Journal of Indigenous Policy

This Issue may be cited as:

Journal of Indigenous Policy - Issue 14

Published June 2013

ISSN 1448-4463

Cover painting:

Artist: Chips Mackinolty

Title: *...and there'll be NO dancing*
Medium: Inkjet print on German etching paper, AP edn 30
Size: 49.5cm x 49.5cm
Year: 22007

Statement:

Mackinolty describes this print as having 'a complicated origin'. It was his own response as an artist, to the Northern Territory Emergency Response (the Intervention) introduced by the Howard Government in June 2007.

The centrally positioned road sign, recording the size of the Northern Territory, acts as a politically sanctioned cartographic marker, announcing a national emergency in Australia's Northern Territory.

Cover design and layout by Francisco Fisher.

Printing by SOS Print + Media.

Journal of Indigenous Policy

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Why the *Journal of Indigenous Policy*?

The *Journal of Indigenous Policy* has been established to provide a forum for intellectual discourse on Indigenous policy development and implementation as it affects the lives of Aboriginal and Torres Strait Islander peoples in Australia. It is an initiative of a group of Indigenous professionals seeking to provide opportunities for a diverse audience to access the perspectives of a wide range of authors.

The most fundamental value guiding the publication of this journal is that we respect and recognise Indigenous peoples right to self-determination as they define this right for themselves, their people and their communities. Genuine exercise and enjoyment of this right on a collective level requires policy to play a crucial role. All too often, when programs designed to support Indigenous peoples advancement fail, poor policy development and implementation is a key collaborator.

Recognition of the right to self-determination must also be extended to the individual. So it is that while the *Journal of Indigenous Policy* maintains the highest editorial standards, this is also demonstrated in our respect for the personal choice of our contributors. For this reason readers may notice some fluctuations in the use of grammar and style by the authors.

It is the aim of the *Journal of Indigenous Policy* is to become a respected contributor to Indigenous policy discourse particularly within Indigenous community based organisations.

The *Journal of Indigenous Policy* does not solely publish articles that have been peer reviewed although this option is available to any contributor who so chooses.

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All articles must conform to the *Guidelines for Contributors* that are provided at the end of this edition.

Journal of Indigenous Policy - Issue 14

Jon Altman: Arguing the Intervention

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FOREWORD

For over three decades, Professor Jon Altman has been one of the leading scholars on Indigenous research with a particular focus on Indigenous economies.

Through the period since the Northern Territory intervention in 2007 until the present day, his work has taken on increasing significance. In a period in which government policy continues to be shaped by ideological rather than by evidence and research, Jon Altman, like many other researchers in the field, found his expertise and work increasingly sidelined. As the thread of polemic that weaves through these articles shows, Altman's insights, founded in his research and his experience within the very communities affected, has provided sound critique of the assumptions, impacts and unintended consequences of government dogmatism. His work has been ignored to the detriment of the people who have been subject to these policies.

Professor Altman has argued that the rhetoric of government, its insincere and disingenuous processes of consultation, and the consensus between the two major political parties and the conservative political press has become the dominant, unquestioned line. But underneath that ideological consensus are approaches that ignore the failures on the ground that Altman reveals and documents.

The title of this collection of essays is no accident. In the current climate, researchers such as Altman are not posing questions but defending research outcomes. Policy makers are not responding to what is working and what isn't; they are ignoring any work that questions the ideological agenda of current government direction.

To the many of us who have followed Altman's career and body of work, it is of no surprise that his predictions about the current state of Indigenous policy in Australia consistently prove to be correct. He brings considerable expertise, experience and intuition to all his deliberations and views.

Two quotes from two great men came to mind in reading this collection of essays and reflection pieces: George Orwell: "In a time of universal deceit, telling the truth is a revolutionary act" and Martin Luther King Jr.: "In the end, we remember not the words of our enemies but the silence of our friends."

Altman, in the best sense of academic tradition, has been a fearless and unwavering observer and commentator, unwavering and unrelenting in his intellectual and humane approach. In the poisonous atmosphere in which critics of government policy – just as insidious from the Labor government as it is

from the ultra-conservatives – have been silenced, Altman has been a forthright, honest and diligent commentator.

We are proud to be publishing this collection of critically important essays. We are confident that, over the passage of time, they will only increase in importance.

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ARGUING THE INTERVENTION

JON ALTMAN*

Introduction

> As anthropologists studying people who live under conditions of extreme duress and distress, we feel it imperative to link theory to practice. Otherwise we would be merely intellectual voyeurs. It is politically and analytically gratifying to engage with critical theory, but we also need to operate at the level of immediate policy options and specific local interventions that can be implemented in both the short term and the long term to reduce the structurally imposed suffering of our research subjects.[1]

I remember it as clearly as if it were yesterday. On 21 June 2007 I was driving through Darwin just after midday when my mobile rang. It was an ABC reporter, 'John Howard and Mal Brough have just announced a national emergency; the Commonwealth is going to take over Indigenous communities in the Northern Territory'. I pulled over and quizzed Annie Gaskin, she was able to play back for me some recorded material from a dramatic Canberra press conference and asked me to comment, which I did. The Howard Government's action that day was a personal tipping point when I stopped suspending judgment, a decision I recognise now as deeply liberating.

For a social scientist trained to suspend judgment such action can be interpreted as a cardinal sin. One frequently hears academics assert, like bureaucrats, that they have no personal views on policy matters, only detached professional assessment. It is worth reading sociologist Pierre Bourdieu on this in *Acts of Resistance: Against the Tyranny of the Market*. Discussing the role of the state in the service of dominant market forces he asks 'Why are the intellectuals so ambiguous in all this? I will not try to enumerate—it would be too long and too cruel—all the forms of surrender, or, worse, collaboration'.[2] Bourdieu reminds us that silence too is highly political and as an academic I was unwilling to either surrender or collaborate in a paternalistic state project driven by moral panic and tokenistic reference to a neoliberal trope. I had not become an academic to be a part of any 'anti-politics' machinery.[3]

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[1] Philippe Bourgois and Jeff Schomberg, *Righteous Dopefiend*, University of California Press, Berkeley, 2009, p. 297.

[2] Pierre Bourdieu *Acts of Resistance: Against the Tyranny of the Market,* translated from the French by Richard Nice (The New Press, New York, 1998) p. 42.

[3] To use that evocative phrase composed by James Ferguson in *The Anti-Politics Machine: "Development", Depoliticization, and Bureaucratic Power in Lesotho* (Cambridge University Press, 1990).

That same evening I quickly prepared a brief piece 'Another Failed Howard Experiment in Indigenous Affairs' for online media outlet *Crikey*.

My relationship with *Crikey* had only been formed in the previous month, May 2007. In one piece, *Budgeting for All Australians Except the Indigenous Ones*, reproduced as the opening piece here, I had been highly critical of the Howard Government's parsimoniousness towards the most needy Australians during a period of unprecedented national bounty. In another, *Working on Country: Merging Indigenous Knowledge and Science*, I had praised the Howard Government, and in particular Greg Hunt, for introducing the new Working on Country program in that same budget—to be transparent, something that I had advocated for by lobbying the Minister and working with senior officials in his department since June 2006.[4]

My piece that evening, as well as my more off-the-cuff radio response earlier in the day, was influenced by two serendipitous factors.

First, as recounted in *Coercive Reconciliation: Stabilise Normalise, Exit Aboriginal Australia* (co-edited with my partner anthropologist Melinda Hinkson)[5] I had just returned the day before the Intervention announcement from my 38th fieldwork visit to central Arnhem Land. I could not readily accept that the demeaning language used and blanket measures proposed by Australia's political elite was justified; I felt a deep moral obligation to speak up for the Kuninjku community that I had worked with since 1979 and who I knew would lack the media means to speak up for themselves. As I heard dramatic military language spoken by Howard and Brough wearing severe faces and proposing to suspend racial discrimination law, I empathised with those who could be negatively impacted by the deployment of army and police by powerful agents of the 'law and order' state flexing their muscles at the most politically and socio-economically marginalised and spatially isolated groups in Australian society. I did not take kindly to people who I had known for decades being stereotyped so negatively and so readily by pompous white politicians in Canberra.

Second, we were staying at Nugget's Place, a flat at the ANU's North Australia Research Unit facility named after my late colleague HC Coombs. I could not help but ponder then and now how he might have responded to such top down policy making? Negatively, I am sure, but probably with a great deal more diplomacy and effectiveness than I can muster.

My initial response was not of course just based on what I heard of the proposed Intervention measures that day. I had been working on Indigenous

[4] <http://www.crikey.com.au/2007/06/04/working-on-country-program-merging-indigenous-knowledge-and-science/> accessed 31 December 2012.

[5] Jon Altman and Melinda Hinkson (eds) *Coercive Reconciliation: Stabilise Normalise, Exit Aboriginal Australia,* Arena Publications, Melbourne, 2007.

development and policy issues for just on 30 years when the Intervention was announced. My approach over those years had been honed by my initial academic training as an economist, encouraging a focus on quantification and realism; later training as an anthropologist, adding an abiding openness to cultural relativism and the views of others; grounded research experience with many Aboriginal groups in remote areas; and a personal commitment to social justice formed by my own upbringing.

My position on the Intervention was also influenced by my growing disenchantment with the performance of the Howard Government in Indigenous affairs. I had previously been critical in both my research and media engagements on many issues: the Government's poor performance on practical reconciliation, the abolition of the Aboriginal and Torres Strait Islander Commission, inept reform of land rights and native title laws, and the accelerating destruction of the institutions of Indigenous Australia and associated principles of self-determination and self-management.

And so my position on the Intervention was not just happenstance, I had a track record as a critic of the Australian state, but my position was neither party partisan nor just ideological—I had been critical of governments before Howard's and, as will become amply clear in this volume, governments since. But I have always aspired not simply to critique bad policy, but to provide constructive alternate proposals. I am committed to a position akin to that so neatly encapsulated in the opening quote above from Phillipe Bourgois and Jeff Schomberg.

*****

Arguing the Intervention compiles in one issue of the *Journal of Indigenous Policy* a selection of 39 research-based short essays about the Intervention published in the media over five years. This time frame represents the period between the announcement of the Intervention on 21 June 2007 and the expiry of Northern Territory National Emergency Response laws after 18 August 2012. Thirty-eight of the 39 pieces were published within this time frame, two were co-authored and one is a robust published exchange between Indigenous Affairs Minister Jenny Macklin and myself.

This collection represents one form of writing about policy that I have undertaken as an academic engaging with the public sphere beyond the academy in an effort to influence policy and thinking. While the early pieces are rapid fire and often responded to Intervention issues as they unfolded, they are not just what is often referred to as 'opinion' but are informed by past and current research. Some of the earlier pieces published in the national print media are less than 1000 words in length, most published in Indigenous and online media are between 1000 and 2000 words. There is often a perception, common among my academic colleagues, that engagement with the media is

quick and ephemeral and some, like the off-the-cuff radio interview or the quick letters dashed off to the editor may be, but the pieces reproduced here have generally been carefully crafted as short essays.

As I have compiled this collection I have reflected on my engagement with the media during the five years covered here. From the outset in June 2007, I was determined to provide a critical take on the Intervention and avoid being caught up in the heady moral panic abroad, even within academia. But finding an appropriate mode of media engagement 'to argue the Intervention' has been challenging.

I look back now on that first interview with ABC Darwin conducted an hour or so after the Intervention was announced and am amazed at the unprecedented media coverage, for me, that it received: over 50 pages of material from the media monitors engaged by the Australian National University (ANU) where I work. AAP probably covered what I said that day best: 'Jon Altman, Director of the Centre for Aboriginal Economic Policy Research at ANU, said the Commonwealth's response was heavy-handed and undermined developments in the area. "What you have seen from Federal Indigenous Affairs Minister, Mal Brough and the Prime Minister is a total unwillingness to deal with underlying issues, which is the neglect and marginalisation of Aboriginal communities," he told ABC radio. "Rather than addressing those underlying issues, and they are complex and will take years to address, we are seeing a knee-jerk reaction and blame-shifting onto the Northern Territory government".

Initially my voice was a part of the mix, and even the flagship national newspaper *The Australian* reported my comments at length noting my views: 'the commonwealth's initiative was a knee-jerk action when it should have dealt with "real systemic issues that have not been addressed". These include lack of opportunity, historic injustices, and marginalisation. Professor Altman told *The Australian* the Territory's jails were already choked with Aborigines, and questioned whether the answer was to incarcerate more'. Tom Switzer, then opinion editor there, even published a short piece I co-authored with John Taylor in July 2007 and reproduced here.

But increasingly, as unspoken battlelines were drawn over the Intervention, it became difficult after the early flurry to have a substantive voice beyond writing letters to editors. Even these were not always appreciated; as Nicolas Rothwell wrote in *The Australian* 'Professor Altman works as an economic development expert but his temperament is artistic; in fact his ideal job might be as an upscale newspaper editor, for he clearly spends a great deal of time reading newspapers and writing tart little letters to them, correcting errors in the reportage of indigenous affairs'.[6] I always thought that correcting errors

[6] Nicolas Rothwell *Journey to the Interior* (Black Inc. Melbourne, 2010, p159); originally published in The Australian 3 September 2008 <http://www.theaustralian.news.com.au/story/0,25197,24246848-25132,00.html>.

was an important role of letters and of academic endeavour. Even publishing these 'tart little letters' has become more difficult, first as my hit rate declined, then as the Letters Editor of *The Australian* started to severely cut their length making them littler, and finally in April 2012 when I was informed what was acceptable and unacceptable to publish, so even the 'tartness' needed to be eliminated.

It seems clear to me that the national print media was looking to promulgate a particular narrative by a stable of journalists all too often reporting government media releases, by and large uncritically, with some commentary or opinion editorials allowed for a select group of black and white commentators. This deployment of power via the mainstream media is of no surprise, in my view powerful political forces in Australian society (and globally) are in a dialectic relationship with possibly more powerful commercial and media interests. But it is something that I wanted to challenge as a policy academic with whatever means at my disposal and to expose. And increasingly it was the alternate, or non-mainstream media, that has provided me with opportunity to publish a viewpoint that had little in common with the dominant discourse.

A very particular form of writing is presented here that has allowed me to critically engage with current issues of Intervention policy and related matters as they have unfolded. This intellectual response is not mere opinion; it is deeply influenced by over 30 years of research experience about the economic and social situation of remote living Aboriginal people in many parts of the Northern Territory, of likely policy effectiveness, and of likely intended and unintended consequences.

My aim has been to provide an alternate critical viewpoint and just so as not to sound too heroic, among others, to counter a tsunami of mainstream opinion strongly in favour of the Intervention. This dominant discourse has been over-influenced in my view by carefully crafted, often saccharin-sweet, ministerial press releases, strategically published or judiciously leaked to select journalists, advocating for a particular form of paternalism. I am not aware of any Intervention measures that are systematically based on either comparative practice or evidence of success; most have been based on ideologically predetermined positions, some on cogent argument tightly framed to a particular policy script, and most anticipating political popularity with the wider Australian voting public.[7]

My motivation in seeking publication of this collection of short media essays is

[7] As recently suggested in another article, perhaps the Intervention and its evaluations and media releases about them are as much about 'societal comfort production' as about addressing deeply embedded wicked problems of Indigenous disadvantage. See Jon Altman and Susannah Russell 'Too Much Dreaming: Evaluations of the Northern Territory National Emergency Response Intervention 2007–2012, *Evidence Base*, Issue 3/2012 available at <http://journal.anzsog.edu.au/userfiles/files/2012Issue3Final.pdf>.

influenced in part by an escalating personal concern about the power and growing influence of the mainstream media on Indigenous policy and its increased ability to directly influence policy formulation, what has been referred to as a 'mediatized practice impact', while simultaneously less and less is factually reported.[8] But it is also influenced by a growing interest in the potential utility of the media as a means to communicate academic views on issues of national significance, recalling that in 2007, when the Intervention was launched, Indigenous affairs rated very highly alongside climate change, as an issue of national importance.

Much of what I wrote, and continue to write, is based on research that I am undertaking. As an academic I have always sought to reach a broader public beyond academic audiences, a principle that has guided my university-based career spanning 36 years to date. Since 1982 I have been working at the ANU, an institution committed to engage with issues of national policy significance. Pierre Bourdieu has asked rhetorically: 'Why have we moved from the committed intellectual to the 'uncommitted' intellectual? Partly because intellectuals are holders of cultural capital and, even if they are the dominated among the dominant, they still belong among the dominant'.[9] I recognise that I am privileged to have the opportunity to write from this bastion of cultural capital and counter to Bourdieu's lament this has made me even more determined to remain a committed intellectual.

The short pieces republished here can be roughly divided into two groups, those published during the first three years of the Intervention, and those published in the last two. Part of the distinction can be explained by my stepping aside as Foundation Director of the Centre for Aboriginal Economic Policy Research (CAEPR) for a variety of reasons after 20 years in April 2010 which freed up more time for media writing. But I also learnt over time that if one wants to control the message then one has to have total control of the product. To again quote Bourdieu 'Our dream, as social scientists, might be for part of our research to be useful to the social movement, instead of being lost, as is often the case nowadays, because it is intercepted and distorted by journalists or by hostile interpreters, etc.'[10]

Some in Australian society today, like Noel Pearson, Marcia Langton, Warren Mundine or Helen Hughes, are afforded generous coverage and space in *The Australian* and elsewhere. Others who have alternate views, like me, might see their opinion pieces, even when invited, rejected and as noted earlier their letters heavily edited. Media outlets in Australia do have strong ideological lines despite protestations to the contrary while alternate views are carefully

[8] Kerry McCallum (ed.) *The Media & Indigenous Policy: How News Media Reporting and Mediatized Practice Impact on Indigenous Policy* (Journalism and Communications Studies, Faculty of Arts and Design, University of Canberra, ACT, 2012).
[9] Pierre Bourdieu, *Acts of Resistance,* p. 44.
[10] Pierre Bourdieu, *Acts of Resistance,* p. 58.

managed to placate any charges of blatant bias.

And so I count myself fortunate to have been given space, mainly in the alternate media, to have my views published without any content restrictions and with only titles outside my direct control. It may or may not be evident to the reader, but in the earlier period my pieces tend to be shorter and a little more haphazard because of the urgency of the response—so much was moving so quickly during the early period of the Intervention. Since 2011 my approach has been more disciplined and measured as I was engaged as a columnist by *Tracker* 'the black monthly' published by the NSW Aboriginal Land Council.[11] My column is called 'Evidently' and this is why the word evidently appears in every piece that I have written for *Tracker* since April 2011. To date, the editor Amy McQuire has allowed me *carte blanche* on what I write with the proviso that copy must be on hand to her timetable. *Tracker* has also allowed my column up to 2000 words because its editorial team recognise that complex issues need space for explication. And equally importantly they have generously allowed the column that they have commissioned to be republished elsewhere, since 2012 on a monthly basis in *Crikey*, usually slightly abridged and with a different title. This has allowed me to reach a diversity of audiences, although interestingly the political economy of knowledge reproduction in contemporary Australia means that material in alternate media like *Tracker* and *Crikey* is often missed by media monitoring and reporting services, including the one engaged by the ANU.

So far I have focused on my motivations and means for finding media space to articulate the critical stance that I took on the Intervention since inception. Now I want to briefly outline three inter-linked reasons why I approached the *Journal of Indigenous Policy* with a proposal to compile this selection of short essays in one volume.

First, skilful politics by the Australian Government is seeing the Intervention discursively reframed while key measures are retained. I have written about this elsewhere.[12] I am keen for my views on the Intervention to be available in one place, for the historical record. This is not just vanity. It is a little surprising how quickly even with Google, and other search engines, media pieces disappear—we may have the social media means to disseminate information far and wide but information storage and retrieval remains problematic. These pieces will now be available in one place in hard copy or in portable document format (PDF) as a collection for some time. In a sense I am looking to challenge the ephemeral nature of print and electronic media even today.[13]

[11] My links to *Tracker* go back to occasional writings for the *National Indigenous Times* over a number of years; its editor Chris Graham became the managing editor of *Tracker* in 2011. It goes without saying that robust personal relationships with those who own and/or manage media outlets matter.

[12] See Jon Altman and Susannah Russell 'Too Much Dreaming', p. 18.

[13] Even in retrieving these pieces in 2012 it has been difficult to replicate the links between

Second, the compilation of these pieces in one document affords readers the opportunity to hold me accountable, as a policy intellectual, for what I have written—this is an important part of the academic tradition. It strikes me that too many commentators and journalists, black and white, publish views for which they are not held accountable. So in this one volume a significant portion of my writing on the Intervention for wider public audiences can be readily accessed. What is more, these pieces provide opportunity to both check their consistency over time; and equally importantly if they have added value as a cumulative narrative: transparency matters. It is for this reason that while the pieces have been style edited for consistency, and links in *Crikey* pieces have been converted to footnotes, I have looked to retain original wording as much as possible—there is no ex post facto adaptive massaging of views here.

Third, I am keen to use this volume to demonstrate that media engagements can be substantial and research intense. I have heard on the grapevine that words are whispered in the corridors of the academy that my public writings are 'too political' and even that I am a 'media tart'—this can be a way of subtly undermining the committed intellectual. And yet at the same time academics, certainly at my university, are being encouraged to engage with the media more and more to demonstrate the value of research—the ANU even annually makes media awards to its academics judged to be successful in this domain across a number of criteria. To my colleagues I say, as above, I did not choose an academic career to be depoliticised or silenced. To universities I say get serious about valuing what is termed outreach or public service and stop prioritising peer-reviewed scholarly publications in assessing academic performance as if little else matters. As an example, the essays compiled here when published in *Tracker* or *Crikey* got no credit as publications and so they are not just explicitly devalued, but implicitly deemed of little academic worth.

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The critical stance I took on the Intervention 2007–2012 was, and remains, the subordinate discourse, and so gaining space for such heretical views in the mainstream media has been difficult. And so I would like to thank those in the alternate media especially at *Tracker* and *Crikey* but also at the *National Indigenous Times*, *Arena Magazine* and the ABC's *Drum* who have provided me with space 'to argue the Intervention'.

I would also like to sincerely thank Larissa Behrendt for her thoughtful foreword and the editorial board of *Journal of Indigenous Policy* for allowing an entire volume to be dedicated to my short writings. I would also like to thank Elisabeth Yarbakhsh for compiling and standardising the pieces; Tessa Altman for checking for style consistency; Nicholas Biddle for assistance with

documents that was possible when they were first published especially on *Crikey*.

some statistical data; and Melinda Hinkson for suggesting the volume's title and for always encouraging my political and academic efforts.

31 December 2012

Budgeting for all Australians, Except the Indigenous Ones

While the Howard Government boasts that it governs for all Australians, it certainly does not budget for all Australians on any equitable needs or evidence bases: here is another opportunity lost. Billions are being spent in the 2007–08 Budget on areas like higher education, on tax cuts, on the elderly, but such expenditures are inherently biased against Indigenous people who are under-represented in universities, in employment and among older age cohorts.

Systemic biases are perpetuated. The Government does not get the simple message that historic backlogs and rapid population growth result in greater and greater unmet need. Neglect now will result in social damage that will get exponentially more costly to repair in the future.

The Budget included 26 initiatives totalling $816 million over five years focusing on the Howard Government framework of 'practical' reconciliation in health, housing, education and employment. The $163 million per annum extra funding committed will go nowhere in delivering 'A Better Future for Indigenous Australians' because the quantum is inadequate, given the enormity of historical backlogs, and that the initiatives are piecemeal and often ideologically rather than practically based.

The headline reform is in housing where $73 million per annum extra is provided to implement the new Australian Remote Indigenous Accommodation Program. It is estimated that in the Northern Territory alone there is a housing shortfall of over $2 billion.

This new program, which doesn't start till 1 July 2008, has three aims: to shift Commonwealth expenditure to focus on remote Australia, where only 25 per cent of the Indigenous population lives; to abolish the Community Housing and Infrastructure Program (CHIP) that has provided community housing; and to shift or force Indigenous people instead into public housing (thus cost sharing with the States) or into private housing—conditional on traditional owners leasing their lands to the state and meeting negotiated behavioural conditions.

All commentators (except Minister Brough) suggest that this last measure faces a huge affordability hurdle. Having demolished the Aboriginal and Torres Strait Islander Commission (ATSIC), Minister Brough now wants to demonise it: the Indigenous housing backlog is all ATSIC's fault and the Government of the day since 1996 (that set the CHIP funding level) bears no accountability at all! The Minister does not understand: ATSIC did not deliver CHIP, it just funded it.

On health, the aggregates commitment is $30 million per annum, about 7 per cent of the $460 million that the Australian Medical Association (AMA) and Oxfam say is needed to start closing the life expectancy gap between

Indigenous and other Australians. Health can't be ATSIC's fault; it is administered by Tony Abbott's department.

On education, another non-ATSIC area, there is a focus again on remote regions, moving kids away to school rather than meeting massive education infrastructure shortfalls at home communities—state and policy failure looms large here. And on employment, there are 850 'real' jobs created (with state subsidy) over four years to reduce Community Development Employment Projects program participation by a minuscule 3 per cent of 30,000.

A very positive measure here is 'Working on Country' which will provide payment to Indigenous rangers to provide environmental services on the Indigenous estate: $12 million per annum extra to manage 1.5 million square kilometres where there has been chronic underinvestment that is counter to national interest.

There is $10 billion left in surplus, perhaps this will be committed to an Indigenous Futures Fund in the run-up to an election? That is the level of commitment that is needed unless Indigenous Australians are to continue missing out and falling further behind as Australia booms.

10 May 2007

Yet Another Failed Howard Experiment in Indigenous Affairs?

In 2004, the Howard Government invested considerable public funds to attempt to discredit a paper by Boyd Hunter and myself, 'Monitoring "practical" reconciliation', highlighting that official Census statistics raised doubts that 'practical reconciliation' was working.[14]

Compared with the period 1991–96, the early Howard years of 1996–2001 indicated that, in relative terms, Indigenous socioeconomic status, as measured by health, housing, education and employment indicators, was declining. Later this year, we will have 2006 Census data that will provide evidence about how the Howard Government has fared in its later, perhaps last, years.

The 'National Emergency' declared yesterday suggests that the Howard Government itself is not confident that it has delivered to Indigenous Australians in the period since 2001. In the meantime, ATSIC, the national Indigenous representative organisation, has been abolished and, according to Minister Brough, it is to blame for not fixing the Aboriginal 'problem', even though its functional mandate did not include education or health or mainstream employment, three of the Howard Government's four practical reconciliation planks.

The demise of ATSIC, a Senate majority, constitutional powers conferred in 1967, and a record run of budget surpluses have all given the Government an unprecedented three-year opportunity to address Indigenous disadvantage unhampered by its imagined barriers of the previous eight years.

It has chosen not to make significant investments in addressing Indigenous backlogs and historical legacy in practical ways, in part because it has focused on the more 'symbolic' issues of mutual obligation, arguing repeatedly that more state Intervention would just result in greater problematic dependence.

It has sought moral solace from Noel Pearson's concerns about passive welfare 'poison' on Cape York. Howard's 'neoliberalism' recognises no tension between equality and equity: it is all about assimilation, mainstreaming, integration and normalisation. There is little room for cultural diversity and difference or for engagement with democratically elected Indigenous voices.

Indeed, 'culture' is demonised as the source from which so much dysfunction springs forth. Again, symbolically it is Sue Gordon, the appointed head of the appointed, not elected, National Indigenous Council, who will head the Government's latest taskforce, with membership still to be announced.

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[14] See Jon Altman and Boyd Hunter, 'Monitoring "practical" reconciliation: Evidence from the reconciliation decade, 1991–2001' (CAEPR Topical Issue 1/2004). <http://caepr.anu.edu.au/Publications/topical/2004TI1.php>.

For a Government that regularly bleats the mantra of practicality, there is something very knee-jerk, opportunistic and impractical about the suite of measures being introduced, and little that appears sustainable. For example, will alcohol prohibition for six months on Aboriginal communities merely result in problem drinkers moving to urban centres?

If there is concern about expenditure of welfare dollars on non-food items, why choose to channel only 50 per cent of social security income to food? And what about privately earned income; will the state also determine how this is spent? Will two types of dollars be issued as a regulatory measure?

If more police are to be placed in Aboriginal communities, from where will they be recruited and will they have requisite cross-cultural capacities to work in communities where English is often spoken as a fourth or fifth language? Where will police be accommodated? And if they are effective, and the outcome is greater Indigenous incarceration for whatever felony, where will Indigenous prisoners that already make up 75 per cent of the Northern Territory's crowded prisons be locked up?

Has a link between the permit system and child abuse been demonstrated, or is this just an opportunity to implement ideologically predetermined vendettas? Will withholding of welfare payments from parents who do not enforce school attendance really help their children's welfare? And so on.

The Pat Anderson/Rex Wild Report *Little Children are Sacred* made many considered recommendations, but starts by stressing that consultation with Indigenous people is the first essential step. Among its many observations was a call, yet again, for equitable needs-based funding to address systemic problems that are exacerbating Indigenous anomie in remote communities.

Just last week, the admirably independent Aboriginal and Torres Strait Islander Social Justice Commissioner, Tom Calma, was highly critical of the absence of an overarching policy framework in Indigenous affairs and an absence of any monitoring to test if the 'new' arrangements were working, let alone better than earlier arrangements pre-2004, or pre-1996 for that matter.

The Howard Government's heavily interventionist and paternalistic new 'new' approach based on a whole six days of policy reinvention[15] (without consultation with the NT Government or Indigenous communities) smacks of political expediency dressed up as moral indignation. Recent history suggests a similarly rapid and apparently unsuccessful policy backfill to the opportunistic

[15] This 'six days' was later revealed by Mal Brough on ABC Darwin radio to have been a mere 48 hours. See Jon Altman, 'Reflections on the NT Intervention—one year on', *Crikey* (online), 18 June 2008 <http://www.crikey.com.au/2008/06/19/reflections-on-the-nt-intervention-one-year-on/>.

abolition of ATSIC in April 2004.

While there is much detail still to be provided, there is nothing that seems either empowering or workable about the latest of a series of the Howard Government's failed experiments in Indigenous affairs. Indigenous Australians are yet again being subjected to experimental, poorly considered and clearly flawed public policy.

22 June 2007

Stabilise, Normalise and Exit = $4billion. Cheap at the Price?

On Monday, I was asked by the mainstream media to cost the new Howard/Brough approach in the Northern Territory: would it cost the tens of millions that the Prime Minister indicated he was willing to commit to this new state project to fix the 'National Emergency'?

I totally disagree with the 'National Emergency' rhetoric. What is now being examined carefully by the Commonwealth Government has been identified as a looming crisis for many years by many researchers, inquiries, Indigenous leaders, and others. And not just for the Northern Territory, but for all Indigenous Australians who may be in need.

My logic is that if we are going to have lasting outcomes, not just band-aids, we need to comprehensively tackle the key systemic issues of housing, health, education and employment—the four planks of John Howard's 'practical reconciliation'. Without debating who defines 'normalisation', I decided to do some rough 'back of the envelope' calculations of what this process might cost over five years.

I came up with approximately $4 billion.

Senator Nick Minchin then said I had the figures wrong. He said:

> I think there must be a lot of double counting in that.
> The Prime Minister's right to say this current initiative will be in the tens of millions of dollars.
> It's essentially engagement of personnel that will be the expense in this phase of the operation.
> I mean, obviously, the Government has ongoing expenses with respect to medical and educational and law and order issues in the Territory, and other parts of Australia that affect Aborigines, so I think Mr Altman is engaging in significant double counting.[16]

Senator Minchin preferred to stick with the current initiatives and tens of millions scenario, the so-called 'stabilisation' phase, rather than also consider the 'normalisation' phase of the new Howard/Brough initiative. What I would like to see from Senator Minchin, maybe with assistance from Treasury Secretary Dr Ken Henry who is fast gaining expertise in Indigenous affairs, are the Government's costings: as Minister Brough positively stated, cost would not stand in the way of the Government's controversial Intervention.

On the other hand, Lenore Taylor from *The Financial Review* suggested that I was too conservative. Taylor increased my estimate to $5 billion using a new NT Government figure of $2.3 billion needed over five years to build 5,000

[16] 'AFP team arrives in NT for Indigenous plan', *ABC* (online), 27 June 2007 <http://www.abc.net.au/news/2007-06-27/afp-team-arrives-in-nt-for-Indigenous-plan/82492>.

new homes with power and sewerage.[17] My conservative estimates were being exposed as too conservative very quickly.

Here are my numbers:

> On housing, the NT Government has estimated that $1.4 billion is needed to provide housing today, at seven persons per house, bearing in mind that some communities now average 15 or 16 people per house, a family per bedroom. Over five years, as the Aboriginal population conservatively expands at 2 per cent per annum, this is likely to increase to $1.5 billion.
>
> On health, according to the Australian Medical Association, $460 million per annum extra is needed Australia-wide: this estimate was used to advocate for realistic allocations in the 2007–08 Budget context only last month. I allocate 20 per cent of this to the Northern Territory, just a little above the NT Aboriginal population proportion of the national Aboriginal population, or $460 million extra over five years.
>
> On education, just focusing on the so-called prescribed communities, the NT Government estimates that there are 8,000 enrolled Indigenous students in these communities, but attendance is only 60 per cent. It is also estimated that 2,000 children are not enrolled. If 10,000 students went to school an extra recurrent allocation of $79 million per annum would be needed and a one-off allocation of $295 million for extra school infrastructure and teacher housing, totalling an extra $690 million over five years and that is for remote communities only.
>
> On employment, one indication provided by Sue Gordon, head of the National Emergency Task Force, on Monday is that people working on the Howard/Brough plan would get a full wage, not just 'work for the dole' CDEP. There are about 8,000 Aboriginal people on CDEP in the NT, let's give them all a full wage and employment opportunity which will cost an additional $1.4 billion over five years using similar broad-brush figures for converting CDEP jobs to proper jobs as in the new Working on Country program.
>
> This employment figure does not include another 3,000 unemployed Indigenous people on Newstart in the NT, but does include CDEP as an offset.
>
> These four estimates alone add up to just over $4 billion over five years and do not differentiate Indigenous people in the NT living on or off Aboriginal-owned land (except in relation to education), although it is known that more than 70 per cent live on the Indigenous estate.

This is an absolute minimum and it does not cover the immediate costs of the current 'stabilisation' phase involving an extra 60 police and approximately 62 additional doctors, one for each major community with a population of over 200, or their accommodation (bearing in mind the existing housing crisis), or the cost of leasing 62 communities from their owners, or the more difficult to quantify somewhat opaque costs of deploying North-West Mobile Force (NORFORCE) troops and federal bureaucrats as government-appointed managers, administrators or controllers.

Many commentators are quickly overlooking the 2007–08 Budget that was hugely disappointing to Indigenous Australia. Here was a golden opportunity, with a massive forecasted surplus just a month ago to systematically invest to

[17] 'Crisis plan could cost $5bn' *The Australian Financial Review* (Melbourne) 27 June 2007.

address Indigenous disadvantage Australia-wide. In my piece for *Crikey* last month, 'Budgeting for all Australians, except the Indigenous ones', I wrote:

> Billions are being spent in the 2007–08 Budget on areas like higher education, on tax cuts, on the elderly, but such expenditures are inherently biased against Indigenous people who are under-represented in universities, in employment and among older age cohorts.[18]

Given the scale of the problem identified by many researchers for many years now, as well as government-sponsored studies like the Commonwealth Grants Commission *Indigenous Funding Inquiry 2001*, and the dollar estimates outlined here, the new money committed last month was paltry—$160 million per annum extra Australia-wide, less than 20 per cent of what I estimate the NT alone needs, as a minimum conservative estimate.

What we need now is sustained effort, community consultation and partnership, effective and appropriate expenditure, and close monitoring by the media of what is being achieved. This crisis has largely come about because of neglect and resulting poverty, not because of Aboriginality and remoteness.

It is a crisis that will now require serious commitment to address over many, not just five, years. So the terminology of 'exit' is of concern, if the overarching aim is a larger measure of socioeconomic equality and sustained citizenship equity for Indigenous Australians.

29 June 2007

[18] Jon Altman, 'Budgeting for all Australians, except the Indigenous ones', *Crikey* (online), 10 May 2007 <http://www.crikey.com.au/2007/05/10/budgeting-for-all-australians-except-the-Indigenous-ones/>.

A Drift Towards Disaster

With John Taylor*

Wittingly, or otherwise, the Howard Government's 'national emergency' response in the Northern Territory, which includes a mix of new and old policy instruments, could see a rapid migration of Indigenous people from remote townships.

New proposals targeting these communities include, among other things, immediate alcohol bans, changes to welfare that will link school attendance with payment, health checks for children under 16, and changes to the Community Development Employment Projects scheme that will make all participants ultimately accountable to a commonwealth administrator rather than their community-based elected organisations. Many of these changes are part and parcel of the dominant policy discourse and emerging program settings that emphasise mainstreaming and migration from remote communities where labour markets are limited or absent.

The recent release of 2006 census data indicates that the NT Indigenous population has risen in line with projections from an estimate of 49,000 in 1996 to an estimate of about 63,000 in 2006. This rapid growth is happening everywhere, not just in remote communities. This growth places pressure on meeting shortfalls in housing and infrastructure and services such as health, education, and training for Indigenous people in private dwellings, public housing, community housing, and in town camps and informal camps.

A combination of policies that aim to move Indigenous people up the settlement hierarchy from outstations to townships and now from townships to mainstream urban employment could see urban migration in NT at an unprecedented level. Even before the emergency measures were announced last month, it was estimated that if the Alice Springs hinterland was emptied of Indigenous people living on their traditional lands, the Indigenous share of the Alice Springs population could increase from 20 per cent to about 50 per cent. This is obviously a statistical extreme, but if the full suite of commonwealth policy is taken at face value, and is effective, then this could be the outcome. Negative social cohesion impacts from relocation would make Alice Springs a very different sort of town.

Similar migrations could also occur in other centres, such as Darwin, where urban Aboriginal communities could be swamped by more than their usual share of visitors; and informal 'long grass' homeless camps would likely increase both in size and number. These are the possible direct consequences of

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current and planned actions.

Ironically, success in conducting health checks and in police interventions could also enhance urban drift if they result in higher rates of urban-based hospitalisation and incarceration, since patients and inmates are frequently accompanied by kin from home communities intent on staying close to and caring for relatives. The imposition of public housing occupancy levels on commonwealth-acquired community housing in remote townships will also need careful thought.

Overcrowding in community housing is substantially higher than accepted public housing levels, raising questions about how 'normalisation' will be achieved in the absence of either mass out-migration (possibly to outstations) or a massive housing construction program in situ. This latter is hard to imagine on land that has been compulsorily acquired for only five years.

Even the best-intentioned and thoughtful public policy-making can have unintended consequences. But policy-making on the run, such as we are seeing at present, greatly increases the risk of mistakes.

It is worth recalling that a large-scale unregulated movement to towns associated with the Pastoral Award decision in the late 1960s led to many of the social ills that remain in NT town camps. In the present policy climate of uncertainty we run the risk of repeating this migratory effect at a higher level and amplifying the marginalisation of Indigenous people that lies at the very heart of social dysfunction.

Only last year, Gary Johns, head of the conservative and influential Bennelong Society, warned the Government that policy changes would spark a move away from remote communities, creating problems in north Australian towns. Rather than encourage rural decline and prepare for a refugee influx, as Johns predicted, serious action needs to be taken to address investment backlogs in education, housing, health and economic development in townships and outstations in the Aboriginal-owned hinterland.

Such investment is essential to avert the likelihood of people moving once again from rural poverty to far more extreme poverty in urban slum dwelling situations. Evidence suggests that a potential socioeconomic disaster may well emerge.

Unintended consequences of policy on the run need to be avoided at all costs by more considered policy-making.

11 July 2007

Scrapping CDEP is Just Dumb, Dumb, Dumb

Ministers Joe Hockey and Mal Brough's decision to abolish the Community Development Employment Projects (CDEP) scheme in remote Indigenous communities in the Northern Territory will have marked impacts on the arts industry, the management of Indigenous Protected Areas, and community-based Caring for Country ranger projects. And it's not just these success stories that will suffer; it's likely that there will be wider local, regional and national costs from this myopic, ill-considered policy shift.

Hockey and Brough should have taken a history lesson before they made the announcement yesterday. If they'd bothered to look back, they would have learnt that unemployment was created in remote and very remote regions of Australia in the early 1970s when below-award training allowances were replaced by award wages. This unemployment in turn led to the establishment of the CDEP scheme by the Fraser Government in 1977.

CDEP was first introduced to remote Indigenous communities as a progressive and mixed community development, employment creation and income support scheme. I noted then that its part-time characteristics might suit Indigenous people who may want flexible employment with the capacity to enhance income through additional market engagement like arts production and sale; or through participation in the customary (non-market) wildlife harvesting sector to generate livelihood benefits.[19] In reality, most of the 5,000 Indigenous artists in the NT, as well as 400 community-based rangers in the Top End, are all CDEP participants.

The beauty of the scheme is that it maximises individual choice. Participants could work part-time for a minimum income or work full-time and overtime if they were income maximisers. Now, as in the 1970s, Indigenous people's choice is being unilaterally and heavily circumscribed: they can participate in the mainstream 'real' economy or be welfare recipients.

The Hockey/Brough focus on award-based 'real jobs' at the expense of CDEP jobs and CDEP organisational support could have the perverse effect of increasing unemployment in these communities. This is partly because those on CDEP are classified as employed. But it is also because National Aboriginal and Torres Strait Islander Survey (NATSISS) data collected in 2002 by the Australian Bureau of Statistics (ABS) shows that one in five CDEP participants already get full-time work through the efforts of their organisations. Altogether, between 85 and 90 per cent work more than the funded CDEP hours in remote and very remote Australia according to the 2002 NATSISS.

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[19] Jon Altman and John Nieuwenhuysen, *The Economic Status of Australian Aborigines* (Cambridge University Press, 1979).

Brough and Hockey should also have looked at the ABS publication 'Labour Force Characteristics of Aboriginal and Torres Strait Islander Australians 2006'.[20] The ABS figures for the NT for 2006 show that the NT unemployment rate for Indigenous people was estimated at 15.7 per cent, more than three times the Australian rate of 4.9 per cent.

But this rate includes an estimated 8,000 CDEP participants as employed. If the total number of Indigenous people employed in the NT (15,300) is reduced by 8,000 and between 1,655 and 2,000 'real jobs' are created (there is some inconsistency here between the Joint Media Release and data in the attached CDEP in the Northern Territory Emergency Response documentation) by replacing all non-Indigenous employment with Indigenous workers, then the unemployment rate will still increase to at least 50 per cent.

The ABS itself notes the labour force participation rate (at 44.8 per cent in the NT) is particularly low in remote areas as these are regions 'which generally have an underdeveloped labour market and this is reflected in the low number of Indigenous people actively looking for work and therefore not in the labour force'. The employment to population ratio in the NT is the lowest by far in Australia at 37.8 per cent (and 61.8 per cent for all Australians).

The Ministers should also have talked to their colleague Senator Nick Minchin, the Minister of Finance, who was critical of my estimate that normalisation would cost $4 billion over 5 years.[21] On employment, I estimated that converting 8,000 CDEP positions to proper jobs would cost $1.4 billion over 5 years net of CDEP. Much of this cost though would be recurring as with the new Working on Country program that will cost $50,000 per annum for each ranger position established. Perhaps, by and by, the Howard Government will start telling the Australian public what it is committing to these new initiatives being made on the run.

There appear to be many agendas in the abolition of CDEP as part of the Northern Territory Emergency Response, but creating so-called real jobs is not among them. If it was, a similar strategy could have been pursued Australia-wide as the CDEP scheme is a Commonwealth program. There is no suggestion, for example, that the 832 CDEP positions held by the four communities participating in the Cape York Welfare Reform project will lose all their CDEP positions.

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[20] Australian Bureau of Statistics, *Labour Force Characteristics of Aboriginal and Torres Strait Islander Australians, Experimental Estimates from the Labour Force Survey, 2006* (21 May 2008) <http://www.abs.gov.au/AUSSTATS/abs@.nsf/allprimarymainfeatures/C7578FA502314E15CA25745000157F94?opendocument>.

[21] Jon Altman, 'Stabilise, normalise, exit = $4 billion. Cheap at the price?', *Crikey* (online), 29 June 2007 <http://www.crikey.com.au/2007/06/29/stabilise-normalise-and-exit-4billion-cheap-at-the-price/>.

One part of the agenda seems to be to sacrifice CDEP positions, many that generate extra hours of work and extra income, to bring participants and their earnings under the single system of quarantining that will apply to welfare payments. It is as if the Government is happy to sacrifice work and income to deal with a perceived expenditure problem, where cash is spent on unacceptable goods.

Another part of the agenda seems to be to further depoliticise Indigenous organisations, in this case robust CDEP organisations, perhaps to give government-appointed community administrators (Government Business Managers) greater powers.

24 July 2007

The Paradoxes of Mainstreaming Indigenous Australians

A couple of days ago in Hermannsburg the Prime Minister made it 'very clear' to the community that the Government has a simple aim;

> … and that is whilst respecting the special place of Indigenous people in the history and the life of this country, their future can only be as part of the mainstream of the Australian community. Unless they can get a share of the bounty of this great and prosperous country, their future will be bleak.[22]

But the road to the mainstream seems extremely fraught in a township like Maningrida.

Two days ago, the Indigenous Child Health Check (CHC) team rolled into Maningrida, a township of about 2800 Aboriginal people (and 200 non-Aboriginal people) from 13 language communities including Ndjebenna and Kunibeidji spoken by the local traditional owners, as well as speakers of Kunbarlang, Kuninjku, Kune, Dalabon, Rembarrnga, Djinang, Wulaki, Burrarra (in three dialects), Nakkara, Gunartpa and Gurrgoni. This is a linguistically diverse and culturally rich community and this diversity extends to art styles, ceremonies and ways of life.

The CHC was clearly briefed about this cultural complexity because they wrote to the local community-based health board seeking the services of Indigenous Community Liaison Officers (ICLOs) to assist the CHC team. The role of ICLOs is to introduce the CHC team to the community, assist communication and assist with interpreting for the CHC team, including explanation of informed consent.

These are all complex and necessary tasks. But none of this is reflected in the proposed pay—the multilingual and highly skilled individuals in this remote Indigenous community are being asked to provide their unique linguistic expertise for a paltry $100 a day.

To understand their role ICLOs are required to be familiar and understand a rather complex eight page document that provides key information on the Aboriginal and Torres Strait Islander Child Health Check (Medicare Item 708) developed last year well before the 'National Emergency'. And the Northern Territory Emergency Coordination Centre believes that after an initial period the duties of ICLOs would decrease and they would only be required on an 'on call' basis.

This all sounds quite reasonable, except that the Commonwealth Department of

[22] John Howard quoted in Ashleigh Wilson, 'PM leads Aborigines to mainstream' *The Australian* (online), August 29 2007 <http://www.theaustralian.com.au/news/nation/pm-leads-aborigines-to-mainstream/story-e6frg6nf-1111114290409>.

Health and Ageing is only proposing to pay ICLOs $100 per day to an overall maximum of $1500 per person. It's unclear if ICLOs will need to sign an AWA, but while hours are not specified, this represents between $12.50 and $14.30 per hour depending on whether ICLOs are expected to work 7 or 8 hour days.

Try and hire a labourer for that hourly rate! It may not have occurred to the Department of Health and Ageing, but the minimum award rate for interpreters about four times this rate, even if they happen to be Indigenous. The $100 a day is insulting and could unkindly be compared to the daily rates including generous allowances paid to the visiting CHC team members including 'volunteers'. Or to the fee for each Medicare Item 708 Aboriginal and Torres Strait Islander Health Check of $167.40.

Two days into a visit scheduled for 30 days, the CHC team has yet to complete a child health inspection. Possibly frustrated at the lack of uptake in Maningrida township, attention has shifted to the children at about 35 small outstation communities in the hinterland.

But these outstations are not prescribed communities. A proposal was floated to use army vehicles to truck in children for health checks, except that this is counter to regulations. So local organisations were asked to provide vehicles (there is no vehicle hire company in Maningrida) and apparently these might be provided at commercial rates. If the CHC team is struggling in the township, it's unclear why they expect more of an uptake in the bush.

Predictably, the arrival of CHC teams with support is placing additional strain on community housing and infrastructure. One obvious option might have been to use local expertise: the Maningrida Health Centre, Health Board and resident GPs to conduct Indigenous CHCs.

The document 'Key Information on the Aboriginal and Torres Strait Islander Child Health Check (Item 708)' recommends just such an approach.[23]

The child health check should be undertaken by a patient's usual doctor. Special 'emergency' measures rule appear to override this sensible approach. Instead external doctors and nurses requiring the assistance of ICLOs are used; strangers are trying to work in a sensitive area. Additionally, local Maningrida health infrastructure will be deprived of significant Medicare income of $200,000 plus.

With such remuneration it will take some time before one has saved up the deposit for a private house.

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[23] Department of Health and Ageing, *History of key MBS primary care initiatives 1999-2010* (19 July 2011) <http://www.health.gov.au/internet/main/publishing.nsf/Content/mbsprimarycare-History>.

And existing health infrastructure is being bypassed by visiting CHC teams; one would have thought that undertaking health checks cross-culturally would have been much more effectively conducted by local experts.

31 August 2007

Land Rights Revisited: Good Politics but Terrible Public Policy

News broke today that agreement has been reached between the Commonwealth and the Gumaitj Association in north-east Arnhem Land to promote the first mainland deal for a s19A 99-year lease over the Aboriginal township of Gunyangara (Ski Beach). This deal followed a secret meeting between senior Gumaitj traditional owner and champion of land rights Galarrwuy Yunupingu, with Noel Pearson and Minister Mal Brough in early August 2007 and a follow up meeting in late August between Mr Yunupingu and Dr Peter Shergold, head of the Department of Prime Minister and Cabinet and a member of the Northern Territory (NT) Emergency Response Task Force.

Details of the agreement are not yet available, they will be tabled in the federal Parliament today, no doubt touted as evidence that the NT Emergency Intervention is working and gathering momentum. And this may be great politics again testing the commitment of the Australian Labor Party (ALP) to the Howard Government's ill-conceived NT Intervention and more worryingly probably effectively wedging the emerging Indigenous political alliance that is opposing the Intervention.

Making the deal with the Gumaitj is puzzling in part because not long ago the Office of Indigenous Policy Coordination was (unsuccessfully) investigating the Gumaitj Association for allegedly illegal use of mining royalty equivalents that it receives as a community affected by the major Alcan bauxite mine and alumina processing plant and port. Mr Yunupingu himself has been the subject of considerable negative media attention and vilification owing to his strong personal adherence to elements of Yolngu customary law.

This proposed agreement must be properly contextualised. At present one must assume that it is only a Memorandum of Understanding, as under the *Aboriginal Land Rights (Northern Territory) Act 1976* it is the statutory function of the Northern Land Council to ensure that the Gumaitj traditional owners of Gunyangara as a group are properly informed and consent to the s19A 99-year lease proposal and that affected communities in north-east Arnhem Land have been properly consulted. Even the Australian Government has to abide by its laws.

The proposed 99-year head lease would only cover the township of Gunyangara and not the remaining traditional lands of the Gumaitj. It is noteworthy that this township is itself not far from the mining town of Nhulunbuy and is surrounded by a 42 + 42 year mining tenement. This lease is based on an agreement between the mining company Nabalco and the Commonwealth in 1968 that was bitterly opposed by the Yolngu traditional owners of the mine site. This opposition was the subject of the celebrated case Milirrpum and others versus Nabalco and the Commonwealth that was lost in

the NT Supreme Court in 1970.

Under the *Aboriginal Land Rights Act* traditional owners are at liberty to lease their land (including townships) for 99 years and this has occurred historically in places like Kakadu and Uluru national parks and more recently with the corridor for the Alice Springs to Darwin railroad where it crosses Aboriginal land. But it is unfortunate that there is an apparent element of compulsion in current agreement-making to escape the otherwise overbearing elements of the legislated Intervention against Aboriginal communities in the Northern Territory. The choice that communities like Gunyangara face is to accept the compulsory acquisition of their townships for five years with the risk that just terms compensation will not be paid; or acquiesce to negotiating 99-year head leases with the certainty that those who sign up early are likely to gain considerable sweeteners that most Australians would consider just their citizenship entitlements.

On the political front, it might be a significant symbolic victory for the Howard Government to have co-opted a renowned leader of the land rights movement to its current view that traditional owners of townships should encumber their freehold title with 99-year leases to gain equitable access to public housing and utilities. But on the longer-term policy front this victory might be pyrrhic. One has to ask how replicable is such deal making across the remaining 71 prescribed communities in the Northern Territory that have not signed up to this approach (the other signatory being Nguiu on Bathurst Island), how much will this cost, who will be paying, and is it good public policy to resource those who acquiesce to the 'stick and carrot' approach rather than those who are in greatest need?

29 September 2007

The NT Intervention is Unravelling

I have to declare my interest. I opposed the so-called 'National Emergency' from 21 June 2007, the afternoon it was announced.[24]

It looked to me like political opportunism by a government that had become increasingly oppositional to Indigenous interests.

On 25 November 2007, in an undisciplined and gloomy post-election moment on the ABC's *Insiders* Alexander Downer revealed that the Intervention's aim was to generate electoral bounce.[25] Downer thought the Intervention was popular, but not in the opinion polls, nor it now seems among Aboriginal voters in Lingiari where all 73 prescribed communities are located.

This raises worrying questions about with whom it was popular: the uninformed? Those who condone racially discriminatory measures? Those who are conspicuously compassionate about the nationally significant issue of Indigenous disadvantage, like ex-Minister Mal Brough?

By September 2007, about $1.4 billion had been committed to the Intervention but, in the five months since 21 June, little has been achieved on the ground. If this is a 'National Emergency', the response has been implemented in an ad hoc and unsystematic manner at a snail's pace.

A survey I conducted with five communities last month indicated that the only areas where there had been consistent implementation was in conducting voluntary health checks (with generally incomplete coverage and no reporting of child sex abuse); in appointing Government Business Managers with unfettered 'emergency' powers; and in constructing expensive, but unsightly, housing for Intervention staff from converted sea containers.[26]

Quarantining people's welfare payments without proper processing systems in place is a disaster in some situations; and moving people from work to welfare by abolishing the CDEP scheme and without alternative employment is unconscionable.

Fortunately, the full Intervention fiasco has only been rolled out to a handful of communities. This was not because of thoughtfulness or caution by the

[24] Jon Altman, 'Yet another failed Howard experiment in Indigenous Affairs', *Crikey* (online), 22 June 2007 <http://www.crikey.com.au/2007/06/22/jon-altman-yet-another-failed-howard-experiment-in-Indigenous-affairs/>.

[25] Alexander Downer in an interview with Barrie Cassidy on the ABC's *Insiders,* 'Barrie Cassidy speaks with Alexander Downer' *Insiders*, 25 November 2007, transcript available at <http://www.abc.net.au/insiders/content/2007/s2100454.htm>.

[26] Jon Altman, 'The Howard Government's Northern Territory Intervention: Are Neo-Paternalism and Indigenous Development Compatible?' (CAEPR Topical Issue 16/2007) http://caepr.anu.edu.au/sites/default/files/Publications/topical/Altman_AIATSIS.pdf.

Intervention Task Force, but the result of incompetence arising from lack of adequate consultation and reluctance to collaborate with effective community-based Indigenous organisations.

So calling an immediate moratorium on the Intervention and urgently reviewing its workability and sustainability would make good policy sense.

The incoming Rudd Government has committed to stop the nonsensical abolition of CDEP and to reinstate the permit system (that has not yet been effectively abolished anywhere) because neither has anything to do with the protection of children. Other measures might quickly follow: the proposed compulsory acquisition of prescribed communities that will be legally contested; the quarantining of welfare that will be expensive to administer, that is racist and will prove ineffective; and the appointment of Government Business Managers with dictatorial powers. How many spokes of the Intervention wheel will need to be removed before it collapses?

Only two tests need to be applied to Intervention measures to see which should go and which should stay. The racial inequality test should dictate that any blanket measures that would not be applied to non-Indigenous Australians (e.g. income quarantining and alcohol prohibition) should go immediately, or at the very least be modified to introduce defensible discretion in implementation. The racial equality test should dictate that elements like adequate community policing and funding commitments to enhanced housing, education, health and employment should stay to provide citizenship entitlements to Indigenous people on an equitable needs basis.

What should also disappear as quickly as possible from public discourse is the offensive and carefully crafted negative language of 'National Emergency' and 'Intervention'. Instead, we should talk about urgent policy focus and adequate resourcing to address the disadvantage experienced by Indigenous Australians in the Northern Territory and elsewhere. The focus on one jurisdiction only is both demeaning and statistically indefensible. Such language also demeans the NT polity. It is little wonder that Clare Martin found her position untenable with over 30 per cent of the NT constituency and 50 per cent of the NT geographic jurisdiction being administered remotely by bureaucrats in Canberra. As the Memorandum of Understanding signed between the NT and Commonwealth on 17 September for nearly $800 million recognises, it is NT *not* Commonwealth agencies that will need to deliver programs and services. Ultimately, it is Indigenous community-based organisations that will do the real on-the-ground delivery of programs and services. This reality provides the principal reason for halting the Intervention immediately—before too many of these organisations and key staff disappear. Fortunately, much of the ALP's Indigenous economic development strategy released on 7 November recognises this; on top of the $1.4 billion already committed, there are additional resources to facilitate innovative and sustainable development opportunities.

The Intervention is unravelling, but a national focus and considerable goodwill and funding commitment remains. Five requirements, based on principles of participatory development, will be essential if we are to see progress in the NT:

1. Recognising Indigenous diversity and difference as a positive that benefits the Australian nation
2. Partnerships with communities and the establishment of appropriate channels to hear Indigenous aspirations
3. Building local intercultural organisations and institutions and capabilities
4. Realistic investments to close the gaps given historical legacies of neglect and to support innovative programs to enable local livelihood opportunity
5. Planning for sustainable outcomes based on rigorous needs-based analysis with ongoing and transparent evaluation.

28 November 2007

Neo-Paternalism: Reflections on the Northern Territory Intervention

History will look back at the Federal Government's 'National Emergency' Intervention of 21 June 2007 and see it for what it is: a bizarre moment in Indigenous policy making without precedent since 1967, and an event that I hope will never recur. The reference to neo-paternalism in the title of this essay refers to the return of an approach from an era 40 years ago, when assimilation proved a failure for both Indigenous Australians and the nation.

How this National Emergency came about will, with time, have many interpretations.[27] The *Little Children are Sacred* Report by Pat Anderson and Rex Wild was completed at the end of April and released in mid-June. The most recent of many reports in the past 18 years provided a horrific and very moving account of cases of child sexual abuse in many Northern Territory (NT) communities.[28] There have been a number of rationales provided for why the Australian Government made this 'National Emergency' Intervention:

- Frustration that the NT Government did not move quickly enough in implementing the Anderson/Wild Report;
- A desire by an ambitious and passionate Minister to cut through political and bureaucratic inertia;
- Electoral and political opportunism based around wrong footing the ALP (the wedge);
- Taking an initiative in the run-up to an election, using concerted sensationalised media focus on NT negatives as a populist aid;
- The existence of 'territory powers' that allow such intervention.

In their book *No, Prime Minister*, political scientists James Walter and Paul Strangio suggest that the NT Intervention was an example of Prime Minister John Howard's frenzied instinct to control as he contemplated power slipping away.[29] There was also a suggestion that Howard was genuinely moved by a radio interview that Noel Pearson gave on Monday 18 June advocating for Cape York reform.

In the days following the National Emergency Intervention there was a frenzied

[27] For some of these interpretations see the essays in Jon Altman and Melinda Hinkson (eds) *Coercive Reconciliation: Stabilise, Normalise, Exit Aboriginal Australia* (Arena Publications, 2007); Paul t'Hart. 'Crisis Exploitation: Reflections on the 'National Emergency' in Australia's Northern Territory' (2007) 26(3), *Dialogue* <http://www.assa.edu.au/publications/dial.asp>; Rebecca Stringer, 'A Nightmare of the Neocolonial Kind: Politics of Suffering in Howard's Northern Territory Intervention' (2007) 6(2) *Borderlands* <http://www.borderlands.net.au/issues/vol6no2.html>.

[28] Rex Wild and Patricia Anderson, '*Ampe Akelyernemane Meke Mekarle*, Little Children are Sacred, Report of the Board of Inquiry into the Protection of Aboriginal Children from Sexual Abuse' (30 April 2007) <http://www.nt.gov.au/dcm/inquirysaac/index.html>.

[29] James Walter and Paul Strangio, *No, Prime Minister: Reclaiming Politics From Leaders* (UNSW Press, 2007).

level of media attention on Indigenous affairs, even during the federal election campaign; and frenetic policy making on the run, increasingly based on blind faith defence of the Intervention by politicians and their agents usually based on unstated, but very evident, ideology.

There is a view that the NT Emergency Intervention was concocted in a few days, which it was: mainly by Howard, Indigenous Affairs Minister Mal Brough and two very senior bureaucrats. But it did not have a virgin birth; in fact it had a considerable policy history that accords with Howard's long-held ideological preconceptions around 'normalisation' for Indigenous Australians. This goes back a long way and was evident in his very sceptical approach to the existing policy framework on election in 1996—reforming Indigenous affairs was a core ideological issue for the new Prime Minister evident in a series of 'antis': anti-ATSIC, anti-native title, anti-reconciliation, anti-the rights agenda, anti-apologising to the stolen generation in 1997, anti-land rights and anti-the diverse intercultural institutions of Indigenous Australia.

Howard tried to dilute and demolish many Indigenous institutions but was largely unsuccessful (bar the Native Title Act amendments of 1998) because of a hostile Senate. But as Walter and Strangio note, on core ideological issues neither evidence nor public opinion would dissuade Howard, he just bided his time awaiting a better climate.

The better climate came in 2004, first when owing to accidental bipartisanship between then Opposition Leader Mark Latham and Howard, the Aboriginal and Torres Strait Islander Commission (ATSIC) was abolished. Then there was the unexpected Senate majority from 1 July 2005, which delivered the Howard Government an unexpected bonus: for the first time since 1996 it was unfettered in Indigenous affairs.

After the abolition of ATSIC the central terms of policy were changed from something loosely termed 'self-determination' to such phrases as 'mutual obligation', 'shared responsibility', 'mainstreaming' and 'normalisation', concepts borrowed from international social policy developments in other neoliberal states.[30]

At the same time, the nature of public expenditures in Indigenous affairs was changed: with the abolition of ATSIC, Indigenous-specific programs were moved to mainstream agencies, and Indigenous specific allocations were shifted gradually from more settled to more remote regions.

In Indigenous affairs, the Howard Government had set what I have previously

[30] See Lawrence Mead (ed) *The New Paternalism: Supervisory Approaches to Poverty* (Brookings, 1997); Lawrence Mead *The New Politics of Poverty: The Nonworking Poor in America* (Basic Books, 1992).

termed the NT 'trap' or 'pincer'.[31] Their policy focus was increasingly on only 66,000 out of 517,000 Indigenous people or 13 per cent of the total Indigenous population. The Australian Government's public views were increasingly defined in terms of the remotest living Aboriginal people. This focus on remote communities was justified by a fiction that this is where things were really, really bad, especially on emotive issues like child abuse, although this is not supported by the data.

The core neoliberal ideology of assimilation also gained momentum in the post-ATSIC period, with right-wing think tanks enhancing their attacks on Indigenous difference, sometimes because remote communities were deemed to have too many customs that were incompatible with neoliberalism, sometimes because these customs were deemed to be too broken down and consequently resulted in unacceptable lawlessness, a potential threat to the state and capital, and Indigenous people themselves in remote regions. The Australian Government was very comfortable with such attacks.

At the same time there was an abandonment of consultation with Indigenous people, little use of available statistical and research evidence, and increased marginalisation of experts especially if their views diverged from 'the leaders', who were increasingly thinking too narrowly about very difficult policy problems and consequently making poor policy decisions.

The Northern Territory Intervention

The Northern Territory (NT) Emergency Intervention started with an unclear focus, but settled eventually on 73 prescribed communities with populations of over 200. It is unclear how these communities mesh with the 640 discrete Indigenous communities in the NT or with Aboriginal-owned land that covers 600,000 square kilometres of the Territory.

The Intervention consisted of 11 broad measures, with a twelfth, and without doubt the silliest, being the abolition of the CDEP scheme, added a month later.[32]

Much of the ensuing public and policy debate has focused on the fact that despite the suspension of critical thinking owing to invocation of a 'National Emergency' crisis, a number of the measures appear to have no link to the issue of child sex abuse. They also seemed to lack any coherent logic or consistency, and could be clustered into the following three areas: those that sought to discipline Indigenous people and their ability to earn a living; those that sought to dilute land rights and free up Indigenous-controlled land for commercial

[31] Jon Altman 'The way forward for Indigenous Australians: Not like this!' (Presentation delivered at Politics in the Pub, Sydney, 31 August 2007).
[32] Jon Altman, 'Neo-Paternalism and the Destruction of CDEP', (CAEPR Topical Issue 14/2007) <http://www.anu.edu.au/caepr/topical.php>.

development; and those that sought to depoliticise democratic Indigenous organisations and impose external control.

On 16 August these measures were enshrined in Australian law, when Acts totalling 500 pages were rammed through Parliament in a week with scrutiny by a Senate committee that was convened for just one day (and received 154 submissions in the available 48 hours). This was a return to the negative bipartisanship that saw the abolition of ATSIC. It is unclear if the ALP acquiesced because of their fear of being 'wedged' on the emotive issue of child sex abuse or whether they were duped by 'National Emergency' protocols. Only two minor parties challenged this suspension of due parliamentary process.

The glib phrase 'Stabilise, normalise, exit' coined by Minister Brough on 21 June captures well the militaristic humanitarianism embodied in the Emergency Intervention. Soon it became apparent that the 'stabilisation phase' was for 12 months; and normalisation (undefined but let's assume it means practical reconciliation or statistical equality) was to occur over the following four years, to then be followed by 'exit'—a term that hardly seems appropriate given that it is largely state failure that generated the social dysfunction crisis that many had predicted for some time.

On 21 June the 'National Emergency' was about child sex abuse, but it quickly came to focus on the issue of dysfunction. On 29 August, in his first visit to the 'National Emergency jurisdiction', Howard indicated that the Intervention was actually about mainstreaming remote living Indigenous Australians.

Several months after the Intervention began, I collaborated in some informal consultations with colleagues in five prescribed communities to see how the process was tracking.

It seemed to me then that the Intervention was proving unsuccessful in meeting its own, not Indigenous, goals for two main reasons.

First, the committed resources and timeframe were unrealistic. Initially Howard said that the Intervention would cost tens of millions, a view vigorously defended by the Finance Minister Nick Minchin, but by August this had grown to hundreds of millions, and in September it reached $1400 million. My own estimate was $4 billion over five years, and I think it was conservative as it didn't take into account the evidence that much of the expenditure was focused on Intervention administration rather than delivery of additional or new services to Aboriginal people like bricks and mortar housing or schools.[33]

[33] Jon Altman, 'Stabilise, normalise and exit = $4 billion', *Crikey* (online) 29 June 2007 <http://www.crikey.com.au/2007/06/29/stabilise-normalise-and-exit-4billion-cheap-at-the-price/>.

Second, it appeared unworkable as it was unplanned in terms of Commonwealth capacity to deliver, bearing in mind that the Commonwealth has been delivering programs to remote NT for decades. It also seemed unworkable because of its dependence on local on-the-ground personnel and expertise and organisations to implement, yet these were the very organisations that had been financially neglected, demeaned as failures and that were now being alienated, dismantled and depoliticised.

Soon after it began its task, the Commonwealth started to realise both these problems as it moved beyond simplistic mantras and passionate rhetoric and crunched up against hard reality. We saw early evidence of attempts to walk away from responsibility for implementing the Intervention. In August when in the NT, Howard criticised the NT Martin Government, while at the same time the Commonwealth provided substantial new resources to the NT Government and delegated delivery responsibility including to new areas like outstations that historically have been a Commonwealth responsibility.[34]

The NT Government itself would then look to cascade program delivery down to local, community-based organisations: but where was the capacity to deliver after the abolition of the CDEP program? Despite the existence of a bilateral agreement between the Commonwealth and the NT signed in 2005 the two levels of government seemed to work against each other with different approaches to implementing the *Little Children are Sacred* Report.

Indigenous people were the inevitable victims of such inter-governmental bickering and program delivery buck passing.

Also on theoretical and comparative historical, national and international grounds, the overall approach seemed like a recipe for disaster: because it was neo-paternalist and imposed from the top down; racist and non-discretionary; disempowering and unsupported in its totality anywhere, although some people want to cherry pick sensible parts, like access to adequate housing, schooling and police; and because the whole of the package was probably far worse than its parts.

Despite the Government's emergency framing efforts and associated attempts to discredit any contestation of its approach and measures, there were criticisms from day one.

It is interesting that some saw positives in the Intervention, but overall, the negatives appeared to outweigh the positives, bearing in mind that in some communities many of the measures have not yet been implemented.

[34] Memorandum of Understanding dated 17 September 2007 between the Commonwealth and Northern Territory governments.

I, too, was challenged to outline if I have found any positives in the Intervention, and at the risk of being accused of 'me-too-ism' I do see some big picture positives that can be compared to community perspectives:

- It created an unprecedented national focus on Indigenous affairs, unfortunately mainly in the NT and mainly negative;
- It led to funding realism about the extent of the historic backlogs and what it will cost the nation to meet them;
- It fostered an emerging re-politicisation of the Indigenous sector in the aftermath of ATSIC's abolition;
- It fed a slowly growing awareness of Indigenous diversity, livelihoods and cultures, but also in terms of perspectives about approaches to development;
- It provided some evidence of emerging alliances between social justice legal practitioners and Aboriginal land owners and organisations evident in the High Court case challenging the constitutional validity of key aspects of the Intervention; the legal system might yet provide one means to reclaim politics from leaders who are poorly advised and push personal ideological agendas.[35]

Are Neo-Paternalism and Indigenous Development Compatible?

This question may appear oxymoronic, but one has to remain open to the possibility that mainstreaming might be the preference for some.

For sustainable Indigenous development in all its diversity to occur, I have consistently tried to highlight the following five requirements, if we are to see some progress in the NT. These requirements are not based on rocket science or some extremist ideology, but on basic notions of bottom-up participatory development:

- At the broadest level, it is imperative to recognise Indigenous diversity and difference as benefits for the Australian nation, rather than as something just to be tolerated;
- There is a need for partnerships with communities and the establishment of appropriate elected or nominated channels to formally hear Indigenous aspirations;
- There is a need for realistic local and regional investments, in catch-up to close the gaps and to enable local opportunity that may not be in today's economy (although it can be) but might be in tomorrow's economy by taking advantage of the richness of the environmentally intact and biodiversity-rich land holdings owned by many living in remote situations. This enablement will require abandoning periodic loose and degrading talk about closing down unviable black communities, using a culturally constructed and selectively applied notion of 'viability', while privileging some non-viable sections of the broader community;[36]

[35] Murray McLaughlin 'NT Intervention delivers mixed results', *The 7.30 Report*, *ABC*, 16 October 2007, transcript available at <http://www.abc.net.au/7.30/content/2007/s2060915.htm>.

[36] Linda Botterill and Jon Altman, 'Special and differential treatment? Farmers, remote outstation residents and public policy' (Presentation delivered at CAEPR Seminar Series, 19 September 2007).

- There is a need to build local intercultural organisations and institutions and capabilities, investing in making imperfect organisations better rather than perfect, but ensuring 'good enough governance' for local control;
- There is a need to plan at the local and regional levels for sustainable outcomes at realistic levels that are clear about livelihood possibilities, undertake some rigorous needs-based analysis, and put some negotiated evaluation frameworks in place.

I note that a paternalistic state project of assimilation was tried before, about 40 years ago, and failed. It is being tried again under a different paradigm of neoliberalism and it will fail again—there were already early signs during the 'stabilisation' phase that existing development gains were being jeopardised. Some people talk about 'policy failure' or 'failed states' in remote Indigenous Australia. I just ask what have we learnt as a nation in the last 40 years that makes us so blind as to revisit past failure? The 'National Emergency' will peter out, if it has not already, but there are dangers inherent in this for Aboriginal people and the nation if it fails: we risk a loss of national goodwill; a waste of hundreds of millions of dollars, and the dismantling of some robust and important development institutions built up over the past 40 years.

Ultimately, as a nation, we face deeply rooted, difficult, arguably intractable Indigenous development problems in the NT and beyond. In 2007 we saw bipartisanship in embracing the 'National Emergency'. I suspect that in 2008 we will see renewed bipartisanship in abandoning this expensive and misguided adventure. Perhaps in 2008 we might see the collaborations and the creative hard thinking and the financial commitments that will all be needed to address the most difficult issue of Indigenous disadvantage that we face as a nation.

3 April 2008

Can We Ever 'Close the Gap' in Indigenous Outcomes?

There's at least one thing that all Australian Governments in the past 25 years have in common: an articulated goal of eliminating socioeconomic differences between Indigenous and other Australians.

The Australia 2020 Summit is about looking to solutions for the future, but I thought it was worth going back over the past thirty years for clues in preparation for the 2020 topic 'Options for the Future of Indigenous Australia'. With my Centre for Aboriginal Economic Policy Research (CAEPR) colleagues, I've compared changes in Indigenous socioeconomic status at the national level between 1971 and 2001 with the latest 2006 Census data.[37] And going by the figures, when it comes to Closing the Gap, the future doesn't look bright.

For the past 25 years, successive governments have trumpeted their plans to tackle Indigenous disadvantage in this country. All these leaders have sought to address an apparently intractable social problem—a blight on the Australian nation—through policy intervention.

In the 1980s, Bob Hawke launched the Aboriginal Employment Development Policy with the declared aim of achieving employment, educational and income statistical equality by the year 2000 (although he's better remembered for his pledge to have no Australian child living in poverty by 1990).

In the 1990s, John Howard emphasised a more ambitious goal to deliver equality in employment, health, housing and education under his 'practical reconciliation' policy umbrella. However, Howard was more politically wily than Hawke and so set no timeframe for the achievement of this lofty task.

And now Kevin Rudd has adopted the language of 'Closing the Gap' between Indigenous and other Australians (used in New Zealand in the 1990s as a framework for reducing disparities between Māori and Pākehā).

With that in mind, my CAEPR colleagues Drs Boyd Hunter and Nicholas Biddle and I updated an earlier article we had published on changes in Indigenous socioeconomic status at the national level between 1971 and 2001 with the latest 2006 Census data.[38]

In absolute terms using either of two series 1971–2006 or 1996–2006 most variables measuring employment, income, housing, education and health status improved. But the story was very different in relative 'Closing the Gap' terms.

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[37] Jon Altman, Nicholas Biddle and Boyd Hunter, 'The Challenge of 'Closing the Gaps' in Indigenous Socioeconomic Outcomes' (CAEPR Topical Issue 8/2008) <http://caepr.anu.edu.au/sites/default/files/Publications/topical/ClosingTheGaps.pdf>.

[38] Ibid.

In particular, in the period 1996–2006, relative outcomes improved for nine variables, but got worse for six! In the latest intercensal period, 2001–2006, the late Howard years, in absolute terms everything improved except for labour force participation, suggesting that boom times are also good for Indigenous people. But the story was different in relative terms where in a number of areas Indigenous people went backwards.

Massive budget surpluses in the last decade that should have been invested in addressing Indigenous disadvantage were unfairly directed at middle Australia to win votes. Nevertheless, the Howard Government's rhetoric of policy failure over the last 35 years does not match the statistical evidence. And one wonders how much better off Indigenous people might have been today with proper needs-based investments and support for, rather than unrelenting attack on, Indigenous institutions during the Howard years.

In our paper we did something else that is unprecedented. Using simple annualised rates based on past evidence, we estimated where we might be in 'Closing the Gap' in 35 years' time in 2041 to provide a degree of symmetry with the last 35 years.

Such prediction is bold because it assumes similar policy settings; and they can only be made with diverging trends, so are very much best-case scenarios. Nonetheless, the findings are very concerning.

We used both our series 1971–2006 and 1996–2006 (the latter being more statistically accurate) and found parity or near parity achieved in only a few variables, notably in areas associated with employment and education.

But in many other areas, including population aged over 55, holding degrees, median weekly income and home ownership we will still be a long way from parity in 2041. And in some other important areas like the employment to population ratio there is divergence, the gaps are widening!

As Murray Edelman noted in his book *Political Languages: Words that Succeed and Policies that Fail* there is an aspect to politics and policy making that makes our leaders, of whatever political persuasion, commit in a highly symbolic way to goals that are destined to fail at least in that leader's political lifetime.[39]

That is, according to current policy settings that I would typify as 'one way' whether focused on statistical equality (Hawke), practical reconciliation (Howard) or Closing the Gap (Rudd)—one way in seeking statistical equality at the national level between Indigenous and other Australians according to

[39] Murray Edelman, *Political Languages: Words that Succeed and Policies that Fail* (Academic Press, 1977).

mainstream social indicator averages.
The crucial challenges I perceive for the Australia 2020 Summit's focus on 'Options for the Future of Indigenous Australia' are twofold. At a philosophical level, we need to get away from narrow one-way thinking that is currently privileged and start thinking two-way: focus on equality and equity, citizenship sameness and citizen plurality, and delivery of entitlements on a needs basis, while recognising difference and diversity.

This two-way thinking might see very positive outcomes that reduce socioeconomic disparities without completely eliminating gaps.

At a practical level, after a decade of relative neglect, the Rudd Government has received a 'hospital pass': it now needs to invest the billions in the essential citizenship catch-up that the Howard Government ignored.

Ensuring relative improvements in Indigenous socioeconomic outcomes will require some fundamental structural changes in how the Australian state is held accountable for its delivery of much-needed social and community infrastructure and services, as well as how it might redistribute some of the nation's wealth tied up in commercially valuable resources to Indigenous Australians. Selling such a fundamentally new framework that might assist to close gaps will be a huge challenge.

17 April 2008

Watch the Gap—Indigenous Policy Focus Needs Change

A glance at the media or listening to political discussion on Indigenous affairs would suggest decades of policy have produced a quagmire of failure, where well-meaning ideas battle with political ideologies and nobody wins. The truth is somewhat more complicated.

Research I undertook with Nicholas Biddle and Boyd Hunter at the Centre for Aboriginal Economic Policy Research at the Australian National University used Census data from 1971 to 2006 to look at socioeconomic outcomes for the Indigenous population.[40]

The findings are important, surprising and, in some cases, a wake-up call for policymakers. Using key indicators to measure employment, housing, education and health status—the central planks of John Howard's 'practical reconciliation' and now of Kevin Rudd's 'Closing the Gap'—we found that most socioeconomic outcomes are better now than 35 years ago.

In absolute terms, Indigenous unemployment and household size are lower and the employment-to-population ratio, private sector employment, median income (adjusted to 2006 dollars), home ownership, levels of post-school qualifications and the elderly proportion of the population, are all higher. These results are all positive and, somewhat surprisingly, some of the best outcomes were in the period 2001–2006 when the Howard Government's rhetoric framed Indigenous affairs as a disaster.

The gaps between Indigenous and non-Indigenous outcomes are generally narrower today, although the convergences in outcomes are not consistent. Arguably, the older the data, the less meaningful the comparison and so we estimated best-case scenarios for Closing the Gap in 35 years from two series of observations, 1971–2006 and 1996–2006.

Such an exercise assumes policy settings will be similar and that the macro-economy will continue to expand at recent rates. We extrapolate outcomes for 13 variables from the longer series and 15 variables from the shorter series to 2041.

Overall, we found that there are only a few outcomes—such as the unemployment rate, private sector employment, post-school qualifications and percentage of adults who never attended school—where the gaps will be eliminated and there will be parity. For other variables—such as labour force participation, median income, home ownership, degree or higher qualification and population aged over 55 years—Closing the Gap will take so much longer, more than 100 years. Even contemplating such scenarios today becomes

[40] Jon Altman, Nicholas Biddle and Boyd Hunter, above n 24.

meaningless. For a number of variables, such as employment-to-population ratio and labour force participation, there is divergence rather than convergence, indicating the gaps will never close without large structural changes.

These official statistics have shortcomings: they can only be used for comparative purposes at the national level and so clearly mask the extreme disadvantage in many remote communities, which has dominated public debate. And they primarily reflect the values of the dominant society. However, all the data is collected by the Australian Bureau of Statistics, internationally renowned for impartiality, and it is the only long-term time series data available.

The Rudd Government's recent commitments to close the gaps are an imperative for a rich country such as Australia. But the available statistical evidence suggests that gaps may never be eliminated at the national level, primarily because Indigenous and non-Indigenous populations are distributed very differently. Other cultural, structural and demographic factors as well as historical legacy and associated shortfalls also militate against statistical equality.

What should the Federal Government do to break the 'business as usual' gridlock that is delivering better outcomes, but not convergence, within a realistic timeframe? A fundamentally different policy framework is needed.

It would need to address the following questions. What is a proper philosophical basis for Indigenous policy that can accommodate the twin goals of ensuring Indigenous outcomes improve, while distinct Indigenous aspirations can be pursued? How can Indigenous Australians be guaranteed basic citizenship entitlements on an equitable needs basis and catch-up for past neglect? Is there a need to confer commercially valuable property rights alongside land and native title customary rights? How can policies be better framed to target the regional diversity of Indigenous circumstances? And how do we learn from the many successes of the past 35 years that have delivered much progress, but have happened too slowly to meet national expectations?

It's time for us to move on from the rhetoric of failure, and focus on using available evidence that documents outcomes.

17 April 2008

Closing the Gap Rhetoric Buys into Howard Legacy

When Prime Minister Rudd makes his first annual statement in February 2009 on his Government's progress in meeting the six 'Closing the Gap' targets in life expectancy, infant mortality, literacy and numeracy achievement, employment outcomes, year 12 schooling attainments and provision of quality preschool programs, he may well rue his acquiescence to the Howard Government's Northern Territory 'National Emergency' Intervention. This is because John Howard and Mal Brough are all over the '2008–09 Closing the Gap for Indigenous Australians Budget'.

There are 37 new measures identified 'to help begin the process of closing the gap' which is a somewhat disingenuous statement in Budget Paper No. 2 because most of the major commitments are from the 2007–08 Howard Government Budget.

Of these measures, 10 are multi-year delivery of election commitments already announced at Additional Estimates in February 2008.

Of the 27 'other measures', 22 are to fund the Northern Territory Emergency Response, but have no out-years (beyond 2008–09) owing to impending review later this year. Hence the frequent qualifier 'provision has been made in the Contingency Reserve for ongoing costs (beyond 2008–09) associated with the Emergency Response'.

There are some big ticket 'governmentality' items here including nearly $31 million for Government Business Managers (that is over $400,000 per prescribed community) and nearly $64 million for income management (that is nearly $1 million per prescribed community) and $32 million for the Task Force, reviewing the Intervention, and for a 'community capability fund' to be available to Government Business Managers.

These massive process investments can be contrasted with the $0.5 million committed in 2008–09 for consultation on a national representative body and regional representative structure to replace ATSIC.

There are also some smaller ticket commitments to support very welcome community initiatives, like night patrol services, youth alcohol diversion programs, follow-up health care and the promotion of law and order. But why only in the Northern Territory?

Despite its rhetoric, the Government does not have a plan to tackle Indigenous disadvantage Australia-wide and its policy framework for Closing the Gap is captured by 2008–09 commitments to the NT National Emergency; these commitments are all subject to 'independent' review and face funding uncertainty.

There are two unexplained paradoxes in the Closing the Gap Budget. First, while Minister Macklin notes that 75 per cent of the Indigenous population lives in non-remote locations and that the number suffering from poor outcomes might be greater in urban and regional rather than remote Australia, almost all the new initiatives in the Budget focus on 13 per cent of Australia's 517,000 Indigenous peoples.

Perhaps there is a plan to Close the Gap in the Northern Territory first, in accord with Mal Brough's normalisation by 2011-12 Strategy, but if so it is not articulated. In the meantime targeting the gaps elsewhere in Australia is delayed by a year.

A second paradox is that a table is presented in the Closing the Gap statement that illustrates without any accompanying narrative that child abuse notification rates in the Northern Territory are about half the national Indigenous average, and better than New South Wales, Victoria, Queensland, South Australia and the Australian Capital Territory. This table seems to highlight the question of why the inordinate attention on the Northern Territory, aside from last year's election campaign acquiescence and the Commonwealth's constitutional territory powers?

There is some positive honouring of election commitments from the overarching Indigenous Economic Development Strategy with $160 million to enhance management of the massive Indigenous estate. This demonstrates that when Indigenous aspirations correlate with national climate change and environmental management concerns investments are readily made.

However even this commitment represents an under-investment. As a proportion of the $2.25 billion Caring for Our Country commitment, 7 per cent of funds are provided to manage 20 per cent of Australia.

Last year I lamented the inability of the Howard Government to establish an Indigenous Futures Fund with its massive budget surplus.[41] This year locking up surpluses in such funds has become almost *de rigueur*.

Despite the renewed call from the 2020 Indigenous Stream for such a fund, an Indigenous Future Fund was again relegated below Education, Infrastructure and Health Future Funds for all Australians.

Less than a month ago I asked whether we could ever close the gaps without a fundamentally different policy framework.[42] There is nothing in the 2008–09

[41] Altman, above n 5.
[42] Jon Altman, 'Can we ever 'Close the Gaps' in Indigenous outcomes?', *Crikey* (online),17 April 2008 <http://www.crikey.com.au/2008/04/17/can-we-ever-close-the-gaps-in-Indigenous-outcomes/>.

Budget that challenges the policy status quo.

From one perspective this might reflect a degree of policy inertia—the long shadow that Mal Brough has cast on Indigenous affairs in the aftermath of the Northern Territory 'National Emergency'.

From another, this might reflect a realisation by the incoming Government that there are no silver bullets in Indigenous affairs.

15 May 2008

Reflections on the NT Intervention—One Year On

It was nearly a year ago when I first wrote about the 'National Emergency' suggesting that it would prove to be another failed experiment in Indigenous affairs.[43] In amongst the moral panic and the crisis hype I now know that I got some things wrong. For example, I thought that the Howard Government took six days to develop its heavily paternalistic approach, but we now know it was actually 48 hours.[44]

I was also not aware that the Rudd Opposition would acquiesce to Intervention measures and then laws, fearful that with election victory tantalisingly close it might be wedged by a politically crafty John Howard. As a pre-election promise, then Opposition leader Rudd committed to review the Intervention at 12 months and true to most election commitments [the United Nations (UN) Declaration on the Rights of Indigenous Peoples has not yet been endorsed and an Indigenous national representative body has not yet been established] the review is to proceed from July to September this year.

One year on, I want to revisit the Intervention using the lenses provided by the emerging social sciences field of crisis research and a recent international comparative book *Governing after Crisis: The Politics of Investigation, Accountability and Learning*.[45]

On 21 June 2007 using the Anderson/Wild *Little Children Are Sacred* Report and its chilling testimonies about child abuse, the language of emergency was evoked and with support from a mainly sympathetic media the frame of 'National Emergency' was created. The emotiveness of the issue and its timing during the prolonged 2007 election campaign meant that there was no significant counter frame provided by the Opposition. It was left to the minor political parties, a range of Indigenous and non-Indigenous non-government actors and the alternate media like *Crikey* to provide this counter frame.

The crisis meant that political business as usual was suspended and draconian laws were passed with minimal debate. These crisis-induced reforms were centralised and rapid, there was no on-the-ground consultation, and radical reform was unilaterally devised—the Opposition only saw the 500 pages of reform legislation as it was tabled.

Is a policy response devised over 48 hours to a deep and intractable policy

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[43] Altman, above n 11.

[44] In an interview on ABC Darwin radio Mal Brough admitted that the planning phase of the NTER took just 48 hours. See Sophie Black, 'NT intervention leak: a year on, it's a shambles', *Crikey* (online), 18 June 2008 <http://www.crikey.com.au/2008/06/18/nt-intervention-leak-a-year-on-its-a-shambles/?wpmp_switcher=mobile&comments=0>.

[45] Arjen Boin, Allan McConnell and Paul t'Hart, *Governing after Crisis: The Politics of Investigation, Accountability and Learning* (Cambridge University Press, 2008).

problem likely to be enduring? Comparative crisis research suggests that the more radical the reform (income quarantining, abolition of permits, abolition of CDEP, compulsory acquisition of land, grog bans, linking income support to school attendance, abolition of the *Racial Discrimination Act*) the more likely that implementation will be problem-ridden and fail.

History in Australia also suggests that there can be quite a disjuncture between Canberra and the bush and that crash-through approaches rarely succeed.

At the time of the 'National Emergency' announcement, the Howard Government was careful to apportion blame to endogenous (past policies, including its own) and exogenous (the NT Government, ATSIC, Indigenous community dysfunction) factors. But it was able to skilfully avoid any political fallout for its past performance and in particular its relative neglect of desperate and well-documented Indigenous need in successive budgets.[46]

Interestingly, the Rudd Opposition depoliticised the issue quickly for electoral neutralisation, although it was continually depicted as 'progressive' in the influential Murdoch media and liable to reverse Intervention measures if elected. From the outset the Rudd Opposition and now Government took an unusual defensive posture on the actions of its predecessor, although incremental changes were initially made to the more irrational elements of the Intervention package, such as the abolition of the permits system and CDEP.

As we have shifted from the crisis to the policy implementation phase of the Intervention broad problems have arisen. It is difficult to institute reform with a draconian 'protection and preservation' policy basis applied to all as was intended for the 'stabilisation' phase.

It has become clear that the capacity of the Australian and the NT Governments to deliver measures is severely constrained in remote prescribed communities—the financial resources allocated for 2007–08 cannot be spent fast enough despite the supposed emergency.

More and more questions are being raised about the internal consistency and sustainability of measures: inconsistency between the NT Intervention and less draconian 'interventions' elsewhere on Cape York, the Kimberleys and in the Anangu Pitjantjatjara Yankunytjatjara (APY) Lands; emerging inequities in the 2008–2009 Budget in resource allocations to the NT and elsewhere in Australia where there is also considerable need; and the lack of policy realism in the Rudd Government's Closing the Gap goal, the aim of 'normalisation'.[47]

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[46] Jon Altman, 'Budgeting for all Australians, except the Indigenous ones', *Crikey* (online) 10 May 2007 <http://www.crikey.com.au/2007/05/10/budgeting-for-all-australians-except-the-Indigenous-ones/>.

[47] Jon Altman, 'Closing the gap rhetoric buys into Howard legacy', *Crikey*, 15 May 2008 <http://www.crikey.com.au/2008/05/15/altman-closing-the-gap-rhetoric-buys-into-howard-

Somewhat worryingly, we now will see a plethora of reviews either already underway or about to start. Again, crisis research theory suggests that independent expert review is the preferred way to assess what measures have worked and what measures need further adaptive management.

In this case even a more risky parliamentary inquiry would have been safe because there are no political scalps to be had given the disappearance of Howard and Brough and the bipartisanship in the crisis framing, although such bipartisanship can suddenly fracture as with the so-called war cabinet on Indigenous housing.

However, the post-crisis inquiry process will be intensely political because the Senate Select Committee on Rural and Remote Indigenous Communities will be shadowing the independent review with its opening term of reference to inquire and report on the effectiveness of Australian Government policies following the Northern Territory Emergency Response (NTER), specifically on the state of health, welfare, education and law and order in regional and remote Indigenous communities.

It is good to see Australia's democratic accountability processes having some traction, but in this cluttered review field it is hard to imagine what might be learnt from the first year of the NTER that will lead to innovative policy.

This is in no way to suggest that the status quo pre–June 2007 is acceptable; neglect of such magnitude in such a rich nation cannot be justified.

Equally, one wonders what the legacy might be for those responsible Indigenous citizens in prescribed communities who have lost their human rights. Democratic accountability seems to leave the Indigenous citizenry, rather than the state, bearing all the risk in the aftermath of this crisis Intervention.

19 June 2008

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legacy/> at 30 October 2012.

Understanding the Blue Mud Bay Decision

The High Court decision in the Northern Territory Government appeal [*Northern Territory of Australia v Arnhem Land Aboriginal Land Trust [2008]* HCA 29 (30 July 2008)] against the finding of the full bench of the Federal Court in *Gawirrin Gumana & Ors v Northern Territory* (the Blue Mud Bay case)[48] was handed down in the middle of the NT election campaign.

This is unfortunate timing that may elicit a political response to an important judgment that will have significant positive ramifications for Indigenous economic development.

To summarise, the High Court did not question that a grant of freehold as Aboriginal Land under the *Aboriginal Land Rights (Northern Territory) Act 1976* extended to the low water mark. And it upheld the view that the NT Government did have the power to grant commercial fishing licences. However, the NT Government does not have the right to allow commercial fishers entry to tidal waters over Aboriginal-owned land.

This decision is complex, being linked to Northern Territory historical and legal particularities. Part of this complexity is in the interaction between the *Aboriginal Land Rights Act* passed in 1976, NT fisheries laws, and NT Self Government granted in 1978. The *Fisheries Act* purported to have authority to grant commercial fishers a right of access to the intertidal zone, but this week's decision quashed this view in favour of the exclusive right of traditional owners over this zone and the marine property within it.

This is clearly an unprecedented situation in Australia whereby the granting of fishing licences will need to be negotiated with Indigenous interests for an intertidal zone that extends for over 5,000 kilometres of the NT coastline. The Northern Land Council, representing Aboriginal traditional owners over this vast coastline, has sensibly allowed commercial and recreational fishers an amnesty of 12 months to allow transition to fisheries arrangements that will require new processes and associated administrative capabilities to be instituted. The NT Seafood Council has responded positively to the High Court decision and the offer of amnesty with a view to a negotiated outcome.

The situation for recreational fishers is somewhat different. The recognition of the intertidal zone as Aboriginal-owned along 80 per cent of the NT coastline means that these fishers will now require a permit from traditional owners to fish. This is no different from the permission that a recreational fisher would require to fish over any other privately-owned land in Australia. Recreational fishers do have the amnesty, but are nevertheless required to apply for a permit

[48] *Northern Territory of Australia v Arnhem Land Aboriginal Land Trust (2008)* HCA 29 (Gleeson CJ) <http://www.austlii.edu.au/au/cases/cth/HCA/2008/29.html>.

that will be automatically issued for now.

The fact that recreational fishers have undertaken such activity without a permit in the past does not justify any calls for compensation from either NT or Commonwealth Governments as sought by the NT Amateur Fishers Association.[49] The Northern Land Council Chairman Wali Wunungmurra has made it quite clear that requests for recreational fishers for access to Aboriginal land will need to be conducted on a case-by-case negotiated basis.[50] There are already precedents in place where recreational fishing is allowed without a permit in heavily-used fishing spots.

The NT Chief Minister has committed to develop a practical plan that will guarantee the capacity for recreational fishermen to go fishing on affected waters without charge or need for an individual fishing permit.[51] This commitment, made during the current election campaign, could be difficult to deliver as it ultimately will be contingent on the views of traditional owners, many of whom live in very remote areas hardly ever accessed by recreational fishers.

The High Court decision provides the plaintiffs, Yolngu traditional owners from Blue Mud Bay (and now all traditional owners with coastal estates) with a level of protection of the intertidal zone from commercial and recreational fishers that they have actively sought since the passage of the *Land Rights Act*. While recognising their exclusive rights to species in the intertidal zone, it does not automatically bestow a right to sell inshore species like barramundi or mud crabs commercially. There is clearly room for innovative negotiation to ensure delivery of commercial rights over marine species to Aboriginal owners of the intertidal zone.

There is no doubt that this is a very positive outcome for those coastal traditional owners who have argued for decades that commercial and recreational fishing in the intertidal zone impacts negatively on their social, cultural and economic interests.

This decision has fundamentally altered the leverage that these traditional owners will be able to exercise in negotiations with either commercial or recreational fishers who want access to Aboriginal-owned waters. There is some concern that traditional owners might exercise this right to exclude all

[49] 'Compensation for Blue Mud Bay decision unlikely: Macklin', *ABC News* (online), 30 July 2008 <http://www.abc.net.au/news/2008-07-30/compensation-for-blue-mud-bay-decision-unlikely/458366>.

[50] Wali Wunungmurra in an interview with Sarah Hawke on ABC Radio National's *PM* program, 'High Court hands control of much of NT coastline to traditional owners', *PM* , 30 July 2008, transcript available at <http://www.abc.net.au/pm/content/2008/s2319432.htm>.

[51] Paul Henderson in an interview with Sarah Hawke on ABC Radio National's *PM* program, 'High Court hands control of much of NT coastline to traditional owners', *PM* , 30 July 2008, transcript available at <http://www.abc.net.au/pm/content/2008/s2319432.htm>.

fishers from the intertidal zone.

But analogous right of consent (or veto) provisions in the *Aboriginal Land Rights Act* with respect to mineral exploration and mining have not seen the widespread exclusion of such activity from Aboriginal-owned land, despite widespread mining industry concerns in the 1970s and 1980s. Perhaps lessons can be learnt from this precedent?

One can envisage a diverse range of responses including closures of the intertidal zone, negotiated access, and much more joint venturing. Each of these options will generate economic development opportunity for Aboriginal people: through enhanced employment in sea country management and as sea rangers implementing fisheries regulation in remote regions; through better access to marine resources for livelihood; from financial returns for negotiated access rights; or from opportunities for joint venture or sole operator involvement in commercial fisheries. The likelihoods of more sustainable use of marine resources and greater utilisation of Indigenous knowledge alongside western science are enhanced.

Whatever happens there is no question that the 'property rights' playing field in the NT in relation to marine resources is now far more level. In a policy environment where the Commonwealth and NT Governments are making firm commitments to 'close the gap' in socioeconomic status between Indigenous and other Territorians this must be seen as a positive in attempts to bridge this difficult gap.

1 August 2008

The Forrest Plan: Have They Thought This Through?

On Sunday 3 August 2008 three of the most powerful men in Australian society, national political leader Kevin Rudd, mining magnate Andrew Forrest and influential Indigenous welfare reform advocate Noel Pearson threw their collective weight behind a scheme devised by Forrest to create 50,000 jobs for Indigenous Australians in the private sector by using the power of moral suasion.[52] Subsequently it was revealed that the top corporations in Australia will be approached to commit to this scheme, with one indicating a guarantee of 500 new jobs.[53]

The time frame for this unprecedented strategy is two years (after a three month planning phase) and the Australian Government will underwrite the scheme by providing the intensive training that will lead to permanent full-time employment.

This proposal has to be put into some statistical, historical and policy context.

On the statistical side, the latest available information from the Australian Bureau of Statistics (ABS) publication *Labour Force Characteristics of Aboriginal and Torres Strait Islander Australians, Estimates from the Labour Force Survey, 2007*,[54] released on 22 May 2008, estimates that in 2007 there were 157,400 Indigenous Australians employed, 25,800 unemployed and 129,700 not in the labour force. So does this proposal seek to create twice as many jobs as there are Indigenous people looking for work? Clearly not, it will also need to target the nearly 30,000 people in the CDEP program classified as employed and/or people not in the labour force.

One suspects that the enormity of this extraordinarily ambitious transformative task has not been carefully thought through. To put this task in a hypothetical comparative context, for the total Australian population such an employment Intervention would require the creation of 2 million jobs given that Indigenous Australians constitute 2.5 per cent of the total population.

Recent labour force history in the same ABS publication provides employment estimates back to 2002. In the five years 2002 to 2007, while the Australian labour market has experienced its most significant expansion in recorded

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[52] Emma Rodgers, 'Pearson hails Indigenous jobs scheme', *ABC News* (online), 4 August 2008 <http://www.abc.net.au/news/2008-08-04/pearson-hails-Indigenous-jobs-scheme/462566>.

[53] Andrew Forrest in an interview with Mark Colvin on ABC Radio National's *PM* program, 'Forrest stands by Indigenous employment scheme', *PM* , 4 August 2008, transcript available at <http://www.abc.net.au/pm/content/2008/s2323940.htm>.

[54] Australian Bureau of Statistics, *Labour Force Characteristics of Aboriginal and Torres Strait Islander Australians, Estimates from the Labour Force Survey, 2007* (2 June 2010) <http://www.abs.gov.au/AUSSTATS/abs@.nsf/allprimarymainfeatures/B652AA289C0BB4B7CA2577360017CED0?opendocument>.

history, Indigenous employment grew from 137,400 to 157,400 persons, CDEP inclusive.

That is, in the last five years 20,000 full- and part-time, private and public sector jobs were created. Is it really feasible given this recent historical trend to expect 50,000 full-time jobs to be created in the private sector alone in the next two years?

On the policy front, the Rudd Government has made a strong commitment to evidence-based policy making. This proposal seems to veer quite dramatically from this commitment.

And the Rudd Government has its own target, to halve (or close) the gap in the employment/population ratio between Indigenous and other Australians in the next decade.

This policy commitment, through the Council of Australian Governments (COAG) process, has elicited an estimate of the need for an estimated 100,000 new jobs in the 10 years 2006 to 2016. What sort of signal does this sudden new proposal send to serious bureaucrats trying to set targets for COAG's consideration based on rigorous assessments of regional and industry variations and needs?

In a labour market policy sense, this proposal represents a shift away from seeing Indigenous unemployment as primarily a supply-side problem linked to the poor human capital endowments of Indigenous people (due to historical, structural, locational and cultural factors). Fix this legacy and the workings of the labour market would do the rest. Now it is suggested that there is a demand-side problem, inadequate demand for Aboriginal labour, or as Noel Pearson termed it 'the missing piece in the reform jigsaw'.[55]

The critical issue is whether intensive Australian Government-sponsored training will ensure that Indigenous people can overcome deep legacies including poor education, poor health and lack of work experience to work full-time for the top Australian corporations? If such a goal were achieved in two years, serious consideration needs to be given to the likely social and economic impacts of such an unprecedented transformative project on Indigenous families, home communities and societies.

It is difficult to challenge the proposition being vigorously advocated by the most powerful in Australian society that if corporate goodwill can be harnessed to deliver rapid employment creation for Aboriginal job seekers this is a good thing. But such challenging, informed by statistics and social sciences

[55] Noel Pearson, 'Off welfare, upstairs to work', *The Australian* (online), 4 August 2008 <http://www.theaustralian.com.au/news/off-welfare-upstairs-to-work/story-e6frg7b6-1111117096988>.

scepticism, is important for consideration as the details of this proposal are fleshed out over the next 100 days.[56]

One lesson that can already be learnt from the Northern Territory Emergency Response (NTER) Intervention is that despite much Australian Government goodwill, capacity to rapidly deliver on the ground needs to be carefully considered, especially in regional and remote contexts, especially given the overheated Australian economy. In some places measures have not been introduced some 13 months on, so the public element of the proposed public/private alliance might be hard to deliver within a two year time frame that will end as the next federal election looms.

Three key public interest questions need to be posed to the proponents of this new scheme. Have providers for intensive training been identified and what resources have been guaranteed by the Australian Government to underwrite the enormous challenge of providing such training for up to 50,000 people? What evaluation framework is proposed to track the post-training guarantee of permanent full-time work, because if this does not eventuate, significant public investments may have been used sub-optimally? And most importantly, have 50,000 Indigenous Australians with aspirations for permanent full-time work in the private sector been identified? To use Pearson's jigsaw metaphor, how do we know that this demand-side piece of the puzzle is of the right size or fit?

There is no doubt that the glaring employment gap between Indigenous and other Australians needs to be systematically reduced. And it is highly commendable that corporations, some of whom have made 'extra-normal' or super profits in recent years, are now looking to focus on what is a public good. But in my view place-based initiatives predicated on participatory consultation and a careful matching of aspirations for engagement with all productive sectors of the economy with local and regional opportunity is what is most immediately needed. It is then that public support and private commitments would be most welcome.

5 August 2008

[56] Ibid.

Killing CDEP Softly? Reforming Workfare in Remote Australia

The Rudd Government is committed to a self-imposed and ambitious target of creating 100,000 new jobs for Indigenous Australians in the next ten years to halve the existing employment gap. As part of its employment creation strategy it has launched the next iteration of its proposed reforms to the CDEP program. These reforms are couched broadly under the umbrella of the revamped and extremely complicated Universal Employment Services and the less complicated discussion paper 'Increasing Indigenous Economic Opportunity' released on Tuesday.[57]

The harsh reality masked by this complex proposed reform package of Indigenous employment programs is that from 31 March 2010 the CDEP program, a community-based employment creation and economic and community development program established in 1977, will disappear.

Much of the proposed changes in the discussion paper aim to administratively streamline a number of programs already available under the Indigenous Employment Program, while also adding new elements like migration assistance, mentoring, and work readiness training.

But the most far reaching reforms are to the CDEP program. In 2007 the program was abolished by the Howard Government in urban situations. The logic for this reform was that robust urban labour markets made the program unnecessary.

Now the continent is divided into arbitrary regions that are classified as 'established', 'emerging' or 'limited' economies. The CDEP program in regional Australia where there are 'established' economies is to be abolished from 1 July 2009. However, the program in remote Australia, with about 20,000 participants, is being retained, despite calls for its wholesale abolition by powerful Indigenous and media voices as the Reformed CDEP program (that I term here the RCDEP program).

The change in nomenclature conceals quite significant changes to the program that will placate those seeking its abolition. The revamped program will become multi-streamed, possibly to make some distinctions between different circumstances in 'emerging' and 'limited' economies. One stream will be called Community Development, the other Work Readiness Service. Within the former there will be Community Development Projects and Community Capacity and Support; within the latter Work Readiness Training and On-the-Job Work Experience. It is unclear if any one RCDEP can have elements of all streams to reflect multiple community objectives; and who will decide which

[57] Australian Government, 'Increasing Indigenous Economic Opportunity Discussion Paper', (March 2008).

streams an RCDEP is participating in.

There are some fundamental aspects of RCDEP that stand out. On the surface a raft of measures will be made available to provide foundation and basic work skills and vocational training, as well as on-the-job training where people will work for wages. A range of community development projects will be supported with the proviso that none substitute for services that should be provided by Australian, State/Territory, or local governments—there will be no cost shifting onto RCDEP. And assistance will be provided to local organisations to provide support to RCDEP participants reminiscent of the Hawke Government's Enterprise Management and Community Management Training Schemes and more recently Rural Transaction Centres.

The discussion paper is replete with unanswered 'elephant in the room' type issues. In remote Australia what private sector or public sector 'proper' jobs might RCDEP participants fill? Will jobs offered by governments be properly remunerated or merely part-time jobs as are currently being offered for a range of positions under the NT Intervention previously funded by CDEP? Will governments support proper economic development for remote communities (A 'new' Indigenous Economic Development Strategy is foreshadowed in the discussion paper)? Is there capacity to deliver employment and training services of adequate quality in remote Australia and will short-term wage subsidies result in permanent employment opportunities? Will people take up voluntary mobility assistance to seek mainstream work?

Three features of the revamp stand out as fundamentally altering innovative aspects of the existing CDEP program, irrespective of its success in generating additional employment and income.

The first is the proposal that RCDEP participants will only be able to access income support payments like other welfare recipients. Under some misguided notion of equity, CDEP participants who can now work extra hours and earn extra income without being subject to the disincentive effect of the welfare income taper (earn extra, receive progressively less and less) will be prohibited from doing so in future as RCDEP participants.

The second is the proposal that RCDEP participants will be treated no different from those in the current Work for the Dole program. Unfortunately there is no evidence that this program has worked in the last 12 months since being introduced in the Northern Territory in remote communities as part of the Intervention. One has to ask if what is proposed is just a full circle return to July 2007 when the Howard Government proposed to abolish CDEP in the Northern Territory so as to be able to quarantine (now 'income manage') people's incomes.[58]

[58] Jon Altman, 'Scrapping CDEP is just dumb, dumb, dumb', *Crikey* (online), 24 July 2007

The third is that CDEP organisations that provide support for a diversity of economic and community development projects will lose capacity and scale. This will have deleterious effects on many successful initiatives established in the national interest like the Indigenous Protected Areas program, Australian Customs and Australian Quarantine and Inspection Service service level agreements and the new Working on Country program.

I have argued long and hard that successful CDEP organisations with track records over many years should be replicated and supported, not jeopardised by radical reform with uncertain intended and unintended consequences. My empirical exemplary practice model is the Bawinanga Aboriginal Corporation in Maningrida, remote Australia's largest and probably most successful CDEP organisation.[59]

The proposed reform of the CDEP program might assist to close the employment gap, if RCDEP participants remain classified as employed like current participants. It will also depend on whether the Government will allow increase in participant numbers after 1 July 2009. The employment gap might close, but regrettably other gaps, in income status, wellbeing and self-esteem between Indigenous and other Australians, might widen.

9 October 2008

<http://www.crikey.com.au/2007/07/24/scrapping-cdep-is-just-dumb-dumb-dumb/>.

[59] Jon Altman and Victoria Johnson, 'The CDEP in town and country Arnhem Land: Bawinanga Aboriginal Corporation' (CAEPR Discussion Paper 209, 2000) <http://caepr.anu.edu.au/Publications/DP/2000DP209.php>.

NT Intervention: Macklin Ignores Review Board in Favour of Anecdotes

Minister Macklin has responded very swiftly to reject the key recommendation of the Northern Territory Emergency Response (NTER) Review Board that she appointed: 'that the current application of compulsory income management in the Northern Territory cease' and that it should be available on a voluntary basis to community members who choose to have some of their income quarantined for specific purposes as determined by them.

The NTER Review Board, like everyone else, seems to prefer the term 'income management' to 'quarantining', but the bottom line is that this is the most contentious measure in the Intervention because it contravenes the *Racial Discrimination Act*, is blanket in application and hence makes no distinction between responsible and irresponsible spenders of welfare, and is limited to only Aboriginal people residing in NT prescribed communities and not, for example, to those participating in the Cape York trials.

Where is the horizontal equity even between Aboriginal people?

In the NTER Review Report's Foreword the Board highlighted that 'there is intense hurt and anger [in prescribed communities] at being isolated on the basis of race and subjected to collective measures that would never be applied to other Australians. The Intervention was received with a sense of betrayal and disbelief. Resistance to its imposition undercut the potential effectiveness of its substantive measures'.

These are very powerful words uttered by a distinguished Board of three, supported by a team of eleven experts, all hand-picked by the Minister and other independent advisers.

The NTER Review Board's recommendations were based on visits to 31 communities, meetings with representatives of 56 communities and overall consultation with over 140 different organisations over three months. On top of this, the Board received 222 submissions including mine[60] and commissioned its own consultancy research much of which has not, as yet, been made public.

Against this, the Minister is pitting her evidence base which seems to consist of two elements. The first is information from stores which indicates that Aboriginal people in prescribed communities are spending more on food, especially fresh fruit and vegetables, and other basics and less on grog. The Minister contends that this is resulting in early evidence of better health

[60] Jon Altman, 'Submission to The Northern Territory Emergency Response Review', (CAEPR Topical Issue 10/2008)
<http://caepr.anu.edu.au/Publications/topical/2008TI10.php>.

outcomes for children.[61]

If there are stores or household expenditure surveys that can convincingly demonstrate such outcomes then it is incumbent on the Minister to make them publicly available for critical scrutiny. It is surprising that such surveys were not mentioned by the Review Board. The Minister does not countenance the possibility that such increased expenditure, especially on fresh food and vegetables, might result from greater availability of such produce now that community stores need to be licenced to meet minimum Australian standards rather than income quarantining.

The second source of evidence is anecdotal: representations made by unnamed women to the Minister to retain compulsory quarantining because of their fear that if it were made voluntary they would be bullied, presumably by men, to bypass such voluntary options. Such statements are reminiscent of how ex-Minister Mal Brough used to construct his moral authority in order to support his pre-determined actions via shadowy anonymous anecdote.

This is not only a poor basis for evidence based policy making to which the Minister is committed, but it is also demeaning of Aboriginal women's agency, demeaning of men to suggest that they would force their own kin to act against their wishes, and demeaning of the Review Board that tables no such evidence despite widespread consultations.

One can only speculate on why Minister Macklin has taken this surprising route to extend the 'stabilisation' phase and this most draconian and paternalistic measure for a further 12 months. Perhaps she is just being pragmatic knowing how difficult it will be to pass amendment through a hostile Senate?

Or else she hopes that in 12 months' time there will be such a major turnaround in favour of quarantining in prescribed communities that it becomes a positive special measure that is popularly sought and hence not in contravention of the RDA. Or perhaps she is still looking for bipartisanship; Opposition spokesperson Tony Abbott has certainly been first out of the blocks to support this decision.

One has to wonder why a considerable amount of public money, over $2 million according to Senate Estimates,[62] has been spent on an independent review if the Minister was just going to cherry-pick from its recommendations. In terms of future reviews and evidence-based policy making the Minister sends a very negative signal, choosing to continue the Howard Government's

[61] Emma Rodgers, 'Macklin overrules key intervention finding', *ABC News* (online), 23 October 2008 <http://www.abc.net.au/news/2008-10-23/macklin-overrules-key-intervention-finding/551732?section=justin>.
[62] Senate Estimates available at <http://webcast.aph.gov.au/livebroadcasting/Default.aspx>.

approach of jettisoning expert opinion, in this case a hand-picked expert Review Board, in favour of the 'person in the street', in this case the Minister herself.

This is very worrying for the development of effective public policy in an area of enormous complexity that needs hard evidence, transparent and widespread community consultation and the advice of experts; and not recourse to selective anecdote and unsubstantiated generalisations at best, or mere ideology at worst.

24 October 2008

The New 'Quiet Revolution' in Indigenous Affairs

There is much good news for Indigenous Australians embedded in the Council of Australian Governments (COAG) communiqué released on Saturday 29 November.[63]

For a start, nearly $2 billion, 13 per cent of the $15 billion committed by the Australian Government over the next five years, is earmarked specifically to four new (out of 15) Indigenous-specific National Partnership Agreement (NPA) payments in the areas of remote service delivery, health, remote housing and economic participation.

Overall, it is hard to know to what extent this is the fiscal response to the COAG-agreed ambitious targets for Closing the Gap between Indigenous and non-Indigenous Australians across the continent; or whether it is an attempt by the Rudd Government to equitably include Indigenous Australians in the pump priming of the Australian economy that has followed the global financial meltdown.

It certainly indicates an increased awareness of relative Indigenous disadvantage that was absent during the Howard years as massive budget surpluses were distributed more on the basis of voter loyalty than absolute or relative need. Deciphering just what is actually going on though is far from straightforward as we enter a new policy approach with a new lexicon, new acronyms and much lack of clarity about what is actually being committed by the Australian Government versus the States and Territories.

The funding committed to the five NPAs under the National Indigenous Reform Agreement (NIRA), is documented in the communiqué (in $ millions) as follows:

	2008–09	2009–10	2010–11	2011–12	2012–13	Total
Indigenous economic development	15.0	39.8	39.8	38.9	39.2	172.7
Indigenous family and community safety	-	-	-	-	-	-
Indigenous health	-	82.7	157.2	247.6	318.0	805.5
Indigenous remote service delivery	24.5	31.2	32.4	33.4	32.5	154.0
Indigenous housing	400.0	60.0	15.8	174.2	184.5	834.6
Total Indigenous reform NPAs	439.5	213.7	245.2	494.1	574.2	1,966.8

This table, though, only refers to Australian Government commitments which seems a little at odds with NIRA's aim to ensure the proper commitment of all governments to new instruments to close the gap in Indigenous disadvantage.

Looking at each NPA in turn reveals even more funding and more

[63] Council of Australian Governments (COAG), *Communique* (29 November 2008) <http://www.coag.gov.au/sites/default/files/2008-29-11.pdf>.

complications.

Indigenous economic development is actually about economic participation, defined as a target to create 13,000 jobs over five years. The Australian Government commitment is augmented by $56 million provided by the States and Territories. One wonders how this is linked to the Australian Employment Covenant's far more ambitious target of 50,000 jobs initially to be provided over two years?[64]

Indigenous family and community safety refers to the $564 million previously committed by the Australian Government over 6 years to address the needs of Indigenous children in early years outlined in COAG's first NPA agreed in October 2008.[65]

Indigenous health is made up of Australian Government commitments of $806 million and $772 million from the States, a significant $1.6 billion over four years.

Indigenous remote service delivery is made up of $291 million over six years, $154 million over five years from the Australian Government with 26 remote Indigenous communities, some not even identified yet, targeted and spread across the NT (15 communities), north Queensland (4), northern Western Australia (3), northern South Australia (2), and western New South Wales (2).

Remote Indigenous housing is allocated $835 million over five years from the Australian Government as part of a $2 billion commitment over 10 years, an Indigenous specific NP that is part of the National Affordable Housing Agreement (NAHA). This will provide resources to build 4,200 new houses and upgrade 4,800 others in remote Indigenous communities, but there is no reference here to State and Territory commitments.

One has to give credit where it is due. The Rudd Government has quickly woken up to the fact that 'Closing the Gap' will not magically happen with business as usual. It is particularly pleasing to see major investments in capital catch-up based on a realisation that normal fiscal federalism does not work for Indigenous Australians and never has. So the Commonwealth is looking to lock the States and Territories into partnerships that could be intergovernmental in a way never ever seen before. While incentive payments to the States and Territories are mooted to be used to reward performance, it is interesting that no provision for such payments is made in the forward estimates outlined

[64] Jon Altman, 'The Forrest plan: have they thought this through?', *Crikey* (online) 5 August 2008
<http://www.crikey.com.au/2008/08/05/the-forrest-plan-have-they-thought-this-through/>.
[65] Council of Australian Governments (COAG), 'Closing the Gap in Indigenous Disadvantage' (2008)
<http://www.coag.gov.au/closing_the_gap_in_Indigenous_disadvantage>.

above.

The new approach though also seems to have potential problems.

In particular, the focus of NPAs remains on remote contexts on the assumption that Special Purpose Payments will equitably include Indigenous people living in non-remote contexts, an assumption that many Indigenous people in urban and metropolitan Australia will not be comfortable with at all.

And even in remote Australia, the service delivery NPA is only targeted at 26 communities with no transparent system outlined for how the lucky 26 will be chosen and the unlucky nearly 1,000 will not. It seems likely that yet again the smallest and most vulnerable, especially outstations, are likely to miss out because they are dispersed and different. Some serious policy thought is needed to consider if this is a sensible approach.

Ultimately, this new 'quiet revolution' in Indigenous affairs has the appearance of an inclusive approach, going beyond John Howard's 'ruling for all Australians' to 'funding all Australians' paradoxically during an economic downturn rather than during massive budget surplus boom times. But as before there is still the rider that having historical shortfalls and citizenship entitlements equitably met will be conditional on joining the mainstream, in making a statistical contribution to 'Closing the Gap'.

This is a pact between governments that is not based on thorough consultation or any negotiation with Indigenous Australia. A national Indigenous representative body would have been very handy for this task.

The global economic meltdown suggests that economic diversification and diverse approaches based on cultural plurality might be strategies to be encouraged, both to meet the aspirations of remote-living Indigenous Australians and in the national interest. The approach pursued here may not be business as usual in one sense, but it certainly is in another: join the mainstream, or continue to be marginalised and neglected.

1 December 2008

Understanding the Maningrida High Court Challenge

In late 2007, faced with the prospects of seeing their traditional lands compulsorily leased for five years, traditional owners of Maningrida mounted a challenge in the High Court to the constitutional validity of this aspect of the Northern Territory Intervention. They were joined as plaintiffs by the Bawinanga Aboriginal Corporation, a community-based organisation that stood to lose its fixed assets as part of the Intervention, with the defendants being the Commonwealth of Australia joined by the Arnhem Land Aboriginal Land Trust represented by the Northern Land Council. The former was a defendant because it sought to uphold the integrity of its Northern Territory Emergency Response (NTER) legislation; the latter because it held the underlying freehold title to the Maningrida land in trust under the *Aboriginal Land Rights (Northern Territory) Act 1976.*

This is a complex case. To hasten a hearing in the High Court, all parties 'demurred' such that constitutional and other legal issues were resolved prior to any factual disputes (such as to the nature of traditional laws and rights) being addressed. The key issue put by the plaintiffs was whether the NTER laws passed in 2007 would provide traditional owners just terms compensation for loss of their lands. The Howard Government had publicly guaranteed such compensation. However, legally there was some ambiguity as to whether this was required by the 'just terms' protection in s51 (xxxi) of the *Constitution* given a 1969 High Court judgement that it did not apply to laws about Australia's Territories under s122. And the plaintiffs also argued that a question arose as to whether the 'reasonable terms' referred to in the NTER legislation actually meant 'just terms' or not, and whether the Commonwealth could actually proceed without paying anything.

The outcome of the case has been interpreted as a victory for the Intervention. But the case only challenged the constitutional validity of one aspect of the NTER laws. The seven judges of the full bench of the High Court delivered six different judgements with six judges allowing the demurrer with Justice Kirby dissenting; orders that the plaintiffs (that is the traditional owners and Bawinanga Aboriginal Corporation) meet the costs of the Commonwealth; and that further conduct of the action be undertaken in a lower court.

In reality what the High Court did was deal with this issue in a technical and legalistic manner that delivered a convenient outcome. Four judges overruled a 1969 decision of the High Court in *Teori Tau v The Commonwealth* which held that just terms compensation need not be paid regarding compulsory acquisition in a territory. This now means that s122 of the Constitution is subject to the just terms requirements of s51 (xxxi) of the Constitution, so on the back of this case all Territorians (in both the NT and the ACT) now have the same just terms compensation guarantees as other Australians if the Commonwealth compulsorily acquires their land. It is ironic that the earlier

judgment that just terms were not payable was made in relation to a challenge by Indigenous owners of the Bougainville copper mine—at which time native title was recognised under Australian law in colonial Papua New Guinea, but not in Australia; and a case in relation to just terms compensation for Aboriginal Territorians delivers new just terms guarantees for all Territorians (including in the ACT).

So that is the constitutional validity issue dealt with. At the same time other legal issues were clarified. A majority found that traditional rights of occupation and use of the Maningrida land under s71 of the *Land Rights Act* were not extinguished by the five-year compulsory leasehold purportedly to remove barriers to the upgrade of township housing and infrastructure, and nor could they be extinguished by Ministerial action under the NTER laws. Similarly the High Court found that sacred sites remained protected under s69 of the *Land Rights Act*. Chief Justice French said that if the abolition of the permits system constituted an acquisition of property (or loss of property rights) then just terms would be payable, but noted that the quantum would be subsumed within the compensation for the compulsory five-year lease.

What are especially important in this case is the contrasting views of Chief Justice French and Justice Kirby on whether these provisions in the *NTER Act* were racist. French and other judges in the majority resolved the legal issues without reference to the broader matters of policy which have been canvassed in the public domain, whereas Kirby argued that in his view if freehold property owned by non-Aboriginal Australians was compulsorily acquired in this way the legal response would be very different. Kirby explored the policy intent of the compulsory acquisition, to intrude in and improve the lives of Aboriginal people in Maningrida without consultation and irrespective of the wishes of the traditional owners and he gave his judgment international human rights and politico-economic dimensions absent in the reasons of others. He rejected the demurrer because he believed that all the facts—history, policy, human rights, not just legal technicalities—should be presented before the High Court for legal issues of this nature to be resolved.

Where does this judgment leave matters? In a legal sense, the High Court leaves open the possibility that the traditional owners of Maningrida can make their case for just terms compensation before a Justice if they believe that the Commonwealth compensatory offer is inadequate. Deciding what is 'just terms' will prove a challenging task given that Aboriginal freehold land is inalienable and so lacks a real estate market, although there are certainly precedents with leasing arrangements. This is especially the case where compensation is sought for matters such as spiritual affiliation. In reality in Aboriginal custom and tradition, land and resources are inseparable and sacredness is not limited to sites but is everywhere. At the heart of this matter are competing cultural views about the meaning of property that the powerful in Australia have always defined in a particular western legal sense that

overlooks and marginalises far less powerful Aboriginal interests.

In a policy sense, a critical issue will be whether the Commonwealth delivers on its intended aim to improve living conditions in the Maningrida township prescribed area in the next five years. At a time when the dominant policy discourse is about 'Closing the Gap' (even if such closing requires the compulsory alienation of people's property) one wonders where there might be any room for the acceptance of cultural difference and a fundamentally different take on the meaning of property? Clearly Australia's particular manifestation of multicultural liberal democracy and recognition of the inherent rights on its first peoples does not stretch that far, to date.

February–March 2009

A Nation Building and Jobs Plan for Indigenous Australia

I had the Senate Inquiry on the Nation Building and Jobs Plan accept a late submission along the following lines.

In November 2008 I provided the Australian Government with a proposal to revamp the CDEP scheme, not to abolish it.[66]

Subsequently, the Government announced its decision to progressively close down regional CDEPs from 1 July 2009 and to end 'grandfathering' arrangements (i.e. abolish) in remote CDEPs from 1 July 2011. It is likely that these measures will greatly increase the level of Indigenous unemployment.

I would like to propose that the Australian Government suspend the planned abolition of CDEP, and re-fund those CDEP projects with a proven track record that have either recently been de-funded or that are facing closure. My argument is that CDEP should never have been abolished, but this is even more the case given the predicted dire downturn in the Australian labour market in 2009 and beyond.

The original rationale for rolling-back and abolishing CDEP at a time of low unemployment, when some believed there were private and public sector jobs that those on CDEP could be employed in, might have been debatable last year. The ambitious Australian Employment Covenant was adamant that 50,000 new private sector jobs could be delivered by industry.[67]

But such optimistic views are probably beyond debate now as it is likely that available jobs will decline dramatically, especially in rural and remote Australia.

It makes no sense at a time of rising unemployment to be moving Aboriginal people out of CDEP jobs (where they are gainfully employed building infrastructure or delivering community services) and onto the dole queue.

Reinstating and reinvigorating CDEP is a low-cost and high impact option for the Australian Government which can quickly and easily be rolled out through existing arrangements. The marginal cost of providing a CDEP position rather than a place on the dole queue is minimal—mostly constituting administrative costs, training and consumables.

The CDEP program employed around 40,000 Indigenous Australians at its

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[66] Jon Altman, 'Submission to 'Increasing Indigenous Economic Opportunity—A discussion paper on the future of the CDEP and Indigenous Employment Programs', (CAEPR Topical Issue 14/2008) <http://caepr.anu.edu.au/sites/default/files/Publications/topical/Altman_CDEP1408.pdf>.

[67] See Australian Employment Covenant (2012) <http://www.fiftythousandjobs.org.au/>.

peak in 2005. With the roll-back of CDEP in urban areas the number of participants has declined to about 25,000. Even at its peak the marginal cost of providing employment and training for 40,000 participants was in the vicinity of only $150 million per annum above the sunken costs of Newstart and the ineffective Work for the Dole program.

Much of the community-based infrastructure to run CDEP is still in place and many of these programs could be quickly and easily reconstituted and improved. It makes more sense to revamp CDEP so that those for whom there is no employment during the economic downturn (that will continue for several years) can be engaged in productive and constructive activities, improving their skills, and maintaining their self-esteem and contact with the culture of work.

A revamped CDEP can be a part of the Government's nation building agenda and help to extend this project to regional and remote Australia. Revamping CDEP can also build on the Government's education and training agenda—by offering existing programs and frameworks through which improved on-the-job training can be offered without the delays and red-tape that would be involved in designing, building and approving new programs and administrative arrangements.

At a time when there are few Indigenous-specific proposals to deal with the inevitable impact of a national economic downturn on Indigenous Australia, a revamped CDEP might provide a cost effective avenue with proven track records that must be seriously considered by all concerned at the likely disproportionate impact of the economic downturn on the poorest and most marginalised Australians.

12 February 2009

A Racist Intervention

Justice Kirby, long-standing champion for human rights, retired from the High Court on 2 February 2009. In his last judgement, he provided the sole dissenting point of view in the case *Wurridjul and Others v The Commonwealth of Australia*. This case challenged the constitutional validity of the Commonwealth's compulsory acquisition of traditional owners' freehold land in Maningrida, central Arnhem Land, a prescribed Aboriginal community, under the Commonwealth's Northern Territory Emergency Response (NTER) legislation.

In his judgement, Justice Kirby was the only one willing to state the obvious—that in relation to such compulsory leasing in the name of improvement, the Australian state would not treat non-Aboriginal people in this way. Chief Justice French called this suggestion 'gratuitous', but Kirby responded, stating that 'Far from being 'gratuitous' [my] reasoning is essential and, in truth, self-evident'.

In the *Wurridjul* case the High Court found 6-1 that this aspect of the NTER legislation is constitutionally valid and so the Emergency Response can continue as the policy framework for the Northern Territory, even though a High Court judge has labelled it racist. Other judges preferred to render this question legally technical, as if the only issues to consider were legal: is Aboriginal freehold title like other freehold? Will the *Land Rights Act* guarantee ongoing access and use rights? And will just terms compensation be payable on land compulsorily leased? This is understandable because to hasten a judgment all parties 'demurred', they did not seek to argue the case on the facts that were in suspended agreement, but rather on constitutional legal principles. Consequently, the case could be heard as if no policy was driving the Intervention, no question of race, and no politico-economic reasons for Indigenous marginalisation. Justice Kirby was the only judge who rejected the 'demurrer', he wanted the case before the High Court with all the facts.

It is noteworthy that the decision in this case is not all bad. It is good for Territorians (including in the Australian Capital Territory) because the High Court overruled the archaic *Teori Tau* decision of 1969, meaning that Territorians are now entitled to just terms compensation under the Australian Constitution just like other Australians. Initially the Howard Government had guaranteed Aboriginal traditional owners just terms compensation, but then found that under existing s122 constitutional territory powers it did not need to. Ironically, the decision that just terms is now required overturned an earlier High Court judgment in relation to colonial Papua New Guinea when still an Australian territory. However, even this positive decision will not satisfy Maningrida's traditional owners (and traditional owners of other prescribed communities) who want to keep their land irrespective of the compensation issue.

I have worked on Indigenous development issues for thirty years. I used to believe that a combination of evidence and partnership with Aboriginal people might see beneficial state policies for improvement. I no longer believe this in relation to the NTER. The Rudd Government is locked into the Intervention irrespective of any evidence. This is partly because it acquiesced to the previous Government's policy in 2007 and partly because even if it now wanted to change aspects of Intervention law that it was electorally committed to reverse it could not do so because it lacks a Senate majority. This has become evident with the issue of the permits system. The Rudd Government made an election commitment to restore the permits system to prescribed Aboriginal communities, but cannot get the Senate majority to enact amendments to the NTER law on this issue.

However, it is never acknowledged publicly that the Minister for Indigenous Affairs has discretion to declare areas 'unprescribed' as well as 'prescribed' under the *NTER Act*, and that therefore there are ways around this Senate impasse. This leads me to suspect that the Government is comforted in its approach, perhaps influenced by what it is hearing from focus groups, and certainly from what it hears from some influential and privileged Indigenous leaders who support the Intervention as ongoing policy, giving moral authority to the Government's approach.

Is the current approach leading to good policy and positive outcomes? The High Court decision focused on a technical legal issue, but in a practical sense how will the five-year compulsory leasing improve people's housing and living conditions? It is important to recount that the rationale for this action was to remove alleged barriers under the *Land Rights Act* for urgent intervention to fix housing and infrastructure in communities. Aboriginal people are seeing massive interventions in their communities, but are reporting little concrete fixing of community assets to date.

It is also unclear how the High Court decision meshes with the Council of Australian Governments' proposal of November 2008 to focus on only 15 prescribed communities out of 73, so that the necessary resources to fix community assets and add to housing stock seem to be inadequate to cover all communities; or with Prime Minister Rudd's joint policy commission for an effective housing strategy announced on 13 February 2008 as part of the Apology. Special deals are being struck with some like the Tiwi or Groote Eylanders, but only if they sign 99- or 40-year leases that will greatly extend the five-year compulsory acquisitions. But is this a sound policy framework and should people need to trade their ancestral lands for public housing?

What all available evidence from overseas tells us is that rather than top-down blanket measures, there is a need for self-determination, self-government and self-management, a need to work *with* Aboriginal people, not unilaterally *on*

them. In reality, working *with* people will be far less risky and much more likely to succeed than the current strategy which purports to lower risk for Aboriginal people and Australian society generally. Here is a fine example, it seems to me, of 'words that succeed and policies that will inevitably fail' (with acknowledgment to American political scientist Murray Edelman).

We cannot 'close the gap' unless 'we close the racism gap' evident in the blanket measures now being imposed on NT Aboriginal communities. The discourse of 'Closing the Gap' is dangerous because it really means mainstream, normalise, assimilate, an overarching project of government that might suit some Aboriginal people, but will not suit many, especially people in the Northern Territory. This is a policy agenda that has not been negotiated with Aboriginal people and takes no account of their aspirations and life worlds. 'Closing the Gap' will see mainstreaming and the abolition of Indigenous-specific programs like the CDEP program, outstation support, the permits system, land rights and group and family-based ways of doing things via community-based organisations: doing things 'Aboriginal way'.

Too many Aboriginal people confuse 'Closing the Gap' with their right of access on an equitable needs basis to services to which they are entitled as Australian citizens. Closing the Gap goes beyond meeting 'citizenship rights' to anticipate mainstream 'statistical equality' outcomes in situations that are often beyond the mainstream and fundamentally different. Indigenous people in other countries do not tolerate a discourse that defines them in terms of deficits in relation to mainstream Eurocentric norms and that fails to recognise their distinct cultures and practices. Indigenous people in the Northern Territory need to be treated like other Australians not in a blanket way, irrespective of behaviour. People's 'citizenship rights' should be clearly differentiated from their 'Indigenous-specific rights' as Australia's first peoples; and from the extra needs-based catch-up 'rights' required to make up for historical legacy and decades of neglect.

We need to avoid mainstreaming Indigenous people into late capitalism, which is just now at a cross-roads. The free market should not be Aboriginal people's only choice, a very risky strategy for Indigenous Australians, just as PM Rudd is berating the unfettered free market for the current problems besetting Australian and global economies.

Ultimately we need an honest conversation. Is the paternalistic and top-down Australian state project of improvement really intended to smash Aboriginal ways of life for the good of Aboriginal people, or is this just an unintended consequence? If it is the former, then surely people have a right to resist. If it is unintended, how might the government's policies be revisited and revised? Who will lead the charge for change given that the Rudd Government has ignored key recommendations in the independent NTER Review Report to reinstate the *Racial Discrimination Act* in the NT? Do Indigenous people have

no recourse but to go to the United Nations and beyond? If the politics of domestic embarrassment (and the Australian legal system) will not assist them, might the politics of international embarrassment prove a way forward? At least in this forum Indigenous people have a degree of moral authority given the Rudd Government's (still unfulfilled) commitment to endorse the *UN Declaration on the Rights of Indigenous Peoples* back in 2007.

20 February 2009

Budget Status Quo Will Just Widen the Gaps

In its second Budget, the Rudd Government's 'Closing the Gap' became more firmly entrenched as the overarching policy approach in Indigenous affairs. Again there was a separate Indigenous Affairs Budget Statement *Closing the Gap between Indigenous and Non-Indigenous Australians* but little media or any other commentary about whether the additional spend on Indigenous affairs will assist in meeting goals to reduce deeply-entrenched gaps in health, education, employment and housing and community infrastructure disadvantage.

The Global Economic Crisis has seen Indigenous affairs slip rapidly down the list of national priorities from the heady days of the National Apology just over a year ago; even faster than schemes to reduce carbon pollution.

At the outset it should be said that the Government is on safe political ground because we will not actually know how it is travelling in Closing the Gap until 2012, possibly two elections away, when 2011 Census data become available. Even the Australian Bureau of Statistics (ABS) Labour Force Characteristics of Aboriginal and Torres Strait Islander Australians that is normally released in May each year has been delayed for technical reasons by the ABS to later this or early next year.[68]

So the mantra 'The Government is committed to a comprehensive, evidence-based approach to close the gap between Indigenous and non-Indigenous Australians' that is asserted pro forma in each of its seven 2009–2010 Indigenous Budget Media Releases rings a little hollow.

As in the last Rudd Budget, the Howard Government's Northern Territory Emergency Response (NTER) Intervention looms large, now new initiatives are divided between those that aim to Close the Gap for Indigenous Australians and those that aim to Close the Gap in the Northern Territory. This is a significant bifurcation.

First, in terms of new programs and allocations for 2009–10 and forward allocations to 2012–13, there are 16 new initiatives for Australia (some of which Indigenous Territorians can access) with a total allocation of $467 million and 18 new initiatives for the Northern Territory with a total allocation of $807 million (none of which Indigenous people outside the NT can access). A minimum 63 per cent of the new allocation of $1,275 million over four years focuses on an estimated 13 per cent of Australia's Indigenous population. There is no statistical evidence that the Gap in the NT is so much greater than

[68] Australian Bureau of Statistics, *Labour Force Characteristics of Aboriginal and Torres Strait Islander Australians, Estimates from the Labour Force Survey', 2009* (28 June 2011) <http://www.abs.gov.au/AUSSTATS/abs@.nsf/allprimarymainfeatures/52FCBA5E689BBDBACA2578BD0013E82D?opendocument>.

elsewhere to justify such a disproportionate share of allocation.

Second there is a subtle, but significant, rhetorical shift that carries policy import: we no longer talk about the Northern Territory Emergency Response, but rather the more benign Closing the Gap in the Northern Territory.

Does the actual approach in the NT match the more benign tone in the policy narrative? Not in 2009–10 when a massive $104 million remains allocated to income management or welfare quarantining. Interestingly in forward estimates the amount allocated is only $2.1 million, suggesting that this paternalistic measure might end soon. A similar $105 million is allocated to coordination and field operations, including here the cost of externally-imposed Government Business Managers, while only a paltry $3 million is allocated to the Commonwealth Ombudsman to provide independent oversight of the NTER.

The big policy sleeper here that is mentioned several times is how the Australian Government will redesign compulsory income management (and alcohol and pornography controls) in consultation with Indigenous communities to ensure that they can continue without contravening the *Racial Discrimination Act 1975* (*RDA*). The goal of 'unsuspending' the *RDA* in the current *NTER Acts* is a commitment reiterated in the Budget: conformity with the *RDA* is recognised as a requirement to respect Australia's international human rights obligations especially now that we have belatedly supported the *UN Declaration on the Rights of Indigenous Peoples*.

Just how this goal might be achieved is hinted at in a separate media release 'Re-setting the Relationship between Indigenous and non-Indigenous Australians' and an associated commitment of nearly $150 million. This in turn suggests that the relationship might have been 'unset', especially in the NT where $35 million is allocated. Much of this might have been linked, as suggested by the Independent Review of the NTER Intervention, to the coercive nature of the Intervention. 'Re-setting the Relationship' might be code for persuading prescribed communities that continued income management is a beneficial special measure that complies with the *RDA*.

The third plank in the Rudd Government's new approach is the Council of Australian Governments (COAG) Indigenous National Partnerships announced in the communiqué of November 2008 committing $2 billion in additional resources in the Budget and forward allocations (and then even more on housing for another five years).[69]

Since this announcement, 26 selected priority remote locations have been identified for enhanced housing and remote service delivery. Some quick maths indicates that the 15 communities in the NT might cover 21 per cent of the

[69] COAG, above n 50.

Indigenous population there, in Queensland priority coverage for six communities will be limited to 3 per cent of the population, Western Australia's three locations to 2.8 per cent, South Australia's two communities to 2 per cent, and New South Wales' two townships to 0.1 per cent (Victoria, Tasmania and the ACT get nothing). This targeting is problematic on equity grounds—community size rather than any objective assessment of need seems to be the key determining factor.

Even more worrying are unconscionable delays in delivering housing and infrastructure to overcrowded prescribed communities in the NT (and possibly elsewhere). This is because of the long-term leasing conditionality for the provision of social housing imposed by Minister Macklin. We know, for example, that only four priority communities in the NT have agreed to leasing, and even at these, major building programs have not yet started. Clearly the 'National Emergency' rhetoric has not been matched by action on the ground and arguably the 'crash though' style of the previous Minister has been replaced by new institutional barriers in the form of land tenure reform created by the current Minister.

At an overall level, the spend on Indigenous-specific programs remains at about 1 per cent of the total Federal Government outlays for about 2.5 per cent of the population, with Indigenous access to mainstream measures still relatively unknown.

It is certainly of concern that there are no measures in this National Building and Jobs Plan Budget targeted specifically at Indigenous employed and unemployed. It is likely that Indigenous employed will be disproportionately represented in the swelling ranks of the unemployed; the Indigenous unemployment rate, already three times the national rate, will grow. This will result in inevitable poverty because Newstart payments remain frozen unlike pensions.

Coupled with the abolition of the CDEP program employment in regional Australia and a linking of CDEP payments with Newstart for new entrants in remote Australia, growing employment and income disparities between Indigenous and other Australians are inevitable.

The key message from Budget 2009–10 for Indigenous Australians in Australia (as distinct from just in the NT) is that there is too little targeting of enhanced support to the most marginal section of Australian society. There are a number of welcome new measures and additional allocations. But this Budget is, at best, about maintaining the status quo with the hope that economic recovery will see Indigenous re-engagement with the mainstream. This is a limited vision and strategy that might in itself not accord with the diverse aspirations of Indigenous Australians. The Global Economic Crisis will impact severely on the most marginal. If the goal is to close, rather than widen, the gaps, this

approach just will not be enough.

14 May 2009

No Movement on the Outstations

In the early 1970s, something extraordinary happened in the Northern Territory. Aboriginal people started to migrate out of government settlements and missions to live on their traditional lands. This decentralisation was called the outstations movement. It challenged evolutionary logic. Hunter-gatherers had been coaxed or coerced to centralise in larger communities by the Australian colonial state. The purposes of this project were to sedentarise, civilise and assimilate nomadic Aboriginal people, at that time wards of the state. But with the policy shifts to self-determination and land rights, not only did people return to live in small groups away from settlements, but the state supported such decentralisation. There was an unchallenged recognition that the state project of assimilation had been an expensive failure.

Over the next 30 years, the Commonwealth took responsibility for outstations, but a proper policy was never developed. With minimal support, sometimes bordering on unconscionable neglect, the outstations movement persisted and grew. Today, there are an estimated 560 communities with populations of fewer than 100 people dotted across the Territory. Almost all are located on Aboriginal-owned land that covers 500,000 square kilometres—nearly half of the NT.

There is enormous diversity in outstations that statistical averages can mask. Most are populated by small family groups, but some number more than a hundred people. Some are occupied year-round, others seasonally or rarely; in almost all there is considerable population movement between outstations and larger centres. Some have robust local economies built on arts production, employment as rangers, and wildlife harvesting; others are highly dependent on welfare income.

The key commonality is that their residents have made a determined choice to actively engage with their land. This choice might be based on a desire to protect sacred sites, to retain connections to ancestral lands and ancestors, to live off the land, or to escape social dysfunction that might be prevalent in larger townships.

In September 2007, in the dying days of the Howard Government and amid the 'National Emergency' Response, the Commonwealth—with stealth and fiscal blackmail—divested responsibility for outstations back to the Northern Territory. A new agreement was signed, locking in the historic chronic underinvestment of previous decades. The Territory acquiesced, because it had no choice. Since then it has worked to develop a coherent policy, a 'new deal' for outstations.

Last week this much-anticipated framework—*Working Future*—was released. The policy, paradoxically, had little to say about outstations. Instead it focused

on the targeted delivery of support to 20 larger Aboriginal communities now rebadged as 'Territory Growth Towns'. The policy statement anticipates these towns will become robust nodes for vibrant and sustainable economic development.

The only ground for this optimism is considerable federal funding of these development nodes; it resonates with the failed plans to develop similar Aboriginal regional centres with significant public underwriting in the 1960s. Most of these large communities are also targeted for support by the Commonwealth as 'priority communities'; there is policy collusion evident here.

During the past 30 years, a growing body of research has indicated that life at outstations is better—in health outcomes, livelihood options, and social cohesion, even housing conditions—than at larger townships, despite neglect. In present parlance, prospects for 'Closing the Gap' might be more likely at outstations.

Many Aboriginal people remain determined to live on their ancestral lands, pursuing a way of life that is informed by fundamentally different value systems. *Working Future* envisages only a conventional mainstream future for remote-living Aboriginal people. While paying lip service to the value of outstations, it proposes that the status quo—ongoing neglect—continues.

There is an alternative 'working future' for outstations that deserves serious policy consideration. Rather than revisiting the past, the NT Government should champion the aspirations and determination of outstation people to live on their land pursuing a way of life that incorporates two ways: the customary and the market, Aboriginal and European.

Such a hybrid mode of living is clearly beneficial for Aboriginal people. But it also has spin-off benefits nationally. Living on country, Aboriginal people occupy and manage nearly 10 per cent of Australia. At present they provide a wide range of environmental services. Empty landscape—*terra vacua*—is not in the national interest.

Devising public policy for outstations is a serious challenge. *Working Future* reeks of Canberra capture, fiscal mendicancy, and the continued exclusion of the politically vulnerable from decision-making about their own future.

Sensible policy would provide practical support for what is working on-the-ground rather than just for imagined growth towns, while enabling a more culturally and economically diverse, productive, and evenly populated Australia for the 21st century.

26 May 2009

After the NT Intervention: Violence up, Malnutrition up, Truancy up

It is the nature of 'national emergencies' that if they drag on for too long the media and public lose interest in them and the state that has promulgated the moral panic to allow draconian interventions will quietly alter the discourse and hope that the issue dissipates and costs no votes.

Given this standard scenario the posting of the latest Government Progress Report on the Northern Territory Emergency Response (NTER) Intervention on the Families, Housing, Community Services and Indigenous Affairs (FaHCSIA) website on Thursday 22 October 2009 is truly remarkable.[70] This is a Report developed by a number of agencies, but it does not present the Intervention with the positive and sugary governmental spin to which the Australian public has become accustomed.

The NTER Intervention is now called 'Closing the Gap in the Northern Territory' so the discourse is being altered; and the Report was posted very quietly, but this is hardly surprising because findings in it are damning of its effectiveness.

The reporting is in two parts, the first overviewing measures, and the second providing statistical information on progress, measure-by-measure. It is the second Report that is of greatest interest because for the first time ever some information is provided for 2006–07 (pre-Intervention) and for 2007–08 and 2008–09 (post-Intervention).[71]

This second Report covers 83 pages and is detailed and not all measures are given multi-year comparative coverage. But for those that are, some of the findings are extremely disappointing. For example:

- On health, child health care referrals are down, as are specialist audiological and dental follow-ups from referrals and reported child malnutrition is up despite the 85 licenced stores, the 15,000 BasicsCards and the $200 million income managed;
- On education, total enrolments and school attendance rates are marginally down despite the school breakfast and lunch programs and more and more police are working as truancy officers;
- On promoting law and order, alcohol, drug and substance abuse incidents are all up (p.32–33); domestic violence related incidents are up (p.33); and breaches of

[70] FaHCSIA, 'NTER Reports', (22 October 2009) <http;//www.fahcsia.gov.au/sa/Indigenous/pubs/nter_reports/Pages/closing_the_gap_nter.aspx>.
[71] FaHCSIA, 'NTER Monitoring Report 2', (2009) <http://www.fahcsia.gov.au/sa/Indigenous/pubs/nter_reports/Documents/closing_the_gap_nter/NTER_monitoring_report_p2.pdf> at 9 November 2009.

> domestic violence orders are up (p.33) despite a far greater police presence. The most disturbing data are contained in Table 4.4.1 on p.35 which reports personal harm incidents reported to police: all categories are up except for sexual assault reports that are slightly down.

A number of observations can be made about these findings.

First and foremost, they are comparative pre- and post-Intervention in prescribed communities, but they are not comparative with any other group in Australian society so it is hard to say how relatively bad outcomes are. All that is clear is that where time series information is provided almost without exception things have gotten worse.

Second, the quality of the Report is highly variable so in some key areas like land reform and especially welfare reform and employment there is the standard reporting of current outputs and no comparative analysis. And in the area of income quarantining there is still fraught methodology so it is store operators rather than customers that are surveyed, so while 68.2 per cent of store operators report more healthy food purchased, it is unclear if this 'more' is in dollar terms or quantity; and who is doing the purchasing? Interestingly, store operators report no change in tobacco purchase.

It is notable that there has been no serious coverage of this Report in *The Australian* newspaper, the unrelenting champion of the Intervention, which raises serious questions about its journalistic integrity and/or editorial censorship. The rival Fairfax Media has given the Report some coverage, for the first time on 31 October 2009 over a week after its posting.[72]

The Ministerial Office response to questions about these poor outcomes has been that the negative comparisons reflect better state surveillance of Aboriginal subjects and their misdemeanours. This might explain the statistics, but surely not the deteriorating outcomes.

The Rudd Government must be commended for the efforts its bureaucracy, in partnership with the NT Government, is investing in rigorously and transparently monitoring the effectiveness of Intervention measures. But there is far too little investment being made in analysing why things are not improving. Fruitful areas for policy investigation might include the following:

> First, can sustained race-based measures really deliver substantive equality, as recently asked by Sarah Burnside?[73] It might be time for the Rudd Government to demonstrate some decisiveness on this issue, instead of looking for tricky

[72] See Yuko Narushima, 'NT intervention failing to make a difference', *The Sydney Morning Herald* (online), October 31 2009 <http://www.smh.com.au/national/nt-intervention-failing-to-make-a-difference-report-20091030-hpr8.html#ixzz2Akb9Jobv>.
[73] Sarah Burnside, 'Macklin's Special Treatment', *New Matilda* (online), 4 November 2009 <http://newmatilda.com/2009/11/04/macklins-special-treatment>.

> technocratic-legal avenues to make the *Racial Discrimination Act's* tolerance of special measures comply with Intervention measures on which its own agencies are reporting poor or negative progress.
> Second, can top down statistical goals, even if endorsed by the Council of Australian Governments (COAG), ensure outcomes, if they are not negotiated with the purported subjects of the neoliberal state's improvement project? The Government's own research advisory agency the Productivity Commission raised this question as COAG was signing off on the National Indigenous Reform Agreement (Closing the Gap).[74] This locks in an approach agreed by the Commonwealth and States and Territories for the next decade, conveniently but unfortunately during an interregnum when there is no national Indigenous representative organisation with whom to negotiate.

The Rudd Government should seriously consider the Productivity Commission's advice on what works: [75] partnerships, bottom-up rather than top-down approaches, good governance—including by governments—and sustained support on an equitable needs basis.

I am in agreement with the Productivity Commission. It is imperative to concentrate on what has, and continues, to work; to support success and develop and replicate its key features. It is essential to engage with the reality of Indigenous heterogeneity of both circumstances and aspirations and tailor state approaches to fit. There is too much searching for technical statistical solutions to deeply entrenched and very human problems of disadvantage. Such approaches will not accurately measure, let alone fix, what matters, the wellbeing of Indigenous Australians.

The latest, and arguably most comprehensive, findings on progress in Northern Territory prescribed communities are of great concern especially given the significant $1 billion plus public investment. These findings resonate worryingly with American political scientist Murray Edelman's sage observations decades ago about 'words that succeed and policies that fail'. And this is just in the Northern Territory, what about the rest of Australia?

9 November 2009

[74] Productivity Commission, *Overcoming Indigenous Disadvantage: Key Indicators 2009*, (12 September 2012) http://www.pc.gov.au/gsp/Indigenous/keyindicators2009 at 30 October 2012.
[75] Ibid.

NT Intervention Three Years On: Government's Progress Report is Disturbing

Today marks the third anniversary of the Howard Government's 'National Emergency' Intervention in 73 prescribed Aboriginal communities in the Northern Territory. 'In the name of the child' the basic liberties of Aboriginal people were suspended and a draconian and paternalistic state project of improvement was launched to 'stabilise, normalise and then exit' these communities: stabilisation was to take one year and normalisation four.

On Saturday June 19, the latest six-monthly *Closing the Gap in the Northern Territory Monitoring Report—July to December 2009* was posted on the FaHCSIA website in two detailed parts totalling more than 100 pages.[76] Despite a six-month delay as the Report was compiled, it provides the latest information collected by a variety of government agencies on the Intervention.

This is a serious and disturbing Report that unfortunately is accompanied by the now almost *de rigueur* positive spin media release from Ministers Jenny Macklin and Warren Snowden—'Improving community safety under the Northern Territory Emergency Response'. The word 'improving' is ambiguous and provocative because there is an increase across a wide range of violence and other crime statistics.

As in the last Report for January to July 2009 multi-year comparative coverage from the time of the Intervention is only available for schooling, health and crime and the best data are provided by Northern Territory agencies.[77]

On schooling, enrolments are up slightly, but attendance has declined very slightly (-0.3 per cent) and remains at a reported 62.2 per cent (p.17) despite school nutrition programs at 65 schools and the employment of 200 people (161 local Indigenous people) in school meals delivery.

On health, hospitalisation for children aged 0–5 years is down (p.24) as are audiological and dental follow ups (p.25). Readers are warned that these raw hospitalisation data should be interpreted with caution, but nevertheless for the second Report in a row child malnutrition is up despite 88 licenced stores (p. 30) and 16,695 income managed customers (p.33).

On crime (previously termed promoting law and order, now the rather

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[76] FaHCSIA, 'Closing the Gap in the Northern Territory Monitoring Report—July to December 2009' (19 June 2010), <http://www.fahcsia.gov.au/our-responsibilities/Indigenous-australians/publications-articles/closing-the-gap-in-the-northern-territory-monitoring-report-july-to-december-2009>.

[77] Jon Altman, 'After the NT Intervention: violence up, malnutrition up, truancy up', *Crikey* 9 November 2009 http://www.crikey.com.au/2009/11/09/after-the-nt-intervention-violence-up-malnutrition-up-truancy-up/ at 30 October 2012.

saccharine 'safe communities'), alcohol, substance abuse and drug related incidents (p.53), and domestic violence and assault reportage and convictions (p.54) are all up. Also up are sexual assault reportage and convictions (p.56) and reports of child abuse (p.58). All personal harm incidents are up with some, such as attempted suicide/self-harm and mentally ill persons, increasing quite markedly (pp.54–55).

It is emphasised (p.52) that increases in reported crime are likely to be associated with increases in police numbers and may be associated with improvements in community safety. This may be the case, but for attempted suicide and mental illness? And this same logic of better servicing driving up negative numbers does not seem to be applied to health or other areas.

This latest Monitoring Report provides information for many areas such as provision of early childhood facilities and programs, economic participation (which includes income management for some reason), land tenure, and governance and leadership. For this transparency it needs to be commended. But much of the analysis is just description of dollar inputs and outputs rather than outcomes and there is no assessment of whether the Northern Territory Emergency Response (NTER) represents good value for money to the Australian taxpayer (including Aboriginal taxpayers in prescribed communities). Importantly at an appendix the Commonwealth Ombudsman's Report documents complaints being common about BasicsCards, which is hardly surprising given that a reported 29 per cent of 3.8 million attempted transactions were unsuccessful (p.33).

Of equal interest on the third anniversary of the Intervention are some of the program delivery and broader policy issues that are not mentioned. Let me focus on just three areas where an alternative narrative and far more critical assessment can be provided from existing public information.

First, the area of housing and land tenure reforms appears to have gone from bad to worse with reports that some of the handful of post-Intervention housing delivered under the Strategic Indigenous Housing and Infrastructure Program (SIHIP) might need to be demolished owing to poor workmanship. Indeed there is the spectre that with normalisation standards hundreds of houses in prescribed communities might need to be demolished with a net possibility that shoddy work and population growth might actually result in more rather than less overcrowding. The state is capable of providing housing for its staff very quickly, but for Aboriginal citizens at only a snail's pace that would have been unacceptable to all during the ATSIC era.

Indeed, alongside this recent revelation is emerging evidence of inter-governmental tension with the NT Government now saying that it was blackmailed to participate in SIHIP and the NT Auditor-General delivering a

highly critical report of the program.[78]

Also in the May Budget was news that the Home Ownership on Indigenous Land program was being de-funded with prospects for 'normalised' individual home ownership dropping off the policy reform agenda.[79] This is hardly surprising given that the NT Valuer-General estimated 64 prescribed communities to have a compensatory rental value of only $3.4 million, or less than $30,000 each per annum, inadequate collateral for mortgage finance.[80]

Second, on the employment front the recently released Labour Force Survey indicates that the employment gap might be increasing nationally. Evidence from the Northern Territory suggests that the employment to population ratio may have improved slightly as the Australian Government invested heavily in providing public sector 'proper' employment for Aboriginal people.[81]

But all this looks likely to change. First, it is reported that 500 CDEP transitional jobs with Shire Councils might end by December 31, 2010.[82] And second the Commonwealth appears committed to shift over 4600 CDEP participants from employment to welfare next year, a move that will see the employment to population ratio decrease by at least 10 per cent in the ideological pursuit of labour market normalisation in situations where standard jobs are just not available. The CDEP debacle is not just likely to move people from work to welfare, but to also disempower and further demoralise people and destroy their community-based organisations.

Third is the vexed issue of income quarantining or management, a measure that the Government is determined to extend to non-Indigenous people in the Northern Territory to avoid the opprobrium of supporting race-based measures that contravene the *Racial Discrimination Act*. The Rudd Government has gone to extraordinary lengths to discredit and demean the only credible research on the efficacy of income management pre- and post-Intervention.[83] This research

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[78] See Natasha Robinson, 'Shoddy homes to be rebuilt for Aborigines' *The Australian* (online), 18 June 2010 <http://www.theaustralian.com.au/news/nation/shoddy-homes-to-be-rebuilt-for-aborigines/story-e6frg6nf-1225881079857>.

[79] Jon Altman, 'Closing the gap between rhetoric and reality', *The Drum* (online), 17 May 2010 <http://www.abc.net.au/unleashed/34484.html>.

[80] Patricia Karvelas, 'Traditional land owners finally collect rent', *The Australian* (online), 26 May 2010 <http://www.theaustralian.com.au/news/nation/landowners-finally-collect-rent/story-e6frg6nf-1225871295142>.

[81] Jon Altman, 'Rudd overpromised on Indigenous employment', *Crikey* (online), 4 June 2010 <http://www.crikey.com.au/2010/06/04/closing-the-gap-rudd-overpromised-on-Indigenous-unemployment/>.

[82] Malarndirri McCarthy, 'CDEP extended till 31 December 2010', (16 June 2010) <http://newsroom.nt.gov.au/www.newsroom.nt.gov.au/indexe400.html?fuseaction=viewRelease&id=7054&d=5>.

[83] Julie Brimblecombe and David Thomas, 'Macklin's twists truth on income management', *Crikey* (online), 17 May 2010 <http://www.crikey.com.au/2010/05/17/income-management-

was published by a team of health researchers from the Menzies School of Health Research in Darwin in May, but is not mentioned in the Monitoring Report. And a counter Report from FaHCSIA intentionally or unintentionally misrepresents the Menzies School research in Senate Estimates and spuriously questions the peer review processes of the prestigious *Medical Journal of Australia.*[84]

The latest Monitoring Report provides no fresh evidence on the efficacy of income management and it remains unclear if it is the better availability of fresh fruit and vegetables or altered expenditure patterns that might be making a difference. Irrespective, the Government will seek to pass legislation that will expend more than $400 million in the next six years on income management processes despite contestation over outcomes.

There are some very worrying big picture policy issues emerging from the evaluative indeterminacy of the Intervention despite the massive resource commitments.

First is the possibility that the Closing the Gap in the NT National Partnership Agreement between the Australian and NT Governments that is to continue its normalisation project to June 30, 2012, might collapse. There is already inter-governmental disputation over the SIHIP alliance model and the housing and infrastructure Memorandum of Understanding foisted on the NT by the Commonwealth in 2007; and about funding for CDEP transitional employment with Shires. Will cracks start emerging in other areas such as health, education and policing?

Second, the normalisation project appears to heavily favour state regulation and monopoly supply of services. In some cases such monopolies might be justified because of the small size of communities. But the crucial question arises whether natural monopoly should be community or externally controlled. There is growing evidence that rents imagined to be extracted by local Aboriginal elites are now being extracted by government-sponsored and subsidised store managers and companies, income managers, housing alliances, employment brokers, and others. In short, one could ask who is mainly benefiting from the millions being expended on ameliorating Aboriginal disadvantage, Aboriginal citizens or public and private sector Intervention entrepreneurs?

And third, the Intervention was originally justified as a consequence of a failed state in remote Australia with highly dependent and politically weak Aboriginal communities and organisations wearing the blame.

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isnt-working-and-macklins-twisting-the-truth/>.

[84] 'Remote healthy food sales up, Macklin insists', *The Australian* (online), 7 June 2010 <http://www.theaustralian.com.au/news/nation/remote-healthy-food-sales-up-macklin-insists/story-e6frg6nf-1225876211261>.

Development in remote Aboriginal communities will inevitably require state subvention for the foreseeable future, but the current delivery architecture is faulty and runs counter to sound principles of participatory development. Rather than empowering communities to strengthen governance institutions to deliver development, in diverse forms suited to local circumstances, the current top-down, monolithic and paternalistic approach is enhancing dependence on the state—with a high proportion of the resources earmarked for Aboriginal development programs being syphoned off to external, generally non-Indigenous, interests. The state policy of normalisation is not delivering even by its own benchmarks. This is unconscionable policy failure without any apparent policy risk assessment or contingency planning.

Today we are halfway through the Howard Government's original normalisation phase that has now mutated into the Rudd Government's Closing the Gap in the NT National Partnership Agreement. No one would argue that remote Aboriginal communities do not deserve equitable needs-based support. But of what form? Much has been made of the extensive NTER redesign consultations undertaken in 2009. Perhaps such consultations should now be asking residents of prescribed communities whether they prefer 2007 pre-Intervention 'abnormality' to the 2010 version of normalisation.

21 June 2010

W(h)ither Remote Indigenous Economic Development?

As 2011 unfolded, some reflexive summer copy appeared in *The Australian* on disappointingly slow progress in Indigenous development in remote Australia. For several years now *The Australian* has taken a lead role in advocating for intervention, championing the decisive actions taken in 2007 in the Northern Territory under the policy umbrella of a 'National Emergency', and strongly editorialising and commentating on the need for forms of individual responsibility, private home ownership, education, employment and business development that are regarded as the cornerstones of Australian economic progress.

The issue of Aboriginal economic development in remote Australia is hideously complex; it will require careful policy thinking and the delicate right mix of market and state interventions and community initiative. I use the word 'delicate' quite intentionally because delicacy will be needed in negotiating development pathways that will vary enormously place by place, region by region; and delicacy will be needed both in assessing development needs and communicating possibilities cross-culturally.

What is not needed is the simplistic reduction of the Aboriginal development problem, which has arguably been occurring since Anglo colonisation, to a series of false binaries: enable or enforce; state or market; reality-based or utopian; public or private sector led; progressive or conservative.

The Australian promotes the line that the NT Intervention has stalled and that both major parties have lost the reform zeal required to address this almost intractable, certainly very difficult, issue. This to my mind can be readily explained. First, in developing the ethically unchallengeable, but highly utopian, policy goal to Close the Gap, both sides realise that this is unattainable unless we see some momentous increase in the level of financial commitment and fundamental shifts in regimes of property rights in commercially valuable resources, which would be politically suicidal strategies. Second, the Rudd and now Gillard Governments (and the Howard Government before them) have demonstrated an inability to address many hard issues facing Australia today like climate change, tax reform, water allocation, environmental degradation, so why should Indigenous affairs be any different?

What we have seen in remote Australia, perhaps most clearly in the Northern Territory, which is the most Indigenous and most wholly remote jurisdiction, is an inability to actually deliver despite considerable commitments and good intentions: there are real limits to the reach of the state out there as well as many 'rent seekers'. So we see the emergence of petty quibbling. For example, in the flagship Strategic Indigenous Housing and Infrastructure Program (SIHIP), are appallingly inadequate housing targets being met or not? How should a house be defined (one, two, three or four bedroom)? Does a house

constitute completion if it is not occupied? And given the extent of overcrowding and associated costly health implications, does the nature of ownership (community, public or private) actually matter?

In such pedantic debates, mainly played out in the mainstream media, we are losing sight of the fact that thousands, not hundreds, of houses are needed. Why is it that other far poorer countries, such as South Africa, can address such challenges and we cannot? The same debates occur in other areas: when we know that inactivity is a key problem, why does it matter if a job is part-time or full-time; or if it is funded by the CDEP program or a public sector agency; or if it is in extractive mining or in conservation work or in the arts? And in education, why is it that in the name of improved English literacy and numeracy we promulgate schooling models that have historically failed, as if ramping up effort will generate improvement rather than more failure? Why is it that bilingual education and homelands teaching is identified as the problem when there is no evidence that this is the case? And there is no evidence that mainstream western education outcomes are a sufficient condition for mainstream employment, if desired, to occur; unless people migrate for jobs, which few do.

The answer to many of these questions is provided by an inability to openly acknowledge that the two key concepts that dominate Indigenous policy, normalisation and Closing the Gap, are ideological and divorced from reality. The dominant policy and popular narrative is that self-determination, a term with much currency but little practice during a short period between 1972 and 1975, has failed and so now the state must paternalistically enforce discipline and development on Indigenous subjects. It is imagined that this will happen via a 21st century version of the much maligned modernisation paradigm: the institutions and development pathway of mainstream, predominantly urban, mainly white Australia are going to be replicated in non-mainstream, predominantly remote, mainly black regions—another dichotomy that overlooks the intercultural reality. Why is such fantasy, which has been shown to entrench inequality rather than close gaps in many Third World contexts, revered as unproblematic dogma in Australia, even as the evidence indicates that progress is either too slow or non-existent? And even in promoting such an approach there is a fundamental inconsistency: if more exposure to the market is truly needed, why is this being mediated by more and more layers of expensive bureaucracy, much of it Canberra-based and far removed from the development challenges?

There is an alternative—asset-based community development. The role of government is to enable, not enforce, development. The means to enable is to recognise Indigenous people and their lands and their customs and cultures as assets in remote Australia that can contribute to Aboriginal wellbeing and Australia's public benefit. An assets-based approach will counter-balance the demeaning deficit-based statistical modeling that currently dominates policy

thinking. Development, though, must be reality-based, which means that lofty utopian ideals of economic equality will need to be shelved; the real Indigenous economy in the foreseeable future will be very different from the real mainstream one. Economic development will only occur through a combination of market, state and Indigenous community partnerships that will vary considerably from place to place depending on opportunity, capability, speciality and environment, as well as negotiation leverage.

The challenge that policy makers face is to enable Indigenous Australians to actively participate in tackling the complex development problems that a top-down technical approach has failed to address. Paradoxically, this will require the very community-based organisations that are being rapidly disbanded by state managerialism. The risks associated with the current monolithic approach, and the comfortable Canberra consensus of our political leadership, are significant because it is wrong and it is failing. Something very different needs to be tried before too much more damage is done, too much is needlessly wasted and before the 'new' normalisation approach becomes a part of yet another future narrative of failure. A more asset-based participatory approach must be a crucial part of any solution.

February–March 2011

Debunking the Cultural Theory Myth

Evidently 'traditional' culture is the problem. This has become a very dominant idea in Indigenous affairs in the past few years, promulgated by some influential Aboriginal reformers, black and white academics, right-wing think tanks and conservative media commentators. Their voices provide the public profile, intellectual grunt, and moral authority for an idea that is at the heart of current Indigenous affairs policy thinking.

In short, culture is the problem and it needs to change. The argument runs in two ways: either Indigenous culture is too traditional and has too many vestiges of pre-colonial forms for modernity; or else tradition has been too transformed by the prolonged colonial encounter to be of any use to anyone today.

This two-way logic informs much policy thinking and political discourse. And so behind the state project of 'Closing the Gap' there is a strong evolutionary message that Indigenous norms need to be replaced by western norms if mainstream futures and equality are to be both achieved and achievable.

This is explicit in the Council of Australian Government's National Indigenous Reform Agreement endorsed by the Commonwealth, and all States and Territories, in 2009.

Culture is neither easy to define, nor to measure. It generally refers to the shared values and beliefs of a group or community that inform their social relations and everyday practices. Or, culture is about distinct shared ways of being, doing, thinking, identifying and acting.

The National Aboriginal and Torres Strait Social Survey (NATSISS) is a special study undertaken every six years by the Australian Bureau of Statistics.

In 2008–09, NATSISS asked nearly 8,000 Indigenous adults Australia-wide about their 'cultural attachments' in a number of questions about participation in cultural events and activities, their identity, Indigenous languages use, and participation in customary economic activities.

Last month I participated in the Centre for Aboriginal Economic Policy Research Conference 'Social Sciences Perspectives on the 2008 NATSISS' at the Australian National University.

Two presentations, in particular, placed on the one hand the statistical evidence on the relationship between Indigenous culture, and on the other violence, socioeconomic outcomes and wellbeing, under the microscope.

The Director of the New South Wales Bureau of Crime Statistics and Research, Don Weatherburn, and Senior Research Officer, Lucy Snowball, looked to test

the proposition that Aboriginal culture could explain the high levels of violence among Indigenous Australians.

This 'cultural theory' has been heavily promoted, most notably by Peter Sutton in his award winning book, *The Politics of Suffering*, but also by influential Aboriginal public intellectuals, including Noel Pearson and Marcia Langton.

After sophisticated statistical testing, their findings indicate there is little support for the hypothesis that Indigenous violence is linked to Indigenous cultural life. Indeed they suggest those with low cultural attachments have a higher risk of experiencing violence.

Instead, they found strong support for the hypothesis that violence is strongly linked to marginalisation. They suggest that deep poverty and social exclusion result in a heavy drinking lifestyle and associated higher rates of violent victimisation.

Such associations are not linked to culture.

Mike Dockery from the Centre for Labour Market Research at Curtin University has explored the relationship between the concept of cultural attachment and mainstream socioeconomic indicators and subjective measures of wellbeing. The mainstream outcomes he examined are self-assessed health, education, employment, whether one has ever been charged by the police and risky alcohol consumption. Dockery has found that cultural attachment has a positive effect on mainstream socioeconomic indicators, something he has already highlighted in earlier publications using 2002 NATSISS information.

He has been careful to note, though, that there may be 'reverse causality' here; strong culture is associated with better socioeconomic outcomes and better socioeconomic outcomes are associated with strong culture.

Measures of wellbeing, including self-assessed happiness, mental health and psychological stress have been collected in the 2008 NATSISS for the first time. Dockery has shown unambiguously that Indigenous Australians who identify strongly with their culture are happier and experience better mental health—strong cultural identity enhances subjective assessments of wellbeing.

At the same time, he has found that maintaining a strong sense of cultural identity has a high price: Indigenous people, in non-remote Australia, report higher levels of psychological stress brought about by feelings of discrimination. Such a cost is not reported in remote Australia.

This suggests that it is Indigenous people who live as a tiny minority encapsulated in mainly non-Indigenous neighbourhoods in regional and urban settings who subjectively experience the most discrimination.

It is noteworthy that these findings are based on rigorous analysis of official statistics collected by the Australian state's data collection agency.

And the authors, two criminologists and a labour market economist, cannot be dismissed as 'the usual suspects'. All have published similar findings in peer reviewed journals using information from the 2002 NATSISS.

However, their published research has failed to make an impact on public debates or policy reform. Their findings represent a fundamental challenge to current dominant thinking which I label 'neoliberal assimilation'.

The findings clearly indicate strong cultural attachment might well be a part of the solution to the Indigenous development problem rather than a central part of the problem.

These findings should generate deep anxiety for politicians and bureaucrats driving a reform agenda that aims to replace Indigenous social norms with western, individualistic, market-focused ones.

What is it about the politics of knowledge production in late liberal Australian society that sees a continuing need for the powerful to continue to traduce Indigenous culture irrespective of the evidence?

One possibility is that the policy architecture is too predicated on an ideology of western superiority to countenance change. Such ideas of 'cultural superiority' have been prominent since 1788 and have been incorporated since the early 20th century into policies of assimilation and mainstreaming, now called normalisation and 'Closing the Gap'.

Another possibility is that mainstream Australian society is far more comfortable seeing Indigenous culture as the problem rather than long-term neglect and discrimination.

Politicians exploit this so if policy fails to close gaps culture can be blamed—it did not change fast enough. It is always easier to blame and punish the different, rather than make the massive investments to ameliorate disparity.

Increasingly we see a dangerous national consensus that Indigenous people are to blame for their own circumstances and that draconian state measures are needed to get them off welfare and into late capitalist nirvana—Aboriginal problem solved, gaps closed, nation reconciled.

Evidently, we are in an era of evidence-based policy making with official statistics the gold standard. That is, unless the findings unacceptably challenge powerful vested positions. Indigenous Australians are being told that there is

only one way to address their problems: abandon your culture and embrace that of the dominant mainstream. The research findings by Dockery, Weatherburn and Snowball are invaluable because they highlight that such a high-risk monopolistic approach should not be countenanced.

Let's look at the evidence on the positive role that culture makes and see what alternate forms of development might be possible.

10 May 2011

Debating the Intervention

With Jenny Macklin*

In February this year, a group of prominent Aboriginal and non-Aboriginal Australians delivered a statement to Indigenous Affairs Minister Jenny Macklin, contesting the Northern Territory Intervention. Their concerns canvassed the 'delayed, incomplete and flawed' reinstatement of the *Racial Discrimination Act* (*RDA*), the widening of compulsory income management to the rest of the NT, the failure of SIHIP and the lack of evidence supporting the controversial policy.

Those who signed their names included former Prime Minister Malcolm Fraser, former Family Court Chief Justice Alastair Nicholson, New South Wales Australian of the Year Larissa Behrendt and Aboriginal policy expert Jon Altman. Ms Macklin responded by penning a letter, claiming those who signed the statement had 'misunderstood' the facts of the policy. Professor Altman also responded to Ms Macklin's rebuttal. The following are edited extracts of the two letters.

She Said…

On the Beginning:

> I acknowledge the instigation of the NTER by the previous Government was a major shock to many Aboriginal people and communities in the NT and was seen as a serious affront.
> There was no consultation before it was initiated and the nature of some of the measures and coercive tone utilised undoubtedly caused anger, fear, and distrust.
> It also needs to be acknowledged, however, that a widespread emergency did exist and continues to exist in many remote communities, with high levels of family violence, child neglect, appalling health status, low rates of school attendance, and high levels of crime including violent crime, and widespread drug and substance abuse.
> Any one of these factors has the potential to permanently damage or destroy a person's life opportunities; taken together, they constituted a fundamental and endemic threat to the human rights not just of individuals, but of whole communities.

On the Racial Discrimination Act:

> The Australian Government has fully reinstated people's rights and protections under the RDA in relation to the NTER …
> In addition, all of the provisions in the NTER legislation that deemed certain measures, such as income management, five-year leases, and alcohol and pornography restrictions to be special measures, have been repealed. These changes are neither flawed nor incomplete.
> The statement argues that the changes were delayed. I accept the criticism. The reason was that not only did we have to make the legislative changes, but we redesigned the

* Jenny Macklin is the Indigenous Affairs Minister.

> actual measures to improve them, make them sustainable in the long-term and make them more clearly special measures or non-discriminatory within the terms of the RDA. The redesign took some time given the complex and extensive nature of the NTER provisions, and the imperative to consult with Aboriginal people affected.

On the Community Consultations:

> Before introducing this legislation, the Government undertook extensive consultations with Indigenous people across the Northern Territory on future directions for the NTER.
> The consultation process included over 100 whole-of-community meetings covering all communities and town camps affected by the NTER, 11 workshops with regional leaders and key stakeholder organisations, and over 440 face-to-face discussions between Government Business Managers and individuals and small groups in communities. This was the most comprehensive engagement ever undertaken by government with Indigenous people in Australia.

On Income Management:

> I absolutely and unequivocally reject the inference that our policy on income management is designed or intended to be discriminatory behind a 'veneer of non-discrimination'. Indeed, far from it being a veneer, the new model of income management has been designed to apply in a non-discriminatory way to all welfare recipients in the specified categories.
> … With regard to income management in the Northern Territory, it is irrefutable that it has been effective in ensuring that a significant proportion of welfare payments are spent where most needed—on the essentials of life for recipients and their children.
> Under the Government's changes to income management, compulsory income management now applies only to targeted categories of disengaged and disadvantaged welfare recipients, across the whole of the NT, and not to specific locations—so called prescribed communities. In addition there are now specific criteria for people in these categories to apply for exemption from income management.
> Under the roll-out of the new income management scheme in the Northern Territory, around 60 per cent of people who are no longer subject to compulsory income management have decided to continue voluntary income management rather than exit the system.
> Clearly, a substantial proportion of those on the previous scheme found income management to be beneficial, as we have always intended it to be.
> In response to the inference that the new income management model has a discriminatory impact on Indigenous people, I can advise that both Indigenous and non-Indigenous Australians are now being income managed based on their payment status and other objective criteria.
> The high proportion of income managed welfare recipients who are Indigenous reflects the general income support recipient population in the NT, and the fact that many Indigenous people have chosen to participate voluntarily in the new income management scheme.

On Housing:

> The [Strategic Indigenous Housing and Infrastructure] Program is not only on track but is now demonstrating a capacity to deliver housing faster and on a larger scale than previous delivery models. To take advantage of this, the Australian Government has recently accelerated the program so that new houses and rebuilds can be delivered ahead of schedule.

> As a result a further 180 new houses and 180 rebuilds will be delivered by 2013—over and above the original targets of 750 new houses and 2730 rebuilds and refurbishments. An appropriate mix of housing is being built to cater for different size families.

On Land Leasing:

> Long term leasing, based on voluntary agreements with land owners, is essential on communal title if we are to secure major public investments.
> Underlying title remains with traditional owners. Without a lease, any fixtures including houses are owned by the traditional owners.
> They do not have the financial capacity to manage the assets nor to fund ongoing repairs and maintenance. Leasehold arrangements ensure that governments and not land owners must take responsibility, and be accountable, for housing construction standards, for long term repairs and maintenance programs and to underpin tenancy management systems.
> … Broader reforms to land tenure arrangements are also necessary to allow for the pursuit of home ownership and business opportunities on Indigenous land. Commercial investment on Indigenous land is hampered by its inalienable status, preventing land owners individually or corporately from raising finance for commercial purposes and home ownership. Leasehold arrangements, voluntarily entered into, hold out the hope that this obstacle can be overcome without adversely affecting underlying Aboriginal ownership.

On the Universal Periodic Review:

> The Government's commitment to improved engagement has been acknowledged by the United Nations Human Rights Council at the recent Universal Periodic Review process.
> The establishment of the National Congress of Australia's First Peoples was welcomed by the Council as a strong gesture of the Government's commitment to engagement with Indigenous Australians.
> Australia also received encouraging support from many countries for its efforts to improve the human rights of Indigenous Australians, through its endorsement of the UN Declaration on the Rights of Indigenous Peoples, for the National Apology and for our commitment to pursue constitutional reform to recognise Indigenous Australians.

He Said…

On Dialogue:

> I respond to your letter for a number of reasons, but mainly because I believe it is my duty and role as a policy academic to try and hold you accountable for the quality of policy and outcomes that the Australian Government is delivering to Indigenous Australians; note I am not referring here just to the quantum of taxpayer dollars spent. This is especially important for three reasons.
> First, as all nationally representative institutions of Aboriginal Australia have been dismantled and as the Government and Opposition are in broad consensus, it is hard to know how else the Australian Government is to be held accountable—majoritarian democracy does not work well for demographically weak and marginalised groups.
> Second, if I did not respond you might interpret my silence as agreement at best or acquiescence at worst with views that I do not share.

Third, I have worked long and hard as a social scientist in the difficult area of Indigenous development, since 1976 when I first came to this country. I have not lent my support to this statement lightly.

*On the Racial Discrimination Act***:**

… I provide my support for the statement because I concur with its broad sentiment that your Government's coercive approach in the Northern Territory is race based, inequitable and unlikely to succeed (although criteria for success in the NT are not specified, unless you continue to pursue the Howard Government's commitment to 'normalise' prescribed communities and their members by 21 June 2012).

I think you would agree that historically and today negative racism by the wider society provides an important explanation for Indigenous disadvantage.

So in my view it is desirable to stay away from any policy measures that might be interpreted by anyone, especially the subjects of the state project of improvement, as race-based in a negative sense. In the absence of constitutional recognition and an Australian human rights framework, the RDA takes on iconic status in Australia for Indigenous minorities.

There are many reasons why I interpret specific measures as race-based. Let me provide four examples. For the original people caught in the net when it was race-based, income management remains a race-based measure irrespective of the fact that the measure has been extended to others. The evidence on whether this is a beneficial special measure is hardly factually unambiguous as a now well-worn debate has indicated. My point here is that there are moral dimensions to supposed legal facts, hence the reference to 'veneer of non-discrimination'.

The High Court in Wurridjal found that just terms compensation is payable. You note that the government has taken action to reverse boundaries and pay rent to land councils to disburse to traditional owners of prescribed communities. Rent is not the same thing as 'just terms' or even 'reasonable terms' compensation that should include many forms of Indigenous valuation of loss associated with compulsory leasing of their freehold title land. Mr Justice Kirby highlighted in Wurridjal that no other privately-owned Australian township would be treated in this manner and I concur, hence this strikes me as a race-based measure.

I have been following with interest the case of a contractor who desecrated a sacred place in a prescribed township, but who owing to s91 of the *NTER Act* cannot be properly prosecuted. This strikes me as race-based flaunting of what matters most to many Aboriginal people in remote communities.

The legally mandated powers of Government Business Managers and police under the *NTER Act* remain extraordinary. It is hard to believe that they would be promulgated in relation to any township whose residents were predominately white or non-Indigenous.

On the Consultations:

I have directly observed (in July 2009) and have read a great deal about these consultations. The options to reverse decisions to quarantine income or cease compulsory leasing of land were never on the table (or whiteboard) let alone raised as possibilities. Your attempts to give some measures a veneer of respectability by your actions imply that they were race-based between August 2007 and June 2010.

On Income Management:

> I should emphasise here that I have absolutely no issue with the BasicsCard, every Australian welfare beneficiary should be offered one as a debit card and as a form of free banking.
> What I and many others object to is the compulsory nature of the card for certain categories of people, initially Aboriginal welfare recipients, now certain categories of Aboriginal welfare recipients and others.
> While some may choose to retain their BasicsCard, this can be variably interpreted: What incentives have been provided for people to stay? And what barriers have been constructed to make exit difficult? You suggest that criteria for exit have been designed to assist people to 'overcome the insidious impact of passive welfare and aspire to education, training or employment'. So the only means to escape income management is to join the mainstream, as John Howard so clearly stated in August 2007 at Hermannsburg, a Eurocentric and narrow view of skills acquisition and form of livelihood that many Aboriginal people may not share with you—a view of development that envisages no alternate.

On Long Term Leasing:

> After uncritically accepting the traducing of community-based housing associations first outlined in consultancy to then Minister Mal Brough by a team headed by an ex-Ministerial staff member of John Howard, you seek to maintain the fiction that public housing is the only possible model of delivery.
> We have discussed this issue before in December 2009 and I thought that at least at an intellectual level you agreed that there could be a diversity of models, private, private/public, private/community and community for the provision of housing, but you continue to prefer a duopolistic approach that requires traditional owners either to sign up for long term leasing arrangements of 80 to 99 years under s19A of the *Aboriginal Land Rights Act* (and receive some rent for use of their land paid from the Aboriginals Benefit Account (ABA)) or else sign s19 agreements for 40 years and receive no rent for the use of their land. On the issue of race-based policy one has to ask would any other holder of freehold title in Australia be presented with such a stark choice that is arguably tantamount to blackmail.

On Housing:

> How effective might housing have been under the community housing model if the allocations of resources now being invested had been available to ATSIC and the Indigenous Housing Authority of the Northern Territory (IHANT)?
> How many sustainable jobs might have been generated if community organisations had been provided with the resources wasted in the Home Ownership on Indigenous Land (HOIL) experiment as outlined by the Australian National Audit Office (ANAO)? There is much reference to anticipated benefits of the current approach, but little evidence yet on which to base such optimism. No factual evidence is provided that 'asset life spans were low, often less than 10 years', a better metric here might be person years of housing use given the extent of overcrowding—if the economic life of a non-Indigenous public house with four tenants is 40 years, and the economic life of an Aboriginal house with 20 occupants is 10 years clearly the latter house has had the longer economic life, an example of the variable interpretation of 'facts'.

On the Universal Periodic Review:

> In my view, the articles in the *Declaration of the Rights of Indigenous Peoples* provide an important template against which many NTER measures might be tested.
> When the UN Universal Periodic Review of Australia 2011 is undertaken perhaps this would be a useful basis for assessment of the Australian Government's track record and statutory regime of governmentality in the Northern Territory.
> Certainly it is my view that external accountability would be very desirable because domestic accountability is probably at its lowest ebb since the 1970s.
> There are also many other important issues that an independent arbiter might look at including: Why the Australian Government has stood by and allowed remote communities in the NT to be effectively disempowered by the establishment of Super Shires; why a Memorandum of Understanding signed on behalf of the Australian Government in September 2007 to effectively channel funds away from outstations has not been rescinded; why the Australian Government has included extremely ideological wording in the National Indigenous Reform Agreement that will effectively result in bias against smaller, remoter places that might be in greatest need; and why some successful programs like CDEP with track records in community and economic development in many places are being dismantled on ideological, not factual grounds.
>
> *10 May 2011*

Important Questions for Indigenous Policy Makers

Sara Hudson of The Centre for Independent Studies (CIS) suggests that in the wake of the Northern Territory Intervention 'academic expositions, such as Jon Altman's on the virtues of "hybrid economies" and the development of curricula relevant to local settings, were increasingly seen as ridiculous'.[85]

The suggestions here are twofold:

> First, that there is something impractical about my advocacy for hybrid economies. And second, that my academic work has somehow hidden the living conditions of remote Indigenous communities from public view.

Later in her piece Ms Hudson suggests that 'We need to rise above the petty name-calling and polarisation in Indigenous Affairs and look at effective policies instead'.

I could just politely suggest to Ms Hudson that she should follow her own advice about name-calling and critically engage with my decades-long research that has highlighted the extent, causes and consequences of Indigenous economic marginalisation, and proposed practical solutions.

Instead I will say something about the 'virtues' of hybrid or diverse economies, not just in remote Australia, but everywhere, using official data collected by the Australian Bureau of Statistics (ABS) from the 2008 NATSISS.

To begin, what is the hybrid economy that the CIS finds so obnoxious?

Put simply, it is a form of economy that recognises a customary or non-market sector alongside the more usual private and public sectors. I developed this model because when working in remote regions I found it impossible to explain economic activity if I chose to ignore the existence of the customary sector and its inter-linkages with market and state sectors of local economies.

Much of my early work on economic hybridity was undertaken in Arnhem Land where people harvest wildlife for food and produce art for sale from naturally-occurring materials. And so it could be dismissed by the sceptics as highly atypical. But since 1994 the ABS has collected information nationally on participation in the customary sector and so my case studies could be tested more broadly.

Recently, I interrogated the 2008 NATSISS in collaboration with two colleagues to see what information is available on aspects of the customary sector, focusing on harvesting activities and cultural production. Looking at the

[85] Sara Hudson 'Petty name-calling just adds to polarisation', *The Australian* (Surry Hills), 12 May 2011.

survey population of nearly 9,000 adults we found that across Australia, over half the population aged over 15 years participated in fishing, hunting and gathering wild plants for consumption. And 28 per cent participated in cultural production, making arts and crafts, performing music, dance and theatre, and writing and telling stories. These are significant proportions.

Undertaking further regression analysis we made many other important observations. Not surprisingly, those who live in remote Australia are more likely to participate in harvesting in part because living at and recognising homelands provides access to resources. Interestingly, being 15–19 years of age in remote areas; speaking an Indigenous language; and being employed in CDEP all enhanced likelihood of participation in harvesting, whereas differences in high school education were not associated with harvesting.

There was no difference in participation in cultural production between remote and non-remote regions because such activity is not land dependent. But speaking an Indigenous language made a big positive difference as did recognising an area as a homeland.

In terms of motivation, people mainly harvest for food, although such activity is also a source of enjoyment and social interaction. Similarly people engage in cultural production mainly to learn or engage in ceremony, for their own enjoyment and for social interaction. But in remote Australia cultural production is significantly more likely to be undertaken as part of an integrated learning process and to make money.

We also looked at the relationship between harvesting and self-assessed measures of wellbeing and found statistically significant links between being full of energy and likelihood of hunting and between hunting and happiness. Conversely we found those in fair or poor health and those who rarely felt full of life are significantly less likely to participate in physically demanding activity like fishing, hunting or dancing.

These 2008 NATSISS findings have received no media or policy attention to date. They raise some important questions for policy.

Should economic development just focus on mainstreaming, especially given the growth of the Indigenous estate and associated property rights in resources harvested? What are the prospects of Closing the Gap, especially in remote and regional areas, if we ignore harvesting and cultural production? Does the stated aim of policy to standardise economic norms make sense? Will closure of education gaps assist people who harvest and engage in cultural production for a livelihood? Should the CDEP scheme that assists both be effectively abolished?

These findings all indicate that a different policy approach might be needed

especially in places where Indigenous people own land. Putting aside the national policy obsession with closing statistical gaps, Indigenous livelihoods and wellbeing could be improved through a combination of harvesting and cultural production to supplement any available formal employment. Such productive activities in the customary sector are likely to be significantly higher if people are on CDEP, living at homelands/outstations and speaking an Aboriginal language.

These findings do not, in themselves, suggest that participation in harvesting and cultural production will provide better outcomes than formal employment, only that in the absence of enough mainstream opportunity where Indigenous people live it would make sense to acknowledge customary contributions and for policy to support their undertaking. It is unfortunate that the 2008 NATSISS did not collect information on the contributions that Indigenous people living and working on country make in the provision of environmental services in the national interest. Such conservation work is growing as both the size of Indigenous estate and the number of Indigenous Protected Areas grow: the hybrid economy is undoubtedly even more significant than 2008 NATSISS data suggest.

At present in Australia there is a coalition of powerful vested interests, including the CIS, that is promulgating the beautiful lie that development is market freedom and that closing statistical gaps is desired by all and is possible everywhere. In my view development is about people having freedom to pursue lives that they have reason to value, including through hybrid economies with vibrant customary sectors and within a set of values that may differ from that of mainstream Australia.

Evidently, evidence-based policy making is back in vogue but there are some who can have influence even as they ignore the official evidence and espouse practical solutions based at best on ideology, at worst on fantasy. And the Australian Government is listening.

Australia might generate more effective policies if we did three things:

- First, ask people at diverse local levels what their economic aspirations might be.
- Second, look at what is possible.
- And third, look at what has worked and might be replicated with state assistance.

In other Third World contexts this is called participatory development; in other settler majority societies, self-determination. And it works more effectively in addressing socioeconomic disadvantage than Australia's current approach of normalisation.

16 May 2011

Yes, No, Maybe… Prime Minister

Evidently there is progress in Northern Territory prescribed communities. The Prime Minister has visited and she says so. The mainstream media report so. Indeed what the Prime Minister says is remarkably similar to what Jenny Macklin has been saying for some time: there is progress.

This song is now being sung by Minister for School Education, Peter Garrett. One could acquiesce, as much of the Australian mainstream media has, and say; Yes Prime Minister. But that is the role of the bureaucrat, not the academic. I choose to critique and question. I will not meekly acquiesce. What does this progress constitute?

The first point to make is that while the Northern Territory Emergency Response (NTER) has been politely renamed the National Partnership Agreement to Close the Gap in the Northern Territory, the media, Ministers and Prime Minister, and the general public invariably still call it the Intervention.

We now refer to Mark I as distinct from a possible Mark II from June 21, 2012, when prescribed communities were, according to Mal Brough and John Howard, to be normalised and exited.

Even in 2007 the Brough/Howard exit option was not sound policy given that absence, rather than presence, has been a big part of the problem of neglect.

Second, taken at face value, Closing the Gap in the NT should be about just that. A fundamental problem that the Prime Minister, Minister Macklin and the plethora of recent evaluative reports being generated to check on progress in Closing the Gap face is that none actually want to address this comparative issue.

So let us spell it out. Closing the Gap means the socioeconomic status of Indigenous Australians in the NT should be incrementally approaching the socioeconomic status of non-Indigenous Australians in the NT.

The same needs to be said about Closing the Gap nationally. It is now the overarching approach in Indigenous affairs, and a term used *ad nauseam* whenever Indigenous Australia is mentioned.

More than 30 years ago I co-authored, with John Nieuwenhuysen, a book titled, *The Economic Status of Australian Aborigines.*

We asked this comparative question using 1971 Census data and discovered a significant gap.

We then moved on to examine how this gap, that we referred to as an economic development problem, might be addressed at different sub-national levels making distinctions by community types and levels of urbanisation, regionalism and remoteness.

Our policy prescriptions, published some 32 years ago, recognised that the diversity of Indigenous circumstances would require a diversity of policy responses.

Today's political leaders and bureaucratic advisers seek to obfuscate the difference between relative wellbeing and absolute wellbeing.

In short, when the Prime Minister talks about progress, is she referring to Closing the Gap or not?

If Closing the Gap is the policy goal then government and commissioned research should report on how we are travelling in meeting this objective.

If, on the other hand, absolute wellbeing is the goal then we need to focus on this and desist from using the inappropriate discourse of Closing the Gap. In the past few months we have seen numerous glossy and expensive reports published on Closing the Gap. The Prime Minister's third Report to the Australian Parliament told us nothing about progress in Closing the Gap at the national level.

The latest Report on Closing the Gap in the Northern Territory, published in two parts in May, told us nothing about whether gaps were closing at the level of either prescribed communities in the NT, or the NT more generally.

Similarly, the voluminous fourth Report of the NT Coordinator General for Remote Services, Bob Beadman, which covers the period December 2010 to May 2011, tells us a great deal, including about dogs, marijuana, gambling and early childhood development (in that order), but nothing about whether gaps are being closed.

The third six-monthly Report of the Coordinator General of Remote Indigenous Communities told us nothing about gaps in the 29 priority communities that have been targeted for special treatment.

Interestingly though, both these reports tell us about progress in the development of Local Implementation Plans that all begin with the pro-forma and now mandatory reference to national Closing the Gap targets.

Similarly, the quarterly reports on the four Cape York Welfare Reform Trial communities, a sub-set of four of the 29 priority communities that get to resource double-dip, tell us nothing about whether gaps are closing.

So let's suspend this notion of Closing the Gap about which no-one dares to report, despite the expenditure of millions of dollars on researching and writing, and focus on progress or absolute change.

I could rehearse the same set of reports and ask whether any tell us anything about absolute change since 2008 when Closing the Gap was invented; or is the situation in the NT any better four years after the Intervention?

Has 'progress' been made? In truth, few of these reports rigorously address even this most basic question. Recently in Parliament the case was made for the extension and ongoing resourcing of the Cape York Welfare Reform Trials with the following statement:

> 'To date, the Trial has made a real difference in the lives of Indigenous people in the Cape. Since it began in July 2008, the Cape York Welfare Reform communities have seen improved school attendance, care and protection of children and community safety'.

That sounds good, but it is hardly supported by the available evidence. Similarly, in the NT, the main areas where there are comparative data over time are in the areas of school attendance and income support.

These are critically important areas for two reasons:

> First, the dominant national narrative promulgated by Prime Minister is 'jobs, jobs, jobs', while the dominant Indigenous policy narrative is 'education, education, education' (leading automatically to jobs, jobs, jobs).
> Second, three of the six national Closing the Gap goals focus on education and employment. What does the evidence from the Government's own reports tell us?
>
> - On enrolment, absolute numbers from November 2008 to November 2010 have declined, despite a growing population;
> - On attendance, absolute rates have declined from 60.1 per cent in November 2008 to 56.5 per cent in November 2010; and
> - On what is termed 'economic participation' we see that the numbers on Newstart (the dole or 'passive' welfare) have increased by 14 per cent between December 2009 and December 2010; and that the total on income support in prescribed communities has increased by 15 per cent.

So in these two key areas, the two that the PM knows best, so-called progress actually means going backwards, according to statistics collected by Australian Government agencies.

Why does the Australian Prime Minister need to promulgate the beautiful lie that we are seeing progress both in the NT on her recent visit or nationally in her annual report to Parliament?

Part of the reason is that this is a narrative that the Australian nation needs to

hear, to feel better about the Aboriginal problem and to be assured that the massive spend is actually delivering either gap closing and/or progress.

This is a classic case of what American political scientist Murray Edelman calls 'words that succeed and policies that fail'. Is progress occurring? In some areas the answer is yes, in others no, and, in others, maybe.

What is crucially important is that the information gathered is of some use to the adaptive management of programs. Progress needs to be both statistically demonstrable and qualitatively verified by the people who are the subjects of this government driven project of improvement.

There is an almost obsessive focus by government on the generation of information, much of it meaningless, at the expense of other more productive ways of thinking about progress.

There is a huge gap, Prime Minister, between asserting there is progress and evidence which clearly show there is.

10 August 2011

Helping the Homelands

It is predictable perhaps that COAG is putting the most concerted effort to 'close the gap' at 29 priority communities, while ignoring the needs of nearly 1,000 outstation/homeland communities.

Evidently, the gap will close even as Australian citizens living at these most remote and smallest localities, established with Australian Government support in the 1970s and 1980s during a more benign period of Keynesian social democratic consensus, languish neglected during a belated neo-liberal time of Canberra consensus in the early 21st century.

The Closing the Gap mantra is most heavily focused on priority communities (or Territory Growth Towns in the Northern Territory) targeting larger more visible communities only because they are larger and more visible and because economic rationalist thinking is so convinced that size, be it of townships or shires, will deliver cost savings from economies of scale.

And so the logic goes, a large school even if devoid of students is more cost effective than a number of small schools where attendance might just be higher.

Outstations/homelands (the terms can be used interchangeably) represent a service delivery headache for the state, but this is mainly due to unimaginative policy approaches.

Hub and spoke models have worked efficiently and effectively for outstation resource agencies and regional art centres and CDEP organisations over the past four decades.

Even schooling and health services and the delivery of consumer goods to remote homelands occurred more effectively in the 1980s as documented in the parliamentary report Return to Country in 1987.

So what has happened since then? Have we become less efficient? Has the widely reported loss of national productivity impacted disproportionately on remote Indigenous Australia?

Or has there just been unconscionable diminishing investment at such communities? Perhaps COAG has not applied evidence to assess relative returns from investments?

During the current neo-liberal 'revolution' in remote Indigenous Australia we are seeing the creative destruction of community-based organisations that historically delivered to homelands, not in the name of contestability and marketisation, but in the name of Closing the Gap and associated imagined development for some in larger places rather than for all.

And yet what evidence there is suggests homelands might be as, or more, productive, viable and socially vibrant communities than larger places.

This is not to suggest that all larger places are unproductive, unviable and socially dysfunctional, it is just that they often face more complicated political challenges than smaller more cohesive places: imagined service economies of scale might in fact be offset by real diseconomies of scale resulting from past colonially imposed presence of people on someone else's country.

It is of deep concern that to date there is no evidence of any economic growth at Territory Growth Towns, despite the massive pump priming by National Emergency Intervention programs and National Partnership Agreement multiyear multibillion commitments, at least not for most black residents.

A recent Australian National Audit Office (ANAO) report 'Indigenous Employment in Government Service Delivery' notes that jobs created by the Australian state in townships in the name of proper employment to replace state-subsidised CDEP jobs are only deemed sustainable if accompanied by continual state subsidisation. This surely gives sustainability a very new meaning.

It is also of grave concern that not only has there been no scenario planning for what is possible or desired (including by the land's owners) at larger places targeted for growth, but that the inter-connections between larger communities (of which there are about 200) and smaller places (of which there are about 1,000) is neither recognised nor explored in any systematic way.

Australia is a signatory to a number of international human rights conventions that oblige the nation to provide basic services to its citizens, including at places that have been repopulated as a direct consequence of colonial and post-colonial policies including land rights and native title rights.

Importantly, the provision of such basic services, health, housing, education and livelihood opportunity could be a mainstay of the economy of larger places, if properly resourced.

Equally importantly there are compelling Indigenous wellbeing and livelihood reasons to support homelands.

Data from the 2008 NATSISS show that wildlife harvesting (food security) and cultural production is highest at homelands; there are even official statistics that suggest subjective views of happiness and wellbeing might be enhanced at smaller places.

The massive Indigenous estate needs to be populated for environmental

management reasons and for strategic reasons; Australia was concerned for a long time to populate the north and centre, but clearly with particular types of citizens.

Other settler colonial and Scandinavian countries seem able to support tiny Indigenous communities in remote and difficult circumstances better, but we seem to be incapable of learning from others.

Instead, Australia clings to abstract utopian views that neoliberal moral restructuring alone (to inculcate individualism, private property, accumulation-focused norms) will deliver development outcomes, even as report after report indicates that progress is slow or non-existent or that wellbeing is declining.

Perhaps it is time to look at some development alternatives, with homelands in the mix?

Evidently, the bipartisanship of the 1980s, when there was agreement by both major parties that homelands should be supported, has been replaced by a new dangerous and highly ideological bipartisanship that homelands hamper the new state project of normalisation.

Not only is this new approach neglecting people living at homelands, but it is also jeopardising service organisations that have been carefully developed over decades.

So in the name of Closing the Gap we are seeing outstation people with less opportunity for education and employment, and who are less likely to receive health and housing services on an equitable needs basis where they live.

This new approach is based on a misguided belief that people will respond to the deployment of state power to enforce centralisation to access services at bigger places; and that living on someone else's country or on land now compulsorily leased or owned for between 40 and 99 years by the state will magically improve people's quality of life.

The deployment of spin to plaster over the possible emerging tragedy of homelands neglect will come, with time, to haunt the Australian nation and its dominant political parties who stand by condoning pain in the name of some imagined longer-term normalisation 'gain'.

In the absence of national political leadership in sensible outstations policy, the smallest and politically most vulnerable group of Australians is placed at risk.

This is an issue not just of rights and social justice, but also of freedom and choice.

The current national smugness driven by resource plenitude and strategically managed by big business interests (including the compliant media) and a minerals dependent state and citizenry is very evident; but the emerging post-neoliberal world is far from certain. Common sense suggests that a heterogeneous approach to development might minimise risk.

And policy needs to be crafted with care, without too much emphasis on statistics and numbers as if people do not matter.

Evidently, and unfortunately, we as a nation do not have the strategic vision nor the common decency to recognise the value of alternative possibilities at homelands on the Indigenous estate as a livelihood option.

25 October 2011

A New Intervention?

The Northern Territory Emergency Response (NTER) officially referred to as 'Closing the Gap in the Northern Territory' but more commonly as 'the Intervention' is less than a year away from its statutory end in September 2012.

It has entered a potentially transformative stage that is a critical time for sound policy making and a dangerous time for Aboriginal people in 'prescribed' communities, especially if bad policy is legally locked in again.

On October 13 the Australian Government released its latest *Closing the Gap in the Northern Territory Monitoring Report January–June 2011*.[86] It came in two parts.

The most recent data on progress suggests that the Intervention is failing, at least if its aim is to close gaps of socioeconomic disadvantage between Indigenous and non-Indigenous Australians in the NT.

This view can only be surmised because evidently measuring gap reduction, at least in the bizarre world of Indigenous public policy in Australia, can be magically undertaken without any comparative data on non-Indigenous outcomes.

The Report notes that while policies designed to improve can have a significant immediate effect (negative as well as positive?) this is the exception rather than the rule, as it will take a concerted effort over many years to achieve lasting change.

This is undeniable, but it begs the question of why the Australian Government is expending millions on six-monthly monitoring?

Even assuming that the policy aim is to improve the absolute wellbeing of Aboriginal residents of NTER communities—a more realistic and appropriate goal than closing statistical gaps—according to time series information available for four areas, this is just not happening.

Since 2007–08 Indigenous hospitalisation rates NT-wide (not just in NTER communities) have increased from 229 per 1,000 to 262 per 1,000. These are extraordinarily high rates unimagined in the broader community.

Recorded school enrolment and attendance has declined from 64.5 per cent in February 2009 to 62.7 per cent in February 2011 with total enrolments

[86] FaHCSIA, 'Closing the Gap in the NT Monitoring Report January–June 2011', (October 2011) <http://www.fahcsia.gov.au/our-responsibilities/Indigenous-australians/publications-articles/closing-the-gap-in-the-nt-monitoring-report-january-june-2011>.

declining from 8,960 to 8,914, despite rapid population growth.

Income support recipients have increased from just on 20,000 in June 2009 to nearly 24,000 in June 2011, with some of the change explained by new ('non-grandfathered') CDEP participants being shifted onto Newstart allowances.

In the name of job creation, welfare dependence is increasing.

Reports of child abuse in NTER communities have increased from 174 in 2007–08 to 272 in 2010–11; as have domestic violence reported incidents, from 1,612 to 2,968.

And the gap in child protection indicators between Indigenous and non-Indigenous has increased across the NT for a range of indicators. The most shocking statistic is on confirmed attempt suicide/self-harm incidents that have increased from 109 in 2007–08 to 227 in 2010–11 in NTER communities.

This statistic is embedded in Figure 6.4 of the Report, without any commentary.

If such a per capita rate was replicated in Sydney it would be about 22,700. Imagine the outcry!

It was buried in the Report, but registered as 'a concern' according to a spokeswoman speaking for Minister Macklin.

The Australian Government response to what looks awfully like policy failure is to promulgate more of the same. This is the strong impression one gets when reading *Stronger Futures in the Northern Territory Report on Consultations October 2011* released four days later.[87]

The discussion paper and community consultations did not provide any of the factual information outlined above to inform small group (Tier 1) and community (Tier 2) 'consultations', about the Australian Government's performance to date. In fact, the Australian Government predetermined that the community consultation would focus on eight areas: school attendance and educational achievement; economic development and employment; tackling alcohol abuse; community safety and protection of children; health; food security; housing and governance.

It also engaged consultants, many ex-bureaucrats, to monitor proceedings to assure the Australian public that consultations were conducted properly.

[87] FaHCSIA, 'Stronger Futures in the Northern Territory Report on Consultations October 2011', (2011) <http://www.fahcsia.gov.au/sites/default/files/documents/09_2012/stronger-futures-consult_1710111_0.pdf>.

A Report by the Cultural and Indigenous Research Centre Australia (CIRCA) dated September 2011 indicated that the facilitated discussions conducted over six weeks appeared open, fair and accountable.

CIRCA did observe, critically, that the upmarket Crowne Plaza Hotel, where the Alice Springs Town Camp meeting was held, may have been an unfamiliar, uncomfortable and unfriendly venue.

It also noted that some meetings were very long (four to five hours) and food needed to be provided as people were showing signs of hunger and exhaustion.

CIRCA, however, made no comment on the predetermined subject of consultations—this was reminiscent of consultations about the future of income management in 2009 that would not countenance the possibility of abolition.

Nor was there any consideration that the Intervention approach and its monitoring framework might be fundamentally flawed.

So, let's look at evidence from the four key areas of hospitalisation, education, employment and child abuse. Policy success would suggest that over time there should be less hospitalisation and child abuse and better education and employment outcomes.

But the correlations between interventions and improved outcomes are quite unclear.

- Should more medical attention result in more or less hospitalisation?
- Should more police result in more or less reported crime?
- Should more jobs result in more or less welfare dependence?
- And should more teachers, new teacher houses and better school infrastructure result in more or less attendance?

The possibility of such ambiguity indicates that the current policy of Closing the Gap and its monitoring framework is poorly designed and confused.

The Government can make what it chooses of the rubbery figures, possibly the intention?

Nowhere is the policy confusion more evident than in the vexed area of school attendance, with failure being blamed on parents and withdrawal of welfare entitlements proposed as the possible solution.

Historically, welfare or transfer payments have been a social policy instrument to provide income support for individuals and families in need. In policy circles there is an emerging view that welfare sanctions can be used to effectively alter social norms, to alter expenditure patterns via income management and to improve school attendance.

However, there is no evidence that school absentees are disproportionately the dependents of welfare beneficiaries.

Nor is there any evidence either here or internationally that punitive measures against parents will ensure school attendance, although there is a distinct possibility that children will suffer.

The NT Government has recently introduced its *Every Child Every Day* policy; and has amended its education laws to enhance the powers of school attendance truancy officers and significantly increase fines for truancy.[88]

The Australian and NT Governments are in policy and potential legal conflict here, one government looking to fine, the other looking to take away the means to pay fines, with parental imprisonment a likely unintended consequence of school absenteeism.

It is hard to imagine such an outcome being good either for the child or family relations. Simultaneously, such discourse is imbued with a policy moral hazard of taking the attention away from the school system as a potential part of the problem. Could school attendance failure be a function of inappropriate curricula, poor teacher performance and an inability to stimulate students?

Is there something systemic that makes kids prefer the mundane every day to the supposed inspiration of school attendance?

These are the sorts of hard policy questions that are being avoided in the quest for simplistic and populist solutions to deeply entrenched problems.

If the Intervention policy framework is wrong, why is it about to be continued? Even evidence from the Government's own monitoring is being ignored.

Instead, the cozy Canberra consensus of political and bureaucratic classes believe they have the answers. Politicians in their political self-interest are donning ideological blinkers and listening too much to urban focus groups, rather than developing realistic policy in the interests of Indigenous residents of NTER communities.

And complacent and complicit senior bureaucrats appear too comfortable with the status quo they invented and the policy inertia born of bedded-down approaches and the persuasive ring of the persistent Close the Gap mantra.

Deeply disadvantaged people in remote Northern Territory deserve far better. Policy instruments need to be deployed that generate improvement in absolute,

[88] Northern Territory Government, *Every Child, Every Day* (2011) <http://www.det.nt.gov.au/teachers-educators/school-management/enrolment-attendance/every-child-every-day>.

not relative, wellbeing and that can be monitored less ambiguously. Otherwise the millions spent on reporting is a waste.

Evidently, we need a new evidence-based framework; but the innovation required is most likely to come from the marginalised subjects of this grand project of improvement rather than from the powerful, but distant and unconnected.

1 November 2011

The Cunning of Consultation

North American anthropologist Elizabeth Povinelli coined the term 'the cunning of recognition' to expose the multicultural legacy of settler colonialism and how it perpetuates unequal systems of power.

The 'cunning' of neoliberal multiculturalism is that it acknowledges difference, while simultaneously disciplining, regulating and constraining otherness.

And so it is with the cunning of what is termed 'consultation' by the Australian Government, in its project to expand key elements of the Northern Territory Emergency Response (NTER) Intervention, especially the disciplining and punishing of welfare recipients for school truancy by their children as a central plank of Intervention Mark II.

A series of reports in October and November have made it quite clear that the Intervention, currently re-labelled the National Partnership Agreement to Close the Gap in the Northern Territory, is having limited measurable impacts for residents of prescribed communities.

Poor outcomes are evident in many areas including, very clearly, in the area of school attendance that hovers around 60 per cent and that seem to worsen the larger the community.

Keen to reduce the public disgrace of paternalistic Intervention Mark I and its unprecedented fiscal impost on federal coffers, the Australian Government is looking to reshape Intervention Mark II now so much more diplomatically relabelled 'Stronger Futures for the Northern Territory'.

At the same time the Gillard Government appears hypersensitive to any charge from the media, Opposition, focus group research or swinging voters that it is going soft on the need for draconian and paternalistic interventions.

And so the soft targets of school attendance; surely every Australian child irrespective of ethnicity must attend school to have future choice? And the responsibility of welfare recipients to get their children to school—surely this is the least that unemployed, single or disabled parents can do to pay back society for the generous income support they have received?—have been selected for an escalated and additional layer of punitive measures.

The Improving School Enrolment and Attendance (through Welfare Reform) Measure or SEAM (with the bracketed welfare reform element conveniently left out of the acronym), a voluntary pilot scheme, is now to be potentially extended on a mandatory basis to all welfare recipients in the Northern Territory and elsewhere, even though there is no evidence that the trials have worked. The first tranche is made up of 16 specific sites in the Territory.

SEAM sees the neoliberal Daddy State in its most coercive and potentially destructive manifestation of moral behaviourism.

A benchmark for attendance will be set and there will be much counselling of families assisted by a truancy 'support' worker; if parents do not meet their part of agreed attendance plans their income support payments will be suspended.

It is not clear how families are expected to survive without income. What is inexplicable and unconscionable about such draconian possibilities is that they are being proposed by a government concerned about food security and children's wellbeing.

But kids, even in remote Indigenous Australia, do not live by school attendance alone, they also need food. And families with no income will inevitably become an economic burden for others in their community counter to the aim of other measures like income management.

The tabled Australian Government amendments indicate that SEAM will be aligned with the Northern Territory Government's *Every Child Every Day* strategy, but it is hard to see how this will occur. The Commonwealth strategy looks to make just welfare recipients responsible using the stick of income suspension; while the NT Government looks to make all parents responsible using the sanction of fines.

There is a distinct possibility that the two schemes will be at loggerheads and clumsy and wasteful and in any case there is not a shred of evidence, fiscal might aside, that Canberra is better placed than Darwin in this difficult area of policy.

Indeed the NT laws seem more wide-ranging and less race-based; and fining is probably more equitable than discretionary withdrawal of income support.

Earlier this month, when the *Northern Territory Emergency Response Evaluation Report 2011* and the *Community Safety and Wellbeing Research Study* were released *The Australian* newspaper reported Minister Macklin was emboldened by evidence proving her agenda would end child suffering.

It is hard to reconcile that with the proposed SEAM measures. And to anti-Intervention activists the Minister said:

> Look at the evidence. This has nothing to do with ideology or politics; it is about what people need and what (their) aspirations are for their own lives and their children's lives.

In the absence of evidence it is hard to see SEAM deriving from anything other than ideology and politics. There is no evidence from SEAM pilots that the measure actually improves attendance.

And there is no evidence that the children of welfare recipients in remote Indigenous communities are more likely to be truants than the children of those in employment—this is just a moralistic and moralising conception of truancy as the individual failing of parents in receipt of welfare.

In 2007 the Howard Government passed racist income quarantining laws that required the suspension of the *Racial Discrimination Act*.

The Rudd Opposition and then Government that had meekly acquiesced to these laws subsequently copped considerable national and international criticism. And so in 2010 it amended the law to include non-Indigenous Australians in its income management regime, thus making it non-racist, at least in a technical legal sense.

The Gillard Government has cleverly learnt and now seeks to bypass the charge of racism by being cunning in the manner it is implementing these ideological measures. On one hand, the measures as proposed are neither race-based nor regionally-focused, even though initially they will mainly target a small number of large Aboriginal townships in the NT where school attendance appears especially low, but where development prospects are supposedly greatest.

On the other, according to government spin, it is Aboriginal people who truly desire these draconian special measures as evident from widespread consultation.

And so even if SEAM principally targets Indigenous Australians, the Australian Government can argue to the global community that it complies with the *Racial Discrimination Act* as a beneficial special measure consented to by the Aboriginal people impacted and thus meeting the minimum benchmark set by the High Court in the celebrated case *Gerhardy v Brown* in 1985.

There are other ways of thinking and talking about Indigenous education and development, but such alternatives are closed off, suppressed and silenced. They mainly come from white and black practitioners at the education coalface, Aboriginal activists, civil society and those parts of the academy that are not subject to state capture.

Take, for example, the very different interpretation and counter-narrative of what happened at consultations reported in *Cuts to Welfare Payments for School Non-Attendance: Requested or Imposed*?, a must read, available on the Concerned Australians website.[89] This analysis from a diverse set of 10 community meetings indicates that 'there was not a single request for welfare

[89] Michele Harris and Rosa McKenna, 'Cuts to Welfare Payments for School Non-Attendance: Requested or Imposed?', *Concerned Australians* (October 2011) <http://www.concernedaustralians.com.au/media/Welfare-Cuts-Requested-or-Imposed.pdf>.

cuts or fines to those parents with children who were not attending school'.

Concern about education was given a high priority, but what was sought was the re-introduction of bilingual learning, access to full-time education in homelands, support for Aboriginal teachers, acknowledging culture in the curriculum and the need to distribute funds more equitably.

The Australian Government is keen to focus both its policy attention and the taxpayers' financial resources on punitive measures to punish parents of truants in receipt of welfare.

However, this takes too much attention away from the role of the state to ensure that school infrastructure is of sufficient physical quality and that remote teachers are sufficiently skilled to attract students with quality, locally relevant, engrossing, perhaps bilingual, education that would make staying away from school an unattractive option.

A decent education is unquestionably important for jobs, confidence and political empowerment. But for the bicultural ways of remote living Aboriginal people it needs to be tailored for success in two worlds, not just an imposed one based on mainstream aspirations.

Evidently, this is a massive challenge that is beyond current and past Australian Governments; and so it is far easier for the powerful to deploy discursive weapons and welfare sticks. Monolithic and imposed solutions to complex problems are high risk, especially for the supposed subjects of the state project of educational improvement.

Australian Governments need to invest less in cunning consultation and more in canvassing policy alternatives and learning about educational success from here and overseas.

30 December 2011

'Developing the Aborigines'

On 20 October with muted fanfare, Jenny Macklin, Minister for Families, Housing, Community Services and Indigenous Affairs (FaHCSIA) launched the much-anticipated Indigenous Economic Development Strategy 2011–2018 (IEDS). The IEDS has been four years in the making and was now the responsibility of a triumvirate of Ministers including Mark Arbib, Minister for Indigenous Employment and Economic Development and Chris Evans, Minister for Tertiary Education, Skills, Jobs and Workplace Relations. Fittingly perhaps, given its content, the IEDS was released at a function in Sydney symbolically and generously hosted by the Minerals Council of Australia.

At the outset of the IEDS the Ministers state that the Australian Government wants all Australians to share in the opportunities of Australia's strong economy and to enjoy the financial and social benefits of work:

> The Indigenous Economic Development Strategy will help provide a pathway for Indigenous Australians to have the same opportunities as all Australians—to get an education, find a job or start their own business, own their own home and provide for their families. It focuses on five key areas for improving the prosperity of Indigenous Australians: strengthening foundations to create an environment that supports economic development; education; skills development and jobs; supporting business development and entrepreneurship; and helping people achieve financial security and independence.

Note the important location of the semi-colons: the IEDS is partially about creating an environment that supports economic development, but mainly about economic participation to mesh with the Australian Government goal to Close the Gap, as if saying it often enough will make it magically happen. And so the five priorities of the IEDS are about strengthening foundations, investing in education, improving skills and encouraging access to jobs, supporting the growth of Indigenous business and entrepreneurship and assisting individuals and communities to achieve financial security and independence.

These are all fine sentiments and they might even be discursively useful if this was just an economic mainstreaming or normalisation strategy. But it is supposedly an economic development strategy. And herein is the first order—probably terminal—problem with the IEDS: it actually fails to either define 'economic development' or engage with the complexity of this politically contested and unstable term. Instead, in high-handed Canberra fashion, this complexity is simplified *ad absurdum* to mean education, jobs and business—economic inclusion into the mainstream. A vast global literature tells us that economic development is far more complicated than this: it is a process for improving wellbeing, living standards and life chances for all. It is also a historical process of commodification, industrialisation, modernisation and globalisation. Development is a notion that is dynamic, except in Canberra where it seems to be stuck in some outdated trope promulgating a new form of Indigenous subjectivity, the hard working, individualistic, nationally mobile

and materially acquisitive neoliberal subject who will with time attain an imagined economic equality, no more gaps.

Even *The Australian*—the champion of any strategy with a whiff of neoliberalism—was critical of the IEDS, with a headline screaming, 'Welfare to business an unrealistic task say Elders'. It noted: 'Launching the government's Indigenous economic development strategy to 2018, Indigenous Affairs Minister Jenny Macklin yesterday identified business development, education and training and housing as the pillars of its policy to enable Aborigines to share in the nation's strong economy. Indigenous leaders said while the initiatives were well-intentioned, it was an unrealistic expectation for welfare-dependent people in regional areas to develop commercial businesses'.

Opposition spokesman on Indigenous Affairs Senator Nigel Scullion was more blunt suggesting that 'Labor is clueless on helping Indigenous people control their future' and that the IEDS reveals 'that Julia Gillard and Jenny Macklin still have no idea how to help Aboriginal Australians break the shackles of poverty and disadvantage'. I found myself in fundamental agreement with Scullion, but probably for different reasons.

Over the years I have provided input to economic development strategies, notably the Hawke Government's Miller Review of Aboriginal Employment and Training Programs in 1985 and the Howard Government's Indigenous Economic Development Policy Framework prepared for the now defunct Ministerial Council on Aboriginal and Torres Strait Islander Affairs in 2004. I had also responded to an invitation to make a submission on the draft IEDS. So the gross inadequacy of the IEDS got me thinking, a little reflexively, on how the current Government could have got things so wrong and how this particular strategy formulation pathway might be understood and interpreted.

Tracing the genealogy of the IEDS is not difficult because an e-trail can be clearly discerned.

In October 2007 as part of the Kevin07 campaign, an Indigenous economic development statement was released by then Shadow Minister Macklin and Shadow Parliamentary Secretary Snowdon. This brief statement began very differently seeing economic development lying at the heart of a Rudd Government's efforts to improve the lives of Indigenous Australians. And the instruments to be deployed were different too. Sure there was the usual 'education is fundamental' line, but then there was a strong focus on 'local enterprise, local jobs'; providing better business support; involving Indigenous communities in the design, building and maintenance of their homes; enhancing Indigenous involvement in land and sea management and carbon trading; and in getting the most out of Indigenous assets. This all sounded very progressive and participatory.

In May 2008, in delivering the Mabo lecture Minister Macklin recommitted to develop an IEDS in six months, but by now the language of Closing the Gap had crept into the policy lexicon. It took a further two years for Macklin's Department to prepare an IEDS Draft for Consultation with submissions invited by the end of 2010. And in the Ministers' (then Macklin, Gillard and Arbib) foreword, readers were assured that the draft strategy was only for consultation and that stakeholder responses, experience, knowledge and commitment would shape the final strategy. Ominously, the language of the draft IEDS was far more about 'Indigenous participation in the economic life of our nation' than economic development.

Two things happened subsequently:

- First, the draft IEDS received 96 written submissions. And twenty community consultations were conducted by FaHCSIA staff criss-crossing the nation from Blacktown, Sydney to Nhulunbuy, NT; and from Karratha, WA to Cairns, Queensland. Remarkably, all these submissions and a record of consultations undertaken to a tight issues template (education and individual capacity; jobs, business and entrepreneurship; financial security and independence; and strengthening foundations) have all been posted on the Department of Employment, Education and Workplace Relations (DEEWR).
  Consequently, anyone can see how highly critical many have been of the draft and how little input from experts, practitioners and communities has actually been included in the final Strategy. I cannot summarise all these responses here, suffice to say that terms like 'unrealistic', 'baseless rhetoric', 'lacking any cultural content' and 'lacking culturally appropriate actions and language' were common. And in the final IEDS the unique assets and culture that had figured so prominently in the 2007 Kevin07 statement were reduced to a mere two paragraphs in a 72-page document.

- Second, primary responsibility for the IEDS shifted from Macklin to Arbib. However, the Department of Education, Employment and Workplace Relations (DEEWR) is an inappropriate locale for an Indigenous economic development strategy because it is about the most Chicago School economic rationalist department in Canberra. Hence, while it may have some expertise in mainstream education and employment, it has none in economic development as might be understood by an agency like AusAID. Significantly, DEEWR has been the department that has overseen the destruction of CDEP, the most effective community-based economic development building block of the past 30 years. It is hard to know what interdepartmental horse trading was at play here, but as the IEDS was transferred to DEEWR, the sorry remnants of a 'reformed' CDEP went back to FaHCSIA.

What is patently clear is that while the Ministers trumpet the IEDS as the result of extensive consultations and all who took part in the consultations that helped to shape it are thanked, this is gratuitous lip service because a comparison between the content of the draft and final IEDS shows no substantive difference and no evidence of any input from stakeholders. This might merely represent strategy-making incompetence or 'tick the consultation box' arrogance. But I suspect that something more creatively destructive, to use the

terminology of David Harvey, is at work here:

> … the IEDS is a part of a relentless top down neoliberal project that strives to morally restructure the norms of Aboriginal people, especially those in remote regions, to embrace market individualism.

Yet again we see a government that was elected trumpeting that it would base its policy making processes on evidence, partnership, fresh ideas and long-term commitment resorting to an ideological approach reminiscent of the Washington consensus and widely discredited. And this example from Indigenous affairs is indicative of approaches taken in policy making more broadly.

In 'W(h)ither Remote Indigenous Economic Development' (*Arena Magazine* No 110), I pondered the value of a social engineering project masquerading as economic development. The answer to the 'whither' of my earlier piece has now emerged as the IEDS.

Rather than expand opportunities, under the IEDS these will wither, unless a fundamentally different approach is taken. So I end with the recommendations from my submission that was ignored alongside the 95 others:

- An economic development strategy needs to define and engage with the notion of economic development as a negotiated process to enhance wellbeing.
- An economic development strategy needs to recognise the diverse forms of contemporary Indigenous economies, including the value of customary activity, and the intercultural mix of norms that informs decision-making.
- To be effective, a strategy needs to be clear on how development assistance will be targeted given the reality of Indigenous demographics and patterns of residence. In remote Australia discrete communities are easy to identify but there are limited mainstream options, while in urban contexts opportunities exist but targeting those residentially integrated is a major challenge.
- Any development strategy needs to acknowledge that poverty is a symptom of powerlessness; the politico-economic and structural sources of inequality need to be addressed. Strengthening Indigenous property rights in commercially valuable resources is essential if economic and power imbalances are to be realigned.
- The proper role of the state is to get institutional settings right for economic development in all its diverse forms rather than promoting a preconceived notion of what form (jobs and business) development might take.
- Policy making processes must get beyond token consultation to seriously consider diverse Indigenous views of development and the diversity of Indigenous circumstances and development possibilities.
- The issue of economic development is too important to leave to bureaucratic processes, as has become clearly evident. At the very least a parliamentary inquiry into this issue is needed.

Ultimately, the IEDS promulgates an Australian Government view that Indigenous Australians have a right to economic sameness that it cannot deliver, while ignoring the right of Indigenous people to pursue a range of economic possibilities, something the state could enable. The basic human right

of Indigenous people to choose the form that development might take needs to be guaranteed. Recourse to international human rights instruments and civil society, combined with Indigenous agency and activism, might provide the only means to achieve such a goal.

December 2011–January 2012

Stronger Futures Juggernaut Hits a Few Potholes

A juggernaut is a force that is regarded as mercilessly destructive and unstoppable.

For many this is an apt metaphor for the Stronger Futures in the Northern Territory Bills which were scripted to be rubber stamped, possibly with minor changes, by the Australian Senate on March 22, 2012.

Against extraordinary odds, passage of these laws, that would see key elements of the Northern Territory Intervention that impinge on the personal rights and civil liberties of Aboriginal people living in prescribed communities extended for another 10 years, has been delayed at least until May.

Quite unexpectedly, the catalyst for the delay has been provided by a Senate Community Affairs Legislation Committee Inquiry into the three Stronger Futures Bills that has provided an all-too-rare window of opportunity for dissent.[90]

Such legislation inquiries are expected to be quick and to fine-tune any unacceptable elements in bills; this was an inquiry scrutinising neither the policy logic nor performance of the Northern Territory Intervention since 2007, nor the prospects that its continuation for another decade would achieve any positive outcomes, let alone close any gaps.

To understand this unexpected delay in the Government's attempt to fast track new draconian measures into binding laws without proper community debate or consultation requires a revisiting of some recent history.

The Northern Territory National Emergency Response (NTER) Intervention launched by the Howard Government on June 21, 2007 was supposed to end this year with prescribed communities (and presumably their Aboriginal residents) 'stabilised' and 'normalised'; an orderly exit was to take place to allow individuals to get on with their lives without overbearing state regulation.

The Rudd Opposition, and then Government, acquiesced to this scenario. But constant statistical surveillance has indicated that the Intervention, now semantically reframed as the National Partnership Agreement to Close the Gap in the Northern Territory, was not succeeding.

And so in June 2011 the Gillard Government announced that the Intervention would continue: a suite of ongoing and new special measures were needed and

[90] Senate Committee, Parliament of Australia, *Senate Committees: Stronger Futures in the Northern Territory Bill 2011 [Provisions]* (2011) <http://www.aph.gov.au/Parliamentary_Business/Committees/Senate_Committees?url=clac_ctte/strong_future_nt_11/report/index.htm>.

needed fast if additional special investments were to be appropriated in the 2012–13 Budget.

A discussion paper, Stronger Futures in the Northern Territory, was fashioned outlining the issues that the Canberra-based political and bureaucratic classes believed to be self-evident priority areas for action: school attendance and educational achievement; economic development and employment; tackling alcohol abuse; community safety and the protection of children; health; food security; housing; and governance.[91]

With the clever semantic glide to Stronger Futures it was hoped that the opprobrium of the Intervention and the failure to close gaps could be discursively swept away.

But Stronger Futures has always had a strong whiff of Intervention Mark II, if only because key controversial measures like income management were not on the table for elimination.

Input on the Discussion Paper was not broadly sought.

Instead, fast, expensive and intense consultations were undertaken with members of prescribed communities between late June and early August to check if any of the Government's priorities matched those of the subjects of the proposed ongoing project of improvement.

Considerable effort was made to have these consultations on the state's predetermined agenda 'independently' monitored by government-engaged consultants and statistically verified to assure any who cared in the Australian and global communities that these were special beneficial measures desired by most members of prescribed communities.

In November 2011 a series of Bills magically appeared from this process and were introduced into the Parliament purportedly reflecting the majority wishes of Aboriginal people consulted.

The focus of the Bills is on alcohol management, land reform, food security, customary law, income management and school attendance.

The speed of introduction can be variably interpreted. The official view is that these laws were needed quickly so that new financial commitments could be made in a tight 2012–13 Budget when the Intervention laws had expired.

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[91] FaHCSIA, 'Stronger Futures in the Northern Territory discussion paper', (2011) <http://www.fahcsia.gov.au/our-responsibilities/Indigenous-australians/publications-articles/closing-the-gap-in-the-northern-territory/stronger-futures-in-the-northern-territory-discussion-paper>, 5 November 2012.

Another interpretation is that the Government was keen to table the Bills in November 2011 and so bypass the provisions of the new *Human Rights (Parliamentary Scrutiny) Act* that will require all domestic laws tabled after December 2011 to comply with international human rights standards. [92]

It was expected that these Bills would be quickly passed into law because of the neoliberal consensus among the major Australian political parties that draconian measures still need to be paternalistically imposed to address the 'Aboriginal problem' in the Northern Territory, even though there is no clear evidence that this approach has worked since 2007.

The Bills, however, hit a minor speed hump. The Senate Selection of Bills Committee immediately referred the Bill for legislative inquiry, noting that there was need to examine the effects of the measures; whether there was evidence of community awareness/acceptance of them; and to assess intended and unintended consequences.

Unfortunately these 'terms of reference' contained in an obscure appendix were poorly highlighted in the subsequent Senate Community Affairs Legislation Committee Inquiry. [93]

The Committee called for submissions and received a torrent of 454—including one from me (no. 360)[94] to openly declare my interest in this process.

Almost all the submissions, including mine, opposed the Intervention and the three Stronger Futures Bills, overlooking the procedural nicety that the Senate Inquiry was about the minutiae of the complex laws, not about the Government's policy framework.

Many black and white Australians previously denied a say on Stronger Futures clearly wanted one. The mobilisation of a political campaign by anti-Intervention groups also saw the Committee receive 560 oppositional letters.

The Senate Committee took evidence in the Northern Territory, travelling to prescribed communities, Ntaria in central Australia and Maningrida in the Top End, as well to Alice Springs and Darwin. Not to have done so would have undermined its legitimacy.

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[92] Australian Government, *Human Rights (Parliamentary Scrutiny) Act 2011, No. 186* (2011) <http://www.comlaw.gov.au/Details/C2011A00186>.

[93] Senate Committee, Parliament of Australia, 'Senate Committee', (2011) http://www.aph.gov.au/Parliamentary_Business/Committees/Senate_Committees?url=selectionbills_ctte/reports/2011.htm, 5 November 2012.

[94] Parliament of Australia, 'Senate Committees, Stronger Futures in the Northern Territory Bill 2011 and two related Bills, Submissions received by the Committee', (2011) <http://www.aph.gov.au/Parliamentary_Business/Committees/Senate_Committees?url=clac_ctte/strong_future_nt_11/submissions.htm> 5 November 2012.

In each location evidence was recorded in *Hansard* verbatim and the form of engagement allowed for free-flowing discussion. [95]

This was in marked contrast to the Stronger Futures consultations that were conducted with a clearly predetermined agenda without transcripts of procedures.

The *Hansard* transcripts suggest that the Stronger Futures proposals, and the subsequent Stronger Futures Bills, were poorly understood. The former is hardly surprising; for example, it was revealed that the Stronger Futures in the Northern Territory Discussion Paper was only handed to members of the Maningrida community minutes before Minister Macklin arrived to participate in the consultation. The latter reflects the extraordinary complexity of the three Bills.

There is a ferocious documented opposition to the Intervention and the conduct of consultations. These transcripts 'unplugged' seriously challenge the credibility of the Stronger Futures consultations' reportedly broad support for continuation of Intervention measures.

Others who had independently monitored the consultation process had made similar observations. A recent example is the Report *Listening but not Hearing* based on observing nine public consultations. But such critiques have been demeaned and dismissed by the Government and its supporters as unrepresentative and biased. The official *Hansard* cannot be so easily dismissed. [96]

The Committee's Report tabled in mid-March was divided between a majority Report supporting the legislation with some procedural amendments; some additional comments by Coalition Senators; and a strongly dissenting Report by the Australian Greens.

The majority Report is unsurprising as the Stronger Futures Bills had already been passed in the House of Representatives. It was unlikely that Government and Opposition Senators would seriously challenge their party platforms irrespective of what was recorded and what they saw, heard and read.

The dissenting Report did justice to the evidence and was equally unsurprising.

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[95] Commonwealth of Australia, 'Senate, Proof Committee Hansard', (2011) <http://parlinfo.aph.gov.au/parlInfo/download/committees/commsen/a3d14c82-bef1-434e-843d-366547f63678/toc_pdf/Community per cent20Affairs per cent20Legislation per cent20Committee_2012_02_20_817.pdf;fileType=application per cent2Fpdf#search= per cent22committees/commsen/a3d14c82-bef1-434e-843d-366547f63678/0000 per cent22> 5 November 2012.

[96] Jumbunna House of Learning, *Listening but not Hearing: A response to the NTER Stronger Futures Consultations June to August 2011*, (2011) <http://www.jumbunna.uts.edu.au/researchareas/ListeningButNotHearing8March2012.pdf>.

The Australian Greens have always opposed the Intervention and the Stronger Futures legislation. The dissenting Report reflects views from Aboriginal people, their representative organisations and the community sector that the top-down punitive nature of the Intervention is actually undermining and disempowering Aboriginal people and communities, is risky and is poorly understood.

Australia's liberal democratic institutions do not serve the interests of small marginal groups, like Aboriginal people in the Northern Territory, well. But on this occasion, the processes of a Senate Committee of Inquiry have been effectively co-opted to articulate defiance to the Australian state in its hegemonic drive to impose Stronger Futures laws.

The support of the Canberra consensus for the Intervention is so deeply ideologically and politically entrenched that there seemed little doubt that the Stronger Futures Bills would pass through the Senate on March 22, 2012.

But surprisingly they have been unexpectedly delayed.

Evidently, to borrow from Leonard Cohen's Anthem: 'There is a crack, a crack in everything. That's how the light gets in—the light of opposition'. Paradoxically, the Senate Community Affairs Legislation Committee process that recommended the fine-tuning of the Stronger Futures Bills for passage through the Parliament has inadvertently created possibilities for new hurdles of dissent to be erected in the path of the Stronger Futures juggernaut.

2 April 2012

Another Decade for Homelands Policy Debacle

In a media release issued on March 28 this year the Australian Government announced a $221 million 'investment' in municipal and essential services for outstations and homelands in the Northern Territory over 10 years.

It stated $206 million would come from the Commonwealth Government and $15 million from the NT Government.[97]

Evidently, the Australian Government is keen to assure Aboriginal people living on outstations and homelands that they will receive access to power, water, and sewerage and road maintenance, as well as garbage collection and dog control programs.

The media release correctly noted that essential services are critical to supporting the health and wellbeing of families living in these very remote communities, although, thankfully, the Closing the Gap mantra was not bleated on this occasion.

Families will now have some comfort in knowing these services—basic citizenship entitlements—will continue for the next 10 years.

At face value this Australian Government commitment to homelands sounds positive.

And this is certainly how media reporting and key advocacy organisations interpreted this strategic pre-Budget announcement, or 'managed leak'.

Amnesty International 'welcomed the continued 10-year commitment for traditional Aboriginal homelands' [98] and the Aboriginal Peak Organisations of the NT 'welcomed homeland support',[99] both palpably relieved that 10,000 homeland residents, 25 per cent of the rural Aboriginal population of the NT, were not going to be allowed to 'wither on the vine', to recall the evocative words of Pat Dodson in 2009.[100] Concern was expressed at the tiny NT Government contribution, just 7 per cent of the package, and the absence of any funding whatsoever for new housing.

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[97] FaHCSIA, 'Municipal and essential services for outstations and homelands in the Northern Territory', (28 March 2012) http://jennymacklin.fahcsia.gov.au/node/1815, 5 November 2012.

[98] Amnesty International, 'A huge win for homelands' (29 March 2012) <http://www.amnesty.org.au/Indigenous-rights/comments/28287>.

[99] Amy McQuire, 'Aboriginal Organisations Welcome Homelands Funding' *Tracker* (online) 30 March 2012 <http://tracker.org.au/2012/03/aboriginal-organisations-welcome-homelands-funding/>.

[100] Patrick Dodson, *Recognition and inclusiveness of all our diversity* (2009) <http://www.kimberleyinstitute.org.au/documents/CLANTBali.pdf>.

Politicians were divided in their response.

Retiring member for the NT seat of Arafura, Marion Scrymgour, who had fought long and hard for equitable support for homelands, felt that the Australian Government announcement vindicated her struggle on behalf of her constituents in a bush seat.

The Country Liberal (CLP) Opposition used the announcement as a springboard to announce its Homelands and Outstations Policy, attacking the Henderson Labor Government's focus on 20 Territory Growth Towns to the detriment of 560 homelands, suggesting its policies were forcing people off country.

The CLP policy, on the other hand, apparently commits to the preservation and maintenance of homelands and outstations and will back this commitment with significant support into the long term— if elected.[101]

The Shadow Minister for Indigenous Affairs Nigel Scullion was scathing in his criticism, suggesting that the Government was 'clueless on real action to help end Aboriginal disadvantage'.[102] This investment, he observed, only amounted to $42,000 per homeland per year and suggested there was little to show from such a level of support that had been provided since 2007.

Scullion neglected to mention it was the Howard Government, of which he was a member, that had set this totally inadequate benchmark.

It was only the Australian Green's Rachel Siewert that seemed to have noticed that this funding was being promoted as a part of the Stronger Futures package.[103]

She noted that minimal funding of basic services should not be used as leverage to encourage support for punitive Intervention measures, also coincidentally proposed for another 10 years.

To see some contestation over homelands policy between political parties in the Australian and NT Parliaments is welcome at a time when there is too much complacent bipartisanship over Indigenous policy.

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[101] Seán Kerins, 'The First-Ever Northern Territory Homelands/Outstations Policy', (CAEPR Topical Issue 9/2009) <http://caepr.anu.edu.au/Publications/topical/2009TI9.php-0>.

[102] Nigel Scullion, *Government clueless on real action to help Indigenous Australians* (29 March 2012) <http://www.nigelscullion.com/media-hub/nt/government-clueless-real-action-help-Indigenous-australians>.

[103] Rachel Siewert 'Funding shouldn't be tied to Intervention legislation' (Media Release, 28 March 2012) <http://rachel-siewert.greensmps.org.au/content/media-releases/funding-shouldn%E2%80%99t-be-tied-intervention-legislation>.

There is a hint of cooperative federalism in the package—the Australian Government has actually managed to persuade the NT Government to chip in $150 per homeland resident per annum.

Conversely, the NT Government is the real winner outflanking the Commonwealth who bears the bulk of the fiscal burden.

But behind all of this public discourse is a story of extraordinarily bad homelands policy making.

It has been overlooked in the media coverage and political debating.

It sees remote and relatively powerless homeland residents yet again unfairly deployed as political and ideological footballs.

This story of injustice needs to be told.

From 1911 to 1978 the Commonwealth administered the Northern Territory.

It implemented policies of protection and preservation and then assimilation.

It promoted the centralisation of Aboriginal people in remote NT into government settlements and missions on gazetted reserves.

By 1972, the abject failure of the assimilation policies resulted in their replacement by a softer form of assimilation termed 'self-determination'.

The homelands movement of the 1970s was born from a conjunction of land rights and 'self-determination', that allowed Aboriginal people the choice to return to their ancestral lands, and reject the development failure—from both western and Aboriginal viewpoints—of artificial colonial settlements and missions.

Homelands were perceived by the Commonwealth as places where people could be more self-sustaining and where there was greater social cohesion and less political friction and stress.

But homelands were rarely isolated economically, socially or culturally from larger places that usually served as their services hubs.

With self-government in 1978 town management and public utility responsibility was transferred to the new NT Government.

But for a variety of reasons, the Commonwealth retained responsibility for support of homelands. This ran counter to the wishes of the NT Government.

The views of both were outlined in a momentous exchange of letters in 1979, between Fred Chaney, then Federal Minister for Aboriginal Affairs and Paul Everingham, then NT Chief Minister.

Chaney wanted the Commonwealth to retain responsibility for homelands because they represented special situations where there was a strong emphasis on self-sufficiency.

The Commonwealth did not believe they required standard municipal services and was unsure about the long-term permanence of these Aboriginal initiatives; an issue that by now, 33 years on, has surely been resolved once and for all.

Everingham was disappointed with Chaney's decision.

He observed, quite correctly, that homelands were, and are, invariably closely associated with larger townships.

He believed that an integrated system of services might be effective and efficient and that the only proper approach would be not to distinguish between groups on the basis of size.

The Commonwealth, with its fiscal muscle and Aboriginal concurrence, won the day.

This was, in large measure, due to the ambivalence of the NT Government to land rights.

This undermined its jurisdictional authority.

And so things remained for nearly 30 years with homelands supported on a shoestring first by the Commonwealth Department of Aboriginal Affairs and then by the now abolished ATSIC.

This support came through three key programs, generally channelled through homeland resource centres: the CDEP scheme; Community Housing and Infrastructure Program (CHIP); Municipal; and, for a time, capital housing and infrastructure support under the broad umbrella of the National Aboriginal Health Strategy.

Then in 2007, a bizarre 'National Emergency' reversal occurred with the Intervention.

The Commonwealth deployed special Northern Territory Emergency Response (NTER) laws to take over the townships, 73 prescribed communities, and then sought to offload 560 homelands onto the NT Government.

In an unconscionable Memorandum of Understanding signed between senior Commonwealth and NT Government Officials Wayne Gibbons and Mike Burgess on 17 September 2007, the NT Government was blackmailed with a total offer of over $500 million of new money if it took over full responsibility for homelands for an annual amount of $20 million (roughly equivalent to the CHIP municipal funding stream) to be provided for just four years.[104]

The offer was contingent on agreement that no Australian Government funding would be used to construct any new housing at homelands.

What is even more bizarre perhaps is that the incoming Rudd Government did nothing to change this totally inadequate and inequitable arrangement.

And to add insult to injury, the Gillard Government is now looking to maintain this policy debacle for another decade, in the name of security and certainty and the health and wellbeing of families at homelands.

It is important to recognise that what is being provided here are funds for the most basic essential services, and even these have not been assessed using any objective needs-based evidence.

Indeed the only information to undertake such an assessment from the Community Housing and Infrastructure Needs Survey was last collected by the Australian Bureau of Statistics in 2006; no similar survey was conducted on this most important issue alongside the 2011 Census.

There is no mention in this policy announcement of the health, education, housing or economic development needs of homeland residents; or any comparative assessment of outcomes at homelands compared to large places, so called Territory Growth Towns.

Nor is there any consideration of the national interest in properly supporting homelands that strategically occupy and environmentally manage a large chunk of remote Australia.

Nor is there any thought given to the social justice grounds for the Australian Government to honour a social compact agreed in 1978.

This is a difficult area of policy, not least because dispersed communities and mobile regional populations so tax the political and bureaucratic imaginations that they seek imagined technical solutions to recentralise and sedentarise homeland populations—much as occurred during the failed assimilation era.

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[104] The full title of the MOU is *Memorandum of Understanding between the Australian Government and the Northern Territory Government: Indigenous housing, accommodation and related services, September 2007*.

And at the ideological level, neoliberal sensibilities are offended because homelands are possibly more productive places than larger 'growth' towns where 'real' jobs and the 'real' market economy are supposedly located.

Homeland residents today are in a worse place than five years ago because any 'security and certainty' this policy pronouncement might deliver is more than offset by high insecurity and uncertainty about CDEP and the community-based resource organisations that have been at the very heart of their development prospects.

People, one might say, do not live in remote Australia by municipal services alone.

Evidently, it has not yet occurred to the Australian Government that neglect creates socioeconomic gaps, it does not close them.

25 May 2012

Five Years On ... NT Communities are still not 'Normalised'

The Northern Territory Emergency Response (NTER) Intervention was dramatically declared as a 'National Emergency' in respect of reported widespread child sexual abuse on June 21, 2007.

It was an emergency that necessitated the deployment of the Australian army, at least for a short symbolic time, soon followed by a plethora of 'helping' professionals and bureaucrats.

The Government's Chief Spokesperson, Indigenous Affairs Minister Mal Brough articulated with military precision a hastily conceived, centrally-planned, five-year program to 'stabilise and normalise' 73 prescribed communities, before an orderly 'exit' proposed for June 21, 2012.

Seeing Brough on the ABC's 7.30 program last month pontificating again, with his undeniable passion, about deep social problems persisting at Toomelah in New South Wales, was a chilling reminder of two things.

First, Brough is adamant that the NT Intervention, that many have now dismissed as a political stunt contrived by compliant senior bureaucrats under the Howard Government (as their stocks hit a new low), would have worked if only implemented with more fulsome, racist brutality.

Second, Brough can see potential for such 'shock and awe' tactics beyond the NT and what is more there is some possibility that he will be re-elected and end up as either Indigenous Affairs Minister or very influential in a future Coalition Government.

In 2007, while I was a vocal critic of the form that the Intervention was to take, I initially interpreted normalisation to mean socioeconomic equality to be delivered in five years.

I lauded this goal while at the same time being deeply sceptical that the Howard Government would be able to deliver when Canberra rhetoric hit harsh outback reality.

It was not the Howard Government that was left to implement this hastily conceived 'five year plan' locked into federal law in August 2007, but the Rudd and then Gillard Governments.

Crisis theory tells us that a circuit breaker is needed lest hastily conceived 'National Emergency' pronouncements become embedded as the new policy paradigm.

That circuit breaker could have been activated in November 2007 with a

change of government, but perhaps with a strategic eye on focus group sentiments and already on the next federal election the Rudd Government took what can only be described as the low risk default option: it retained the race-based Intervention laws, inspired by the very particular toxic mix of neoliberal and neoconservative ideology, of a heavily defeated government: John Howard 1, Kevin Rudd 0.

The Rudd Government tried to divert some attention from the media obsession with the NTER by locking it into a national assimilation plan to Close the Gap announced as part of the National Apology in early 2008. This plan was quickly endorsed by the Council of Australian Governments in the National Indigenous Reform Agreement (NIRA) and a series of National Partnership Agreements (NPAs) that obfuscated citizenship entitlements with special Indigenous specific initiatives.[105]

The NTER measures, cosmetically redesigned after an independent review whose main recommendations were ignored, were craftily entangled in a number of NPAs, including Closing the Gap in the Northern Territory.

This last NPA drew heavily on the discredited Territory Martin Government's 'Closing the Gap 20 Year Indigenous Generational Plan'—a comprehensive plan announced in August 2007 to address all 97 recommendations in the Anderson/Wild Report on child sexual abuse with limited NT resources.[106]

But this clumsy attempt to discursively rebadge the Intervention never caught on with the media and was rarely used even by the clever bureaucrats who designed it. The Intervention may have been 'independently' reviewed and cosmetically redesigned but it was, and remains, the Intervention.

The NPA to Close the Gap in the NT runs to June 30 2012 and like Brough's notion of 'normalisation' sounds as if it is about closing socioeconomic gaps as measured by the mainstream society.[107]

But in reality the logic of the Intervention and its policies and programs are not tailored to close gaps at all, but rather to alleviate deep disadvantage.

Unfortunately, owing to multi-generational neglect, no Australian Government has ever dared to not only calculate what expenditure (the state likes the word

[105] COAG Reform Council, *Indigenous Reform 2010-11: Comparing performance across Australia* (2012) <http://www.coagreformcouncil.gov.au/reports/Indigenous.cfm>.
[106] Northern Territory Government, *Closing the Gap: Northern Territory Government's Response to Anderson/Wild Report and Indigenous Generational Plan*, (2007) <http://newsroom.nt.gov.au/adminmedia/mailouts/2871/attachments/martin.20.08.07.closing per cent20the per cent20gap.pdf>.
[107] FaHCSIA 'Closing the Gap in the Northern Territory National Partnership Agreement' (2009) <http://www.fahcsia.gov.au/our-responsibilities/Indigenous-australians/programs-services/closing-the-gap-in-the-northern-territory>.

'investment') is needed to address historical legacy but also what delivery process might prove effective.

And so we have much discursive flourish and thick government spin—closing the gaps here, there and everywhere—but two fundamental truths that just cannot be concealed.

First, despite the plethora of reports, the establishment of an evaluation frame to establish whether gaps have closed since 2007 has been shrewdly avoided.

But judgment day is coming and when data from the 2011 Census become available later this year we will be able to objectively assess whether the Government's approach is working, or not, according to its own normative criteria.

Second, while the fundamentals of the original Intervention remain firmly in place, it is far from clear, even from the Government's own six-monthly Closing the Gap in the NT Monitoring Reports, if there have been absolute improvements.[108] Indeed things today may be worse than in 2007.

Despite the promise of jobs growth, there are more people than ever on welfare; there is no evidence that income management is making a difference; school attendance rates remain intractably low; and child hospitalisation rates have grown.

Most worryingly information on self-harm/suicide 'incidents' have more than doubled, an appalling paradox given the original rationale for the Intervention.

What these reports do not tell us is how prescribed communities have been fundamentally transformed—socially, culturally, politically and economically—by an influx of non-local 'helpers' as well as surveillance staff, while supreme community control has been vested in an externally-appointed and accountable Government Business Manager.

The Aboriginal citizen-subjects of prescribed communities have been fundamentally disempowered as the institutions that they once controlled have been dismantled, as the permit system has been abolished, and as the authority of land owners has been usurped through the compulsory leasing of their land with just terms compensation still not paid.

In a separate measure that the Commonwealth has quietly condoned, community councils have been eliminated in favour of Super Shires that effectively depoliticise individual prescribed communities. Not only have

[108] FaHCSIA, 'Closing the Gap monitoring reports' (2012) <http://www.fahcsia.gov.au/our-responsibilities/Indigenous-australians/publications-articles2/closing-the-gap>.

communities not been normalised, but even by the standards of the wider society there is nothing normal about them.

As for exiting, and the possibility for re-empowering community, this possibility has been unilaterally postponed by the Australian Government until 2022. What was arguably a five-year emergency 'state of exception' has been extended to 15 years with no evidence that the current Intervention approach is working.

Instead we have continuation of key Intervention measures like disciplining the expenditures of welfare beneficiaries, around 80 per cent of the adult population of prescribed communities with income quarantining now rebadged income management; disciplining labour through the misguided abolition of CDEP and greater emphasis on activity testing and much breaching (suspending payments) in the absence of jobs; blackmailing communities to turn private and community assets into public assets; regulating community stores from outside; and establishing new draconian measures to link welfare payments to school enrolment and attendance.

This continuity has again been rebadged, this time as the more nebulous Stronger Futures for the Northern Territory.[109] Stronger Futures will require more regulatory presence, and the residents of prescribed communities will be caught up in a social void of panoptic oversighting with limited escape options.

This could result in less community control, more dependence, fewer jobs, more poverty and more anomie, all now not in the name of 'the child' or the name of 'the gap' but in the name of 'stronger futures'.

Neither exited nor normalised, one has to wonder about a third dismal possibility, that this Intervention seeks to creatively destroy an enduring bastion of Indigenous jurisdiction that generates much anxiety for neoliberal sensibility, partly because it represents unacceptable risk to minerals dependent 21st century Australia.

Intervention measures and principles outlined in NIRA are explicit that a neoliberal project of moral restructuring is currently underway.

So is elimination the ultimate goal of the Intervention? In a recent article in the *Journal of Genocide Research*, historian Patrick Wolfe draws on his earlier work on settler colonial theory to make three points of great pertinence to this possibility.[110]

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[109] See Australian Government, *Stronger Futures in the Northern Territory* (2012) <http://www.Indigenous.gov.au/stronger-futures/>.

[110] Patrick Wolfe, 'Settler Colonialism and the Elimination of the Native' (2006) 8 *Journal of Genocide Research,* 387.

First, he notes that the colonial invasion and its transformative capitalist system were predicated on wholesale expropriation of the land and resources— the principal settler colonial logic to eliminate Aboriginal societies was to gain unrestricted access to territory and resources.

Second, Wolfe notes that settler colonisers came to stay: invasion is structural; it is not some historical event that can be isolated to a particular place and time such as Sydney in 1788, it continues in the present.

And third, Wolfe suggests that settler colonialism has negative and positive dimensions. Negatively, it strives for the dissolution of Aboriginal societies—a dissolution that in the past included the summary massacre of Indigenous people, as new histories of frontier conflict now document.

Positively, a new Australian society is created and a range of new options emerge from the logic of elimination, including the possibility for Indigenous people to assimilate if they so wish—this is mainstreaming with its goal of Closing the Gap as measured by the norms of the dominant society.

The state project of improvement links elimination, normalisation and exit in a triangulated relationship: elimination of Aboriginal ways will lead to imagined neoliberal normalisation that provides the path for Aboriginal citizens to exit state controls and paternalistic over-sighting.

Evidently, Aboriginal people are not meekly acquiescing and are deploying whatever means at their disposal to undermine this state project that arguably began with colonisation, but was accelerated rapidly first by the Howard Government and then by subsequent Rudd and Gillard regimes.

Global evidence suggests that stronger futures for Aboriginal people will require more self-determination that in turn will allow a form of normalisation, but in accord with local values and aspirations, not imposed ones. Evidently this is something that the Australian state and its agents still need to comprehend.

30 June 2012

Hope-Less Futures?

With Melinda Hinkson*

On an unsealed road in central Australia one Saturday afternoon in late 2011, a police car flashes its lights and directs the driver of a non-descript sedan to pull over. The driver and his female passenger, a married couple in their mid-twenties, are directed to get out of the car. The police have been called to attend an incident in a nearby town where protracted fighting has been reported over several weeks and have stopped this car out of concern that its occupants might be en route to join the fray. They search the car for weapons, but uncover nothing of interest. The boot of the car is full of firewood which the couple have spent the past hour collecting. On completion of identity checks the police arrest the man for driving with a suspended licence. He is placed in the back of the police van. His wife is warned that if she attempts to drive the car—she does not have a licence—she too will be arrested. The police officers climb into their van and drive off, leaving the woman on her own, at sunset, on a lonely desert road with no supplies and no option but to walk the several kilometres back home as darkness descends.

This tale captures well one of the many paradoxes of the Northern Territory Intervention. Increased police numbers on-the-ground are often quoted as a key marker of the Intervention's success. Women and children feel much safer now we are told. It is only when we go to the ground and recall that any relations between Aboriginal people and police in the present are built upon a deeply fraught history that the prospect of increased policing takes on a different inflection. The township this couple call home has witnessed astonishing levels of arrests, even by local standards, over the past eighteen months. Many are for vehicle related offences. Many others result from another of the Intervention's measures—the outlawing of customary law, especially the use of payback to settle disputes. When Aboriginal people attempt to use their own customary measures to resolve significant transgressions, police who once turned a blind eye are now legally obliged not to do so.

Through the prism of increased policing we might conclude that the Intervention has succeeded in entrenching the status of remote Aboriginal people as marginalised and criminalised. The escalating Aboriginal populations of Darwin and Alice Springs prisons, already reputedly the highest in the world, reinforce this view. But while this is a compelling analysis, the fuller picture is a great deal messier, less coherent and more disturbing.

The NT Intervention was dramatically announced on 21 June 2007 by John Howard and Mal Brough. While hastily conceived, its key architects adeptly

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deployed the right mix of shock and awe tactics—a 'National Emergency' was declared in respect of widespread child sexual abuse that necessitated the rapid deployment of the Army, followed by a plethora of professionals. Brough articulated concise concepts; a centrally-planned five-year program would 'stabilise and normalise' prescribed communities with military precision before an orderly 'exit'. In important essays in this issue, Chris Graham and Kerry McCallum and Lisa Waller provide chilling insights into the 'media optics' that brought the Intervention into being as an immaculately executed media event.

Yet as soon as the Commonwealth moved to implementation, the vision began to unravel. The Intervention quickly shifted from a concern with child sexual abuse and safety to a wider program of infrastructural development and social transformation. At the outset the Government grossly underestimated the extent of the historic backlog that would mean any expenditure of less than billions of dollars would be inadequate. Then it overlooked its capacity to deliver on the breadth and scale of what it promised.

So by just September 2007, the Commonwealth had negotiated and signed a new Memorandum of Understanding with the NT Government—the same Government explicitly vilified and emasculated in the declaration of the Intervention—to hand back responsibility for delivery of all housing and infrastructure at prescribed communities, with the elixir of $700 million. Shamefully, this Memorandum of Understanding also handed over responsibility for the more than 500 homelands with a stipulation that no Commonwealth money be used on new homelands housing.

When the Rudd Government came to power it continued with the various arrangements the Coalition had put in place, ensuring the Intervention's transformation from a five-year program into a fully-fledged policy framework. Yet as it became clear that this vision for improvement was beyond the capacity of governments to deliver, the focus was quickly pared down to sixteen 'priority' communities.

Some of the most damning analyses of the Intervention can be drawn from the Government's own figures that show a set of 'outcomes' for some measures that are worse than the situation reported in 2007. The Commonwealth's own reports reveal escalating levels of unemployment and welfare dependence, growth in child hospitalisation and the intractability of low school attendance. Most alarming are reported self-harm and suicide rates that have doubled since 2007—an appalling paradox given the rationale for the 'emergency response'.

The sharp edge of this despondent picture emerges most clearly on the ground. Paddy Gibson, Frank Baarda and Barbara Shaw reveal the impact of the wholesale destruction of local institutions including community councils and CDEP organisations, the loss of community-owned assets, a decline in community-focused enterprise development, the dramatic decline in local

control and governance. Residents of prescribed communities are deeply dispirited as they watch the rapid dismantling of three decades of work. Indeed community building itself—fostered in the self-determination era—has been under attack, and displaced by 'normalisation' that privileges individual self-interest and responsibility.

At the same time, the Intervention's 'prescribed communities' have been subject to unprecedented levels of surveillance by an influx of transitory agents: police officers, tenancy officers, truancy officers, training officers, employment brokers, Centrelink officers, store licensers and housing construction crews—but no badly-needed dentists or mental health workers—all supposedly under the watchful gaze of the coordinating Government Business Manager, granted supreme statutory powers over those who come and go, displacing the authority of traditional owners under the abolished township permit system. This new cadre of well-intentioned helpers lack historical sense of people and place and have thin cross-cultural understandings. The newcomers get priority housing quickly constructed, while the few new houses for Aboriginal people are overcrowded even as they are completed, with anticipated occupancy rates of over nine persons per house. Newly-erected Centrelink offices and expanded police 'compounds' dominate the community landscape, symbolically enforcing the central place of these authorities—that discipline welfare expenditure and school attendance—in the lives of town residents.

Several contributors make compelling arguments for reading the Intervention's debilitating outcomes as no mere accident of mismanagement but as shrewdly intended, crafted to eliminate distinctive Aboriginal ways, offering no choice beyond the neoliberal program of moral restructuring. The quest to eliminate any institutions with a semblance of self-governance is implicit to this process, as is the need to depoliticise. Settler colonialism, as Dan Tout and John Hinkson note, insists that there is only one way: elimination of native societies is a logical and necessary component of modernisation. Elsewhere David Harvey reminds us that the historic geography of capitalism, which voraciously looks to spatially expand, wreaks creative destruction on resisting peoples and institutions. As we reflect upon what the state's end game for NT Aboriginal lands and people might be, we would be foolish to ignore current events in the Pilbara, as explored by Glen Clancy. Aboriginal lands are highly minerals prospective and yet subject to Australia's strongest right of consent for traditional owners. In order to secure territory for mining, upon which Australia has become dangerously dependent, the state requires compliant populations pursuing individualistic materialist dreams as well as regulated 'securitised' territories.

The form of statecraft deployed in the Intervention sees discourse and reportage as the main game, with no real expectation of bringing about structural change on-the-ground. The state and its supportive agents promulgate abstract utopian

notions of 'real economy' in places where most people struggle just to sustain themselves and their families day by day. These places are far removed from the experience of most Australians who see only media representations. And so a program for normalisation is shaped according to a need to demonstrate progress in formulaic statistical terms. Carefully crafted media campaigns locate the Minister at the hand-over of a newly-completed house; this singular event stands for success, distracting us from the messier stories of bureaucratic mismanagement, budget blowouts, contractor rent seeking, delays, shoddy building practices and planned shortfalls. The Government has responded to critiques by demonstrating the art of not being held accountable. Oft-articulated commitments to close gaps have been quickly forgotten or shifted to some far-off future date that will ensure no particular government, or complicit bureaucrat, can be held responsible for failure.

While mainstream media give voice to the Intervention's Aboriginal supporters, others have responded with resistance and creativity. Yuendumu is the last remaining community to have refused to sign over 40-year leasehold of land to government control. This town's good-humoured locals waged a war with signs counteracting the shame-inducing 'No liquor, no pornography' Intervention signs with their own: 'Welcome to Yuendumu, if you want porn, go to Canberra'.

In Arnhem Land the Yolngu Nations Assembly threatens to boycott commercial dealings, including exploration licence applications, if the Stronger Futures Bills are passed. The Eastern Alyawarr call for United Nations scrutiny. Elsewhere in Arnhem Land a sprawling business camp of hundreds of people engaged in ceremonial activity was defiantly erected in sight of the main road to Maningrida, much travelled by bureaucrats.

Outside the glare of the media spotlight no one in government or bureaucracy would contest the view that the Intervention has failed to make a significant dent in Aboriginal disadvantage. Yet in the language of the present, the problem is merely a technical one—it is a matter of simply getting the 'policy settings' right. This way of talking reflects an unshaken belief in the future of capitalism, at the very moment its global foundations are shaking. Similarly there has been much talk in recent years of the need to 'reset' the relationship with Indigenous Australians. This is the abstract language of bureaucratic engagement, a kind of distance relationship that remote living Aboriginal people distrust.

In his evocative essay on the music of Peter Sculthorpe, Neil Maizels reminds us that other kinds of distant relations are possible—indeed crucial—for the future of Australia. Hope, the anthropologist Michael Jackson suggests, in its most substantial form, is the condition for becoming 'other or more than one is or was fated to be'. The stark and seemingly unbreachable divide between Aboriginal people and the rest of us will only begin to close in mutually

enriching ways when our attitudes fundamentally alter and incidents such as the one with which we began are no longer commonplace.

June–July 2012

In for a Penny, In for a Pound

Thursday 21 June 2012 was the 5th anniversary of the Northern Territory Emergency Response (NTER) Intervention. It was supposed to be 'liberation' day for prescribed communities in the Northern Territory, by now supposedly 'stabilised, normalised and exited'.

Instead it was another day of shame for the nation as many Aboriginal people who are demeaned and humiliated by Intervention measures resent such 'special' treatment.

On the eve of this anniversary, the Australian Government strategically released its latest Closing the Gap in the Northern Territory Monitoring Report for the period July to December 2011. Instead of telling us about some appalling outcomes in this Report, particularly in the area of escalating reported self-harm and suicide since the Intervention, the accompanying Ministerial media release told us about more jobs and job opportunities for Aboriginal people in the Northern Territory (failing to tell us about thousands of job losses).[111]

Not one mainstream media outlet focused on the anniversary. Instead, probably quite coincidentally, the Australian Bureau of Statistics issued first release data from the 2011 Census.

This revealed an unexpected 20 per cent increase in the Indigenous population since 2006 interpreted by some as reflecting an 'Apology effect'—Indigenous people are apparently now so relaxed and comfortable in multicultural Australia that they are more willing to identify.[112]

Such an increase was not evident in the Northern Territory where the population grew by only 5.8 per cent,[113] an increase of just over 1 per cent per annum that probably does not even capture natural increase.

I have been pointing out for some time now that the National Partnership Agreement to Close the Gap in the Northern Territory signed between the Australian and Northern Territory Governments in July 2009 is just a wicked misnomer for the Intervention.[114]

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[111] Jenny Macklin, *Delivering more jobs and job opportunities for Aboriginal people in the Northern Territory* (20 June 2012) http://jennymacklin.fahcsia.gov.au/node/1945, 5 November 2012**.**

[112] Australian Bureau of Statistics, 'Media Fact Sheets', (2012) <http://www.abs.gov.au/websitedbs/censushome.nsf/home/mediafactsheets?opendocument&navpos=620> 5 November 2012.

[113] Ibid.

[114] Altman, above n 34.

It is a policy framework whose regular six-monthly Monitoring Reports make no attempt to statistically assess whether gaps between Indigenous and non-Indigenous Territorians, which the oft-repeated mantra 'Closing the Gap' imply, have been closed.

I must say that I am somewhat sceptical about the notion of 'closing gaps', mainly because I see such terminology as privileging western norms, values and social indicators over what might actually matter to Aboriginal people.

Such discourse reflects a particular form of cultural hegemony that is deeply concerning, feeding as it does non-Indigenous notions of cultural superiority that are all too prevalent in Australian society today.

Lest it appear that I lack reflexivity, let me make it quite clear that I have used social indicator comparative measures myself on many occasions in the past, though I prefer the notion of difference according to mainstream social indicators to the potentially offensive 'gaps'. I have used these measures for two key reasons:

> First, social indicators from the Census provide as good a statistical basis for holding the state accountable for its performance—according to its normative criteria—as currently exists. This is particularly the case because official statistics collected by the ABS have a degree of independence from government and so are somewhat better than the Government's own assessment of its performance.
> Second, official Census statistics are a sound basis for assessing certain needs, like housing, and to assist in the calculation of equitable needs-based support. Calculating differences between social groups in Australian society can assist estimation of the quantum of funding required to address need, but is of limited help for assessing sustained outcomes.

In last month's *Tracker* I noted that a judgment day will come when 2011 Census data are available and some forms of quantitative assessment will be possible of the Government's approach using its own criteria of success.[115]

With time, there will be careful and transparent analysis of first release (June 2012) and second release (October 2012) Census data, prescribed community by prescribed community, priority community by priority community, Territory Growth Town by Territory Growth Town.

A sense of the forthcoming analytic deluge can be demonstrated with my early assessment of changes in a handful of available social indicators in the Northern Territory. I do this here with two tables of comparable statistical evidence from the 2006 and 2011 Censuses, with apologies to anyone who might be offended by the reduction of people to numbers and percentages.

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[115] Jon Altman, 'NT prescribed communities: not normalised, exited, eliminated', *Crikey* (online) 12 June 2012 <http://www.crikey.com.au/2012/06/12/nt-prescribed-communities-not-normalised-exited-eliminated/>.

The first table looks at absolute change for two income variables (adjusted for inflation), two education, one demographic, three housing and a cultural variable.

Table 1: Indigenous Outcomes in the Northern Territory, 2006 and 2011

	Indigenous outcome 2006	**Indigenous outcome 2011**
Median personal income	$248	$269
Median household income	$965	$1098
Completed year 12	10.0 per cent	14.7 per cent
Attending university, other tertiary	1.3 per cent	1.3 per cent
Population 65 years plus	3.2 per cent	3.4 per cent
Home ownership rate	11.2 per cent	12.2 per cent
Average number of people per bedroom	1.8	1.7
Average household size	4.5	4.2
Indigenous language spoken at home	60.3 per cent	65.1 per cent

Information in the table shows us that in absolute terms most things have incrementally improved: median income has inched up, the year 12 completion rate has increased, university attendance has remained stable, the proportion of the population aged over 65 years has grown marginally, and home ownership has increased, while overcrowding and household size have declined.

Interestingly, even a cultural variable 'Indigenous language spoken at home' has increased.

Some difference, like in home ownership, can be partly explained by the nature of land tenure, while others like overcrowding reflect insufficient provision of community, now public, housing.

Other differences in median individual and household income (with the latter understated owing to very different household size) reflect lack of economic opportunity, poverty and non-recognition of non-monetary income in the Census.

This all looks like good news for current policy settings—at least nothing appears to be going backwards in absolute terms.

The second table looks at ratios, or differences, between Indigenous and non-Indigenous Australians.

The story here, recalling that the policy during most of this five-year comparative period was called Closing the Gap in the Northern Territory, is

very different.

Table 2: Indigenous/Non Indigenous Relative Outcomes in the Northern Territory, 2006 and 2011

	Indigenous/non Indigenous ratio 2006	**Indigenous/non Indigenous ratio 2011**
Median personal income	0.30	0.29
Median household income	0.63	0.61
Completed year 12	0.21	0.27
Attending university, other tertiary	0.25	0.23
Population 65 years plus	0.58	0.51
Home ownership	0.28	0.33
Average number of people per bedroom	1.6	1.5
Average household size	1.8	1.6
Indigenous language spoken at home	424.2	422.8

First, let's look at the ratios in both 2006 and 2011. For socioeconomic differences to be eliminated the Indigenous to non-Indigenous ratios should all be 1.0.

What is very clear is that everywhere, so-called gaps are significant and non-Indigenous people are far better off than Indigenous people on average.

The one area where Indigenous people clearly outperform non-Indigenous people is in Indigenous language use at home, by a factor of over 400.

This variable is included here to demonstrate how culturally relative social indicators can be: what might be a high priority for one group in a diverse society may not be a priority for another, even the vast majority.

In August 2011 (Census day), the socioeconomic differences that were supposed to be closed by June 2012 at least in the Howard Government 'stabilise, normalise, exit' iteration of the Intervention, remain a wide open chasm; unless 'normalise' referred cynically to the maintenance or naturalisation of statistical difference.

The Rudd and Gillard Governments' Intervention was less ambiguous: it was a National Partnership Agreement to Close the Gap in the Northern Territory. This terminology might not be intended to be taken at face value, especially as the Agreement ended on 30 June 2012 without any closures. Perhaps it too is a metaphor for normalisation. But it does raise two important issues.

First, is the extent of the statistical differences identified in Table 2 after four

years of paternalistic intervention and additional expenditure of between $1–2 billion dollars acceptable?

Second, when one compares ratios for 2006 and 2011 it is clear that while some differences are inching closer (year 12 completion, home ownership, household size and overcrowding) others are inching apart (individual and household income, university attendance and longevity).

Even where differences are inching closer it will take centuries rather than decades for gaps to be eliminated.

The cultural gulf in Indigenous language use at home is also inching closer, but this reflects the fact that some non-Indigenous people are claiming Indigenous language use at home, with the absolute rate of use for Indigenous people (in Table 1) actually increasing from 60 per cent to 65 per cent.

My aim in referring to some of these statistics is not to render the Indigenous development challenge in the Northern Territory technical in a state-like manner. Nor is it to suggest that the goal of Closing the Gap according to imposed mainstream norms is a legitimate policy approach.

Rather I aim to show that the suite of neoliberal governance measures deployed by the state is not, and likely never will, eliminate socioeconomic difference.

And if this is clear to me from preliminary analysis of Census evidence it is also clear to the Australian Government that has likely marshalled a cohort of eager Canberra-based bureaucrats to scrutinise these very same statistics—and if they told a good news story be sure that they would be plastered all over the Murdoch media by now.

In the dead of night in the early hours of 29 June 2012, the Australian Senate passed the inhumane Stronger Futures Bills that will continue the Intervention for another 10 years.[116] Yet already available evidence from the 2011 Census shows that socioeconomic differences are not vanishing and it is extraordinarily worrying that Censuses in 2016 and 2021 might reveal similar outcomes.

If the current approach is not Closing the Gap according to the state's own normative criteria, why is there such a dogmatic commitment to its expensive continuation?

Three possibilities come to mind. First, the Government is too locked into, and has invested too many taxpayer dollars, in one particular approach to admit that it is destined to fail.

[116] Parliament of Australia, 'Stronger Futures in the Northern Territory Bill', (2012) <http://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id:legislation per cent2Fbillhome per cent2Fr4736> 5 November 2012.

Second, opinion polling indicates to both major parties that there are votes in continuing punitive 'tough love' measures directed at Indigenous Australians irrespective of whether or not they work.

And third, there is a strong ideological commitment to 'discipline and punish' Indigenous people in the Northern Territory, again irrespective of whether there is evidence that such a brutal approach is actually improving outcomes.

Evidently, an approach to policy making that is not evidence-based is acceptable in liberal democratic Australia at least when dealing with its most marginalised citizens.

Evidently too the strict accountability criteria applied by the state apparatus to Aboriginal community effort, now all deemed failure, do not apply to the state. A grand and expensive social engineering experiment has been underway for five years, with no clear evidence of success.

It is now to continue as the relabelled 'Stronger Futures in the Northern Territory' laws to 2022, irrespective of performance or of outcomes.

26 July 2012

Publication Details

'Budgeting for all Australians, Except the Indigenous Ones' was first published in *Crikey* on 10 May 2007 <http://www.crikey.com.au/2007/05/10/budgeting-for-all-australians-except-the-indigenous-ones/>.

'Yet Another Failed Howard Experiment in Indigenous Affairs?' was first published in *Crikey* on 22 June 2007 <http://www.crikey.com.au/2007/06/22/jon-altman-yet-another-failed-howard-experiment-in-indigenous-affairs/>.

'Stabilise, Normalise and Exit = $4 billion. Cheap at the Price?' was first published in *Crikey* on 29 June 2007 <http://www.crikey.com.au/2007/06/29/stabilise-normalise-and-exit-4billion-cheap-at-the-price/>.

'A Drift Towards Disaster' was co-written with John Taylor and published in *The Australian* on 11 July 2007 <http://www.theaustralian.com.au/opinion/jon-altman-and-john-taylor-a-drift-towards-disaster/story-e6frg6zo-1111113929576>

'Scrapping CDEP is Just Dumb, Dumb, Dumb' was first published in *Crikey* on 24 July 2007 <http://www.crikey.com.au/2007/07/24/scrapping-cdep-is-just-dumb-dumb-dumb/>.

'The Paradoxes of Mainstreaming Indigenous Australians' was first published in *Crikey* on 31 August 2007 <http://www.crikey.com.au/2007/08/31/the-paradoxes-of-mainstreaming-indigenous-australians/>.

'Land Rights Revisited: Good Politics but Terrible Public Policy' was first published in *Crikey* on 29 September 2007 <http://www.crikey.com.au/2007/09/20/land-rights-revisited-good-politics-but-terrible-public-policy/.>

'The NT Intervention is Unravelling' was first published in *Crikey* on 28 November 2007 <http://www.crikey.com.au/2007/11/28/the-nt-intervention-is-unravelling-altman/.>

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'Can We Ever 'Close the Gaps' in Indigenous Outcomes?' was first published in *Crikey* on 17 April 2008 <http://www.crikey.com.au/2008/04/17/can-we-ever-close-the-gaps-in-

indigenous-outcomes/>.

'Watch the Gap—Indigenous Policy Focus Needs Change' was published as an opinion piece in *The Sydney Morning Herald* on 17 April 2008 <http://www.smh.com.au/news/opinion/watch-the-gap--indigenous-policy-focus-needs-change/2008/04/16/1208025283861.html>.

'Closing the Gap Rhetoric Buys into Howard Legacy' was first published in *Crikey* on 15 May 2008 <http://www.crikey.com.au/2008/05/15/altman-closing-the-gap-rhetoric-buys-into-howard-legacy/>.

'Reflections on the NT Intervention—One Year On' was first published in *Crikey* on 19 June 2008 <http://www.crikey.com.au/2008/06/19/reflections-on-the-nt-intervention-one-year-on/>.

'Understanding the Blue Mud Bay Decision' was first published in *Crikey* on 1 August 2008 <http://www.crikey.com.au/2008/08/01/understanding-the-blue-mud-bay-decision/>.

'The Forrest Plan: Have They Thought This Through?' was first published in *Crikey* on 5 August 2008 <http://www.crikey.com.au/2008/08/05/the-forrest-plan-have-they-thought-this-through/>.

'Killing CDEP Softly? Reforming Workfare in Remote Australia' was first published in *Crikey* on 9 October 2008 <http://www.crikey.com.au/2008/10/09/killing-cdep-softly-reforming-workfare-in-remote-australia/>.

'NT Intervention: Macklin Ignores Review Board in Favour of Anecdotes' was first published in *Crikey* on 24 October 2008 <http://www.crikey.com.au/2008/10/24/nt-intervention-macklin-ignores-review-board-in-favour-of-anecdotes/>.

'The New 'Quiet Revolution' in Indigenous Affairs' was first published in *Crikey* on 1 December 2008 <http://www.crikey.com.au/2008/12/01/the-new-quiet-revolution-in-indigenous-affairs/.>

'Understanding the Maningrida High Court Challenge', was first published in *Arena Magazine*, 99, : February–March 2009, 6–7.

'A Nation Building and Jobs Plan for Indigenous Australia' was first published in *Crikey* on 12 February 2009 <http://www.crikey.com.au/2009/02/12/a-nation-building-and-jobs-plan-for-indigenous-australia/>.

'A Racist Intervention' was based on a talk given at a public forum, organised by the Working Group Against Racism (WGAR) as part of the Canberra Convergence protest against the NT Intervention, in Canberra on 2 February 2009, this edited version was first published in the *National Indigenous Times* on 20 February 2009 and is available at <http://www.nit.com.au/opinion/story.aspx?id=17121>.

'Budget Status Quo Will Just Widen the Gaps' was first published in *Crikey* on 14 May 2009 <http://www.crikey.com.au/2009/05/14/budget-status-quo-will-just-widen-the-gaps/>.

'No Movement on the Outstations' was first published as an opinion piece in *The Sydney Morning Herald* on 26 May 2009 <http://www.smh.com.au/opinion/no-movement-on-the-outstations-20090525-bkq5.html>.

'After the NT Intervention: Violence up, Malnutrition up, Truancy up' was first published in *Crikey* on 9 November 2009 <http://www.crikey.com.au/2009/11/09/after-the-nt-intervention-violence-up-malnutrition-up-truancy-up/>.

'NT Intervention Three Years on: Government's Progress Report is Disturbing' was first published in *Crikey* on 21 June 2010 <http://www.crikey.com.au/2010/06/21/nt-intervention-three-years-on-governments-progress-report-is-disturbing/>.

'W(h)ither Remote Indigenous Economic Development' was offered, but not accepted, as an opinion editorial in *The Australian*, it was first published in *Arena Magazine*, 110, February – March 2011, 6-7.

'Debunking the Cultural Theory Myth' was first published in *Tracker* on 10 May 2011 <http://tracker.org.au/2011/05/evidently-debunking-the-cultural-theory-myth/>.

'Debating the Intervention' includes contributions from Jenny Macklin and was first published in *Tracker* on 10 May 2011 <http://tracker.org.au/2011/05/she-said-he-said-debating-the-intervention/>.

'Important Questions for Indigenous Policy Makers' was first published as an opinion piece in *The Drum* on 16 May 2011 <http://www.abc.net.au/unleashed/2692730.html> and was subsequently published in *Tracker* on 1 June 2011 under the title 'Fairly debating diverse Aboriginal futures' <http://tracker.org.au/2011/06/evidently-fairly-debating-diverse-aboriginal-futures/>.

'Yes, No, Maybe Prime Minister' was first published in *Tracker* on 10 August 2011 <http://tracker.org.au/2011/08/evidently-yes-no-maybe-prime-minister/>.

'Helping the Homelands' was published in *Tracker* on 25 October 2011 <http://tracker.org.au/2011/10/evidently-helping-the-homelands/>. It was also published in *Crikey* on 10 October 2011 under the title 'Economic rationalism hits the homelands' <http://www.crikey.com.au/2011/10/10/economic-rationalism-hits-the-homelands/>.

'A New Intervention?' was published in *Tracker* on 1 November 2011 <http://tracker.org.au/2011/11/evidently-a-new-intervention/> and was simultaneously published in *Crikey* under the title 'The intervention is dead, long live the intervention' <http://www.crikey.com.au/2011/11/01/the-intervention-is-dead-long-live-the-intervention/>.

'The Cunning of Consultation' was published in *Tracker* on 30 December 2011 <http://tracker.org.au/2011/12/evidently-the-cunning-of-consultation/> It was also published in *Crikey* on 2 December 2011 under the title 'The cunning of consultation: school attendance and welfare reform' <http://www.crikey.com.au/2011/12/02/the-cunning-of-consultation-school-attendance-and-welfare-reform/>.

'Developing the Aborigines' was first published in *Arena Magazine,* 115, December 2011–January 2012, 7-9.

'Stronger Futures Juggernaut Hits a Few Potholes' was published in *Tracker* on 2 April 2012 <http://tracker.org.au/2012/04/evidently-stronger-futures-juggernaut-hits-a-few-potholes/> and was simultaneously published in *Crikey* under the title 'Stronger Futures juggernaut hits some potholes' <http://www.crikey.com.au/2012/04/02/stronger-futures-juggernaut-hits-some-potholes/>.

'Another Decade for Homelands Policy Debacle' was published in Tracker on 25 May 2012 <http://tracker.org.au/2012/05/another-decade-for-homelands-policy-debacle/>. It was also published in *Crikey* on 9 May 2012 under the title 'Homelands policy debacle set to continue for a decade' <http://www.crikey.com.au/2012/05/09/homelands-policy-debacle-set-to-continue-for-a-decade/>.

'Five Years On ... NT Communities are still not "Normalised"' was published in *Tracker* on 30 June 2012 <http://tracker.org.au/2012/06/evidently-five-years-on-nt-communities-are-still-not-normalised/>. It was also published in *Crikey* on 13 June 2012 under the title 'NT prescribed communities: not normalised, exited, eliminated' <http://www.crikey.com.au/2012/06/12/nt-prescribed-communities-not-normalised-exited-eliminated/>.

'Hope-Less Futures?' was co-written with Melinda Hinkson and was published in *Arena Magazine,* 118, June–July 2012, 1-2, it is available at <http://www.arena.org.au/2012/06/hope-less-futures/>. It was also published in *Crikey* on 21 June 2012 under the title 'NT intervention five years on: no dent in indigenous disadvantage' <http://www.crikey.com.au/2012/06/21/nt-intervention-five-years-on-no-dent-in-indigenous-disadvantage/>.

'In for a Penny, in for a Pound' was published in *Tracker* on 26 July 2012 <http://tracker.org.au/2012/07/evidently-in-for-a-penny-in-for-a-pound/>. It was also published in *Crikey* on 12 July 2012 under the title 'NT intervention: what happened to outcomes?' <http://www.crikey.com.au/2012/07/12/nt-intervention-what-happened-to-outcomes/>.

GUIDELINES FOR CONTRIBUTORS

The editor/s encourages contributions in the form of articles, reports, commentaries, viewpoints, book reviews and poetry for both the *Journal of Indigenous Policy* and *Ngiya: Talk the Law*. All enquiries regarding contributions should be directed to:

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Submission Process

1. Contributions can be sent to: jumbunna.journals@uts.edu.au and should include postal and phone details; and
2. All articles are assessed for suitability for publication by the editor/s. Articles for ***Ngiya: Talk the Law*** are evaluated by two academic referees with expertise in the relevant field. Feedback on suitability for publication and any suggested revisions will be provided to authors for consideration. Note that we generally do not accept contributions that have been published in other publications.

When preparing contributions please note the following:

1. Contributors should additionally submit an abstract of approximately 150 words as well as brief biographical details of the author(s)
2. **Articles** should be between 4 000 and 10 000 words in length. **Book Reviews** should be no more than 3 000 words. Under certain circumstances the editors will accept longer articles
3. The accuracy of quotes, titles, names, dates, footnotes and citations are the responsibility of the author.

Style Guide

1. Contributions are to be submitted in Word for Windows 6.0 or 7.0
2. **Citations** – refer to the Australian Guide to Legal Citation (Third Edition) by *Melbourne University Law Review* and the *Melbourne Journal of International Law* 2010
   <http://mulr.law.unincome managementelb.edu.au/go/aglc>.

3. **Font** – please provide articles in Times New (W1); headings should be in 15 point; text should be in 13 point; footnotes and quotes should be in 11 point. If different levels of headings are used, they should be consistently formatted: main heading - 15 point bold, upper case; first sub-heading – 13 point bold, title case; second sub-heading – 13 point italics, title case.
4. **Page setup –** top, 2.54cm; bottom, 2.54 cm; left, 3.17 cm; right, 3.17 cm; gutter, 0 cm; header, 1.25 cm; footer, 1.25 cm
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