about negotiations. So yes, they are very important issues.

Speaker F: I just wanted it placed on the record how important I think your contribution has been to this debate. It has been very different from the others. We have had some very fine contributions on form and content, but I have felt through some of this series that there has been almost a naive assumption that everybody is going to support this at the end of the day. Sometimes in the discussion I have raised some questions about the distortions that are going to be made by opponents of this process. You have got them very systematically identified. Some of them, when you looked at them on the screen, were almost humorous and very, very hard to believe. But they are very real, just as real as the claims that Aboriginal people were going to claim people’s backyards. They are very deliberate distortions. I think it’s very important in this process that all of us understand there is a risk of deliberate distortions and to work toward correcting them. I hope that others who are not here and who are involved in this debate will focus on your paper. I assume it will go on the web site.

David Cooper: Yes, I will make it available.

Speaker F: I feel it is a very important contribution to the debate that people can see it.

David Cooper: Thanks. I am sure that other reconciliation organisations will be working on these issues. A lot of work that has been done as well in other ways. ATSIC has presented some of the common myths and tried to deconstruct them, giving people some plain explanation that underlies the real case.

Also, in terms of practical reconciliation, it is very difficult to get information, to get accurate figures from governments. I would like to draw people's attention to the half-day seminar that we did last week, looking at practical reconciliation. Greg Crough produced a paper which basically deconstructed practical reconciliation policies. These sorts of contributions are really important in terms of giving people the facts to be able to counter these broad, sweeping statements that are constantly made.

Luke Taylor: If there are no more questions, I'd like to thank David for coming down from Sydney today.