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New frontiers for ADR services

Primary dispute resolution and the challenge of the WA wheatbelt

Peter Curry

Recent initiatives by the Federal Department of Family and Community Services and the Attorney-General's Department seek to provide new services in primary dispute resolution (PDR) in regional centres of WA. The target group for PDR services is said to be the separating and divorcing population in rural and regional Australia. Selected centres in WA include Albany and Geraldton, which are at either end of the south-western farming zone known as the wheatbelt.

While it may be more usual in the context of this publication for issues of process and practice to be discussed directly, there are some special circumstances of the social, environmental and economic context within which the rural side of such work would necessarily take place. Potential providers of new PDR services might wish to review the capacity of our existing models of mediation related services and the combinations of skills now required to meet the challenge of the contemporary, and predictably worsening, plight of rural families more generally.

The 1990s saw the introduction of highly valued but apparently under-resourced 'pioneering' mediation services in the south-west. These have previously consisted of:

- family and divorce mediation and related services in Bunbury and Kalgoorlie, two regional centres beyond the boundaries of the wheatbelt;
- rural and farm financial counselling through the State's agricultural agencies and allied services;
- indigenous dispute resolution services through the Perth based Aboriginal Dispute Resolution Service reaching some country centres; and
- fledgling private sector mediation services.

Historical

As port towns, Albany and Geraldton have unique histories and sizeable urban-suburban populations. The communities of their wheatbelt hinterlands have a mostly more recent origin in the 20th century push to develop Mediterranean-style agriculture. This was in the wake of the State's investment in the towns and shires of local government infrastructure, the roads and railway networks for grain terminals and export commodities, and for the waves of land releases which enabled 'these Golden Lands ... awaiting British Boys', as the message in the advertising literature conveyed to prospective migrants was persistently pitched in the middle decades.

Roughly 90 per cent of the land has been cleared of its native vegetation, and even more cleared of its indigenous inhabitants. I have listened to the Nyoongar people refer to the landscape's wonderful bush remnants of the original environments as being 'all that remains of us'.

The wool and wheat was grown and exported, and the interest rates on the financial borrowings were largely passed on from the State to the family. For a generation or two it looked as though a new and thoroughly successful village economy, in a landscape comparable with southern Europe, had been recreated as an act of post colonial will. But the early indicators of environmental, economic and social stresses were there from the beginning, even if it arguably took the entire last century for the authorities to desist from dismissing the seriousness of the systemic implications and to look the causes in the eye.

2000 alternative realities

The imposed agricultural system which created the source of wealth and the infrastructure for the rural

communities and families has proved unsustainable. Cropping systems and farm based incomes are failing more frequently. Climatic patterns are changing. This year, some districts in the south-east face their fifth year in a row with no crop, or perhaps a spoiled, low value crop. Rural decline continues unabated as the banks, schools and services retreat from the shire towns to the regional centres.

Big areas of land and most of the streams and rivers have already become acidic or salty. Upwards of one third of the total area, particularly the farms situated across the once preferred shallow valleys and lower slopes, is predicted to be at risk of waterlogging, and the salinity it brings, within 50 years. Dozens of nature reserves and wetlands are already damaged by salinity and more than 450 species of flowering plants and unknown invertebrate animals are expected to become extinct. In the Salinity Strategy 2000 the Chairman of the Salinity Council wrote:

We will not be able to control salinity without changing from the traditional farming practices of annual crops and livestock grazing to new types of farming across large parts of the agricultural area. ... [T]here are high social and economic costs to be considered with these changes ...¹

Attitudinal surveys have repeatedly emphasised how the bare, bleak, late summer landscapes impact on the communities and how changing that landscape with green revegetation and new perennial production systems re-invigorates the sense of place, optimism and hope. Many groups of farming families have revitalised their social networks and have even transformed their own identity through working together on landcare projects to improve their local environments and prospects. But the scale of changes and the level of public and private investment required — as necessary to redress widespread dysfunction in the water balance and loss of biodiversity across the wheatbelt — has yet to be met with much success anywhere.

Adaptation to salty lands and waters will be increasingly important to those who remain on the land. Our collective challenge is to create a precedent in

managing a land and water use disaster — in slow motion but on a huge scale — through enabling changes in existing land and water usage by social processes and economic incentives. These are essential for devising viable personal and family level options which can then work as contributions to new sustainable systems.

From a variety of social studies and Marcelle Cannon's findings on mental health factors among farming families in the Albany region,² we can expect that the potential for poor human health may parallel the potential for poor environmental health. Stress and distress can arise from combinations of factors including re-escalating indebtedness for the farming family or a faltering in the individual's feelings of self-worth and the future viability of the wheatbelt social system. While roughly half of all farming families have chosen not to invest in landcare and new forms of agriculture, there appears to be a growing loss of intergenerational confidence in the future. Couples and families often aren't just divorcing each other, but seem to be attempting to divorce themselves from a whole way of life which some have decided is no longer working for them.

Previously unnecessary, there is little tradition of planning for farm succession. However, with the supply of new land for sons and daughters exhausted, farming families tend to be plunged into conflicts or crises when events force the extended family into the uncharted territory of discussing and resourcing their respective futures. Unaddressed parent/child or sibling relationship issues in families often present as rows, communication cut-offs or challenges of competency over technical issues of farm management, or perhaps disputes over responsibilities and obligations for the sharing of assets, labour and resources.

Under declining farm profitability, the socially and economically dependent and more vulnerable family members may become physically isolated (for example, daughters-in-law caught on the farm with no prospect of transport off it) or put under increasing pressure to perform according to parental expectations (for

example, the younger generation on the farm and children at school in Perth). Otherwise none of the children may express interest in returning to manage the farm, creating on-farm investment conflicts between what may be profitable in the short term versus what is needed over the next 20 years.

Either way, the older generation often stays on the farm and the average age of a farmer is about 60 years and increasing. Surveys indicate that the urban population's awareness of rural life and issues has never been lower, often reflecting the city dweller's lack of life experience and social links to anyone in the country. However, some school based programs appear to have great potential to break down the much discussed and frequently politicised urban/rural divide.

The introduction of peer mediation programs in regional and rural schools could likewise have enormous potential to change the way farming families regard conflict and the future place of third party assistance.

For a better future

Future acceptance of such support for young people, their parents and grandparents may be enhanced through referral mechanisms from trusted farm management consultants, rural adjustment counsellors and within other culturally accepted service mechanisms. Even so, to deliver an adequate service in dispute resolution at the point of separation and divorce, the complexity of family dynamics, legal, property and life planning issues inherent in assisting ordinary farming families meaningfully should present a need for caution.

The few mediators I know who have gone forth to farming families on one basis or another allude to disastrous encounters at some early stage. For myself, self-reflection and mentoring on my own early failures to help resolve environmental and land use disputes was the spur for this former private practitioner to seek formal training and experience in family mediation techniques for handling the family dynamics which so easily derailed sustained focus on the technical matters.



In the general absence of ADR/PDR divorce specialists in the country, or experienced family mediators with rural knowledge and experience, flexible multi-disciplinary team approaches with good diagnostic techniques may be one way to begin to deliver effective PDR. Its potential importance in facilitating community cohesion and adjustment under chronic stress has already been recognised by the arms of Government dealing with the natural resources management challenge. The WA Salinity Strategy 2000 stated in its recommendations to government that '[c]onfidential rural family support services need to be developed and made available to each farming family'.³

One of the implementation challenges for PDR will thus be how to develop such services and make them practically available to more than 10,000 farming families and the rural town communities, most of which are not geographically close to either Geraldton or Albany, and even further from the existing well established services at Bunbury and Kalgoorlie. ●

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The opinions of the writer are not necessarily those of CALM.

Further reading

- State Salinity Council *Natural Resource Management in Western Australia: The Salinity Strategy* Government of WA 2000.
- Department of Commerce and Trade and the Regional Development Council *A Regional Development Policy for Western Australia* Government of WA 2000, available at <www.wa.gov.au/regional/policy/policy.pdf>.
- SCRAM, available at <online.murdoch.edu.au/public/SCRAM/index.html>.

Endnotes

1. State Salinity Council *Natural Resource Management in Western Australia: The Salinity Strategy* Government of WA 2000 p vii, available at <www.salinity.org.au/management/pdfs/salinity-strategy.pdf>.
2. Reported to the 2000 Brisbane International Symposium on Ecosystem Health.
3. Above note 1 at 62.