

Michael Kirby: Indigenous disadvantage bigger problem than recognition

The former judge said action to address the gap between Indigenous people and other Australians was more urgent than adding some words to the constitution



From left, Greg Davison, former high court justice Michael Kirby, Dr Kyllie Cripps and Megan Williams at a University of NSW panel debate on the health and social consequences of Indigenous incarceration, held for Naidoc week on Wednesday. Photograph: Susi Hamilton/University of New South Wales

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The former high court justice Michael Kirby has voiced doubts over the potential impact of recognising [Indigenous Australians](#) in the constitution, saying that solving the massive economic disadvantage of Aboriginal and Torres Strait islander people should be prioritised.

Kirby made the comments on Tuesday at a University of New South Wales panel debate on the health and social consequences of Indigenous incarceration, held as part of Naidoc week.

“I don’t have all that much confidence that putting a preambular statement in our constitution, which says the right thing but isn’t connected to economic consequences, is going to be a big deal,” he said.

Kirby said it was impossible to dissociate economic disadvantage from the range of problems faced by Aboriginal people, including housing, education and health.

Aboriginal and Torres Strait islander Australians are [incarcerated at a rate 15 times higher](#) than non-Indigenous Australians. This rate rises to [26 times the non-Indigenous population](#) among children.

Kirby called the figures “a national scandal and a national problem” and said for the majority of offenders imprisonment was the consequence of petty but accumulated crime.

“We can talk until we’re blue in the face about some words in our constitution,” he said. “But unless we come to deal with this effectively we will continue to have a major problem on our hands in Aboriginal health.”

Effective action on closing the gap was more urgently needed than “putting a few words in a text of the constitution”.

However, a fellow panellist and head of the university’s Aboriginal and Torres Strait islander health program, Dr Marlene Kong, said decolonisation was an important step in tackling social disadvantage.

“When you look at the poor situation that a lot of Aboriginal people are in,” she said, “in terms of poor education, unemployment, poor health, poor housing – these social determinants all come about because of the dispossession of the lands, the destruction of the language and the culture as a result of the colonisation process.

“So how do we reverse on a bigger scale? How do we decolonise the situation?”

Decolonisation was being spoken about in many other countries, she said, and it was a discussion Australia needed to participate in.

Panellist Greg Davison, Aboriginal health manager with the NSW Justice Health network, quoted widely from a [2009 Aboriginal inmate health survey](#) which highlighted the wide health gap between Indigenous and non-Indigenous inmates.

The survey found Indigenous inmates were more likely to have been dependent drinkers, have a history of illicit drug use and test positive to hepatitis C, and were significantly less likely to have accessed healthcare outside prison.

They were also at a higher risk of many chronic conditions due to high rates of tobacco smoking, physical inactivity, poor diet and heavy alcohol consumption, which are common risk factors for cardiovascular disease, kidney disease, diabetes and obesity.

But Davison said incarceration represented “an opportunity to engage people in their health care journey” and for many Indigenous Australian inmates it was the first time they accessed a health service.

He said those who came in contact with the justice system became a “justice health patient” as opposed to “inmates or offenders”.

In police cells injuries and acute health conditions are addressed, while those who enter the prison system are given complete health assessments and appropriate referrals. Such referrals could include an Aboriginal chronic care program, general practitioner services and mental health services.

He said while chronic health conditions are common and rates of hepatitis C are high, “on the positive side, for many people we are able to commence healthcare, including referring

people to drug and alcohol substitution treatments that may help to break the cycle of drug use.”