22 October 2019

Justice IV: Decolonisation

Recap: Reflective Equilibrium

* We discussed yesterday how Rawls conceives one important function of political philosophy as “reconciliation” to reality. He argued that philosophical reflection on the institutions of liberal democracy reveals their development into their present form as a rational process.
* We countered that this story of progress cannot be sustained by colonised and racialised subjects. For Indigenous peoples, the settler colonial project has been catastrophic, not a story of white settlers bringing civilisation.
* There is another issue, which is that Rawls takes as his input into his “political liberalism” not foundational truths about morality, but the intuitive fundamental ideas abstracted from the public culture of liberal democracy.
* When “we” then bring the principles that result from the social contract into reflective equilibrium with our considered judgements, and revise our beliefs or the construction procedure that generates the principles as required, Rawls explicitly argues that we are to draw only on the normative resources of the Western political philosophical tradition.
* What about Indigenous traditions and conceptual schemes?
* And if these are ruled out by definition, then how can Rawls’s theory of justice achieve reconciliation in settler colonial contexts like the United States of America, Australia, Canada, or Aotearoa/New Zealand?

The Faces of Racism: Puao-Te-Ata-Tu (1988)

* These are personal racism, cultural racism and institutional racism.
* **Personal racism**: manifested by attitude or action is the **most obvious form** and the one **most easily confronted**. Although it is not now as unfashionable as it was a decade ago [*i.e.* late 1970s] there is a considerable reservoir of social resistance to it and a range of law and social practice arrayed against it.
* **Cultural racism**: manifested by **negative attitudes** to the culture and lifestyle of a minority culture or the **domination** of that culture and its efforts to define itself by a power culture. An obvious form is the **selection** by a power culture of those aspects of the minority culture which it finds **useful** or **acceptable**.
* **Institutional racism**: the most **insidious** and **destructive** form. It is the outcome of **monocultural institutions** which simply ignore and freeze out the cultures of those who do not belong to the majority. **National structures are evolved** which are rooted in the **values, systems and viewpoints** of one culture only. Participation by minorities is **conditional on their subjugating their own values and systems** to those of “the system” of the **power culture**.

Te Wherawheratanga Kaupapa mō ngā Ratonga me ngā Putanga Hauora (Wai 2575)

* ~200 claims have been lodged with the Waitangi Tribunal alleging that the Crown has breached the Treaty of Waitangi in relation to health services and outcomes.
* **Hauora** does not mean for Māori what **health** means for the Crown.
* Claims do not fall under the responsibility of a single Crown agency.
* The Tribunal has thus taken a phased and thematic approach to the kaupapa inquiry with “big picture” systemic issues to be heard first.
* Stage one has been completed.
* *Hauroa: Report on Stage One of the Health Services and Outcomes Kaupapa Inquiry* was released in July 2019.
* The Crown has **invested $220 billion into the health system since 2000**, yet Māori continue to experience the **worst health outcomes** of any population group in New Zealand - a fact acknowledged by all parties.
* On average, Māori live seven years less than non-Māori non-Pacific people.
* The Tribunal found that the reforms ushered in by the New Zealand Public Health and Disability Act 2000 and the the new Primary Health Care Strategy, released in 2002, failed to consistently state a commitment to achieving equity of health outcomes for Māori.
* These reforms created new statutory obligations and strategies for Māori health, and created primary health organisations (PHOs) to coordinate delivery of primary health care services, which Māori saw as an opportunity for a Treaty-based, mana-enhancing health system.
* The Crown **fails to properly fund the primary health care sector**, **target funding for priority areas**, and to **ensure money earmarked for Māori health issues is used for that purpose**.
* The Crown **fails to uphold the Treaty in the way it holds the primary health care sector to account and reports on its performance**. Mechanisms that do exist are rarely used in relation to Māori health outcomes.
* The Crown **fails to ensure that Māori have adequate decision-making authority and influence over the design and delivery of primary health care services**.
  + The Act’s provision for Māori representatives on district health boards does not fully reflect the Treaty principle of partnership, and no other Treaty-consistent partnership arrangements exist at the district health board governance level.
  + The Crown is in breach of the principles of the Treaty because it fails to properly resource and support Māori PHOs and health providers to deliver quality health care to Māori.

Institutional Racism and Te Tiriti

* “Again, **the Crown is responsible for identifying institutional racism**, in partnership with Māori, and implementing solutions to mitigate its impact. **The Crown’s failure** to adequately identify or address problems with primary care funding **is another manifestation of institutional racism**.”
* “Similarly, the Crown’s **failure to institute mechanisms** that ensure that **Māori health outcomes are measured and reported on in a robust way** undermines the ability of the system to improve the design and delivery of Māori health care. This, in turn, impacts on the way that Māori experience and receive care.”
* “Actions that contribute to experience of **personal** and **institutional racism**, especially on the scale indicated by the evidence before us, are **breaches of the Treaty principles**.” (pp.152-154)

Pākehā Hegemony and Māori Alienation

* “The way in which health services are delivered, and the nature of the institutions which deliver them, impacts the pursuit of health equity for Māori; as such, the Crown is required to inform itself of these access issues, and address them.”
* “Māori cultural needs, spiritual beliefs and social attitudes and priorities may differ from other population groups who live in those same areas. As such, ensuring care is culturally appropriate ensures equitable access to care.” (p.155)

Disalienation: Embedding Kaupapa Māori

* “The adequate support of Māori organisations who design and deliver kaupapa Māori models of care is central to providing **culturally safe and appropriate care**.”
* “Repeatedly, we heard that Māori saw a fresh opportunity to design and deliver better health care to their own people and to **narrow the inequity between the Māori and non-Māori health outcomes**.”
* “Such organisations are **rooted in te ao Māori**. We heard repeatedly that the broader primary care sector generally failed to recognise and provide for the particular cultural, as well as health, needs of Māori.” (pp.156-157)

Disalienation: Agency and Empowerment

* “To the claimants, then, **tino rangatiratanga** provides for a truly **holistic definition of hauora Māori**, which encompasses the Māori **structures** and **models** which provide for hauora, and the **people** that those structures and models are for.”
* “We consider that **tino rangatiratanga over hauora Māori** should be an **intrinsic facet of a Treaty-compliant primary health system**. Māori-led primary health organisations and providers must have the capacity, and space, to exert their tino rangatiratanga in the primary health care system.” (Hauora, 158)

Disalienation: Structural Transformation

The Waitangi Tribunal has made two overarching recommendations:

* That the **legislative and policy framework** of the New Zealand primary health care system **recognises and provides for the Treaty of Waitangi and its principles**. Amend the New Zealand Health and Public Disability Act 2000 to include a new Treaty of Waitangi clause.
* That the Crown commit itself and the health sector to **achieve equitable health outcomes for Māori**. Amend section 3(1)(b) of the New Zealand Public Health and Disability Act 2000.
* In relation to structural reform of the primary health care system, the Tribunal made an interim recommendation that the Crown commit to exploring the concept of a stand-alone **Māori Primary Health Authority**.

Health and Disability System Review

Interim Report: Pūrongo Mō Tēnei Wā

(Released August 2019)

The health and disability system must:

* Fully incorporate te Tiriti o Waitangi / the Treaty of Waitangi to provide a framework for **meaningful and substantive relationships** between iwi, Māori and the Crown.
* Better meet its Treaty obligations regarding the health of Māori communities and **embed rangatiratanga** (authority, ownership, leadership) and **mana motuhake** (selfdetermination, autonomy).

Disalienation: Embedding Mātauranga Māori

* “The New Zealand health and disability system has evolved with a strong **western medical tradition**.”
* “The system has not properly recognised different **world views**, different **knowledge bases**, or different **cultural norms**.”
* “The systemic health inequities experienced by Māori cannot be fully rectified without ensuring that the future evolution of the system embeds the **Māori world view of health**.”
* “Limited progress has been made in incorporating **mātauranga Māori** into many health and disability sector practices.”
* “Going forward, we need policies to ensure that practice continues to grow and that kaupapa Māori services are more readily available.”

Doing Anglo-American Political Philosophy in Aotearoa/New Zealand

* Shifting the geography of reasoning.
  + Doing theory in colonial contexts.
  + The spaces constituted, connected by British and American imperialism.
* **Reflective equilibrium** and the **intuitions** of democratic citizens.
* Reasonable pluralism, priority of the right, conceptions of the good.
* Subject positions of **domination and subordination** produced and reproduced through imperialism, (neo)colonialism, and slavery.
* Is **reconciliation** to social reality achievable by drawing on the normative resources of the Anglo-American liberal tradition?
* Rawls **abstracts** his conception of **practical reason** from the **public cultures** of liberal democracies – constitutions, rights, practices of interpretation, philosophical canon.
  + Or does he **idealise** the **reasoning practices** of a particular form of life?
* Cultural survival and epistemicide.
* Distributional inequalities (e.g. health) are more fundamentally inequalities embedded in the dominant culture and episteme of the basic structure of settler colonial state-societies.

Decolonising Theory

* **Who theorises?**
* Indigenous critical theory and decoloniality.
* Subjectivity, relationality, and positionality.
* Kaupapa Māori research methodologies.
* Mātauranga Māori and Western academic disciplinarity.
  + What gets **counted** and **valued** as knowledge (re)production?
  + Are universities the only **locations** of knowledge (re)production?
* To survive and flourish is a collective struggle for decolonisation.