REGIONAL MANAGEMENT PRINCIPLES FOR HEALTHY DEVELOPMENT

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Abstract
This article suggests principles for coordinated regional management of health and community service funds aimed at achieving sustainable development. Relevant theoretical perspectives and recent history of Australian trade, health, superannuation and wages policy are briefly described and evaluated. The direction is towards a more competitive economy, assisted by creation of national standards, industry planning and safety net funds. Regional managers are ideally required to consult broadly to coordinate strategies to achieve sustainable development through the identification, prioritisation and treatment of related risks, whilst also attempting to rehabilitate individuals and environments formerly harmed. This requires regionally coordinated design of all supporting community services. Identification of key dispute resolution, education, research and related communication needs should logically be undertaken in this context. The Australian experience of managing Medicare, workers' compensation insurance and other health related funds is described to assist identification of those underwriting and fund management structures which appear most likely to support sustainable, regional development. Broad economic stability and associated returns may be gained from government and industry ownership of funds and management models in which service providers are encouraged to meet statutory goals through planned partnerships to promote information as broadly and cost-effectively as possible.

Key words: national health insurance, regional health management, social insurance, sustainable development

Emergence of a New, International, Democratic, Governance Paradigm

From a historical perspective, a new international consensus about the appropriate roles of government and the market has been growing for some time. This governance model elevates health and sustainable development as primary goals for all. For example, the first principle of the Rio Declaration on Environment, which was agreed by United Nations (UN) members in 1992, stated that human beings are at the centre of concern for sustainable development and are entitled to a healthy and productive life in harmony with nature. At the 1994 Asia Pacific Economic Cooperation (APEC) summit, national leaders agreed to creation of an Asia-Pacific free trade zone by 2020, and also supported the protection of health and the natural environment. APEC members have diverse political regimes including, for example, those of Australia, China, Japan, Indonesia and the US.

Governments based on an older, British model of governance have traditionally separated three principle governance powers. This is reflected in the Australian Constitution. Elected politicians, government administrators, and the judiciary are ideally the central and independent pillars of governance in this model (Attorney General's Dept. and Parliamentary Education Office 1995). In the more recent governance model, however, the emphasis is primarily on the need for clear separation of policy and administration, with the former driving competitive service provision (Rich 1989; Hilmer 1993; Osborne and Gaebler 1993) to achieve health and sustainable development goals. As the Australian Standing Committee on Environment and Heritage (2005, p. 2) pointed out, coordinated governance is essential to translate the vision of sustainability into targets and to plan, implement and review programs to achieve them. In such a governance model, dispute resolution is ideally conceptualised as social service, similar to health service or education, and is broadly designed to serve community aims and meet its standards, with administrative processes and data collections which assist future policy development and standard setting. In this model,

independence from vested interest is ideally guaranteed through the mechanisms of community education and broadly informed decision-making, which are open to public scrutiny and debate.

The newer, international governance model depends on competitive, transparent, government contracting. It requires broadly consultative and iterative administration processes in which regional environmental problems are first identified and prioritised, prior to setting related health and development goals and implementing strategies to meet them. Work performance is monitored and its outcomes are evaluated comparatively, in order to inform future policy and direction. The emerging Australian health promotion model, for example, stresses the importance of consultatively developed, data driven policy and related service aims, which lead to comparative evaluation of service outcomes (Department of Community Services and Health 1994). Risk management requirements (Standards Australia 1999), such as those under state occupational health and safety (OHS) acts, as well as the processes of health planning (Eagar, Garrett and Lin 2001), health promotion (National Health and Medical Research Council 1995; Wass 1994), dispute resolution (Braithwaite 2000; Strang and Braithwaite 2001; Standards Australia 200X), action research (Hart and Bond 1995) and program budgeting (Wilenski 1982; 1986) all reflect similar demands for consultative, transparently developed policy and supporting services delivered through an iterative management approach, to meet previously identified needs in community or workplace contexts.

Origins of Emerging Governance Views and the Legal Hindrance in Australia

From a socio-economic perspective, the newly emerging governance paradigm recalls Weber's perception that development of bureaucracy should generally be understood as the progressive extension of a more rationally planned approach to community governance, which also attempts to reform the earlier common law, under the increasingly diverse economic pressures of democratic demand (Gerth and Mills 1977). Keynes, also called for the extension of 'publicness', with the government as leader rather than owner of funds (Skidelsky 2000, p. 274). A related social insurance management perspective, seeking stability and full employment through planning to avoid market fluctuations was central to the British welfare vision, (Beveridge, 1942). From this perspective, increasing taxation, mandated insurance covers or other funds must principally support the broadening demand for government regulation and social support. Managing funds competitively, in the public interest, inevitably becomes a growing preoccupation of the democratically elected. Galbraith (1973) and other dual market theorists (Gordon 1972) recommended that to improve all performance, governments should introduce greater competition into the centralised sectors of the economy and provide more support to comparatively disadvantaged communities in economic and geographic peripheries. As suggested later, this may be done partly by designing education and dispute resolution services to be more openly and freely available, in order to assist development of broader, better coordinated, community management.

The new governance approach is broadly consistent with Popper's view (1959, p.27) that science is the development of knowledge which is objectively grounded in the outcome of observation and experiment. For example, a scientific approach to treating people is one which uses a previously established body of evidence about a matter to provide hypotheses about what kind of treatment should occur for good results in a related situation. Within the original framework of knowledge about a matter, the treatment of people may be varied, to meet the specific requirements of presenting persons and their particular environments. All treatment outcomes are then analysed and interpreted comparatively, through examination of the groups of cases which have been similarly classified, according to their central features (Johnson, 1997). Foucault (1997) has described a similar scientific and democratic management ideal emerging everywhere as 'the politics of truth', and sees it as first expressed by Kant, in the European Enlightenment. However, Australian legal conduct, unlike scientific conduct, is not subordinated to a search for truth.

Many inquiries into the operation of personal injury insurance schemes, and related taxpayer or industry funds provided for health which are discussed later, lamented that Australian courts produce no data to assist injury prevention, rehabilitation or premium setting. The interpretation of the letter of a specific law, rather than more holistic treatment of the presenting subjects and their problems, is paramount in the legal paradigm (Australian Government/Australian Law Reform Commission (AG/ ALRC, 2004; 2005). The legal fraternity does not classify or study the outcomes of a broad range of related cases and judgments in order to get a better understanding of outcomes for groups or individuals, and to improve law and policy in future. For example, insurers providing evidence to the Senate Review of Public Liability and Professional Indemnity Insurance (2002) estimated legal costs in personal injury cases amount to between 40% and 50% of total claim costs but admitted that nobody has reliable data. The committee concluded that the court system provides economic incentives to litigate without providing supports for effective rehabilitation or future management.

The adversarial conception of evidence in the court arena is unlike any later kind of scientific approach to finding truth through gathering evidence. In the traditional legal arena, all evidence is introduced by adversarial lawyers who each primarily seek to maximise the interests of their client, within constraints imposed by the particular letter of particular law. The process of examination and cross examination, which is central to an adversarial justice system, is not designed to ascertain the truth, but will be conducted, in the words of a judge, 'as if it were a forensic game in which every accused is entitled to some kind of sporting chance'(AG/ALRC 2005, p. 55). Privilege, which is the withholding of information, is justified on the grounds that it enables lawyers to give the right advice and representation to their clients. This is considered to outweigh the alternative benefit of having all information available to facilitate the trial process. Thus, the centrally supported legal method appears to entail lying by omission or inference in order to advance a vested interest. The authoritarian decision making approach taken by the courts can be contrasted with alternative, more holistic and scientific approaches to dispute resolution, which are championed by Sir Lawrence Street (2002) and many others (National Alternative Dispute Resolution Advisory Council (NADRAC, 2001; 2004; Strang and Braithwaite, 2001; Braithwaite, 2000).

However, the Australian Constitution remains the ultimate law and the Commonwealth Parliament and the parliament of each state are subject to Its rule. (Commonwealth Attorney General's Dept. and Parliamentary Education Office, 1995, p. vii) Its requirements therefore dominate and tend to drive all other decision-making structures, whether they are courts, tribunals or related administrative arrangements. While the scientist may seek to change the world, the judge is an interpreter of law. A major function of the High Court of Australia is to decide disputes about the meaning of the Constitution, which cannot be changed without a popular referendum. This form of government supposedly represents 'the sovereignty of the Australian people' - a term used in the Constitution and by courts. It seems the Constitution appears to stand for some Supra-natural Force whose Will the courts continue to enforce. How can the supreme authority of the Constitution over any law made by current and future generations be otherwise justified? Through judicial review a court may also look at the process a government department, lower down the chain, went through in reaching its decision. The court does not ask 'was the decision the right decision'? - as most people might expect. Rather, it asks whether, as a matter of procedure and law it was 'a lawful decision'. (Human Rights Consultation Committee (HRCC, 2005, p. 123). In the legal governance paradigm, the words 'just' and 'justice' are different from 'fair', and synonymous with access to the courts (Commonwealth Attorney General's Dept., 2002, p.195). This is not the service culture which is required to deliver health and environment improvement effectively. What is to be done about it?

Decades of National Health, Disability, Superannuation and Related Wages Planning

Australian history shows the necessary steps towards a competitive, nationally planned approach to promoting health and related fund management have been taken by the Commonwealth and states together with industry, with an increasing degree of political consensus over time. In 1973 the newly elected Whitlam Labor government cut tariff protection by 25% to force Australian industries to compete more effectively in a global market. Centralised wage fixing at the state and Commonwealth levels also kept Australian wages and prices high. The new government introduced and expanded many government services, partly to support and employ people leaving uncompetitive industries. In 1973 the Health Insurance Act prescribed the regulatory framework for Medibank, a new, national, health care system funded by taxpayer levies and general revenues. The Commonwealth also became involved in regional planning and expanded health and social welfare provision through the Australian Assistance Plan. In 1973 a committee to report to the Commonwealth on a no-fault system of rehabilitation and accident compensation was chaired by Justice Woodhouse. It provided evidence on the capricious results and poor effects upon rehabilitation of adversarial court structures and recommended a similar scheme to the New Zealand managed fund model. Under this the government levied employers and motor vehicle registrations, with supplementation from government revenue. The proposed Australian scheme was to provide no-fault weekly benefits for the injured, rehabilitation services, and increased administrative efficiency. Common law access was to be abolished. Insurers, lawyers, some trade unions and areas of government opposed the plan (NSW WorkCover Review Committee 1989). The Whitlam government also failed to implement its promised national superannuation scheme when it lost office in 1975. An incoming Liberal coalition government dismantled Medibank and returned to the previous system where people purchased health insurance in the market with government subsidy.

When the Hawke Labor Government came to power in 1983, it began to address the long-term problem of Australia's increasingly unacceptable terms of trade, primarily through an economic management agreement (an 'accord') with the trade union movement. Eleven tripartite (government, employer and union) industry councils were also set up, covering the manufacturing industries. These conducted stock takes of industry sectors and developed strategic plans. This process moved employers and workers' representatives from an automatic reliance on barrier protection towards strategies, which included economic incentives for microeconomic reform to make organizations more competitive in the longer term. Dismantling centralised wage fixation began, except as safety net protection for low-income earners. In 1984 the government reintroduced universal health insurance but Australian Council of Trade Unions (ACTU) wage claims were adjusted downwards to take into account the cost of Medicare and to link wage claims and welfare management. In 1985 the ACTU agreed to forego a 2% national wage increase for all workers in return for payment of 3% of wages made in the form of superannuation. The Commission ratified union-employer negotiated superannuation agreements valued at 3% of employees ordinary time earnings and gave unions the right to negotiate with employers on an industry by industry basis regarding the nature of the superannuation schemes implemented. The 1987 national wage decision ended the union movement's history of reference to the principle of comparative wage justice, which had allowed gains made by stronger groups of workers to be flowed on to others who could argue the comparability of their situation with stronger brethren. Instead, the Commission provided a $10 wage increase across the board, but required that any of a further increase of 4% was conditional upon productivity offsets gained through collective bargaining at the enterprise level. In 1992, Commonwealth legislation introduced a superannuation guarantee. All employers were henceforth expected to provide a minimum level of award based superannuation support for employees. Industry managed superannuation funds have now become major players in financial services.

Australian Medicare guarantees basic hospital and medical care, administered from general taxation revenues and an identified levy on taxable incomes. The Commonwealth Pharmaceutical Benefits Scheme (PBS) subsidizes specified drugs. From the government perspective, the point of subsidizing all who purchase additional private health insurance is to provide a wider range of services to meet individual demand and increase the overall pool of health funds and public or private facilities available for general use (Industry Commission 1997). Since 1986 the Commonwealth has provided funds for health promotion programs as well as hospital and medical care, to improve Aboriginal and mental health and to reduce key problems such as cancer, cardiovascular disease and injuries. Public education, screening and better service delivery are the major strategies. As the baby boom generation ages the issue of how to reduce the prospective burden of its upkeep is a concern. A series of reports between 1981 and 1986 focused on the importance of meeting the needs of aged and disabled people. A new Disability Services Act led to a gradual reduction in the proportion of Commonwealth money spent on nursing homes and an expansion of hostel and community care funds. Multidisciplinary aged care assessment teams were established to co-ordinate care arrangements with a view to keeping people in their homes or other independent living situations for as long as possible. Carers' pensions were introduced. The States established occupational health and safety (OHS) acts which provide employers and workers with a general duty of care and require risk management. Workplace rehabilitation requirements were also introduced to workers compensation acts. In 1992 the Commonwealth passed the Disability Discrimination Act, which placed new onus on employers to make 'reasonable adjustment' to workplaces and job design to accommodate injured workers.

In 1989 states began legislative review to update laws and make requirements plain. In NSW a Green Paper entitled 'Transforming Industrial Relations in Australia' was provided to the NSW Liberal Government Minister for Industrial Relations, by John Niland, later Vice Chancellor of the University of New South Wales. His approach meshed as much as it contrasted with the direction already being taken by the Commonwealth. He deplored the effects of having many separate industrial jurisdictions and recommended that the work of 'the two mainstream tribunals' be integrated and standardised to the maximum extent allowable by constitutional limitation and federal/state rivalries, 'thus laying down the groundwork for full integration of state and Commonwealth tribunals in the longer run' (Niland 1989, p.29). The Council of Australian Governments (COAG) then agreed to mutual recognition of State and Territory laws, except where national standards would be developed, including for health, the environment, related occupations and training, disability services, social security benefits, and labour market programs (Premiers and Chief Ministers 1991). The Labor Prime Minister's White Paper on Employment and Growth (1994) indicated the government commitment to extending enterprise bargaining to all workplaces, on top of a safety net of minimum conditions in awards. This was ideally viewed as the primary focus for wage fixing and the catalyst for workplace reform with the aim of achieving increased trade, economic growth and every Australian's 'right to a job'. The regulatory role of government was further defined when the recommendations of the Hilmer Report (1993) were implemented by the Commonwealth Competition Policy Reform Act (1995). The legislation review process continued nationally, with the aim of achieving regulation that promotes equal competition between public and private sector service providers on a playing field of national standards, unless another course of action can be shown to be in the public interest (Fels 1996).

In 2000, NSW regional health service managers began consultative development of health plans with special emphasis on meeting the needs of the aged and people with chronic and complex conditions. The general government aim is to ensure a reasonable minimum living standard and to assist as many people as possible to achieve their goals and greater personal independence. This strategy is ideally supported by the development of superannuation savings, coupled with more flexible

employment patterns and services which protect health and assist people to make the transitions considered appropriate to a multiplicity of individual situations, whilst maintaining links with work wherever this is considered beneficial (Bishop, 2000). Effective housing, transport, communication, education, dispute resolution, research and other services are ideally considered in a related regional context. Pooling all Australian government provision for aged care in a single fund, managed at regional level has already been proposed. This would incorporate residential aged care, home and community care and related government activities, with the expectation of separate funding streams for accommodation and for delivery of flexible services based on individual client need (Kendig and Duckett 2001). Duckett's later work (2004) suggests a coordinated regional approach to health and all related community service delivery is necessary across the life cycle. How do courts fit in?

Towards an Integrated, Evidence-based Approach to Managing All Dispute Resolution

In this emerging global and national context, the principal role of Australian government administration is ideally to promote management of the competing provision of goods and services, to meet all community aims and related standards outlined in legislation. In many cases these standards are also based on Australian adoption of international agreements to address poverty, oppression of cultural minorities or other problems. Perhaps some would now like to see an Australian Bill of Rights. However, even more adversarial lawyers supporting even more 'junk science' is perhaps unlikely to appeal to the majority of professional bodies, let alone to the broader populations which have supported the government direction earlier described. For example, the NSW Law Reform Commission (2004) issues paper on the judicial selection of expert witnesses, appears to seek to reduce the problem of adversarialism leading to witness bias, 'junk' science and unnecessary cost. The NSW Premier also called recently for more information about legal costs. As a subsequent Legal Fees Review Panel (2004) paper pointed out, the concepts 'value' and 'quality' are elusive terms, which must ideally be evaluated by the client. Hourly rates are the standard fee structure for law firms. Under the time sheet system the only thing that determines whether it has been a good or bad day is the number of billable hours recorded. Nothing but the size of the bill supposedly reflects how well the lawyer has performed. The concept of value or quality which is attached to this leads to the assumption that the longer the lawyer toils the more valuable the work is. From the perspective of the customer, however, this may be ridiculous. 'One thousand plodding hours may be far less productive than one imaginative brilliant hour. A surgeon who skilfully performs an appendectomy in seven minutes is entitled to no smaller fee than one who takes an hour and many a patient would think he is entitled to more.'(Legal Fees Review Panel 2004, p11.)

From the broader, scientific perspective, a coordinated management approach involving alternative dispute resolution (ADR) is needed, to replace courts. A potential framework for this was provided by the National Alternative Dispute Resolution Council (NADRAC) which defined ADR as 'a process, other than judicial determination', in which an impartial person (an ADR practitioner) assists those in dispute to resolve the issues between them' (NADRAC 2001, p.1). The Council stated that ADR processes may be facilitative, advisory, determinative or, in some cases, a combination of all three. Mediation is defined as a facilitative process in that the practitioner assists the parties to identify the disputed issues, develop options, consider alternatives and endeavour to reach agreement about some issues or the whole dispute. Conciliation is defined as an advisory process in which the conciliator is a neutral third party who considers and appraises the dispute. He or she may seek expert assistance in order to provide advice on the apparent facts of the dispute, the law, possible or desirable outcomes and how these may be achieved. Arbitration, expert determination and private judging are examples of determinative ADR processes. NADRAC pointed out that its distinctions between mediation, conciliation and arbitration are not consistently made in Australian legislation and that customs also vary greatly. However, if the NADRAC definitions are accepted, then mediation, conciliation and arbitration resemble ascending steps in an approved

practitioner's degree of power to judge matters and people, on the basis of all apparently relevant evidence which he or she has gathered about relevant matters of concern.

Task-based legal billing is favourably discussed by the Legal Fees Review Panel (2004). This is defined as reporting the cost of legal services by tasks, using billable codes to describe them. The lawyer ideally provides a budget in advance of performing the particular task and may not exceed the budget without prior agreement. This form of billing appears to be consistent with Medicare expectations and with the Casemix (diagnostically related group) funding model that is a vital part of the identification of value in health service provision. There is little or no systematic information in the latest Senate report on legal aid, or in earlier major reports on access to justice, about the social problems which are dealt with by the courts. This lack of comparative information about types of dispute, their treatment, and their outcomes is typical of legal practice and can be unfavourably compared with the situation in health care. The health practitioner gathers evidence of apparent problems, records a diagnosis and implements recommended treatment. Ideally this is applied with the variations the practitioner considers necessary in the light of all relevant evidence about the particular case or situation. Ideally, data recording is designed, both nationally and locally, to drive improvements in the quality of all treatment outcomes and to prevent re-injury. Record of typical and atypical patient situations, treatments and outcomes, provides a broad data pool in which diverse situations and practices can then be studied, in order to improve all future activity (Johnson 2002).

In 2004 the Family Court commenced a pilot for a new children's' cases program which will supposedly move towards less adversarial application of the rules of evidence. The pilot program will also be evaluated to determine if the approach should be adopted more widely in children's' cases. From an industry and community development perspective, all effective management now requires the design of related dispute handling and data collection systems which aim to assist prevention of all related problems through the broad identification, prioritisation and treatment of their apparent environmental causes, while attempting to rehabilitate the individuals and environments which have experienced their effects. In this ideal development context, the current practices of courts are unaccountable. Australian employers and workers should already be aware of better management approaches as a result of requirements for workplace based risk management under State OHS acts. Health service managers are also comparatively advanced in implementing quality management and related data gathering systems. In order to develop effective dispute resolution procedures, with supporting training and accreditation systems, major dispute resolution needs must now be identified by key regional stakeholders in industry and community contexts. One does not need lawyers to establish more effective systems than those which currently exist.

Findings on the Comparative Management of Australian Health and Disability Funds

Although Australian and U.S. health care systems both use the term 'managed funds' their design and fund ownership structures differ. The universal coverage of the Australian Medicare system and its integrated requirements regarding voluntary private health insurance put downward pressure on the prices that all doctors, hospitals and insurance companies charge. The private health insurance system is not risk rated (as in traditional insurance practice), but is 'community rated', like Medicare. This is because sick people should not also be penalized economically, and cannot normally be expected to cure their illnesses by changing their behaviour. Complex administrative arrangements, called 're-insurance', therefore link private health insurers to Medicare, to prevent the private insurer becoming insolvent because of an escalating proportion of elderly clients (Industry Commission 1997). In the U.S., on the other hand, employers take out private health insurance on behalf of employees, or individuals may purchase it from competing private health care funds on their own behalf. Government provides a safety net only for a small and impoverished population. In a review of evidence, Duckett (1997) found the Australian Medicare system outperformed U.S. health care on

service access, equity and cost, but not quality. Any findings of comparatively poor service quality in Australia are disappointing because of the potential for research and development provided by the comprehensive, national scope of the system. There appears to be a general need for better-coordinated bureaucratic, professional and academic management and practice, to support quality service and further research more effectively. (Review of Professional Indemnity Arrangements for Health Care Professions 1995; Industry Commission 1995, p 221-243; Australian Health Ministers' Advisory Council 1996; National Expert Advisory Group on Safety and Quality in Australian Health Care 1999; Review of Higher Education Financing and Policy 1997; Senate Employment, Workplace Relations, Small Business and Education References Committee 2001; Productivity Commission 2005).

Between 1973 and 1989, in the work related health service arena, ten inquiries concluded that the adversarial system is detrimental to rehabilitation of injured workers (NSW WorkCover Review Committee 1989). There were also five insurance company insolvencies in the mid eighties in NSW, when over forty insurance companies were underwriting workers' compensation. Competition on premium price led to pricing wars and to insurer reserves running low at a time when courts were making increasing lump sum payments (NSW Government 1986). The NSW Labor government introduced the current managed fund structure for workers compensation in 1987. This involves government and industry ownership of funds which are competitively managed to achieve the legislated objectives of the scheme. Twelve insurers collect premium, manage claims and invest funds on behalf of government and industry underwriters. This structure promotes financial stability and encourages insurers to compete for clients through assisting risk management, rather than through direct premium price-cutting. This ideally leads to premium and general cost reduction. The model was retained by an incoming Liberal government after its inquiry concluded there was a lack of evidence of benefits from private sector underwriting, and that other factors, including quality of scheme administration, provide more important indicators of performance (NSW WorkCover Review Committee 1989). National inquiries into workers' compensation (Industry Commission 1994; Australian Heads of Workers' Compensation Authorities 1996) agreed. However, Grellman (1997) found that continuing scheme costs were being experienced in NSW, primarily through lack of effective ownership of workplace related risk and injury management.

The most recent national inquiry into workers' compensation stated the major significant issues now arise from differences in state and industry schemes which generate heavy compliance burdens and costs for multi-state employers (Productivity Commission 2003). Like many earlier inquiries it recommends establishment of a consistent, national, workers' compensation scheme, although private sector underwriting is also recommended, in spite of the fact that the only reported Australian case for this was made by the Insurance Australia Group. A key issue in Australian debate has been whether funds should be underwritten by government and industry or private insurers, in order to achieve the best outcomes for all. General experience of insurance underwriting suggests that the traditional insurer ownership of funds and competition on premium price may inhibit effective injury prevention, rehabilitation and cost containment. This finding was first made by Whitlam's National Committee of Inquiry in 1974 but has been made in a variety of other contexts where harm to workers, clients or consumers, road users and marine environments have been analysed. (NSW Government 1986; NSW WorkCover Review Committee 1989; House of Representatives Standing Committee on Transport, Communications and Infrastructure 1992; Review of Professional Indemnity Arrangements for Health Care Professionals 1995; Standing Committee on Law and Justice 1997; Industry Commission 1997; Senate Economic References Committee 2002; The HIH Royal Commission 2003).

Such inquiries have found that private sector premium price competition, which is also driven by an international underwriting cycle, tends to promote general economic instability. Private

underwriters also require high profit margins to guard against the effects of competitive premium price-cutting, global economic fluctuations, unexpected court awards or long tail claims, poor investment decisions and inefficient administration practices. When a large premium pool is broken up for ownership by competing insurers, each may require international reinsurance as well as high profit margins to guard against insolvency. This all adds to cost. Insurance systems normally retain strong links with the traditional common law, in that a lump sum award is provided only if a court finds a plaintiff's adversary is the cause of injury. Third party motor accident insurance and professional, public or product liability insurance are examples of fault-based schemes which may be ill-equipped to address harm to any injured people who are forced to prosecute a premium holder for solutions to their problems. Such schemes commonly overlook the needs of the most severely injured unless they can also demonstrate fault, and ultimately penalize all premium holders through higher premiums. They seldom provide the necessary data to assist effective injury prevention or premium setting. Insurance companies may not distinguish particular premium from their other insurance funds, so there may be no basis on which government can effectively exercise the powers of financial monitoring outlined in legislation. On the other hand, when funds are owned by government and industry, and when services and premiums are established in this broader context, the insurers contracted to manage the business ideally compete for market share by providing premium holders with work related risk management and investment services, which ideally also lead to premium price cuts. The benefits of managed fund investments are also returned to scheme stakeholders when they, rather than insurance companies, underwrite the fund.

Shiller (2003) provides an opposing U.S. perspective on the appropriate management of risk. His market driven approach appears to support unlimited protection for risk takers who pay the premiums required. Risk can also be contracted out freely. This does not appear to promote injury prevention or cost containment for the majority, although the opportunity to continue to shift costs onto bystanders may please major risk takers and their supporters. In Australia, on the other hand, it appears there is considerable scope to improve social welfare and reduce costs through better national integration of the aims and administration of Medicare, private health insurance, workers' compensation and a range of other injury prevention, rehabilitation and insurance services. In an international context, Stiglitz and Muet (2001, p xix) recently concluded that many economists now seek to go beyond 'the Washington consensus', which they define as unconditional liberalization of markets, lack of attention to institutions, and macroeconomic policies geared towards lowering inflation rather than development and employment. They claimed weak institutions lead to economic instability and fuel financial crises and that effective world governance must closely involve employers and trade unions as well as non-government organizations. Development success requires high savings, rapid capital accumulation, high levels of training, strong capacity to acquire new knowledge and rapid insertion into international trade. On the evidence, Australian policy makers would probably agree. But what should be done about the courts and Constitution?

The Power of Australian Government and Industry Leadership for Development

The Review of Business Programs (1997) recommended all business support should be focused and a review of the education system should be undertaken to drive it as a source of comparative advantage for Australia. In 2001 the Prime Minister announced a new research and development tax concession rate for high spending companies to encourage research and additional grants to assist small business. Comparatively few Australian employers appear to be in a position to undertake or support scientific and technological research and development on their own behalf. Benefits would appear most likely to be derived if industry leaders, their organizations and members are willing to participate in broader regional community planning approaches which also address effective communication, education and research to achieve national objectives related to community health and sustainable development.

Inquiries discussed earlier have suggested that the benefits of government, industry and related community ownership of funds are comparatively clear, in comparison with private fund ownership, as long as funds are managed effectively. Identification of major industry and community dispute resolution needs should be supported by related inquiry into how vocational education systems could be linked to serve all community requirements better, especially in areas where there are skills shortages. Recognizing the imperatives of an international, competitive market, the Review of National Competition Policy Reforms (2004) recommended that the Australian Government amend its broadcasting policy to remove restrictions on the number of commercial free-to-air TV stations, multi-channelling, and data-casting. However, it stated that competitive markets are not feasible in circumstances where significant externalities exist – for example in research and development. Presumably the closed, computer-based, distance education initiatives which universities have funded over the past decade come into this category. They appear comparatively little utilized (Gallagher 2000; Nelson 2002), their production costs are more expensive than classroom teaching and they have not made money (Marginson 2004). These education products are not open to public scrutiny so it is difficult to judge their quality. Ideally, the potential seeker after certification has a right to judge whether the education they would to receive will meet their needs and capabilities.

A broader, more open, educational approach, in which classroom content is made readily available for community TV and in many other communication formats, would therefore appear preferable to the traditionally limited, closed approaches to continuing vocational education for development. Recent discussion about the links between research, creativity and economic performance (Florida 2003) follows Drucker (1993) and Bell (1973) in suggesting that productivity increasingly depends on rapid and continuing skills development and knowledge dissemination, rather than on traditional approaches which guard intellectual property but do not exploit it effectively in the public interest. In this context, a recent definition of commercialisation produced by a Sydney University Business Liaison Office representative at a medical research conference, may potentially be useful. The definition was offered that commercialisation is the process of transferring research outcomes to the community in a manner that optimises the chances of their successful implementation; encourages their use; accelerates their introduction and shares the benefits among the contributing parties. This perspective may be appropriate for contracts between partners seeking to spread development related information in many regional, national or international contexts.

Conclusion

Those who aim primarily for sustainable development, and who are most concerned about regional management to achieve it, might usefully consider the structural benefits already apparent in the developing Australian design and management of national health and work related funds, to meet national and regional community goals. Such management structures potentially allow broad identification of comparative service quality. They can also lead to cost containment through combining transparency requirements and more effective competition. The recommended structures entail regional contribution to a national fund ownership model in which all service provider competition is designed primarily to achieve the interests of the identified community and industry stakeholders, rather than those of insurance company stockholders or other service providers which are mainly market driven. In this model, regional management structures ideally support competitive contracting which may be expected to deliver nationally guaranteed services outlined in legislation, and/or in related, community requirements. The national policy framework also depends upon regional management ability to engender community understanding of risk management and related administration and development principles, such as health promotion, action research and program budgeting. In this national management model, dispute resolution is also conceptualised in a consistent manner, as a service similar to the provision of health care or

education, rather than suffering further under the anachronistic, adversarial practices of courts. Current national discussions about communications, skills shortages, education and research might all be usefully addressed in this international and national conceptual context, with particular consideration of their relationship to key or all Australian industries and communities.

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