

# JOURNAL OF INDIGENOUS POLICY

JON ALTMAN: TRACKING INDIGENOUS POLICY 2011–2014



Issue 15

# **Journal of Indigenous Policy**

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## **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.

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**Jon Altman: Tracking Indigenous Policy, 2011–2014**

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## **FOREWORD**

When we published a selection of writings by Prof Jon Altman in JIP 14, ‘Arguing the Intervention’, we were overwhelmed by the positive response. The clarity, thoughtfulness and expertise he applies to Indigenous socio-economic and policy issues has provided an insightful alternative that has been warmly received by people who were seeking a more in-depth analysis and response.

In this edition, selections of Prof Altman’s writing canvas a range of issues from further evaluation of the Northern Territory intervention, the failure of homelands policy, challenges in policy approaches to Closing the Gap and analysis of the ‘Stronger Futures’ legislation. The selection of articles contained in this edition are evidence of why Prof Altman remains one of the most esteemed researchers and thinkers working in the Indigenous economic and policy space.

We have no doubt that this second edition of Prof Altman’s writings will further engage readers with his perspectives and continue to assist him to garner the wider audience, respect and influence his work deserves.

Prof Larissa Behrendt  
Director  
Jumbunna Indigenous House of Learning Research Unit  
University of Technology, Sydney



## INTRODUCTION: DEATH OF THE EXPERT? NOT DEAD YET

JON ALTMAN<sup>1</sup>

NSWALC Chairwoman, Bev Manton, says Tracker will be an important message stick for Aboriginal people around the nation.

We have several forms of Aboriginal journalism around the country, but the NSW Aboriginal Land Council believed a gap currently exists. ...

We need a strong, campaigning magazine to look hard at the issues affecting our people, and ensure government and mainstream media are held to account.

We need a space to correct the frequent misreporting and misunderstandings aired through the mainstream media.

Our views are discounted, and the power over our own affairs is diminished.

The NSW Aboriginal Land Council wants to place debate about our own future back in the hands of our people.<sup>2</sup>

In early 2011, Chris Graham, Walkley Award winning journalist, founding editor and co-owner of the *National Indigenous Times* and renowned campaign journalist rang me. Chris, for whom I had provided opinion editorials when he ran the *National Indigenous Times*, is an infectious enthusiast. He described to me a project that he was about to embark on for his employer the New South Wales Aboriginal Land Council along the lines of the quotes above from then Chairwoman Bev Manton. He asked: would I consider being a regular columnist, on a contractual basis and paid, for a monthly magazine to be called *Tracker*?

I responded positively. It is a rare honour for a white academic to be invited by a black organisation to be their 'Indigenous policy expert' as I was described<sup>3</sup>; and I strongly believed that Aboriginal organisations should seek to inform and empower their constituents with independent political viewpoints. Chris made it clear that I would be at liberty to choose the subject matter of my column, to give the column a name, and that I would be free of editorial veto of any type. While subsequently I always consulted commissioning editor Amy McQuire about the subject of my column, she was my 'boss', there was always agreement; and over a three-year period not a word of my numerous contributions was altered, style consistency aside; and not a word was cut despite my tendency to academic prolixity and regular transgression of the requested 1,000 word contribution.

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<sup>1</sup> Jon Altman is an economist/anthropologist and emeritus professor at the Australian National University (ANU). From 1990–2010 he was the foundation director of the Centre for Aboriginal Economic Policy Research at ANU and then till September 2014, when the short essays in this volume were written, a research professor and ARC Australian Professorial Fellow.

<sup>2</sup> Bev Manton, Chairwoman, New South Wales Aboriginal Land Council, 2011 <http://www.alc.org.au/about-nswalc/tracker-magazine.aspx> accessed 26 September 2014.

<sup>3</sup> <http://www.alc.org.au/about-nswalc/tracker-magazine.aspx> accessed 26 September 2014.

I mulled over a name for my column with my partner and colleague Melinda Hinkson, discussing the research-based copy that I proposed to deliver, and she came up with *Evidently*, a suggestion that I gratefully accepted. This is an adverb that has two meanings: one is obviously or clearly, the other is according to the evidence available.

*Tracker* was published on 32 occasions between April 2011 and June 2014, not quite on a monthly basis but close enough. Each of my *Evidently* columns included the word ‘evidently’ at least once, but the word was usually deployed with the deep scepticism of a critical social scientist to indicate that policy makers were ignoring, rather than embracing, evidence.<sup>4</sup> A great deal of policy making in the last decade, especially since the demise of the Aboriginal and Torres Strait Islander Commission (ATSIC) has been based on ideology, anecdote and populism rather than evidenced-based research or even cogent argument. The aim of my column was to challenge the current dominant approach based on the imposition of neoliberal governmentality, that I believe has serious limitations, with research that I was undertaking; or else to present some of my fresh research to a broad audience—*Tracker’s* print run was 35,000 and it also maintained an up-to-date web presence.

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In the last ten years I have become increasingly concerned that experts have been sidelined in governmental policy making that impacts on Indigenous people. I addressed this issue briefly in a short paper that I presented at the annual symposium of the Academy of the Social Sciences in Australia in 2005 that referred to the ‘influence wars’.<sup>5</sup> I should clarify that I use the term ‘expert’ according to its standard dictionary definition: experts are those who have a prolonged or intense experience through practice and education in a particular field. In my case that field is Indigenous policy and development, an area I have been engaged in since I first came to Australia in 1976. Being an expert does not make you right or wrong, but it should give you some degree of authority. In the ‘influence wars’ we have seen a rapid expansion in the number of people deemed experts in the field of Indigenous policy which is arguably a productive development; but we have also seen some voices and positions privileged and others sidelined, which is counter-productive.

I think of the current era as coinciding with ‘the death of the expert’ a term that

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<sup>4</sup> One piece ‘Indigenous unemployment rising under Labor was published in the July 2011 issue as an additional analysis column alongside the ‘Evidently’ column ‘Yes, no, maybe ... Prime Minister’.

<sup>5</sup> Jon Altman ‘Indigenous affairs today: The ‘influence wars and the attempt to silence the social sciences’, Topical Issue No.1/2007, Centre for Aboriginal Economic Policy Research, the Australian National University, available at [http://caepr.anu.edu.au/sites/default/files/Publications/topical/Altman\\_IAT.pdf](http://caepr.anu.edu.au/sites/default/files/Publications/topical/Altman_IAT.pdf) accessed 29 September 2014.

has been floating around for some time now. Recently Tom Nichols has written about the ‘death of expertise’; he notes that in the USA:

Today, any assertion of expertise produces an explosion of anger from certain quarters of the American public, who immediately complain that such claims are nothing more than fallacious “appeals to authority,” sure signs of dreadful “elitism,” and an obvious effort to use credentials to stifle the dialogue required by a “real” democracy.<sup>6</sup>

Paradoxically, the death of the expert coincides with neoliberal governments’ noisy declarations of commitment to evidence-based policy making.

In Indigenous affairs in Australia this is part of the reason for the apparent death of the expert or the privileging of forms of expertise in the present that accord with a particular point of view that Damien Cahill terms ‘embedded neoliberalism’<sup>7</sup> and that Mark Davis<sup>8</sup> refers to as ‘neoliberal-conservatism’ (and the hollowing out of the public sphere). Chronologically it seems to me that the influence wars have followed the ‘history wars’ and the ‘culture wars’. The former to simplify considerably is about the extent of settler colonial-Aboriginal warfare from 1788 into the 20<sup>th</sup> century; the latter is about the value of ‘culture’, the norms, values, beliefs, orientations and practices of Indigenous groups for them today. There are some who argue that diverse Indigenous cultures are of no value in late modernity and should be abandoned; there are others who argue that they require radical transformation. And there are others again, and I include myself in this category, who are loathe to value some ethnic group’s norms over others; or to dictate the need for cultural transformation to be driven by exogamous rather than endogamous views.

At the heart of such debates is an emerging dominant view that the problems Indigenous people face, in all their diversity, need to be addressed by Indigenous individuals, families and groups; the need for Indigenous agency and ‘taking responsibility’ is paramount. An alternate view is that politico-structural factors such as historical neglect and marginalization, as well as contemporary racism and legacy provide key explanations beyond agency for deep disadvantage as measured by the standards of the powerful. According to both scripts, there is a deep Indigenous problem and it needs to be fixed urgently. Part of the reason for the ‘death of the expert’ is a growing view that experts have failed to fix the problem of socioeconomic disparity with divisive debate as to whether the problem is the making of settler society or of Aboriginal societies.

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<sup>6</sup> <http://thefederalist.com/2014/01/17/the-death-of-expertise/> accessed 29 September 2014.

<sup>7</sup> Damien Cahill *The End of Laissez-Faire? On the Durability of Embedded Neoliberalism*, (Edward Elgar, Cheltenham, UK, 2014).

<sup>8</sup> Mark Davis ‘Neoliberalism, the culture wars and public policy’ in in Chris Miller and Lionel Orchard (eds) *Australian Public Policy: Progressive Ideas in the Neoliberal Ascendancy* (Policy Press, Bristol, 2014), 27–42.

Belatedly, after all the short essays in this volume were completed, I engaged reflexively and self-critically with the issue of ‘the Aboriginal problem’ prompted by three quite diverse exposures.

The first was commentary by Rosalie Kunothe-Monks on ABC Television in a discussion about John Pilger’s film *Utopia*. Kunothe-Monks asserted: ‘Don’t try and suppress me and don’t call me a problem. I am not the problem. I have never left my country nor have I ceded any part of it. Nobody has entered into a treaty or talked to me about who I am. I am Arrernte Alyawarre female elder from this country. Please remember that. I am not the problem’.<sup>9</sup> This is a powerful statement from Rosalie Kunothe-Monks who is a champion for Indigenous social justice and human rights; on many occasions she has also said that assimilation and normalisation and the neglect of Aboriginal homeland communities represent state policies tantamount to ‘cultural genocide’.

A second similar view comes from a very different quarter, from anthropologist Gillian Cowlishaw in a recent biographical essay. Cowlishaw relates how the one question that she (and other anthropologists) was repeatedly asked by white people when they heard she worked among Aboriginal people in the 1970s was ‘what’s the answer?’. Cowlishaw notes:

The assumption was always that Aboriginal people are *the* problem that is in need of the solution. That is what they were really asking—what is *the* solution [smiles]. Which meant, I think, how can we entice them to be more like us and stop disrupting our sense of normalcy. The way Aborigines were being ‘othered’ in public discourses made them out to be this terrible problem for the nation.<sup>10</sup>

The third came from reading Justin Clemens’ review of the biopic *Hannah Arendt* and in subsequent email correspondence between us. Clemens in his review discusses an important distinction made by French linguist Jean-Claude Milner (in *Le Penchant criminels de l’Europe démocratique* (2003) as yet untranslated into English). Referring to this book and translating Clemens notes how when modern Europeans discussed ‘the Jews’ they would enter the debate according to one of two modalities, proposing to confront either ‘the Jewish question’ or ‘the Jewish problem’. Clemens notes that the distinction between ‘the question’ and ‘the problem’ is consequential.

A question is always a question about a situation to which it attests and to which it attends. By the simple act of being posed it can give us a new insight into that situation, as it calls for further responses—not least further questions. A problem by contrast does not necessarily solicit responses: on the contrary, it *demand*s solutions,

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<sup>9</sup> Rosalie Kunothe-Monks, ABC Q+A, Monday 9 June 2014, <http://www.abc.net.au/tv/qanda/txt/s4000548.htm>, accessed 15 September 2014.

<sup>10</sup> Gillian Cowlishaw ‘“Culture”, “Race” and “Me” Living the anthropology of Indigenous Australians’ in Cris Shore and Susanna Trnka (eds) *Up Close and Personal: On Peripheral Perspectives and the Production of Anthropological Knowledge* (Berghahn, New York, 2013), p.98, italics in original.

that is, *technical solutions*. ... A problem insists on calculation and action. Whereas a question does not determine but opens up a time that dilates according to the rhythm of those who answer its call, a problem projects urgency and anxiety, which must be resolved as quickly and as effectively as possible. We cannot just stand around debating a problem endlessly; indeed those who do so are likely to be part of the problem themselves. We must cease this pointless talk. We must act. Now.<sup>11</sup>

The parallels between the Jewish and Aboriginal ‘problem’ and ‘question’ are for further exploration in another essay. But Clemens’ review got me re-visiting Hannah Arendt and her notion of ‘the banality of evil’. Arendt questions whether evil, profound immorality, is simply a function of thoughtfulness, in policy terms, a tendency for bureaucrats to respond to political imperatives and dominant views without a critical evaluation of the consequences of actions and inactions.<sup>12</sup> This, too, is a topic for further exploration.

In the essays that follow the notion of the Aboriginal ‘problem’, increasingly defined by the powerful in Australian society as the inability to achieve parity or equality or sameness between Indigenous and non-Indigenous Australians, is problematized; and proposed stateimposed or market-driven solutions are questioned. That is an important part of the role of the expert committed to social justice, applying what Guy Standing has recently referred to as the Security Difference Principle: ‘Put succinctly, a policy or institutional change is only socially just if it improves the security of the most insecure groups in society’.<sup>13</sup> Another important role is to offer practical alternatives to the over-arching state project to embed neoliberal norms in Indigenous Australia, to open up debate rather than close it down.<sup>14</sup> As I have previously argued:

It is debatable if the emerging alliance between government and neo-liberal think tanks (black and white) mediated by a compliant bureaucracy is generating better policy or outcomes for Indigenous Australians. But if it is, then there should be no fear of academic freedom nor of social science scholarship.<sup>15</sup>

The short essays in this volume are offered as a spirited contribution to that debate.

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<sup>11</sup> Justin Clemens ‘German Women do not Smoke: Hannah Arendt the biopic, and Hannah Arendt’s legacy’, *Arena Magazine* (No 130, 06 2014–07 2014), p.37, italics in original.

<sup>12</sup> Hannah Arendt *Eichmann in Jerusalem: A Report On the Banality of Evil* (Penguin Books, New York, 2006 [1963]).

<sup>13</sup> Guy Standing *A Precariat Charter: From Denizens to Citizens* (Bloomsbury Academic, London, 2014), p. 123.

<sup>14</sup> This is an issue recently examined in more detail in Jon Altman ‘Indigenous policy: Canberra consensus on a neoliberal project of improvement’ in Chris Miller and Lionel Orchard (eds) *Australian Public Policy: Progressive Ideas in the Neoliberal Ascendancy* (Policy Press, Bristol, 2014), 115–132.

<sup>15</sup> Jon Altman, Indigenous affairs today, p. 3.



*Not Dead Yet* was the title of a retrospective exhibition that surveyed the works produced over 30 years by two leading Darwin-based contemporary visual artists, Chips Mackinolty and Therese Ritchie. Over the years I have worked with both artists who remain very much alive. Their art is deeply political and fearless; it challenges Australians to think about the plight of Indigenous people today. *Not Dead Yet* first opened in Darwin in 2010, and came to confront audiences at the Canberra Museum and Gallery from June to September 2014 as I was preparing this volume, it was inspirational.

It is my hope that the 33 short essays reproduced here demonstrate that my alternate ideas about Indigenous development are not dead yet. The thematic subjects covered are wide ranging. Some focus on regional issues especially in the Northern Territory (five pieces focus on the Northern Territory Emergency Response Intervention and Stronger Futures) and on issues like the support of homelands mainly of relevance to remote Australia. But most of the pieces focus on national Indigenous issues; especially the Closing the Gap paradigm that in my view wrongheadedly suffocated policy discourse during the Rudd/Gillard/Rudd years. This policy approach has seamlessly shifted more recently into the Abbott government's Indigenous Advancement Strategy as outlined in the final essay.

In April 2014 I was informed that *Tracker* was ending; the New South Wales Aboriginal Land Council under new political leadership and management made a decision not to continue sponsoring the paper which is its prerogative. As a clearly vested interest in its continuation I decided not to say anything about its demise except to praise the efforts of those who had set it up, ran it, and built it into a magazine of substance, popular with a range of stakeholders including community interests hungry for alternate views on Indigenous issues. It is unfortunate though that the demise of the print edition of *Tracker*, coincided with the disappearance from public access of the website as an important archive of all issues of the magazine.

My monthly columns *Evidently* produced between 2011 and 2014 coincided with the period after I had stepped down as Director of the Centre for Aboriginal Economic Policy Research but remained there as a researcher. This afforded me more time than previously available to commit to producing ideas for consideration by a wider audience. Keen to ensure that these essays lived on I approached Larissa Behrendt, editor of the *Journal of Indigenous Policy*, with a tentative proposal for what is arguably an indulgent follow up volume to *Arguing the Intervention* (*Journal of Indigenous Policy*, Issue 14, 2013) dedicated to these short essays. Larissa responded with characteristic and highly collegial enthusiasm, and so it appears that my 'Indigenous policy expert' contributions to *Tracker* will live on, they, and the research that they report, are not dead yet!

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I would like to sincerely thank Larissa Behrendt for another generous foreword to this volume and Raema Behrendt for managing the production process with characteristic efficiency. I would also like to take this opportunity to acknowledge the team of researchers at the Jumbunna Indigenous House of Learning, University of Technology Sydney who represent a group of thinkers determined to air alternate views with whom I have collaborated for some time and especially since 2007. I would like to reiterate my thanks to Chris Graham for the initial invitation to contribute to *Tracker* and to Amy McQuire as its editor. Coincidentally, both are now with *New Matilda*, as owner and journalist respectively, of an independent web-based news magazine that has operated for over a decade; it is no coincidence that my final contribution to *Tracker* was also published in *New Matilda* in June 2014. I would like to thank my generous friend Chips Mackinolty for producing the wonderfully evocative art work for the front cover. Finally I would like to thank Melinda Hinkson for suggesting 'Evidently' and for always wholeheartedly supporting my politically-engaged efforts to raise questions deploying social sciences critique and grounded research.

30 September 2014

## **CANBERRA CONSENSUS HURTING BLACK PROGRESS**

Evidently we are making progress as a nation in addressing the terribly difficult Indigenous development problem.

On 9 February the Prime Minister delivered the *Closing the Gap Prime Minister's Report 2011*. Progress is apparently happening: not according to any statistics, but to the powerful government public relations machine.

In fact, the Prime Minister could provide little evidence about gap closing, except to tell us that the statistics are not readily available despite a commitment of nearly \$50 million to this task.

A 2010 Australian Bureau of Statistics publication *Labour Force Characteristics of Aboriginal and Torres Strait Islander Australians* has told us that the employment gap grew in 2008 and 2009.

This was not mentioned. The Prime Minister's speech, and media reporting, highlighted the extent of the spend on Aboriginal disadvantage and the commitment to meet transparent targets.

It then strangely called for Aboriginal individuals to take responsibility for treading the path out of their dire circumstances—'put down the bottle' and 'send your kids to school'—were the words uttered by the Prime Minister.

Yet the intent of former Prime Minister Kevin Rudd's invention was for an annual report to the nation to hold governments, not the subjects of his master-minded project of improvement, to account.

There was little parliamentary debate about progress, mainly because there is a new bipartisanship in Canberra. I term this the 'cosy Canberra consensus', a bit like the discredited Washington consensus: there is an emerging view that all that is needed is 'hard' or neoliberal assimilation policies and those dreadful gaps will magically disappear.

This is a very dangerous state of policy affairs. Arguably, Australia has only had two approaches to the Aboriginal development problem—'self-determination' that some may call 'soft' assimilation and paternalistic 'hard' assimilation that in its current guise is neo-liberal assimilation.

Neo-liberal assimilation strives for two things, market individualism and a level playing field. The former requires Aboriginal people to change their social norms to match western ones. The latter requires particular outcomes for taxpayer dollars.

Altering people's norms is to be achieved via a series of social experiments and new institutions like income quarantining using the BasicsCard or the Family

## Responsibilities Commission.

The aim is to modify expenditure and ensure that kids go to school, irrespective of the quality or relevance of education; make parents spend their welfare dollars sensibly, while dollars earned in ‘real jobs’ can be spent any which way; and to discipline adults with these ‘real’ jobs, or make-work or perpetual training if jobs are not there; and modifying land tenure to meet assumed aspirations for individual homes.

Carrots and sticks are to be used to alter norms. The playing field will be levelled by a series of Council of Australian Governments (COAG) National Partnership Agreements. The problems here are twofold. First, the capacity of governments to deliver, even to the handful of priority communities in remote Australia targeted for special attention, is limited. There are simply too many impediments.

In the past, community-based organisations were blamed for corruption and inefficiency, but they have been dismantled, so who is to blame now—bloated bureaucracies and greedy contractors?

Second, there has been no needs-based assessment of what is required to correct the deep historical legacy of neglect. So while billions are committed, no-one has actually estimated what is actually needed.

How did this dangerous new bipartisanship come about? In the modern policy era from 1972 there has been consensus that statistical equality is needed. But from 1996 bipartisanship was eroded as the Howard government set about demolishing the institutions of Indigenous Australia.

Addressing deep Indigenous disadvantage was not a priority, despite record budget surpluses year in, year out.

Initially the ALP objected, but then with agreement on the abolition of ATSIC and then acquiescence on the Northern Territory intervention a new bipartisanship was born.

It includes common acceptance of neoconservative ideas about welfare reform imported from the USA—the state provides, beneficiaries repay.

This approach has been given legitimacy and moral force by influential advocates like Noel Pearson and promoted by think-tanks like the Centre for Independent Studies. And the focus groups must be telling all political parties that there are votes in such an approach.

Ironically, state/Aboriginal relations are highly conflicted, there are few Aboriginal people who I know who will respond to a state that condones racist

laws, when race has been at the heart of postcolonial processes of marginalisation and exclusion.

The new bipartisanship is based on demeaning language of failure and deficit: social indicator differentials are great for measuring neglect but bad for measuring outcomes, if only because they use a western calculus, as if culture does not matter. We are left today with a policy approach that suits the rich and powerful, but serves the impoverished and marginalised poorly. Jumping onto the ship 'late capitalism' is very risky, especially for those who have land and cultural assets and identities and aspirations that are distinctly Indigenous and not mainstream.

The new bipartisan policy framework has done incalculable damage and has seen extraordinary waste.

No-one will be held accountable for this because political fortunes are never influenced by performance on Indigenous matters; and the Aboriginal spokespersons and media personalities who condone this framework, are rarely elected and always unaccountable, even as their views vacillate chameleon-like to suit particular purposes.

Policy is at a nadir, at its lowest point in 35 years. Smug with the apparent national success of neo-liberal globalisation and market individualism, not to mention extraordinary mineral wealth sourced on Indigenous land, the Australian state is promoting an approach based on direct intervention into Indigenous homes.

This approach has progressed as if Aboriginal views, history, culture, location, and past neglect do not matter. It should be razed and ploughed with salt, never to be revisited. People who are the subjects of this massive experimental project must have a say on their futures and their destiny.

*April 2011*

## **DEBUNKING THE CULTURAL THEORY**

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 not 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.

*May 2011*

## FAIRLY DEBATING DIVERSE ABORIGINAL FUTURES

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’ (‘Petty name-calling just adds to polarisation’, *The Australian* 12 May 2011).

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 National Aboriginal and Torres Strait Islander Social Survey (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 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 percent 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 the Community Development Employment Program (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.

*June 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.

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.

*July 2011*

## **INDIGENOUS UNEMPLOYMENT RISING UNDER LABOR: ABS**

In 2008 the Council of Australian Governments (COAG) set six specific and ambitious targets for Closing the Gap including to halve the employment gap between Indigenous and non-Indigenous Australians within a decade.

Late last month, the Australian Bureau of Statistics (ABS) electronically released the *Labour Force Characteristics of Aboriginal and Torres Strait Islander Australians, Estimates from the Labour Force Survey 2010* (Cat. No. 6287.0).

This survey is released annually, although since the setting of the employment target it has only been issued on June 3, 2010 and again in June this year.

The most recent publication was released without any media statement from the ABS, no comment from the Australian government and no coverage from the national media. Looking at the headline results it's not hard to see why.

According to the statistics provided by the government's official agency, the unemployment rate that was estimated at 13.8 per cent in 2007 (the last year of the Howard government) and 14.2 per cent in 2008 (the Rudd government base for measuring Closing the Employment Gap) has increased to 18.0 per cent in 2009 and 18.1 per cent in 2010.

In absolute terms, the number of Indigenous Australians estimated as unemployed increased from 25,700 in 2007 to 36,600 in 2010. This is a terrible outcome.

Closing the Gap, of course, is about relative performance and COAG proposes to use the relative employment to population ratio between Indigenous and non-Indigenous Australians as its benchmark (the employment-to-population ratio is the proportion of an economy's working-age population that is employed).

For Indigenous Australians the employment to population ratio was 47.5 in 2008; 45.5 in 2009; and 45.6 in 2010; the ratio for non-Indigenous Australians was 64.1 in 2008; 62.4 in 2009; and 62.6 in 2010.

So not only has the employment to population ratio declined for Indigenous Australians, but the employment gap has actually marginally widened.

To put this another way, it has been estimated by COAG that to halve the employment gap will require 100,000 additional Indigenous jobs by 2018, or 10,000 per annum. Between 2008 and 2010 the number of Aboriginal adults in employment grew from 162,500 to 166,100, or by 3,600 rather than by the required 20,000.

These statistics indicate that the goal of closing the employment gap is failing.

The ABS also provides information by states and territories and by remoteness, although caution is needed in how sub-national data is interpreted, given this is a sample survey.

It is interesting, nonetheless, to look at what has happened in two jurisdictions—NSW because it is the state with most Indigenous Australians and the Northern Territory because in the aftermath of the Intervention it has a special intergovernmental ‘Closing the Gap’ in the Northern Territory National Partnership Agreement that runs to 2012.

In NSW, the unemployment rate has declined slightly from 18.7 per cent in 2008 to 18.1 per cent (the national rate) in 2010.

Worryingly though, the employment to population ratio has also declined from 42.5 per cent to 41.6 per cent indicating that the small increase in employment did not keep pace with estimated population growth.

Similarly, in the NT, the unemployment rate has declined from an estimated 11 per cent to 7.4 per cent, but again the employment to population ratio has also declined from 42.8 to 40.4. There is no employment gap decline in any state or territory, including Western Australia with its buoyant mining sector.

Three categories of remoteness are defined in this labour force survey: major cities, regional areas and remote areas. In major cities unemployment grew by 2 per cent between 2008 and 2010, in regional areas by 4.7 per cent and in remote areas by 5.1 per cent. In all the employment population ratio declined.

The reason for the relatively poor performance of regional and remote areas can be partially explained by reference to changes in the Community Development Employment Projects (CDEP) scheme. The ABS notes correctly that individuals who were undertaking paid work for CDEP organisations are classified as employed.

The CDEP scheme was discontinued in non-remote locations from July 2009 and so individuals who now receive alternate income support benefits are no longer considered to be employed, they are classified as unemployed. Furthermore the ABS notes that participants who joined the CDEP scheme after July 2009 in remote areas are also classed as unemployed.

Interestingly, the ABS promulgates a common misconception by stating that individuals working for CDEP organisations were paid for their work from funds originating from unemployment benefits. This is incorrect; CDEP wages come from CDEP program allocations.

In a recent book *The Origins of Political Order* Francis Fukuyama argues that one of the three pillars of a modern political system is accountability. In the Australian Indigenous policy context, one wonders where is the accountability?

The ABS has released this survey on 29 June 2011 in a manner and in a format that is likely to minimise its accessibility, especially to Indigenous Australians. And so there was no media release announcing the survey's publication and, unlike in previous years, no single document containing the survey results.

Instead in 2011 the survey has been released as a series of tables in hard to access and digest excel spreadsheets.

The Australian government, for its part, has as yet made no reference to the survey results, preferring instead to highlight through its media machinery a series of piecemeal attempts to create jobs; and to highlight during the Prime Minister's recent visit to the NT that progress is being made, although clearly not in the area of reducing the employment gap.

The mainstream media, and especially our national newspaper, seem to be besotted by the Australian Employment Covenant (AEC), Andrew Forrest's assurance that he has secured 55,000 job pledges (contingent on the Australian government providing training) and James Packer enhancing Aboriginal employment at his casinos.

Despite the fine Closing the Gap intentions, in the only area where we have annual quantitative official statistics, the employment gap seems at worst to be getting larger, at best to be stagnating.

This raises important political and policy questions that need to be addressed, like: Why are people being moved from employment in CDEP to unemployment on welfare? Is the Australian government over-reliant on the AEC, a private sector initiative (with performance and accountability that is far from transparent)?

Is the Australian government doing enough in the aftermath of the Global Financial Crisis to support Indigenous employment?

Are its employment creation strategies generating sustainable outcomes?

And why is the Australian Parliament so silent on this worrying information?

July 2011

## **PARTY POLITICS SET BACK NATIVE TITLE RIGHTS**

Evidently both the Australian Greens and the Liberal National Party coalition under Tony Abbott want the property rights of native title groups greatly strengthened. This has come about in the following way.

First, the Wild Rivers (Environmental Management) Bill 2010 (the Abbott Wild Rivers Bill) used the language of special beneficial measures and article 26 of the UN Declaration on the Rights of Indigenous Peoples (UNDRIP) to advocate for the rights of Aboriginal land owners to own, use, develop and control their lands.

While Abbott did not have the numbers to get this Bill through the Senate in June this year, its intent was clear.

It was designed to empower Aboriginal land owners in Wild River areas with an unprecedented form of native title property for their advancement and protection.

Then in the Native Title Amendment (Reform) Bill 2011 (the NTA Reform Bill) Greens Senator Rachel Siewert has tabled a comprehensive bill to reform the *Native Title Act 1993* to further the interests of Indigenous Australians.

The impetus for this reform package is clearly outlined in Senator Siewert's second reading speech. Australia only endorsed UNDRIP in April 2009, nearly 16 years after the passage of the *Native Title Act 1993*.

And so it is timely to apply the principles of UNDRIP, especially those that refer to free prior informed consent, full and direct consultation, and the right of Indigenous peoples to their traditional lands, territories and natural resources, to Australian native title law.

More importantly, there is a need to improve the effectiveness of the native title system and what is called its 'future acts regime', the processes for negotiating use of native title lands, to benefit Indigenous Australians.

The raft of proposed reforms seeks to address concerns that have been articulated by native title groups and their representative organisations for a long time.

Of special significance are proposals to shift the burden of proof of cultural continuity and ongoing connection since colonisation from native title claimants to state parties.

This would be done, in part, through a broadening of the definition of 'traditional'; and a series of measures to strengthen both the property rights and associated negotiation rights of native title groups.

Both are complex areas of native title law. My focus here will be on the latter measures and their potential development benefits.

There have been over 100 native title determinations over 1.2 million square kilometres of Australia since 1993. But with determinations, even for ‘exclusive possession’, native title groups have reaped limited economic development benefit.

The cliché about Indigenous people being ‘land rich but dirt poor’ needs to be challenged; the explanation of poverty can be attributed, at least in part, to weak property rights. This is due to three main factors.

First, native title groups have very limited control over their lands or its resources.

Native title groups cannot stop industrial mining development on their lands. They do not have legal rights in commercially valuable resources, especially minerals but also fresh water, fisheries and emerging tradable commodities like carbon credits.

All native title groups have guaranteed customary or non-market rights to resources, to hunt, fish and gather.

Second, the right to negotiate with resource developers has inbuilt biases that further weaken already weak rights.

This is because under the ‘future acts regime’ native title groups only have a six-month period to negotiate when the value of a mine can influence benefit sharing compensatory agreements.

After this period if an agreement is not reached the negotiation is referred to an arbitral body, the National Native Title Tribunal. However, under S38(2) of the *Native Title Act* the value of minerals cannot be considered in determining compensation in arbitration.

Evidence to date shows that arbitrated decisions favour miners over native title groups and so there is a problem—delay favours resource developers and the threat of delay greatly reduces any negotiation leverage native title groups might have.

Third, the simplistic distinction between commercial and customary rights in resources in the *Native Title Act* (and subsequent court interpretations) is replicated in a western binary distinction between the terrestrial and marine estate—the right to negotiate is available on native title land, but not in the coastal zone or offshore, even if there is a marine determination.

The NTA Reform Bill, currently being reviewed by a Senate Committee, seeks

to systematically address each of these issues. The Bill aims to broaden native title property rights to include commercial resources thus making native title land a potential economic asset. It is proposed the value of a mine can be considered in arbitration thus improving the prospects for negotiations in good faith. It is also recommended that the right to negotiate be extended offshore in situations where there has been an offshore native title determination.

The NTA Reform Bill looks to address concerns increasingly put forward by Indigenous interests that for native title to have economic development potential, groups must enjoy a form of ‘free prior informed consent’ right that constitutes a meaningful form of property.

This issue has been at the heart of the Wild Rivers debate, as well as acrimonious development disputes in the Pilbara and the west Kimberley.

The passage of the NTA Reform Bill through the Federal Parliament might require an unusual political alliance between the Australian Greens and the Liberal-National Party Opposition. The Rudd, and now Gillard governments, have shown no inclination to beneficially reform the NTA to address development hurdles.

International human rights principles articulated in UNDRIP are being mobilised to amend Australian domestic law in the name of development opportunity for Indigenous people with native title lands.

This is ironic because the Howard government strongly opposed the Declaration when adopted by the General Assembly in 2007, while the Rudd government reversed this opposition, with much fanfare, in April 2009.

The NTA Reform Bill will present conundrums to both major parties. The challenge to the Abbott opposition is whether they will support native title reform based on UNDRIP principles Australia-wide, rather than just on Cape York. The challenge to the Gillard government is whether it will actively strengthen the property rights of native title groups to enhance their development prospects.

Evidently, it is only the Australian Greens who are proactively seeking to close the gap in property rights as a special beneficial measure to Close the Gap in Indigenous disadvantage.

*August 2012*

## **BIG DOLLARS AND LITTLE SENSE**

‘3.5 billion a year fails to lift Aborigines from the 1970s’ screams one newspaper headline; ‘Billions spent but Aborigines little better off’ screams another, a little more benignly.

Evidently this is the key take out message from the 470-page Strategic Review of Indigenous Expenditure February 2010 which was made available just last month after an Administrative Appeals Tribunal decision recommended its release, in the public interest, under Freedom of Information laws.

But is this what the review actually said, and, if it did, was it correct? And, if it was correct, what were its recommendations for better outcomes from the so-called Indigenous specific spend by the Commonwealth, estimated to amount to \$3.5 billion in 2009–2010?

It is important to understand the objective of this review which was carried out by a team of nine consultants and bureaucrats over a seven-month period from August 2009.

It was tasked with assessing the effectiveness of the current array of Commonwealth Indigenous programs in meeting the Council of Australian Governments’ Closing the Gap targets.

It was not about challenging the logic of the current policy framework or about producing dollar savings.

Its aim was to redirect funds from low value to high value programs.

Metaphorically, it was about re-arranging the deckchairs on the Titanic. Unfortunately it was conducted without a rigorous evidence-based assessment of what works and what does not.

That is, which deckchairs to keep and which ones to throw overboard. The review provides a very useful summary of the range and dollar value of Commonwealth Indigenous specific programs at one point in time.

It identifies 232 different programs administered by 16 Commonwealth agencies. In so doing, it highlights the developmental nightmare faced by any Aboriginal community or organisation seeking to access this funding maze.

Time and again the review notes that 75 per cent of the Indigenous population resides in regional and urban Australia.

It highlights that too much funding, especially in National Partnership Agreements struck since 2008, is focused on remote Australia if national gaps



are to be closed.

What I found most significant about the Review is what it targeted as wrong, that was quickly picked up by the popular media, and all the things that it did not say, because it was conceptually limited and politically timid as such reviews ‘undertaken within the Commonwealth government family’ often are.

At the outset the review stated the Commonwealth Government spend on Indigenous-specific programs total \$3.5 billion annually and that this major investment had been maintained over many years.

This statement is erroneous. The review only quantified expenditure for the 2009–2010 financial year after dollar commitments had been markedly increased from 2008 in a series of multi-year National Partnership Agreements (including the NT Intervention re-badged as the NPA to Close the Gap in the Northern Territory).

This erroneous statement was quickly converted in one media report to a spend of \$35 billion over the past decade.

The review then noted that large investments of government funding produced outcomes which had been disappointing, at best, and appalling, at worst.

This statement is surprising. It is made without any statistical evidence to support it.

This is despite the ready availability of official statistics from national censuses back to 1971 that tell a somewhat different story—almost all quantified socioeconomic outcomes for Indigenous Australians have improved, as have a number that measure the ratio of Indigenous to non-Indigenous outcomes.

Without doubt these outcomes have not improved fast enough, and also without doubt they would have improved quicker with a higher, more equitable and better targeted spend. What the review failed to do was to quantify what the spend should be on a needs basis given the historical legacy of neglect.

This can be most clearly demonstrated with the Review’s discussion of estimated Indigenous housing need compared to what will be provided by the \$5.5 billion earmarked over 10 years under the National Partnership Agreement on Remote Indigenous Housing.

The Australia-wide housing gap is estimated at between 7,700 and over 19,000 new houses, yet the agreement will only deliver 4,200 new houses.

This massive under-investment will result in severe overcrowding that will only exacerbate other Closing the Gap efforts. The Review made no effort to

conceptually grapple with what the term Indigenous-specific expenditure actually means and with what proportion of the identified \$3.5 billion actually reaches the target population.

To estimate whether Indigenous or non-Indigenous Australians benefit from Indigenous-specific expenditure is difficult to assess for both political and methodological reasons.

Nevertheless, there have been studies undertaken in regions like Alice Springs that show the spin off benefits of Indigenous-specific expenditure accrue mainly to non-Indigenous people.

Less complicated, perhaps, would be three strategic calculations that could have been readily undertaken by the Review.

First, what proportion of Indigenous-specific expenditure is supplementary to, rather than merely substituting for, citizenship entitlements?

An example would be expenditure on the Community Development Employment Program (CDEP) that mainly constitutes notional welfare offsets.

And given the recent institutional shift from community to public housing in remote Australia, is housing expenditure Indigenous-specific or an investment in a housing asset owned by the Australian state? Or can the state have it both ways, own an asset and call it Indigenous-owned at the same time?

Second, what proportion of the spend is invited by Indigenous people rather than imposed upon them? Two examples here might be the \$100 million spent on imposed income management; or the nearly \$200 million committed to resolve native title matters that reformed law might make less litigious and more streamlined.

And third, what proportion is primarily in the national rather than Indigenous interest? A key example is the \$143 million spent by the Environment portfolio mainly to support the management of Indigenous Protected Areas that form a part of the National Reserve System.

Surely the nation's conservation estate and biodiversity is being managed in the national, rather than just Indigenous, interest?

The Strategic Review of Indigenous Expenditure was very clearly not intended for public release or scrutiny: it makes some stock standard, but unstrategic, comments on the capacities of the states and territories and the real risks that they will not deliver, hardly tactful given the new cooperative federalism in Indigenous affairs.

And it rather unfairly devolves considerable representative responsibility to the National Congress of Australia's First Peoples. The Congress is in its institutional infancy and is still seeking national Indigenous legitimacy.

Addressing the hard policy issues is something that is out of vogue. Here are some that I would define as strategic.

First, given the extraordinary complex and deep Indigenous development problem in Australia, is the quest for statistical equality based on western social indicators a logical policy framework?

This is especially the case because most Indigenous specific expenditure is focused on remote regions where only 25 percent of the Indigenous population resides and where gaps will be most difficult to close.

Second, there are growing calls, even in this report, for bridge building and partnerships with Indigenous communities, but the institutional means to empower communities have been systematically dismantled over the past decade. What steps are being taken to repair the conflicted nature of relations between the Australian state and many of its Indigenous subjects?

And finally, identifying gaps as deficits according to dominant western social norms using the Indigenous population sub-file from the census or surveys provides an abstract aggregate of Indigenous individuals divorced from family, household or community contexts.

How to effectively target support to disadvantaged Indigenous people, especially in urban and regional contexts where most live, appears beyond the capacity of the authors of this report to imagine—it will require vibrant community organisations.

Little from this report has been implemented to date, most recommendations have been ignored. Evidently, the Gillard government and Minister Macklin are being strategic.

*September 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 neoliberal '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) are 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, and 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.

*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*. 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 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.

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.

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.

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 everyday 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 believes 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, 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.

*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 seems to be worse 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. This analysis from a diverse set of 10 community meetings indicates that ‘there was not a single request for welfare 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.

This though 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.

*December 2011*



## **ADVANCE AUSTRALIA FAIR?**

The extremely thorough Report of the Expert Panel examining options to recognise Aboriginal and Torres Strait Islander Peoples in the Australian Constitution lays out an important project of constitutional modernisation.

It is incontestable that any reference to the antiquated notion of ‘race’ should be deleted from the Constitution and that any suggestion that the continent was not previously inhabited needs to be rectified.

Assuming that the need for these two tasks is accepted then the recommendations to repeal sections 51 (xxvi) and 25 make sound sense.

Similarly, given that Aboriginal and Torres Strait Islander peoples have long experienced the adverse impacts of racial discrimination, it is hardly surprising that the Expert Panel has recommended a new section.

This would prohibit racial discrimination (although the reference in the report is to race, colour, ethnicity or national origin, but not religion) while at the same time seeking the allowance of special Commonwealth laws or measures to assist in the overcoming of disadvantage, ameliorating the effects of past discrimination and protecting the cultures, languages and heritage of any group (not just Aboriginal and Torres Strait Islander Peoples).

Here the Expert Panel is looking to allow the targeting of special measures to groups on a needs, rather than ethnicity, basis while also ensuring that such special measures are only beneficial. Finding the right words for new sections in an amended Constitution was always going to be the major challenge.

It strikes me that great care has been taken to ensure that words proposed carry symbolic gravitas, while ensuring that attention is not diverted from amendment goals by unnecessary debate over semantics.

And so like others I am surprised that the word ‘advancement’ is included in a recommended new Section 51A: ‘Acknowledging the need to secure the advancement of Aboriginal and Torres Strait Islander peoples.’

These words are referred to as preambular or introductory, rather than operative, words and they are justified in the Report for various reasons: their prior use in the preamble to the *Native Title Act 1993*, their value in legal contexts, and their use in discussion leading to the successful 1967 Referendum.

There is, however, reference in the Report to concern being expressed about the varied possible interpretations of both ‘benefit’ and ‘advancement’, but no discussion of the basis for such concern or how it was addressed.

The dictionary tells us that advancement refers to the act of advancing, or the state of being advanced. The term carries connotations of progression or improvement. Benefit has different connotations, it is (again in the dictionary sense) an advantage, help or aid in overcoming something.

In the case of Aboriginal and Torres Strait Islander Peoples historic neglect, discrimination and dispossession? And so benefit carries some notion of compensation, whereas advancement implies progression to some goal.

The term 'advancement' is problematic because so much harm, knowingly or unknowingly, has been wrought on Aboriginal and Torres Strait Islander Peoples in the name of advancement.

One only has to consider the taking of children from their natural parents for their protection and advancement; or the centralisation and sedentarisation of the nomadic in missions and colonial government settlements as wards of the state for their civilisation and advancement; or most recently the project of normalisation, in the name of 'advancement', in the Northern Territory.

Problems abound with the use of 'advancement' in the contemporary political and policy and now proposed constitutional contexts. First, the term advancement is inextricably caught up with unfortunate social Darwinian notions of evolution and the Enlightenment as well as classical liberal ideas of progress. And so Indigenous individuals travel on a road from socioeconomic marginality to prosperity and all that is required is to adopt western individualising norms and join the mainstream.

This could be a convenient way to maintain the power status quo and ignore the many politico-structural reasons for disadvantage that need to be recognized and addressed.

Second, advancement is all too easily conflated with the current approach to Indigenous policy, encapsulated in the Closing the Gap framework and subject to much contestation. As Minister Macklin wrote on the day the Report was released in *The Drum* 'I want all Australians to get involved in building a movement for change, to help us close the gap between Indigenous and non-Indigenous Australians'.

Here it is clear that advancement can be understood as pre-determined for Indigenous Australians by government-set goals.

Third, the notion of securing advancement is preceded by reference to respecting the continuing cultures, languages and heritage of Aboriginal and Torres Strait Islander peoples. Are these two aims compatible?

In 1967, the year of the referendum, sociologist Norbert Wiley coined the term

the ‘ethnic mobility trap’ in relation to minority groups in North America. (Note that Wiley referred to ethnic not racial mobility.). This term encompasses a dilemma that is faced by many indigenous peoples globally: is it possible to maintain distinct cultures, languages and heritage while participating in the mainstream?

Clearly for some it is, and I count the Indigenous members of the Expert Panel among those for whom this dilemma can be resolved. But for others there is an inevitable trade-off between living in distinctly indigenous ways and joining the mainstream.

The Expert Panel aspires to insert a critical principle in the Constitution: that Aboriginal and Torres Strait Islander Peoples should enjoy the right to be the same as other Australians, in terms of socioeconomic status and enjoyment of citizenship rights, but to remain different, if they so wish, in terms of identity and cultural matters.

Many Aboriginal and Torres Strait Islander Peoples experience a real tension in seeking to maintain two different forms of identification as part of a local or regional community and as a part of the national community. Some have had such traumatic colonial experiences that they may even be reluctant to identify as Australian.

While it is undeniable that all Indigenous people are inter-culturally encapsulated in the wider society, some continue to question the universalizing western norms of the settler majority society, instead asserting a right to be different—at one end of the spectrum, living at very remote homelands on their Ancestral lands, speaking Aboriginal languages, practicing distinct forms of livelihood and custom.

In such particular circumstances, socioeconomic sameness will be impossible, either because current policy settings refuse to countenance delivery of citizenship entitlements in remote contexts; or because of sheer economic realism.

The ideal of being the same and different is just abstract utopianism divorced from reality and economic possibility. In August 2007, the then chairman of the Northern Land Council John Daly raised a rhetorical crucial question with Senators reviewing racist Intervention laws: ‘Does every Aboriginal person necessarily want to be like you guys?’

This question very evidently encompasses the problem with ‘advancement’: it connotes a universal desire to be westernized rather than this possibility being just one among many livelihood and lifestyle choices for Aboriginal and Torres Strait Islander Peoples.

*February 2012*

## POLICY BY NUMBERS A DANGEROUS CHARADE

I have never been comfortable with pick-a-number policy making for Indigenous Australia. Such a technical approach at the national level is not just hyper managerialist, but is also disconnected from the diverse lived realities of Aboriginal and Torres Strait Islander peoples and so is dangerous.

Since 2008 when then Prime Minister Kevin Rudd implemented his Australian version of the Millennium Development Goals, with an *ad hoc* set of close the gap targets, I have looked on sceptically and often commented critically.

I am a great believer in the idea that the government should be held accountable for its performance, even if the goals that have not been negotiated with the subjects of this great new project of improvement lack legitimacy and make limited policy sense.

My thinking is that while the policy framework may be wrong, let's at least see how the government is travelling according to its own criteria.

And so every year for four years now I have awaited the February release of the annual report to Parliament outlining the progress being made, or not, in meeting the targets set for Closing the Gap in Indigenous disadvantage.

My scepticism, unfortunately, had been fuelled each year by the absence of any clear evidence that indicates whether gaps are closing.

On 15 February 2012, the fourth annual report was tabled. One thing was immediately clear, these reports are getting longer; the first report in 2009 was only 33 pages long, the 2012 report was 120 pages long, admittedly with many more pictures. I wondered do bigger reports with more pictures mean more activity, more progress in closing the gap, or just more spin, aiming to divert our attention from the fact that gaps are either not closing or that we simply cannot tell?

In reading the report more carefully, I was intrigued to see that only one short chapter was dedicated to measuring progress, with much discussion of why we cannot, just yet, accurately measure whether gaps are closing.

I finally isolated the eight out of 120 pages devoted to a statistical analysis of the very statistical question: can statistical targets be shown to be statistically closing since 2008? An honest report only needed to be eight pages long.

The answer to what should be a straightforward question remains decidedly unclear.

On closing the life expectancy gap within a generation (by 2031), we are given statistics for 2006–2010 on the gap for specific age groups; and data for three of the smaller state/territory jurisdictions, but no information on whether the current gap is actually closing.

On the mortality rate gap for children under five years of age, to be half closed by 2018, we are informed that rates are within the range of meeting the 50 per cent gap reduction target.

On ensuring that all four year olds in remote communities have access to early childhood education by 2013, we are first told that ‘all’ actually means 95 per cent, apparently because such education is not compulsory; it is unclear what access has to do with uptake. This target by the way is not a relative gap, it is an absolute, and so no gap closing data are provided.

On the reading, writing and numeracy gap that is to be half closed by 2018, annual National Assessment Program—Literacy and Numeracy (NAPLAN) data suggest that progress is consistent with meeting this target.

On Year 12 attainment to be half closed by 2020, we are told that the gap closed between 1995 and 2010; but we are also told that it might have grown between 2006 and 2008; apparently the gap cannot be measured till 2011 Census data are available.

On employment outcomes where the gap is again to be half closed by 2018, the focus is on changes between 1994 and 2008, not since 2008 and the discussion is confounded by a determination to define CDEP employment as not being employment counter to ILO convention and the reality that most on CDEP are gainfully employed part-time.

Yet again the government refuses to refer to the ABS’s published data on Indigenous employment from the annual Labour Force Survey (that shows the employment gap has stagnated at best, increased at worst), but instead suggests rather provocatively that because employment rates exceed 50 per cent outside remote areas mainstream employment is now the ‘norm’ for indigenous Australians. Really?

The score card suggests that in two areas out of six gaps may be closing.

The inability of the government to tell us unequivocally if the gaps are closing or not is of grave concern, especially as \$46.4 million over four years has been committed to this purpose, with nearly half of this allocated to improve the 2011 Census count.

The response of the usually feisty Opposition Leader Tony Abbott to this mixed performance that would have been derided in any other area of policy,

was bordering on sycophantic: 'The Prime Minister has given us some very encouraging statistics today. There is much to be grateful for. There is much to take satisfaction in. There is much to be proud of in what the Prime Minister has told us today.'

This is further evidence of what I have termed 'the Canberra consensus', tame monopolistic agreement not only on the approach (with its similarities to the now discredited Washington Consensus) but also the conspiratorial acquiescence that closing gaps is a difficult 'wicked' policy problem no matter who may be in government.

With such acquiescence there is no true parliamentary accountability. The critically important question, whether expenditure by the Australian government is delivering the best possible results for Indigenous Australians and the nation, is not even asked.

Instead the government of the day gets state bureaucrats to prepare a report on its performance with almost all of it describing inputs not outcomes and the Opposition gives a wink and a nod: this is a form of government that is morally hazardous and risk displacing: the cosy Canberra consensus takes the public financial (not political) risk and Indigenous people bear the private consequences.

The evident purpose of the Prime Minister's Report 2012 is to showcase all that the government is doing for Indigenous Australians, demonstrating that Closing the Gap as a framework for action 'ends the *ad hoc* arrangements of previous approaches to Indigenous policy which contributed to the unacceptable levels of disadvantage faced by too many Aboriginal and Torres Strait Islander people.'

This assertion needs to be seriously challenged, especially as the government strives to close six diverse pick-a-number targets and seven previously established 'building blocks' to overcome Indigenous disadvantage.

To meet its target it has established seven very different National Partnership Agreements (mainly focused on remote Australia where only 25 per cent of Indigenous people live, with one targeting just 29 priority communities), 232 Indigenous-specific programs identified by the Department of Finance and Deregulation in *Strategic Review of Indigenous Expenditure February 2010* and a plethora of mainstream programs at federal and state levels that are rarely mentioned.

This program grab-bag, according to the Prime Minister, is not *ad hocery*.

Judgment day will come, perhaps in February 2013 when the fifth Prime Minister's Report will be available, this time with access to 2011 Census data,

and assuming the same government is still in power.

And so for the first time since 2008 comprehensive official statistics should be available to assess progress in Closing the Gap between Indigenous and other Australians.

Evidently, with an additional \$20 million the ABS will be able to achieve the very best coverage of Indigenous Australians to date, with more accurate information on socioeconomic characteristics based on better population counts.

And so it could be a case of fifth time lucky in terms of gaining an accurate perspective on relative statistical progress. How long will the *Prime Minister's Report 2013* be, and what spin will be mobilised, if gaps do not close?

And what institutional mechanisms are available to really hold the government accountable if performance disappoints given the bipartisanship in Canberra that lacks any fallback alternate policy prospects.

If the statistics show that gaps are closing—with all the numerical acrobatics and smoke and mirror glossy reporting geared to ensure this—then there will be much solace for the Canberra consensus and those Australians, black and white, who share the Canberra vision for Indigenous Australians.

But what about those whose aspirations and life projects differ from these targets, what institutional means exist to give them voice in late liberal Australia?

*March 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.

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 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.

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.

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.

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.

The Committee called for submissions and received a torrent of 454—including one from me (no. 360) 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.

In each location evidence was recorded in Hansard verbatim and the form of engagement allowed for free-flowing discussion. 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.

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. 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.

*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.

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’ and the Aboriginal Peak Organisations of the NT ‘welcomed homeland support’.

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.

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.

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.

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'.

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.

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.

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, ‘self-determination’, that allowed Aboriginal people the choice to return to their ancestral lands, and 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 Aboriginal and Torres Strait Islander Commission (ATSIC).

This support came through three key programs, generally channelled through homeland resource centres: the Community Development Employment Projects (CDEP) scheme; the 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 with the Intervention, a bizarre ‘National Emergency’ reversal occurred.

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.

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.

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.

*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.

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.

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.

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 '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. 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 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 percent 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.

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.

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.

*June 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).

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.

Such an increase was not evident in the Northern Territory where the population grew by only 5.8 per cent, 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. 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* [Five Years on ...] 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.

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.

The first table looks at absolute change for two income variables (adjusted for inflation), two education, one demographic, three housing and a cultural variable.

Information in the table shows is 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.

*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

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.

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.



*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

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. 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.

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.

*July 2012*

## **RETHINKING THE BLACK JOBS DILEMMA**

Every year at about this time the Australian Bureau of Statistics (ABS) publishes the Labour Force Characteristics of Aboriginal and Torres Strait Islander Australians for the previous calendar year. And while the Australian public is relatively unconcerned about the outcomes, there would be a cluster of Canberra bureaucrats in lead federal Indigenous affairs agencies who would be hoping that the statistics move in the right direction, showing a drop in Aboriginal unemployment and more importantly a closing of the employment/working-age population gap between Indigenous and other Australians.

The statistics released on 26 July this year are a mixed bag. One key indicator, the unemployment rate dropped from 18.1 per cent in 2010 to 16.3 per cent in 2011. This is welcome news except that the fall is not statistically significant, an important proviso given that this is an estimate based on a sample survey. Last year the Indigenous unemployment rate was 3.6 times the non-Indigenous rate, this year it is down to 3.3 times, surely good news?

That depends, because when one looks at the historical trend back to 2005 one sees that while this represents an improvement from 2009 and 2010 it is still higher than the rates in 2005 to 2007 the last three years of the Howard era. But the ABS warns us that this year's estimate is not strictly comparable with earlier years, which raises the question about the purpose of the collection.

Such qualifications aside, this annual series is important for tracking how the Australian government is travelling in its travail to halve the gap in the employment/population ratio between Indigenous and other Australians by 2018. Last year it was reported that the indigenous employment gap seems to have stagnated. The same seems to be the case in the latest release: in 2010 the employment/population ratio was 47.7 per cent while in 2011 it is 48.3 per cent which is good news, except that the non-Indigenous rate went from 72.9 per cent to 73.4 per cent so the gap remains almost identical at just over 25 per cent.

There are two perspectives on the labour force situation of Aboriginal and Torres Strait Islander Australians that are of enduring interest. First is variability by State and Territory presented in Tables 1.

While care needs to be taken in interpreting this information it does appear that the unemployment rate has declined between 2010 and 2011 in a number of jurisdictions, although the decline is only statistically significant in South Australia. The worst result, that is statistically significant, is the near doubling of the unemployment rate in the Northern Territory mainly because this is the targeted jurisdiction of the National Partnership Agreement to Close the Gap in the Northern Territory (or the Intervention).

More important is the employment/population ratio where changes between 2010 and 2011 are far less clear with all changes not statistically significant: in four jurisdictions the ratio declined and in four it increased. Interestingly the marked decline in the unemployment rate in currently booming WA was not matched by an increase in the employment/population ratio, but stagnation; and the ratio in the NT which declined between 2010 and 2011 was the lowest at 37.9 despite the Intervention and the creation of a reputed 2,000 public sector jobs at prescribed communities. This means that only 38 in a hundred of the working age population in the NT are in any formal employment. It is significant that in only three States did the employed constitute the majority of the working age population.

*Table 1. The unemployment rate and employment/population ratio by State and Territory, 2010 and 2011*

	Unemployment rate (%)		Employment/population ratio	
	2010	2011	2010	2011
NSW	18.1	14.6	41.6	45.8
Vic	16.3	18.9	51.9	48.2
Qld	19.1	19.5	51.5	50.8
SA	26.6	15.2	39.4	44.3
WA	22.1	15.0	42.5	42.9
Tas	12.0	12.1	54.8	55.6
NT	7.4	13.5	40.4	37.9
ACT	13.1	8.7	62.1	56.5

The outcomes by remoteness are presented in Table 2 and results here are mixed. The Indigenous unemployment rate was worst in regional Australia, being lower in remote areas partly because elements of the ‘grandfathered’ Community Development Employment Projects (CDEP) scheme remain intact (so participants are counted as employed) and labour force participation remains low. The Indigenous unemployment rate is 5.5 times higher in remote areas mainly because the non-Indigenous unemployment rate is so low— non-Indigenous people often go to remote areas just for work. A more consistent remoteness gradient is evident in the employment/population ratio, with the widest disparity of 31.9 per cent evident in remote areas.

*Table 2. The unemployment rate and employment/population ratio by remoteness, Indigenous and non-Indigenous Australians, 2011*

	Unemployment rate (%)		Employment/population ratio	
	Indigenous	Non-Indigenous	Indigenous	Non-Indigenous
Major cities	13.2	4.9	51.5	63.8
Regional areas	19.4	5.0	45.0	61.3
Remote areas	14.9	2.7	42.0	73.9

There is no clear evidence that formal Indigenous employment outcomes are

improving either in relative terms, or in some jurisdictions in absolute terms. This raises important questions not just about current policy settings but its conceptualization. For example, as suggested by me *ad nauseam* in the past, if Indigenous Australians live for important cultural, historic, political and livelihood reasons in regions devoid of formal employment opportunity on land that they own under Australian law, surely government policy would do better to focus on livelihood improvement rather than seeking to close impossible statistical gaps. Such an approach might require facilitating development opportunity in the informal sector. From pro-poor and humanitarian perspectives, a change in broad policy course is justified because the current course has been unproductive, in some areas since colonisation.

In a recent article 'The Uses of Neoliberalism' (2010) renowned American anthropologist of development James Ferguson notes that in parts of southern Africa there are urban black masses who are not, and are not likely to become, formal wage labourers in much the same way as Indigenous people in many parts of Australia. And yet local livelihoods and communities are being decimated owing to the valorization of formal work and training, the conditional provision of social spending only if the unemployed participate in supervised workfare and endless training that is sponsored by states clinging to false hope that trained people will magically find suitable employment irrespective of politico-economic constraints. Ferguson recommends the provision of basic income grants to individuals to promote productivity, enterprise and risk taking. Such a policy initiative might paradoxically be pro-poor, redistributive, and neoliberal all at once.

While not suggesting that Australia is South Africa, I see conceptual similarity and merit in Ferguson's argument. In Australia such an approach was tried in the form of the CDEP scheme, except that minimum income grants were paid to community organizations not individuals. Perhaps the CDEP was not neoliberal enough and should have been paid directly to individuals? Its unilateral destruction without any clear evidence of failure has had devastating impact on the social and economic fabric of some regional communities like Toomelah.

In a recent visit to a major Territory Growth Town, Maningrida in tropical northern Australia, I observed the techniques of government being expensively deployed in the now familiar false quest to Close the Gap. Local statistics collected by the government itself indicate that there are currently twice as many job seekers in this town as employment opportunities, but still the unemployed are deemed as being irresponsible subjects whose welfare income needs to be managed and whose expenditures closely monitored by the nanny state. In the false hope of 'real' development the formally unemployed are required to waste potentially productive time in make work and pseudo-development. An unprecedented massive housing construction phase that is just ending has delivered a hundred houses in 'new sub[urb]', but it has delivered

neither bankable skills nor sustainable jobs for local people.

Since its establishment as a colonial outpost in 1957 people in Maningrida have become increasingly state dependent, while state actors have clung to an unshakeable deeply-held belief that assimilation into the mainstream remains the preferred administrative possibility—despite decades now of contradictory evidence that most people here have different norms, values, orientations and practices, to use the terminology of European political economist Joerg Wiegatz in his writings on ‘fake capitalism’ also in Africa. State involvement in remote places like Maningrida is not likely to decline in the future, but there is an urgent need for a different more productive form of government responsive to place-based aspirations, cultural realities and production possibilities.

Evidently, the Australian state is currently comfortable with an approach predicated on a naïve commitment to mainstream development in situations where it will never happen, complacently awaiting the annual publication of dismal official statistics collected by state agencies demonstrating persistent formal unemployment irrespective of business cycle fluctuations or misguided conventional development effort.

Such ongoing failure of policy is unacceptable especially when there are policy alternatives, like basic income support, which could unleash individual productivity and entrepreneurship in myriad unconventional ways to improve livelihoods and wellbeing. Perhaps it is time such alternatives are seriously considered and implemented before even more damage is inflicted on regional and remote places like Toomelah and Maningrida.

*August 2012*

## **ABORIGINAL EXPENDITURE: IT'S A WHITE THING!**

On 4 September 2012 the Productivity Commission released the *2012 Indigenous Expenditure Report* on behalf of the Steering Committee for the Review of Government Service Provision representing the Australian and State and Territory governments.

In a complex and convoluted exercise an attempt is made to estimate total direct Indigenous expenditure by all governments for the fiscal year 2010–11.

As I read the latest report in the emerging evaluation of Indigenous Australians industry, Richard Bell's insightful theorem, 'Aboriginal art—It's a white thing!' kept recurring in my mind: Black expenditure too, it seems, is a white thing.

The report, to give it due credit, uses careful language—total direct Indigenous expenditure is estimated at \$25.4 billion in 2010–2011, 5.6 percent of total direct government expenditure of \$451 billion.

This estimate is then divided by the estimate of the Indigenous population at June 2011 of 575,000 to give an estimated per capita figure of \$44,128.

This figure is compared with \$19,589 for other Australians with the differential allocated to greater need (66% of difference) and additional cost (34% of the difference, much associated with remoteness).

Of this estimated amount, 45 per cent is estimated to be provided by the Australian government and 55 per cent by State and Territory governments.

And 78 per cent is estimated to be provided through mainstream services and 22 per cent through targeted, Indigenous specific, services.

In the media release accompanying the tome (of 327 pages), in its Foreword provided by Gary Banks Chairman of the Productivity Commission, in an entire part of the Report and in a series of web-based documents, great care is taken to emphasise that these estimates only represent best collective effort and hence should be interpreted with due consideration to many caveats highlighted.

Banks notes 'Identifying the Indigenous component of expenditure is not straightforward with a number of data and methodological challenges yet to be resolved'.

Note that he refers to estimates of the Indigenous component of expenditure, not to expenditure on Indigenous Australians.



At the same time, Banks suggests that the Report can contribute to better policy making and thus improved outcomes for Indigenous Australians: ‘The estimates provide the basis for acquiring a better understanding of the adequacy, effectiveness and efficiency of such government expenditure’, he writes.

At face value, it is not surprising that the Council of Australian Governments wants estimates of what is spent on services which support Indigenous Australians.

This is mainly because in 2008 COAG endorsed a general framework, that constitutes the current policy paradigm, to ‘Close the Gap’ between Indigenous and other Australians. This is a proposed technical statistical solution to deeply-entrenched Indigenous disadvantage that will require the deployment of many dollars to address. The governmental logic is big gaps need big dollars to deliver future big outcomes. If only it were that straightforward.

The gaps have also been identified since 2003 in a series of biennial reports *Overcoming Indigenous Disadvantage: Key Indicators* produced by the Productivity Commission as the secretariat for the Steering Committee.

The latest report, released in 2011 and totalling 830 pages, shows that in a few areas gaps are narrowing, but that in many, outcomes are either not improving or deteriorating.

Under these circumstances, the summary statement that there is still a considerable way to go to achieve COAG’s commitment to close the gap in Indigenous disadvantage is quite an understatement

If the *2012 Indigenous Expenditure Report* could assist governments to target expenditures at areas of greatest need, or in a manner that ensures greatest efficiency and effectiveness, or if it could tell us something about the adequacy of the spend it would be a very valuable investment—although no estimate is provided of what this complex statistical exercise cost.

But these are precisely the sorts of questions of policy significance that the Report tells us, very frankly, it cannot answer:

- It cannot tell us what money was spent on Indigenous people;
- It cannot tell us how effectively a service was delivered;
- It cannot tell us how much was spent on Closing the Gap;
- It cannot tell us the split in expenditure between service provision and cost of administration; and
- It cannot tell us how much benefit Indigenous Australians garnered from the estimated direct Indigenous expenditure.

This all suggests that the Report’s terms of reference from COAG might be

asking the wrong questions.

Instead of saying this, as the Australian government's independent research and advisory body on a range of economic, social and environmental issues affecting the welfare of Australians, the Productivity Commission tries to provide the best collective intergovernmental answer—code for face-saving and risk spreading—on behalf of the Steering Committee.

This raises important questions about what political purposes are being served by this Report.

One answer is provided by going to the nation's most influential mass media outlet *The Australian*.

The headlines tell much of the story: from 4 September 'Aboriginal split: 5.6pc of funds, 2.6pc of population' (pc in this case refers to % not political correctness); and 'Indigenous spend topping \$25bn. The question is: has the two-year surge benefited the 575,000 people?' and from 5 September 'Scullion calls for an audit of \$25bn'.

Nowhere is there any mention that this is a crude estimate of Indigenous expenditure, not actual expenditure on Indigenous people; nor that any comparison with earlier figures for 2008–09 is meaningless owing to different methodology.

Minister Macklin in defending this supposed extravagant spend of \$44,128 per capita states it is justified owing to high levels of Indigenous disadvantage, which it is.

But she forgets to mention that it is not an actual spend, perhaps seeing political mileage in such high figures.

At the same time it is overlooked that COAG is responsible for commissioning the Report, with its inadequate terms of reference, a commission which is itself an identifiable Indigenous specific expenditure.

The call by Senator Scullion, Opposition spokesman for Indigenous Affairs, for an across-the-board audit of Indigenous spending by all commonwealth government departments ignores the Report's explicit statement that it does not provide any breakdown by individual departments and that only 45 per cent of the estimate can be sheeted home to the Commonwealth.

A more pertinent audit of all \$451 billion spend by all governments on all Australians might be needed; but that might expose the convoluted nature of the task whatever disadvantaged citizen group is concerned.

All the while the Productivity Commission and the Steering Committee remain silent, no corrections, no letters to the editor, no op eds; and so moral authority is lent to the media nonsense.

Gary Banks laments that data and methodological issues still need to be resolved but precisely how remains unclear.

The estimates consist of three elements: directly identified Indigenous expenditures plus Indigenous share of mainstream expenditure estimated on the basis of actual service use plus Indigenous share of mainstream expenditure estimated on the basis of share of population. This methodology is self-assessed in the Report as conceptually robust. But it is bound to provide a higher estimate of Indigenous expenditure owing to identified greater need and the methodology.

A robust conceptual framework, in my view, would encompass three inter-linked and inseparable elements: historical legacy, current need, and future investment.

It is to such a framework that the undeniable capacities of the Productivity Commission should be deployed.

Historical legacy encompasses a series of backlogs that need to be quantified and include shortfalls in both physical capital, such as housing and infrastructure and human capital, such as endowments of education and health.

Current need is referred to in the Indigenous Expenditure Report as ‘greater need’, while future investment should identify the development assistance that Indigenous people might require to ensure their improved wellbeing acknowledging the diversity of their circumstances.

Because the Indigenous Expenditure Report only estimates Indigenous expenditure for one year 2010–2011 it lacks the conceptual capacity to engage with this more complex framing of Indigenous disadvantage.

Hence for example in looking at the past there is no sense of what capital, as distinct from recurrent expenditure, might be needed to address historic shortfalls in the provision of schools, hospitals, roads, housing and essential services.

And as the Australian government now insists that remote social housing is divested from community ownership to governments, it is arguable whether such housing should be viewed as Indigenous: after all the asset now belongs to the state and should be available to non-Indigenous as well as Indigenous tenants.

Similarly there is no distinction made between expenditure invited or desired by Indigenous people and that which is imposed.

A clear example here is income management imposed on thousands of Indigenous Australians, recently estimated by the Parliamentary Library to cost \$1 billion over five years with no evidence of positive outcomes.

The reliability of estimates is on a steep gradient with directly identified Indigenous expenditure being most reliable and mainstream expenditure estimated on the basis of population least reliable and meaningful.

For example, the Indigenous share of expenditure on national defence is pro-rated on the basis of population and added to the Indigenous expenditure account. Ditto the work of finance officers in departments of treasury.

What seems clear from this Report is that directly identified Indigenous expenditure is more effectively audited and targeted than the Indigenous share of mainstream expenditure.

This raises important questions about the risk of the recent call by influential academic Professor Marcia Langton for the abolition of such expenditure, on the basis that Indigenous exceptionalism creates a sense of entitlement.

Most significant is the absence of distinction in the Report between positive and negative funding. Estimates of direct Indigenous expenditure are divided between five broad areas called 'building blocks'. Some building blocks, like early child development or education and training, are positive as future investment; others, such as expenditure on law courts, legal services and incarceration, are negative.

Health care should also be distinguished in this way: preventative health expenditure differentiated from acute, chronic and palliative care.

No distinction is made between positive and negative funding; both are quantified with a positive sign and so are summed undifferentiated as estimated Indigenous spend.

Even positive categories like economic participation bundle together positive and negative expenditures. For Indigenous Australians 77.4 per cent of estimated economic participation support is for social security support, which is lower than the 91.5 per cent for non-Indigenous Australians. Significantly, positive labour and employment services are generally Indigenous specific, while social security support payments are from the mainstream.

Unlike Gary Banks, I am not confident that the Report will contribute to better policy making and improved outcomes for Indigenous Australians—as demonstrated already by the political posturing by Macklin and Scullion.

Indeed given all the qualifications in the Report it appears conflicted and self-serving—especially as estimate reliability is largely based on subjective assessment ranging from good to very poor by the Report’s authors.

The assessments of Indigenous people are nowhere to be found.

All this takes me back to Bell’s theorem—who benefits from the estimate of total direct Indigenous expenditure?

One answer comes from early analysis of 2011 Census community profiles data for Indigenous locations: non-Indigenous Australians in these places have median individual income many times higher than for Indigenous people, as well as less crowded housing provided generally and inexplicably at lower reported rent.

In the up-and coming industry evaluating Indigenous disadvantage, also principally a non-Indigenous thing, the Productivity Commission is emerging as the major player. Evidently, it does not matter if publicly-funded research responds to conceptually fraught questions and provides technically competent, but inadequate, answers.

It is unquestionable that the Australian state will always play a critically important role in supporting Indigenous Australians, just as it does in supporting all Australians even the rich.

But increasingly Indigenous people are represented as recipients of highly abstracted, estimated public expenditures in the hopeful quest to Close the Gap.

And as citizens are misled about how their money is being apportioned, new types of gaps in Australian society emerge.

I end by loosely paraphrasing the American historian Timothy Snyder from his recent book *Bloodlands*: authoritarian regimes turn people into numbers ... these numbers need to be put into perspective ... and it is for us as humanists to turn the numbers back into people.

*September 2012*

## **RUDD'S QUIET REVOLUTION GETS NOISIER**

In November 2007 when the Rudd government was elected into office the country was coast-to-coast Labor.

The all-powerful new Prime Minister set out to do something bold and unusual that others had tried to do, without success, before: to coordinate intergovernmental Commonwealth/State relations and make them consensual in addressing Indigenous disadvantage.

Five years on this 'abnormal' approach seems to be unravelling as Indigenous affairs re-normalises to intergovernmental conflict and buck passing.

In June 2007, Opposition leader Rudd acquiesced to the Northern Territory 'national emergency' Intervention in part because he feared being electorally wedged and missing out on the ultimate prize; and in part because he was ideologically sympathetic to the Howard government's goal of normalisation.

And so in late 2007 and into 2008, at the height of his popularity Kevin Rudd looked to do something different in Indigenous policy nationally while retaining key elements of the Intervention.

Discursively his new project was built on the hugely popular National Apology to the Stolen Generations that simultaneously unveiled the Closing the Gap framework that has come to dominate Indigenous affairs since 2008.

Rudd's slogan, Closing the Gap, was borrowed from two sources: a very different Close the Gap Indigenous Health Campaign run by an alliance of NGOs; and Claire Martin's Closing the Gap of Indigenous Disadvantage: A Generational Plan of Action.

It was hardly original.

Indeed it had core similarities to John Howard's post-2004 emphasis on 'practical reconciliation' and Bob Hawke's over-ambitious Aboriginal employment equity by the year 2000.

Imitation, it is said, is the sincerest form of flattery.

But the Rudd approach was different in two key ways.

First, his framework had very specified targets set to strict deadlines to be met, as it turned out, well beyond the period of his prime ministership.

Anticipating a new partnership between Indigenous and other Australians after the Apology, he noted that the core of this partnership for the future is the

closing of the gap between Indigenous and non-Indigenous Australians on life expectancy, educational achievement and employment opportunities.

In most cases this actually meant halving, not closing, the gap.

The six specific targets were set for periods of an almost short-term five years (for universal access to early childhood education) to a looser period of a generation (to close the gap in life expectancy); they sought to ensure electoral accountability with a report to parliament annually.

The four annual reports to date have studiously avoided any rigorous assessment of whether gaps are closing or not.

Second, his framework was to be jointly owned and underwritten by all governments through the Council of Australian Government's (COAG) National Indigenous Reform Agreement process.

I recall hailing a new 'quiet revolution' in Indigenous affairs in December 2008 as a series of National Partnership Agreements (NPAs) were unveiled committing unprecedented billions of dollars over a decade for Indigenous health, remote housing, remote service delivery, Indigenous family and community safety and economic development.

'Give credit where it is due', I said at the time.

A quick trawl through the COAG website on agreements shows that the Rudd and now Gillard governments have made an art form of NPAs.

Initially, Indigenous-specific NPAs were a significant proportion of the total, both in number and in fiscal quantum; over time proportions of both have abated rapidly.

The states and territories rallied behind Rudd's grand and admirable project in small part because they shared political ideology, but mainly because of the bait of unprecedented Indigenous-specific payments from the Commonwealth.

The political arena of intergovernmental relations in Indigenous affairs has always been hotly contested, especially since 1972 when the Whitlam government defined a lead role for the Commonwealth in this area—five years after being so empowered by the 1967 Referendum.

In the following 30 years there has been ongoing contestation between the Commonwealth and state/territory governments over roles, responsibilities and accountability.

In the absence of any comprehensive needs-based assessment ever, there has

been plenty of room for rhetorical debate about who is responsible for what, while the entire time Indigenous disadvantage has been under-funded.

There have been accusations of substitution funding and cost shifting and neglect that can be summarised by the evocative term ‘buck passing’. All this has been well documented by the Commonwealth Grants Commission in the *Indigenous Funding Inquiry 2001*.

Rudd as prime minister was a utopian visionary who was going to put an end to the unsavoury practice of States and Territories gaining additional allocations to address Indigenous disadvantage and then spending these funds elsewhere for political gain.

His vision was to be achieved by techno-bureaucratic agreements that made joint funding contingent on performance.

Cleverly Rudd aimed to unite all governments, even his government and opposition if possible (remember the unsuccessful Indigenous housing commission) into an iron-clad consensus. Closing the Gap would be naturalised and any dissenters from Indigenous communities to NGOs and activists, even international opinion, could be conveniently labelled anti-equality and so marginalised and depoliticised.

But the Rudd vision faced major hurdles.

First it sat uncomfortably with constitutional convention that the States and Territories are responsible for service delivery and the Commonwealth for at arms-length funding.

Second the entire anticipated national partnership consensus ran the risk of monopolistic policy making and associated costs of inappropriate design and implementation for interstate diversity.

Most importantly perhaps it was predicated on continual intergovernmental consensus, something that historically has been rare in Australian Indigenous affairs.

During 2012, the ‘quiet revolution’ has returned to noisier intergovernmental contestation, with most dissent emanating from new conservative governments in Queensland (elected March 2012) and the Northern Territory (elected August 2012).

The first broadside came in June when the Queensland Education Minister bluntly declared that the SEAM (School Enrolment and Attendance Measure) did not work and would not be supported.



Subsequently in September when Minister Macklin suggested that draconian Queensland budget public sector cutbacks would constitute a risk to closing the housing gap, the Queensland responded that houses provided were of poor standard and inadequate design; and that in any case they were delivered by private sector contractors.

And then in October the Queensland government announced a review of alcohol bans in remote townships, with Mal Brough who had imposed blanket alcohol bans under the NT Intervention, now favouring their relaxation in Queensland.

The second broadside came in September in two stinging media releases from the newly elected NT Minister for Indigenous Advancement Alison Anderson who is no shrinking violet when it comes to confronting Jenny Macklin.

In the first, Anderson stated that ‘Jenny Macklin talks as though she’s closing the gap between indigenous and non-indigenous Australians but she’s in ‘La La Land’ if she thinks that’s the case’.

In the second she suggested that the Commonwealth commitment to job targets meant little as many Indigenous jobs were neither for Territorians nor sustainable. Since election the NT government has also implemented commitments to loosen alcohol restrictions.

One might be tempted to just put all this conflict down to emerging ideological difference, except for some damning evidence.

The Commonwealth’s own in-house evaluation comparing so called ‘SEAM’ and ‘non-SEAM’ children (such terminology is deployed) shows negligible difference in attendance rates due to punitive welfare measures.

And the Australian National Audit Office in its review of remote Indigenous housing in the NT shares Minister Anderson’s concern about employment creation for locals.

Early comparative analysis of data from the 2011 Census raises major concerns about whether gaps are closing at all, let alone in accord within the Commonwealth’s timetable.

And even on alcohol prohibition, a deeply divisive issue, the evidence is far from clear, especially in the NT: crime may have declined, but have people just moved to access alcohol or moved to other illegal substances?

There is clearly much regional variation and a philosophical contest between paternalism and libertarianism.

The mayor of Hopevale Greg McLean is quoted in *The Australian* as stating astutely ‘The AMP [Alcohol Management Plan] worked for statistics, it’s worked for the bureaucrats, it’s worked for those who wanted to get funding for the problem, but it has not worked as a solution’.

Whether the shift from the quiet revolution, Kevin Rudd’s reform consensus, to noisier contestation is good or bad for Indigenous socioeconomic outcomes is difficult to assess.

There is a growing body of opinion that the fundamental shift from community to governmental delivery of services has been unspectacular at best, a dismal disempowering failure at worst.

Part of the problem is that so much evaluation is tightly controlled; another is that what really matters for sustained outcomes like local control and governance is not being measured.

And there is a worrying trend to silence dissenters—like the Indigenous Unit at the Commonwealth Ombudsman’s Office whose complaint and oversight role was defunded in June; and the Office of the NT Coordinator-General for Remote Services that was abolished in October despite sharing similar views to Minister Anderson.

Evidently it is better to entrust monitoring to government-appointed bureaucrats and shoot unwelcome messengers.

The real shame in all this is that Rudd’s COAG consensus locked in all available resources to a particular approach with no political or bureaucratic interest in assessing its net benefit or opportunity cost—in other words, whether things have improved or might have been done better.

The current minister Jenny Macklin is so politically intransigent that any adaptive management of policy is difficult and dismantling of unproductive architecture is impossible. Emerging contestation opens up possibilities for intergovernmental buck-passing—a form of governmental rent seeking—and inefficiency is likely to continue, if not flourish.

Evidently, Kevin Rudd’s abnormal vision for intergovernmental consensus is now re-normalising to the conflict-ridden status quo.

October 2012

## **FINDING THE TRUTH IN THE EMPLOYMENT GAP**

During the first week or two of the new parliamentary sitting calendar the Prime Minister reports annually on progress in Closing the Gap between Indigenous and other Australians. This year will be different, for the first time since this new institution was established by Kevin Rudd in 2008, comparative census information will be available.

Last year I suggested that ‘judgment day will come, perhaps in February 2013 when the fifth Prime Minister’s Report will be available with access to 2011 Census data, and assuming the same government is still in power’. At least my assumption proved correct.

I also noted that it could be a case of fifth time lucky in terms of gaining an accurate perspective on relative statistical progress between Indigenous and other Australians, which is what gap closing is all about. I pondered what spin might be mobilised if gaps do not close?

The gap that is probably easiest to measure with any certainty is the employment gap.

The aim here, to remind readers, is to reduce the difference in the employment to population ratio of those aged 15 to 64 years (the number employed as a percentage of those of working age) by 50 per cent in 10 years. In other words, the closing the employment gap target seeks to half close the gap between 2008 and 2018.

While labour force statistics are available annually these are based on an Australian Bureau of Statistics (ABS) survey rather than a more all-encompassing census and so are dismissed by some as potentially unreliable. So the 10 year time frame for closing the gap needs to be 2006 to 2016 if more reliable five-yearly census data are to be used.

Employment data from the 2011 Census were released on 31 October 2012.

Between 2006 and 2011 the Indigenous employment/population ratio for those aged 15–64 declined from 48.0 to 46.3, a decline that covers a five-year period that included both the Global Financial Crisis and Australia’s mining boom.

What is especially concerning is that the ratio Indigenous to non-Indigenous has also declined from 0.67 to 0.64 instead of tracking upwards towards 1.0 when the statistical gap will be closed according to the census.

Other measures of employment outcome have also been disappointing: the Indigenous unemployment rate (calculated as the per cent of the labour force who are unemployed) has increased from 15.6 per cent to 17.1 per cent—

imagine such an outcome for the general population!

And the labour force participation rate has declined from 54.5 per cent to 53.3 per cent.

By all three measures gaps at the national level between Indigenous and non-Indigenous Australians have grown, not declined.

Given these official statistics it was surprising to see a lead story on the front page of *The Australian* last month declaring that 'Indigenous work rises: Private sector closing jobs gap'. How could this be if the employment gap is growing, even as private sector jobs are increasing?

The purported answer I discovered is contained in a CAEPR Topical Issue 'Indigenous employment: A story of continuing growth' authored by three of my university colleagues Matthew Gray, Boyd Hunter and Monica Howlett provided to *The Australian*.

In this topical issue, the authors use a definition of employment that they term 'non-CDEP employment'.

This is a term that I too have used in the past to refer to mainstream employment, but it can be misleading when CDEP participants work full-time so I stopped using it. But here the term is used differently as employment minus CDEP participation.

In other words, at the national level administrative data on Indigenous participation in the Community Development Employment Program have been deducted from employment figures in the census making the assumption that CDEP participation is not 'real' or 'proper' employment.

Why do these reputable labour economists take this step? Mainly because in their view a failure to focus on 'non-CDEP employment leads to very misleading conclusions about employment growth and the effectiveness of government policy aimed at increasing non-CDEP employment'.

To partly justify the focus on 'non CDEP employed' Gray, Hunter and Howlett adopt an erroneous ABS definition of CDEP as 'an Indigenous-specific program that enables an Indigenous community or organisation to pool the unemployment benefit entitlements of individuals into direct wages for those people who choose to participate in local employment in various community development or organisation programs as an alternative to receiving individual income support payments'.

However, since CDEP began in 1977 unemployment benefit entitlements have never been pooled.

Instead CDEP has always received a budgetary allocation that has included wages, administrative and project allocations; the only direct link with welfare is that those participating in CDEP cannot get welfare because CDEP participation is regarded as employment, including by the ABS.

Indeed the focus on ‘non-CDEP employment’ also contradicts the International Labor Organisation’s definition of employment as ‘Persons in employment comprise all persons above a specified age who during a specified brief period, either one week or one day, were in the following categories: paid employment and/or self-employment’.

And by suggesting CDEP is directly linked to welfare Gray and others buy into an emerging populist notion—that CDEP is welfare—that is divorced from reality. Indeed in an earlier CAEPR paper published just last year ‘Continuity and change in the CDEP scheme’ Hunter and Gray show that CDEP participants are quite different from the unemployed: they work more hours, earn more income, participate in more non-market production, and are more enabled to meet cultural obligations—something that I have emphasised often.

To suggest to CDEP workers that their efforts are different because of a different form of funding makes little sense in my opinion.

Part of the story reported by Gray and others becomes just a statistical artefact because 32,800 CDEP participants are deducted from 2006 estimates of the employed but only 10,692 from 2011 employed owing to the dramatic shrinkage in the popular CDEP program.

If you exclude CDEP employment in 2006 and 2011 then the movement of some CDEP employees in 2006 to mainstream employment in 2011 will automatically lead to an apparent improvement in the rate of ‘non-CDEP employment’.

But by cutting CDEP from the equation the authors arguably overlook a most significant shift in Indigenous labour market activity over the reportage period, the dramatic shrinkage of CDEP.

The authors do not question how much of this growth is dependent on government funding in the private (e.g. Australian Employment Covenant and Generation One) and public (e.g. part-time government-funded jobs to replace part-time CDEP jobs) sectors.

Their approach renders over 10,000 CDEP participants invisible, they are neither employed nor unemployed, and so get a little lost in a statistical void. While it is true that CDEP numbers are not determined by the free market, but by policy arbitrariness, it is this selective arbitrariness that should be called to question in policy debates.

Importantly when Gray and others look at Indigenous employment rates at the subnational level they find 13 areas where Indigenous employment (now including CDEP) has declined by between 20 per cent and 47 per cent—it appears that local labour markets have collapsed alongside ‘reform of CDEP’ in remote places.

Given that welfare dependency and inactivity are a major problem especially for remote Indigenous communities, this is an extremely worrying outcome—clearly declining CDEP participation has only been partially replaced by employment opportunity and take-up.

There are a growing number of views emerging on the Indigenous employment situation nationally and regionally.

One view favoured by Gray and others is that the long boom is continuing and Indigenous employment, especially in the private sector, is growing and closing the jobs gap. This view is strengthened by a definition of Indigenous employment as ‘non CDEP employment’.

Another interpretation that I favour is that if we take the government’s stated employment goal seriously, then since 2008 there is no evidence, either in the five-yearly census or annual labour force surveys that the employment gap is closing. This is especially the case in remote areas because CDEP employment is being cut in places where there are no alternate forms of formal employment.

It is increasingly common for governments to utilise competing views from different sources to justify a particular policy position for political advantage. What is a little unusual in this case is that the different interpretations come from within the same research organisation; some might see this as a sign of a healthy diversity of academic views.

It will be interesting to see which (if either) of these interpretations the Government favours; and whether the Opposition makes any effort to hold the Government to account for what, in my view, are abysmal efforts, both in CDEP reform that has condemned thousands of Indigenous people mainly in regional and remote regions to enhanced welfare dependence and diminished livelihood; and in meeting its own techno-bureaucratic statistical targets.

‘Seek truth from facts’ is an ancient Han expression promoted by the late Deng Xiaoping and applied to modern Chinese economic and political reforms.

Evidently though, seeking Indigenous employment truths from official facts is open to multiple interpretations with potentially dire policy consequences.

*February 2013*

## **HOMELANDS EXTRA: READ ALL ABOUT IT!**

On 21 February 2013 the Hon. Alison Anderson, Minister for Indigenous Advancement delivered a ministerial statement *Homelands and Outstations—A Shared Responsibility* to launch her new policy *Homelands Extra*.

Like the two-humped Bactrian camel this is an unusual form of two-humped beast. It deserves scrutiny in an arena where policy makers have struggled for the last forty years to address the question: What should the state do in terms of service delivery, housing and development support for Indigenous homeland communities, especially in very remote locations?

Homelands and outstations, different regions use the terms interchangeably—for Aboriginal people they are important place names—are localities where some Aboriginal people prefer to live. In the early 1970s a combination of self-determination and land rights in the NT, combined with the failure of larger colonial places to deliver either productive engagement or social harmony saw the emergence of the homelands or decentralisation movement.

Since then the number of homelands has proliferated, now there are about 560 with a population of maybe 10,000, it is difficult to give precise figures as official statistics on homelands are poor and populations fluctuate.

From the early 1970s to 2007 homelands were supported from Canberra. In 2007 with the NT Intervention responsibility for homelands was dramatically and paradoxically handed over to the NT: dramatically because the hand-over was made a blackmail condition of a \$700 million housing package for larger places; paradoxically because the Commonwealth was intervening because of the purported failures of the NT Government.

From 2007 to 2012 the Henderson Labor Government struggled to develop a cogent policy to accommodate this new responsibility. In May 2009 there was the debacle of *The Working Futures* framework that focused attention on 20 Territory Growth Towns and said little about the homelands in their hinterlands.

In August 2012, just before electoral defeat the Henderson Government released a comprehensive and revised homelands policy at Gan Gan homeland in Arnhem Land. It was warmly welcomed but was too late.

This policy had been preceded by the Federal Government's commitment of \$200 million over 10 years for municipal and essential services dangled as an unlegislated sweetener alongside the *Stronger Futures* in the NT laws; and a skeleton policy proposal launched by then Shadow Minister for Indigenous

Affairs Adam Giles in May 2012 in Maningrida (see ‘Another decade for homelands policy debacle’ earlier).

The best thing about the Henderson/McCarthy package was a commitment of an unprecedented ‘extra’ \$100 million over 10 years (to \$300 million) to homelands to provide some future funding certainty.

Minister Anderson’s recent ministerial statement is the fleshing out of Country Liberal Party’s (CLP’s) new policy six months after election of the Mills Government. There are two extraordinary elements to this statement that stand out like humps.

Hump 1, is its high dependence on the ALP’s Working Future Homelands Policy. That policy consisted of a media release, a statement of funding commitment, and six fact sheets, all of which have disappeared from the NT Government website.

This dependence extends to some identical wording of very supportive principles. As an example, Working Future states:

The policy aims to:

1. Recognise Aboriginal people’s relationship to country and promote cultural connections and maintenance through homelands and outstations.
2. Support the right and authority of Aboriginal people to own, live on and develop their land.

Minister Anderson’s policy will:

1. Recognise Aboriginal people’s relationship to country and promote cultural connections and maintenance through homelands and outstations.
2. Support the right and authority of Aboriginal people to own, live on and develop their land (p. 14).

These common principles indicating a high degree of consensus between the ALP and CLP on homelands and a shared view on the exceptional policy approach that homelands require.

The consensus is also driven by a shared aspiration by all NT politicians to see lock-in of the Gillard Government’s promise of \$200 million seamlessly committed to the new conservative Mills Government.

Minister Anderson taking an Indigenous subject position, notes in her statement:

But of course there are some areas where Indigenous people are different to other Australians, rightly and proudly (her emphasis). Our spiritual connection to land is unique, and today I seek to explain that and to celebrate it, and describe what this



government proposes to do to maintain it through the homelands (p. 1).

What the Mills Government proposes is Hump 2. Here Minister Anderson's demonstrates an unusual dependence on the work of two researchers named Helen and Mark Hughes who, we are informed, have a long-running interest in Baniyala, a homeland in East Arnhem Land.

The main work that Minister Anderson relies on is a submission to the Commonwealth's 'Indigenous Home Ownership Issues Paper' of December 2010 prepared by Helen and Mark Hughes and Sara Hudson of the Centre for Independent Studies (CIS), a neoconservative think tank in Sydney.

The thrust of the CIS paper is that Aboriginal land that is currently held under the inalienable common property land rights regime should be individualised and privatised with 99-year leases.

This is relatively uncontentious and can already be legally done under s19 of the *Aboriginal Land Rights Act*, although whether hyper-long 99 year leases are needed is highly questionable.

But what is contentious is Minister Anderson's view that such land titling will provide the elixir to address the problem of housing shortage and much more at homelands. The mechanism to do so is mortgaging. Minister Anderson proposes a mortgage-led development strategy for homelands.

It goes like this:

Private ownership of housing is good because it encourages people to take out mortgages. Warren Mundine has spoken of this, of the great benefits of a mortgage once you start to think about it. Having a mortgage means you can build a better house for yourself and your children. It means you get up in the morning and have a shower and go to work, to earn the money to pay the mortgage. That means you set a good example for your children, who get up to go to school.

And later:

I want that to be the reality for Indigenous people in the Territory, in the homelands as much as anywhere. To achieve it all that is needed is for the Land Councils to give private leases to individuals. I mean 99-year leases of the sort you can get in Canberra. If it works in Canberra, it will work here (pp. 6–7).

This is Anderson's vision, 'A Shared Responsibility', the requirement for joint efforts by governments, landholders and residents.

Where the ALP's Stronger Futures Homelands Policy offered certainty, the CLP is offering strict conditionality.

And so, for example, Homelands Extra will provide a payment of \$5200 per

eligible dwelling for repair and maintenance work if adult homeland residents demonstrate active economic participation, pay a residential service fee in full, and ensure that resident children regularly attend school. It is unclear who will do the monitoring. And what if jobs and schools are not available?

The lynchpin and sensitive issue that Anderson is seeking to address is new housing at homelands. In September 2007 the Howard Government and a reluctant NT Government (of which Anderson was a member) agreed to preclude homeland residents from gaining access to any Commonwealth funding for homelands housing.

Her new proposal, inspired by the CIS paper, is to use the Aboriginals Benefit Account (ABA) that receives the equivalents of royalties raised from mining on Aboriginal land as a bank.

In her statement Minister Anderson quotes Helen Hughes that the ABA receives \$220 million a year, but in fact the ABA has only received such an amount once in 2008/09. Its annual income over the past 10 years has averaged just over \$100 million, with most pre-committed by law.

While the ABA held equity of \$432 million at 30 June 2012 that could be granted or loaned for housing, these millions are controlled by the Commonwealth Minister for Indigenous Affairs in Canberra (advised by a Territory-based committee) not from Darwin or by the NT Government.

Importantly, homelands are not Canberra, there is no real estate market at homelands so it is difficult to see what will securitise mortgages; and Canberrans earn a great deal more than homeland residents and so have a far greater capacity to service a loan.

Recent evidence on housing is overlooked. For a start there is the expensive disaster of the discontinued Home Ownership on Indigenous Land Program reported on by the Australian National Audit Office (ANAO) in December 2010 that has documented the reluctance of Indigenous people to seek private home ownership in the NT.

And then there is Anderson's evidence that there are 2400 dwellings at homelands with a total population of 10,000. This is an occupancy rate of 4.2 per house which is far better than the aspirational 9.3 persons per dwellings of the National Partnership Agreement on Remote Indigenous Housing at larger priority communities in the NT.

The 'new' policy approach that has many positives is complex and cannot be reviewed in its entirety here. But what it embodies, and why the metaphor of the two-humped camel is apposite, is a dual approach—a view that

individualism, the free market and other neoliberal ideas can sit comfortably alongside Aboriginal emphases on kinship, reciprocity and rights.

Homelands Extra is heavily imbued with Anderson's personality and life history: her charismatic bicultural success cannot be questioned. Indeed she is one of few Australian politician who has held ministerial responsibility in two successive governments of different political persuasion (others include Prime Ministers Billy Hughes and Joseph Lyons).

Clearly Anderson has the capacity to straddle a progressive rights-based approach, in ALP manifestation, and an approach based on individual responsibility, in CLP manifestation.

The challenge for her Homelands Extra will be to convince the homelands constituency to embrace its contradictory key elements: a right to live on ancestral land, but accepting that support will be conditional on governmental scrutiny and that new housing will depend on property privatisation.

Another challenge will be to ensure that the Commonwealth delivers its promised \$200 million for essential services during the long election campaign of 2013 with no signed agreement yet in place.

To return to the camel metaphor Homelands Extra will require homeland residents to live with a policy that dissolves the two-humps of the Bactrian camel into the one-hump of the Dromedary camel so commonly found in central Australia.

The new policy is very risky and the enigmatic Anderson will be under pressure to deliver. The election of August 2012 demonstrated the emerging highly pragmatic approach of the rural Indigenous electorate.

With a number of CLP seats held with tiny margins of less than several hundred, it is not the rural Aboriginal vote but the homelands vote that could determine electoral prospects at the next election due in 2016.

Evidently Homelands Extra is the best policy framework that the Mills Government and its Minister for Indigenous Advancement has been able to conjure up; time will tell if it is good enough to deliver new houses, essential services, and the votes, of course, of the homelands constituency.

*March 2013*

## **FROM ‘TERRITORY OF EXCEPTION’ TO EXCEPTIONAL TERRITORY?**

On 13 March Adam Giles became the first Indigenous government leader in Australian history when elected Chief Minister of the Northern Territory by a majority of his CLP parliamentary colleagues. This ascendancy unleashed media frenzy not least because the incumbent Terry Mills had only led the CLP to decisive election success some seven months earlier in August 2012. Evidently some leaders are judged better at winning office than governing.

What is unusual about the meteoric rise of Adam Giles is that it required the support of the four other Indigenous members of the government all representing rural electorates. This is not as straightforward as it may seem because they are all Indigenous Territorians born and bred, Giles is from NSW and has only lived in the Territory since 2005.

Among the new Chief Minister’s first decisions in announcing his Cabinet was the abolition of an Indigenous affairs portfolio; Alison Anderson’s role as Minister for Indigenous Advancement (see *Homelands Extra*: Read all about it!) disappeared, although she retains an enhanced ministerial profile as Minister for Children and Families, Minister for Regional Development, Minister for Women’s Policy and also now Local Government.

The abolition of the Indigenous advancement portfolio was made for several reasons, in part because Giles assessed it as incompetent, more importantly because he regards it as redundant given that 30 per cent of the NT population is Indigenous and many mainstream government services are delivered to Indigenous Territorians. (Such rationale does not seem to extend to Women’s Policy or Children and Families, also substantial portions of the NT population.)

The NT is certainly a special place, Indigenous people don’t just constitute a more significant proportion of its jurisdictional population than anywhere else in Australia, they are also its most permanent residents, own 50 per cent of the land and most of the coastline under Commonwealth land rights law, mainly live remotely and are deeply impoverished in part because of historical neglect.

The NT is also constitutionally and economically special; ‘territory powers’ allow the Commonwealth extraordinary influence on Territory affairs and it is many times more dependent on re-allocation of Commonwealth tax dollars than any other jurisdiction in Australia.

This political and economic hyper-dependence was clearly demonstrated during the ‘national emergency’ Commonwealth intervention 2007–2012 and since then with the passage of *Stronger Futures* in the Northern Territory laws in June 2012—laws that will potentially run to 2022 and give the

Commonwealth inordinate authority over income management, alcohol management, school attendance and store licencing.

Giorgio Agamben popularised the term ‘state of exception’, the transcendence of the rule of law in the public interest on occasions like national emergencies. This term can be deployed in relation to the 2007 Intervention that created a ‘Territory of exception’ when racially-discriminatory laws were passed to ‘stabilise and normalise’ prescribed Indigenous communities as nowhere else in Australia.

Giles aspires to convert this ‘Territory of exception’ into an exceptional Territory. His rhetorical development vision, first articulated in his maiden speech to the Legislative Assembly in September 2008, is to rapidly grow the Territory economy, Darwin as a bigger gateway to Asia, Alice Springs the cultural capital of Australia, Tennant Creek the golden (mining?) heart, Katherine, the agricultural pastoral capital, Nhulunbuy, mining and tourism and the Tiwi (people on the offshore islands of Bathurst and Melville) contributing to the north Australian food bowl.

A part of the vision is for Indigenous people in the NT to gain ‘jobs, jobs, jobs not welfare, welfare, welfare’ with equal opportunity delivered through mainstream service delivery on an equitable basis and reform of land rights so as to allow land privatisation and greater land access. Giles is reported in *The Australian* (16/3/13) as aspiring to see ‘goods manufactured in remote areas by people in welfare-subsided private sector jobs, those goods shipped to hub cities such as Darwin and onwards to Asia’. As the NT economic pie expands, perhaps Aboriginal people will be able to capture their fair share of the pie?

It all sounds great, but also pie in the sky. Such competition with Asian manufacturing is not where Indigenous comparative advantage lies, especially given the absence of remote infrastructure and transport linkages. It also sounds so state capitalist as to be almost socialist, hardly a decisive move away from the ‘socialism that is killing Aboriginal people’ according to Giles.

Giles’s aspirational political vision is clearly influenced by his personal biography and unquestionable achievements as someone who has risen to great heights from a modest family background. As he notes, again in his maiden speech, the virtue of *Labor omnia vincit*—‘work conquers all’ forms a part of who he is today. His early professional career has been in real estate and the federal employment department so it is unsurprising that he sees jobs and changes to land tenure arrangements as pivotal.

But Giles also believes that decisions must be based on evidence and that ‘politics is the art of the possible’ and here his ideology seems at odds with his goals. It is not that state underwriting of enterprise has not been tried before in the Territory, the Commonwealth tried subsidisation in Indigenous

communities in the 1960s and the CLP made it an art form with its NT Development Corporation (primarily for non-Indigenous business) in the 1980s. Neither delivered much success.

My advice to the new Chief Minister is to more rigorously outline for his Indigenous constituents: the ‘jobs, jobs, jobs’ he will create in remote regions; how he will re-allocate infrastructure investments on the basis of disadvantage, not votes; and what land tenure reforms he might have in mind to change land access and privatise and individualise land held under inalienable common property tenure. Some feasibility studies of manufacturing in remote communities would not go astray.

On his brand of new mainstreaming, history also tells us that while Indigenous citizenship entitlements should be everyone’s business, this is not necessarily the case. It was mainly for this reason that Gough Whitlam established a specialist federal agency long ago in 1972 to provide supplementary support, interagency and intergovernmental coordination and monitoring and advocacy roles for Indigenous Australian interests too often overlooked by the mainstream.

While Giles’s mainstreaming aspiration is admirable—those in Darwin and Alice Springs suburbs should not be treated differently from those in remote homelands—the reality is that recognition of difference and specialist bureaucratic capacity might actually lead to more effective difference-attuned service delivery.

The approach of the new Giles government will cause problems for Julia Gillard because it appears to directly challenge the cooperative federalism on which ‘national partnerships’ to close gaps has been built.

But it creates opportunities for the ALP in Darwin who will no doubt scrutinise this new approach closely to see if it delivers.

This is especially because the CLP has now abolished the independent Office of the NT Coordinator-General for Remote Service Delivery and the Indigenous Affairs Advisory Council. Previously the CLP has said that a Cabinet Sub-committee will properly ensure governmental transparency and accountability, a view oblivious to the moral hazard inherent in such an approach.

A change in federal government in September 2013 might see a stronger ideological and policy match between Darwin and Canberra, at least on the development of the north, the need for further welfare reform, and mainstreaming of services delivery. Notably though, Opposition Leader Tony Abbott currently proposes to include Indigenous affairs back into the Department of Prime Minister and Cabinet, where it was under Paul Keating, to

give it higher profile. But one suspects the Giles ‘new’ mainstreaming model will be watched carefully to see if it might be exportable south.

Evidently, articulating an ambitious and clear agenda is part and parcel of leadership requirements in today’s media age. Adam Giles is keen to be held to account for his brand of leadership that will deliver outcomes, to be judged for the man he is not his heritage. Yet without his Indigenous heritage one ponders if he would have had the moral authority to abolish the Indigenous affairs portfolio? For Indigenous people rapid delivery of outcomes is needed to make a difference, which Giles is keen to do; but ironically he will also need to deliver to the non-Indigenous constituency if he is to retain power long enough to deliver to Indigenous Territorians.

*April 2013*

## **CLOSING DOWN ‘CLOSING THE GAP’?**

While the notion of convergence in socioeconomic outcomes for Indigenous and other Australians has been around for decades as a key element of the modernisation paradigm, it was only in 2008 that it was given a very precise technical reporting framework.

This occurred in the aftermath of the much lauded National Apology to the Stolen Generations by then Prime Minister Kevin Rudd. In the glow of that moment what could be termed the Closing the Gap paradigm was unleashed.

Closing the Gap was quickly picked up as the framework for Council of Australian Governments’ National Indigenous Reform Agreement that was itself an unusual form of cooperative federalism in Indigenous affairs. This in turn locked in billions of dollars of public funding in multi-year funding agreements.

As part of the Apology Prime Minister Rudd also undertook to deliver an annual report to Parliament on progress in Closing the Gap, now referred to as COAG targets. The language of Closing the Gap has become so ubiquitous that sometimes it is overlooked that only one is a genuine target looking for full statistical convergence—and that target, to close the life expectancy gap within a generation, was ‘borrowed’ from the NGO Close the Gap campaign.

Other targets in turn look to halve the gap in mortality rates for Indigenous children under five by 2018; ensuring all Indigenous four year olds in remote communities have access to early childhood education by 2013; halve the gap for Indigenous children in reading, writing and numeracy by 2018; halve the gap for Indigenous people aged 20-24 in Year 12 attainment by 2020; and halve the gap in employment outcomes by 2018.

So we have different targets for full and partial closure; different time frames, from five years to a generation; and different jurisdictions from remote communities to the nation, with no policy logic for these differences.

And yet simultaneously we render the complex problems of Indigenous disadvantage increasingly statistical and abstract or ‘technical in the words of American anthropologist James Ferguson. In the National Indigenous Reform Agreement each target has a straight line trajectory against which precise progress in improving people’s lives in the abstract can be plotted.

The initial aim of annual auditing was to hold all governments to account for their performance. At the national level the annual report to parliament was established as a new institution; and an existing institution the Steering Committee for the Review of Government Service Provision, and its Productivity Commission secretariat was recalibrated to also report on the



COAG targets as a part of its Overcoming Indigenous Disadvantage framework.

The fifth annual Prime Minister's Report 2013 was delivered in Parliament in February but received little media coverage. This is partly because only one 20-page chapter in the 150-page report was devoted to reporting progress against targets, with the other 130 pages focused on programmatic building blocks—the nearly 300 Indigenous-specific programs delivered by the Commonwealth as inputs to the Closing the Gap framework.

This year's report should have been a pivotal. It is the first time that official census data are available to provide some assessment of progress at arms-length from the government's story. And as the long election campaign gets under way it might have generated lively parliamentary debate.

Unfortunately, the census only assists with assessment of two of the six targets, as life expectancy estimates will not be available till late in 2013.

On year 12 attainment the 'halve the gap' sits at a 53.9 Indigenous/non-Indigenous ratio ahead of the 52.8 per cent required. After five years governments are on track to the 69.0 goal by 2020 as is very explicitly documented in a graph.

On the 'halve the gap' in employment outcomes goal, the gap has widened by 2.2 per cent since 2006 with the gap being 25.9 percentage points in 2011 up from 23.7 percentage points in 2006. There is no graph to illustrate this deterioration, but instead a concerted attempt to obfuscate what is being measured, employment as clearly specified in the National Indigenous Reform Agreement or a newly concocted measure of employment—mainstream employment net of Community Development Employment Projects (CDEP) employment.

Obfuscation is also evident in reporting on the target of full access to early childhood education, access being a supply rather than demand variable. Here we are told that the target is not 100 per cent but 95 per cent to reflect the fact that early childhood education is not compulsory, a demand side issue. And the measure of success in attaining this goal is enrolment of 91 per cent of Indigenous children in remote areas, again hardly a measure of supply or of attendance for that matter.

A most pleasing reported outcome is that the goal to halve the gap in child mortality rates by 2018 appears to be on track.

But the information on halving the reading, writing and numeracy gap by 2018 is bordering on incomprehensible mainly because the annual National Assessment Program Literacy and Numeracy (NAPLAN) is conducted for

different school years (3, 5, 7 and 9) and for reading and numeracy, with the writing test having changed in 2011. The results here are mixed, some elements of this target have seen improvement, and others have not.

In truth this latest report like those before from the Prime Minister tells us very little about progress either in Closing the Gap as unilaterally set by governments; or in the overall performance of the Australian state in delivering effective Indigenous policy. Indeed the more indeterminate the outcomes the more glossy the reporting, the louder the associated spin.

This raises many questions for me including the following:

First, the *Overcoming Indigenous Disadvantage Key Indicators 2011* published last year concluded: 'Across virtually all the indicators in this report [of some 830 pages] there are wide gaps in outcomes between Indigenous and other Australians. The report shows that the challenge is not impossible—in a few areas, the gaps are narrowing. However, many indicators show that outcomes are not improving, or are even deteriorating. There is still a considerable way to go to achieve COAG's commitment to close the gap in Indigenous disadvantage'. So has anything changed since then?

Second, are there any mechanisms in the burgeoning Closing the Gap measurement apparatus to link outcomes reporting, successful or unsuccessful, to the adaptive management of policies and programs? As part of this new industry a Closing the Gap Clearing House has been established, but how is it empowered to inform policy formulation? Are its hosts, the Australian Institute of Health and Welfare and the Australian Institute of Family Studies, well positioned to influence governments?

Third, while the National Indigenous Reform Agreement is based on a notion of cooperative federalism, simultaneously most States and Territories have established their own distinct, arguably competitive, reporting frameworks. Again is there any capacity to learn from different approaches taken at the sub-national level and to adapt national policy accordingly? Interestingly, New South Wales, where over 30 per cent of the Australian Indigenous population resides has just released *Ochre: Opportunity, Choice, Healing, Responsibility, Empowerment*, a policy framework that focuses far more on highlighting assets and opportunities over deficits and gaps.

Fourth, what about the growing gaps about which governments are silent?

The Australian Bureau of Statistics has just released *Prisoners in Australia* which reports age standardised and crude imprisonment rates for 2002 to 2012. The Indigenous/non-Indigenous ratio for the former measure has increased steadily from 10.2 times in 2002 to 14.8 times in 2012, and for the latter from 14.3 to 18.4 times. Criminologists might debate why this is occurring, but at an estimated cost of over \$70,000 per prisoner per annum the bill for Indigenous prisoners alone is \$0.5 billion of negative funding that could be deployed so much more productively.

Anthropologist Cris Shore tells us in *Policy Worlds* that the political nature of policies is disguised by recourse to neutral sounding legal-rational idioms, like Close the Gap. And so power is disguised by making a particular discourse appear so natural that its ideological content comes to be regarded as common sense and beyond question. Who can argue with the right of Indigenous

Australians to share in the nation's wealth? Or the urgent need to adhere to higher principle like normalisation?

Evidently, Kevin Rudd's initial aim with outcomes reporting was accountability, but in recent years this has shifted to evaluation fetishism which seems to serve no clear purpose besides those of the measurement industry of which I am a part. In *The Audit Society*, Michael Power argues that the explosion in the audit industry at the turn of the 21<sup>st</sup> century is an institutional means of societal 'comfort production'. The Closing the Gap measurement apparatus underwritten by government can be interpreted in these terms, as a means to comfort the broader electorate that much is being done to address Indigenous disadvantage.

But the explosion of reporting on Closing the Gap that is turning Indigenous people into numbers is such that it almost needs a meta-accounting of the accountability reports.

And the nation has become so inured to such demeaning deficit-focused reporting that there is almost no engagement with it.

One has to wonder at its political and policy worth and whether any incoming Australian government will want to retain the Closing the Gap targets or the associated measurement industry as their intended end date draws closer and closer without any clear indication of success in closing Kevin Rudd's half 'gaps'.

*May 2013*

## SEARCHING FOR THE 'REAL' ECONOMY ON CAPE YORK

The *Cape York Welfare Reform Evaluation 2012* is a thorough 369 page document that is the culmination of an extraordinary reporting process: there are now eight reports on the website of the Department of Families, Housing, Communities and Indigenous Affairs totalling over 1000 pages.

Even before it was made public the Evaluation was subject to a widely publicised and highly politicised debate about whether the Queensland Government would continue to support the trial for a further two years beyond 2013.

Initially the Newman Government argued that continuation of the trial did not represent good value for money and inequitably favoured just four communities on Cape York above others.

But heavy political intervention and pressure profiled in *The Australian* in the days before Easter saw the Newman Government quickly cave in and reverse its decision.

In releasing the report publicly on the cusp of Easter Friday, Minister Macklin noted: 'An independent evaluation of the Cape York Welfare Reform trial has found that significant gains in the four participating communities are making a real difference in the lives of Indigenous people living in the cape [sic]'.

The Minister acknowledged the progress being made, but said there was still more to do.

Subsequently on 3 May the Australian government committed an additional \$24.5 million, on top of \$100 million from 2008, to continue the trial for two more years.

The next day in an opinion piece in *The Australian* 'Lives spared, futures bettered' Noel Pearson architect of the trial praised the Gillard Government in general and Minister Macklin in particular for her principled and unstinting support.

He also provided some commentary on the Evaluation that had been largely absent in the media.

It is arguable whether Pearson is the ideal commentator on his creation; and given that he is one of only three members of the Board of the Family Responsibilities Commission, the key new institution created by the trial.

But it caught one's attention that in a rare moment of reflexivity the politically-

astute Pearson admitted, as does the Evaluation, that some things have gone well and others have not. In particular, he focused on employment and economic development as areas where the trial had mixed success. This is largely linked to the course that Community Development Employment Program (CDEP) reform has taken with most people on CDEP merely shifted to Newstart.

A major plank of the Pearson project going back to his original treatise *Our Right to Take Responsibility* in 2000 is to shift people from passive welfare into real jobs in the real economy. Subsequently in 2007 in the trial blueprint *From Hand Out to Hand Up* people participating in CDEP were represented as being on welfare and sitting on a ‘welfare pedestal’, a comfortable poverty trap that was abstractly illustrated with detailed modelling.

Most of the 832 CDEP participants of 2007 have now been knocked off this pedestal; the crucial question is what has been their destination?

To answer this question it is necessary to trace the origin of the notions of the real economy and associated real jobs, the imagined destination of CDEP participants and the unemployed alike. And information from the 2011 Census can be analysed to get a sense of the labour market situation in the four trial communities of Aurukun, Hope Vale, Coen and Mossman Gorge.

Tracing the origin of the notion of the real economy shows that it is a rarely defined term.

The closest one gets is in *From Hand Out to Hand Up* where the ‘real economy’ is linked to the notion of ‘economic viability’ outlined in a project *Can Cape York Communities be Economically Viable?* (2005) undertaken jointly by staff of the Cape York Institute, the Australian and Queensland Treasuries, and Helen Hughes from the Centre for Independent Studies.

Here it is suggested that the real economy is mainstream economic activity like mining and tourism—or market capitalism. Part of the difficulty in defining the real economy is that it is hard to fix locationally—real as in where, Brisbane, Cairns or Aurukun? And won’t it invariably also have a public, community services component alongside the private sector if citizenship rights are to be delivered equitably?

The information on employment outcomes provided in the Evaluation indicates that employment rates are diabolically low. If CDEP is counted as employment in accord with International Labor Organisation and Australian Bureau of Statistics conventions then employment as measured by the employment/working-age population ratio varies from lows of 20.3 per cent and 21.6 per cent at Mossman Gorge and Aurukun to highs of 42.9 per cent and 49.6 per cent at Hope Vale and Aurukun.

If employment is measured without CDEP, which is a meaningless statistic in my view given that CDEP participants work, then employment rates fall even lower to 14.9 per cent at Mossman Gorge and 16.1 per cent at Aurukun.

The rate of unemployment as measured by the ABS has grown in all trial communities most dramatically from zero in 2006 to 40 per cent in 2011 and 5 per cent to 33 per cent at Mossman Gorge and Hope Vale respectively. These changes largely reflect the shift of people of working age from CDEP participation or active workfare onto Newstart, now supervised welfare where people can be breached for non-compliance.

In short, the expectation that CDEP participants will engage with market capitalism has failed. Instead according to the Evaluation a total of 211 properly-paid jobs have been created by Queensland and Australian governments in municipal and other service delivery, but this is nowhere near the over 800 who were CDEP participants, let alone others who were either unemployed or discouraged workers. It is far from clear from the Evaluation how many took up paid employment outside the region. What is clear though is that a number of other Cape communities fared better than trial communities.

Information on industry of employment from the 2011 Census that is not provided in the Evaluation shows that in total only 21 people worked in mining, 18 at Hope Vale and three at Aurukun; most people by far, 169 across the four communities, worked in public administration. This accords with the findings of a House of Representatives Standing Committee on Economics Inquiry in 2011 that most Indigenous jobs in Cape York were in public administration, followed by health care and social assistance, then education and training.

Two observations can be made about these findings.

First, in situations where inactivity has been identified as a cause of social dysfunction, the almost complete elimination of CDEP in the name of real jobs has rapidly swelled the ranks of the unemployed.

Second, this transformation has occurred with inadequate workforce planning and economic development for meaningful activity, with two ideas predominating: either people will join the mainstream labour market, though available jobs are inadequate; or they will orbit out for employment.

There is hope expressed for greater mainstream engagement in tourism and mining. For example the Evaluation reports that in August 2012 the new Mossman Gorge Tourism Gateway project employed 60 Indigenous staff with an expectation that between 40 and 70 positions for local Indigenous people would be available depending on seasonality.

And in a recently announced potential joint venture to mine a bauxite lode on Wik land worth up to \$20 billion, Aurukun mayor Dereck Walpo said the project would transform the Cape York community from welfare dependence to a ‘booming mining town’. This is despite recent evidence of almost no involvement in mining by Aurukun residents and the risks associated with such booms for Aboriginal well-being.

While Pearson talks of ‘mixed success’ it would be more sanguine to describe trial community labour markets as having collapsed. This raises important policy questions that have not been adequately addressed either in the Evaluation or by Pearson.

If policy discourse is framed in terms of the modernisation paradigm, continuing deficits and ‘closing the gap’ then it is difficult to see how any hope for productive livelihoods might be instilled back into the trial communities. While there is much discussion of people orbiting out for employment, there is too little assessment of what this might do to the social fabric of trial communities. And there is too little consideration of the prospect of more work-ready Indigenous people competitively orbiting in, as is currently occurring at Weipa where a significant proportion of the Indigenous workforce is made up of Torres Strait Islanders who are not western Cape traditional owners.

Despite the many reported positives of the Cape York Welfare Reform project in the Evaluation, members of trial communities have been let down badly by the absence of viable alternatives to market capitalism.

There is just too much ‘engage with the real economy or bust’ mentality about the Cape York manifesto. There is an urgent need to think far more creatively about alternatives—a wider set of productive possibilities—something that is missing in the economic domain despite all the reams written about the problems of the Cape.

Rather than focusing all effort on making Indigenous residents of trial communities competitive in the mainstream where too few opportunities are available, greater emphasis could be placed on recognising and fostering Indigenous knowledge, local skills, cultural strengths and physical presence on Cape York as assets or strengths.

This might see the emergence of what I term hybrid forms of economy that support plural forms livelihood beyond those derived from market capitalism alone. Such forms of economy will integrate the customary, that is non-market and non-capitalist, with other forms of market production; they will see the management of local natural and cultural resources for regional use as well as for enhanced global exchange and national benefit in industries as diverse as carbon farming, biodiversity conservation, wildlife harvesting and cultural

production alongside existing market and state sector opportunities.

While such an approach will require financial support from outside, there is little in rural and remote Australia, black or white, that does not. And the new jobs garnered as part of the Cape York Welfare Reform trials have probably enhanced rather than reduced external dependence.

Tragically, CDEP the one institution that was best suited to deliver diverse and productive livelihoods in remote regions has been effectively abolished. This means that a new framework that is developmental and participatory needs to be urgently re-created.

In *Envisioning Real Utopias* American sociologist Erik Olin Wright reminds us that while capitalism is in serious crisis, it will survive for the foreseeable future. But alternatives, he urges, need to be placed on the historical agenda including economic structures that are hybrids of capitalist and non-capitalist productive relations.

Noel Pearson's Cape York project is evidently promoting one form of utopia based on integration into market capitalism for Aboriginal people on Cape York. But after five years this project is struggling to deliver adequate employment outcomes. It is timely to consider alternatives. Or will we just await the next evaluation 'seven years on'?

June 2013



## INDIGENOUS ECONOMIC FUTURES ON COUNTRY

At the recent National Native Title Conference ‘Shaping the Future’ convened in Alice Springs I presented a paper based on ongoing research undertaken with Francis Markham on mapping Indigenous lands and their values.

The paper’s title ‘Values Mapping Indigenous Lands: An Exploration of Development Possibilities’ is contentious and contestable. Whose values? Whose mapping? What are Indigenous lands? And what is development?

Contentious and contestable ideas are good to open up debate. One thing is certain: in the past 40 years there has been a land titling revolution in Australia; and at a key moment, two decades after the *Native Title Act*, it is useful to pause and consider: what does this mean for the future?

In a relatively short time there has been a tumultuous shift in Australia from illegal Indigenous dispossession based on the discredited notion of *terra nullius*, to legal repossession, initially through a series of land rights and then native title laws.

Legal repossession sounds good and in many ways it is for the few who get their land back, those who to use the terminology of historian Patrick Wolfe are deemed ‘uninvaded’ according to western law and so gain land ownership recognition.

But recognition, as Nancy Fraser argues in *Scales of Justice* is only one element of justice, in this case, land justice. What about redistribution, especially of property rights, that are a core element of value; and what about representation over the land and the form of development that might occur on that land—unfortunately free prior informed consent provisions are largely limited to Commonwealth land rights law passed for the Northern Territory in 1976.

Values can be variably constituted. Even official resource atlas information indicates a diversity of possibility; the local and regional perspectives of Indigenous land owning groups are mind-bogglingly diverse, so much so that I will not consider them here.

Instead I focus on values mapping at a macroscopic continental scale using ‘official’ land ownership, resource atlas and census data some of which are undeniably more reliable than others. A key feature of this analysis is the expert deployment of a Geographic Information System (GIS) by Francis Markham. Mapping in the middle of a ‘revolution’ is risky; our mapping work is a work-in-progress that changes constantly, our maps are organic and dynamic and the base data used are not ours and are known to contain omissions and shortcomings.

Our conference suite of maps cannot be reproduced here but are readily available at the Australian Institute of Aboriginal and Torres Strait Islander Studies (AIATSIS) conference website. Just one map and one table are shown here to help consider what this land titling ‘revolution’ might mean for people who have had to cope with incremental colonial dispossession as they experience legal repossession.

As the map shows, land ownership is significant; arguably the growth of Indigenous lands is one of the most dramatic in modern times anywhere in the world without warfare. This titling, as the table shows, now covers over 30 per cent of the Australian continent with land rights and exclusive and non-exclusive native title determinations made for social justice and judicial reasons. And yet we have little informed national debate about this ‘revolution’, what it might mean for traditional owners, the nation, regional geopolitics.

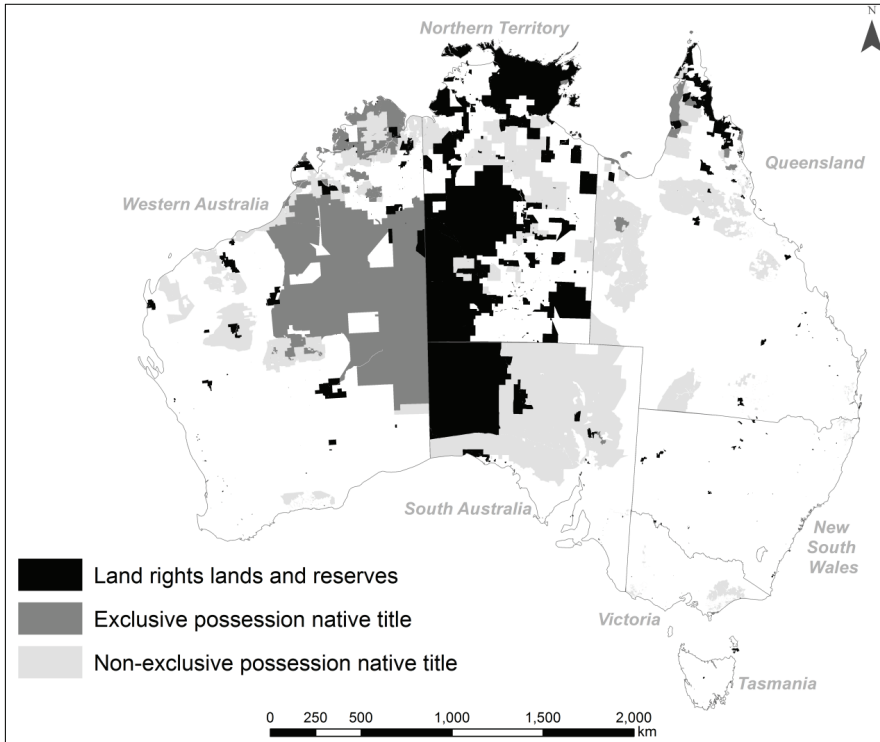
The map and table are shown here because they have a comforting empiricism or ‘reality’ about them in the hotbed of Indigenous policy where debates are increasingly polemical, political and anecdotal.

Maps of course are also highly political because they are all about territorial space and resources and access to them within borders.

Just how political the use of maps can be was clearly demonstrated on ABC television by John Howard’s Mabo Map of 1997 showing 78 per cent of Australia coloured brown, suggesting that such an area might be Indigenous-owned legally, which it might, but then suggesting that a right to veto development might be exercised over this land—something that has never been an option on native title land because current political economic considerations precluded either mineral ownership or a right of veto under the *Native Title Act 1993*.

Howard’s was what Harm De Blij has termed ‘a map of bad intent’ that has made many suspicious of maps. ‘Statistical picturing’, a term coined by David Demeritt, is seen as an instrument of state governmentality, of legibility and control. Our belief in producing maps for the National Native Title Conference is that ‘maps of good intent’ can be deployed to open up productive discussion about the transformative potentiality of legal repossession for new livelihood opportunities.

The map reproduced here shows how much land, to date, has been successfully claimed or scheduled under land rights laws (981,000 sq kms); exclusive possession native title (79 determinations, 715,000 sq kms) and non-exclusive possession (126 determinations, 682,000 sq kms) totalling 2.4 million sq kms.



Maps also show that there are 699 Indigenous Land Use Agreements covering 1.6 million sq kms and that there are 322 registered claims with outer boundaries that cover 3.2 million sq kms.

Correlated with information from the Australian Bureau of Statistics, overlay maps also show that there are more than 1,000 discrete Indigenous communities on these lands and that in land rights and exclusive possession jurisdictions Indigenous people represent over 80 per cent of the population, jurisdictions that following political ecologist Arturo Escobar can be called ‘Territories of Difference’. Overall though, only an estimated 11 per cent of the total Indigenous population lives in jurisdictions of exclusive possession.

About 20 of Australia’s 400 operating mines are on such lands, with all mines providing about 5,500 jobs for Indigenous Australians in 2011. And a number of regions are highly prospective and desirable for mineral extraction. But because these jurisdictions are remote and have historically had low commercial and agricultural values today they have high environmental values: vegetation condition is relatively high, threatened species counts are relatively low, and riparian zones are relatively undisturbed.

Tenure	Estimated Indigenous Population	Estimated non-Indigenous population	% of region Indigenous	% of total Indigenous population	Area (km <sup>2</sup> )	Area (% of Australia)
Native title (exclusive possession)	14,308	3,093	82%	2%	715,284	9%
Land rights	60,233	13,939	81%	9%	981,132	13%
Native title (non-exclusive possession)	2,617	12,438	17%	<1%	682,334	9%
Registered claims	195,915	5,866,930	3%	30%	2,998,669	39%
All of the above	273,073	5,896,401	4%	41%	5,377,420	70%
Australia	660,903	21,423,504	3%	100%	7,687,809	100%

Consequently, these exclusive possession areas make up a growing share of the National Reserve System; at the end of 2012 Indigenous Protected Areas made up 34 per cent of Australia's terrestrial conservation estate. But in terms of net primary productivity and estimated dollar land values Indigenous lands have low values; most are in remote desert and tropical Australia.

Under such circumstances, shaping futures on these lands will require forms of what I term 'hybrid' economies, what others term 'diverse', 'plural', 'livelihoods', 'human', or 'moral' economies.

Since 2001 I have tried to highlight the range of possibilities on Indigenous-owned land using the hybrid economy as a general framework for understanding economic encounter. The hybrid economy's distinguishing feature is its empirical and theoretical insistence that everything in the production, distribution and consumption realms on Indigenous land is an intermingling of the state, the free market and the customary; of capitalist and non-capitalist economies.

The hybrid economy model is fundamentally an assets-based not deficits-focused framework. In this model the inalienability of land and its restricted common property form are pluses not minuses. And so there are possibilities for diverse forms of extractive economy based not just on non-renewable resources or mining, but also on the provision of ecological services, clean air, fresh water, carbon farming.

Working on Country providing environmental services accords with the aspirations of many Indigenous land owners to either restore or maintain the cultural and environmental values of their legally repossessed lands cognisant of post-1788 threats from invasive weeds, feral animals, uncontrolled fires, pollution and land clearing.

The hybrid economy way of thinking looks to bridge the tension between requirements of proof of continuity of customs and traditions observed and practiced and physical connections to the land; and a broader settler colonial expectation that with rights in land people will quickly integrate into the mainstream economy and society and adopt western norms as reflected in crude idioms like Close the Gap. But such convergence will ironically require physical and cultural migrations that will disconnect Indigenous people from ancestral country that some have struggled for decades to legally repossess.

Fifty-five years ago in 1958 anthropologist Bill Stanner asked if the Market and the Dreaming might be incompatible. Today we see the same question being posed but under land ownership circumstances unimagined then. To invoke Stanner's question in contemporary parlance to what extent might the aspirations of many Indigenous land owners focused on kinship and ancestral country be commensurate with a dominant neoliberal trope focused on individualism, the free market and materialism?

The answer to this question raises further questions about the transformative potentiality embedded in the extraordinary land titling changes of the past 40 years that might be harnessed for diverse and relatively autonomous Indigenous futures.

This is especially pertinent at a time when there is so much uncertainty about the sustainability of late post-industrial capitalism: what alternate 'hybrid' futures might be possible on Indigenous lands for those fortunate enough to legally repossess them?

*July 2013*

## **THE MORE THINGS CHANGE ...: INFORMED CONSENT AND HUMAN RIGHTS FOR INDIGENOUS AUSTRALIANS**

Considerable attention has been drawn recently to the Bark Petitions lodged by Yolngu clans from North East Arnhem Land with the Australian Parliament in August 1963—the theme for NAIDOC week 2013 was ‘We value the vision: Yirrkala Bark Petitions 1963’.

The Bark Petitions are quite rightly interpreted as a precursor for the establishment of a House of Representatives Select Committee specially formed to hear the grievances of Yirrkala Aboriginal people about the proposal to mine their Yolngu clan lands located within the then Arnhem Land Reserve without any consultation with them, let alone their consent.

While sympathetic, the Select Committee did not recommend that mining activity desist. Its concluding recommendation was that for 10 years from 1963 a Standing Committee of the House of Representatives examine the condition of the Yirrkala people and the implementation of its 11 other recommendations. As mining did not occur immediately this recommendation was not implemented.

The Petitions were also the precursor for subsequent legal action by the same clans against another mining company the North Australia Bauxite and Alumina Company Ltd (NABALCO) and the Commonwealth in the NT Supreme Court in what is generally referred to as the Gove Land Rights case. The court case *Milirrpum and others v Nabalco and the Commonwealth* attempted to halt mining at Gove that had been granted by a special law, the *Mining (Gove Peninsula Nabalco Agreement) Ordinance* of 1968. It is now well known that Mr Justice Blackburn ruled against the Yolngu and that mining was allowed to proceed at Gove for a period of 84 years to 2052 as specified in the Ordinance.

It is now generally accepted that the perceived social injustice to Yolngu of the Gove case heard by Mr Justice Blackburn and unappealed was instrumental in the formation of the Woodward Land Rights Commission in 1973 and the implementation of its recommendations that resulted in the passage of the Commonwealth *Aboriginal Land Rights (Northern Territory) Act 1976*.

Land rights law provides traditional owners with free prior informed consent rights in relation to future mineral exploration on their lands. Unfortunately for the Yolngu the massive existing bauxite extraction and alumina processing industrial complex on the Gove Peninsula was defined as a prior interest and so deemed immune from retrospective consent provisions. However, financial aspects of the agreement made between the Commonwealth and the mining were open to periodic renegotiation every seven years within stipulated parameters.

The signatories of the original Bark Petitions were concerned that mining had been approved on land reserved for their exclusive use without any consultation with them; the tripartite negotiations had been between the Commonwealth government, the Gove Mining and Industrial Corporation Ltd (GOMINCO) and the Methodist mission at Yirrkala where most of the signatories lived. And they were deeply concerned that they would lose access to their land and livelihood and to sacred places and places of birth crucial to identity. Crucially the Yolngu were fearful of the impact of an urban mining town on Yolngu society drawing an explicit analogy with what they perceived as the negative consequence for the Larrakia of the establishment of Darwin.

The tabling of the Bark Petitions just a year after the Commonwealth Electoral Act was amended to give Indigenous people the right to enrol and vote in Commonwealth elections demonstrates the extraordinary ability of the Yolngu to adapt to western institutions, albeit in a highly intercultural and bi-lingual manner, with assistance and mediation by members of the Parliament.

Having tried to use the Parliament to address their concerns in 1963, the Yolngu resorted to using the western legal system, again with assistance from white lawyers and anthropological experts to hear their case in 1968. Again they lost.

Fifty years on the Yolngu and Indigenous Australia and even Australia's political elites celebrate the Bark Petitions as visionary, which it was. At the same time the workings of settler colonial institutions in cahoots with multinational corporations conspired to defeat the Yolngu.

Today there is an emerging diversity of views among Yolngu about the resultant mining.

Some continue to resent its imposition on their traditional lands and its negative environmental and cultural impacts. One senior traditional owner described to me the transformations that massive open cut mining had caused to the landscape as the equivalent of scarring his body—he demonstrated this graphically by running his fingers across his chest. Historically, and today, few Yolngu work at the mine for many reasons including as appropriate respect to their forefathers who fought against its establishment.

Others, most notably Gumatj leader Galarrwuy Yunupingu extol members of their regional Yolngu community to belatedly embrace the mine and the employment and enterprise opportunities that it might represent. But Yunupingu also wants Yolngu to have stronger property rights in minerals, graphically suggesting that 'the bark should have more bite'.

Other Gumatj elders have expressed concern that the mine's closure, a distinct possibility owing to declining global prospects for alumina, might rob them of

mainstream economic opportunity.

Two weeks before NAIDOC a report from the Parliamentary Joint Committee on Human Rights was tabled that examined the compatibility of the Stronger Futures in the Northern Territory Act 2012 with human rights.

The Committee considered the Stronger Futures laws in response to submissions from a diversity of interests (including mine), but most particularly from the National Congress of Australia's First Peoples and Yolngu Makarr Dhuwi (the Yolngu Nations Assembly). While the Australian Gillard government-of-the-day was adamant that scrutiny of its laws was not needed, the Committee decided otherwise. This was mainly because so many of over 400 submissions made to an earlier Senate Community Affairs Legislations Committee inquiry in 2012 had raised human rights concerns with these laws.

The Report made two key observations.

First that it is critically important to ensure the full involvement of affected communities in policy making and policy implementation processes. It notes that article 1 of each of the International Covenants on Human Rights as well as the UN Declaration on the Rights of Indigenous Peoples, requires meaningful consultation with, and in many cases the free, prior and informed consent of, Indigenous peoples during the formulation and implementation of laws and policies that affect them. To do otherwise risks producing the disempowerment and feelings of exclusion and marginalisation reported in so many of the 400 submissions to the Community Affairs Legislation Committee.

Second, that a number of the Stronger Futures measures, notably income management and school attendance measures, represent significant limitation on human rights; and extend regulation a long way into the private and family lives of the persons affected by these schemes.

Like the Select Committee in 1963 in relation to mining, it did not recommend the legal overturning of the Stronger Futures laws. Instead the Parliamentary Joint Committee highlights the need for continuing close evaluation of measures claiming to have benefit and the potentially disempowering effects of such measures. Like the Select Committee, the Parliamentary Joint Committee on Human Rights saw a role for itself in ongoing oversighting of the Stronger Futures laws and a review in a year's time.

It might have just been the timing of the release of the Stronger Futures report just prior to NAIDOC week and the Yolngu celebration of the 50<sup>th</sup> anniversary of the bark petition, but similarities between the two events resonated for me. In both the key issues were human rights, social justice and free prior informed consent.



And in both parliamentary processes were found wanting, although interestingly in 1963 the government of the day supported establishment of the Select Committee, in 2013 the government disapproved of the focus on Stronger Futures. And in both Yolngu played a role, in the case of the Bark Petitions the key role, in advocating for Indigenous rights.

The Stronger Futures laws are locked in for another 9 years and one wonders if they, like mining at Gove, might be legally challenged? And if so, using what court? And one also wonders how we, as a nation, might look back at this period in Indigenous policy-making and implementation in 50 years' time, in 2063?

There is a French expression: the more things change, the more they stay the same (*plus ça change, plus c'est la même chose*). Evidently, and sadly, such an expression has applicability in 21<sup>st</sup> century liberal democratic Australia—to our collective ability to ignore the free prior and informed consent and human rights of Indigenous people in accord with United Nations guidelines.

*August 2013*

## **STAND AGAINST INDIGENOUS POVERTY**

The Oceanic chapter of the group Academics Stand Against Poverty (ASAP) approached me to provide input to an audit being undertaken of the policy platforms of the major parties in the lead up to the 2013 federal election.

Poverty struck me as an important issue to consider. In all the cacophony about Closing the Gap why is there never mention of the poverty gap between Indigenous and other Australians nor of the social and economic costs of its existence and persistence?

According to the 2011 Census Indigenous Australians total an estimated 670,000 and constitute 3 per cent of the total population.

Normative social indicators, reflecting the values of the dominant settler colonial society and historically only comprehensively available since 1971, indicate deep and continuing disparities between Indigenous Australians and other Australians as statistical agglomerations.

The Indigenous affairs policies of governments of all persuasions since the 1980s have explicitly aimed to reduce these statistical discrepancies that are such ‘wicked’ problems as to be almost intractable—as evidenced by research that has tracked their persistence from 1971 to the present. Strong policy rhetoric including Bob Hawke’s ‘Aboriginal Employment Equity by the Year 2000’; John Howard’s ‘Practical Reconciliation’; and most recently Kevin Rudd’s ‘Closing the Gap’ have all aimed to eliminate Indigenous disadvantage as defined statistically. None has succeeded.

Despite evidence of deep poverty experienced by Indigenous families and individuals available since the Henderson Commission of Inquiry into Poverty in the 1970s, governments have never pursued policies to explicitly eliminate or ameliorate Indigenous poverty.

The current Closing the Gap policy was announced as part of the National Apology in February 2008 and was subsequently incorporated in the National Indigenous Reform Agreement by the Council of Australian Governments. It focuses in a technical way on six key objectives (life expectancy, infant mortality, three on education and employment) with only one, halving the gap in employment outcomes between Indigenous and other Australians within 10 years, potentially impacting directly on poverty.

There is no policy to Close the Poverty Gap between Indigenous and other Australians in relation to the poverty line, usually set at 50 percent of median household income adjusted for family composition—or to make ‘Indigenous poverty history’.

The best source of information on Indigenous poverty is found in the National Aboriginal and Torres Strait Islander Social Survey (NATSISS) that can be compared with information for the total population in the General Social Survey (GSS).

Economist Boyd Hunter has undertaken thorough analysis of these data sources and has asked in recent 2012 research ‘Is Indigenous poverty different from other poverty’? His answer is a resounding yes.

But there are many complexities underlying Indigenous poverty that are not adequately considered in standard poverty analysis. These include unusual non-western forms of household composition, non-monetary income in many situations, the absence of adequate measures of costs outside capital cities, and a host of cross-cultural issues.

Nevertheless Hunter’s analysis of income alone shows the depth of Indigenous poverty. In ‘Revisiting the poverty wars’ he estimates that 41.8 per cent of one-family Indigenous households live in poverty compared with 17.3 per cent of non-Indigenous households, a massive difference. And for Indigenous households, poverty is far higher irrespective of location.

His most recent analysis indicates that for sole parent households there is no statistically significant difference between Indigenous and non-Indigenous households (40–50 percent live in poverty) but for couples and other household forms there are statistically significant differences. Hunter also emphasizes that Indigenous poverty has multiple dimensions including social exclusion, experience of discrimination and high levels of financial stress.

The policy responses of the two major political parties, the ALP and the Coalition, to this situation is surprisingly similar adhering to an approach highlighting individualism, market solutions, entrepreneurship and asset accumulation.

Indigenous people, it is proposed, need to engage more thoroughly with the mainstream education system so as to be in a position to take on ‘real’ jobs, irrespective of whether such jobs exist locally or not. Increasingly there are proposals that if people live in regional or remote circumstances where mainstream labour markets are absent they should migrate for employment away from ancestral lands or engage in fly in/fly out or drive in/drive out employment.

The heroic assumption is that if the employment gap closes then poverty will be reduced—although as the aim of policy is to half close the employment gap by 2018 presumably poverty would similarly only be half eliminated. In any case, as outlined by me in *Tracker* in February 2013, evidence from the 2011 Census indicates employment gaps have widened not closed since 2006.

The widening employment gap is partly the result of collusion by both major parties in the destructive reform of the Community Development Employment Program (CDEP) since 2005.

This 'reform' has seen numbers participating in this program plummet from 35,000 participants in 2006 to 10,000 in 2011 and fewer now. Under CDEP participants worked for community organisations and were paid a minimum wage equivalent to income support entitlements. And under CDEP a sensible income test allowed participants to work more and earn more without losing their basic income.

Analysis of the latest NATSISS data by Boyd Hunter and Matthew Gray shows that in remote regions CDEP participation resulted in average individual earnings of \$359 per week compared to \$231 per week if unemployed and \$228 if not in the labour force.

Today most CDEP participants have been transferred to Newstart and face the standard social security taper on additional earnings. While recent data on poverty is not available, it is inevitable that this change would have deepened poverty and seen most CDEP participants migrate from part-time work to unproductive welfare.

In 2013 the ALP reformed the sole parents' payments scheme cutting the weekly payments of 80,000 single parent families by an estimated \$100 a week according to the Australian Council of Social Service (ACOSS). As noted above while Indigenous and non-Indigenous sole parent families live in poverty at similar proportions, this measure will deepen poverty for all. The Coalition has not opposed this change and has announced no election commitment to reverse it.

The Australian Greens as the third political force in Australia have had a somewhat different approach.

They challenged the reform of CDEP, they vigorously opposed the reform of parenting payments and they campaign hard for income support payments for the unemployed to be increased to at least align with pensions. All these measures could alleviate, but not eliminate, Indigenous poverty.

The Australian Greens have also taken a different approach from the major parties on two other issues that could structurally influence poverty reduction. First, they have advocated for reform of the *Native Title Act* that would provide Indigenous land owners with commercial property rights.

Second, since 2007 they have opposed expensive punitive measures that have had bipartisan support from the major political parties with minor differences. These measures have included income management that costs as much as

\$7900 per person per annum to administer. Such amounts could make a significant contribution to poverty alleviation particularly in remote areas where a marked cost differential with major cities has been documented across all food groups.

The Australian Greens have also vociferously opposed the punitive suspension of income support payments to parents and carers in situations where children avoid school attendance on the grounds that if implemented such draconian measures will enhance not reduce poverty.

I have referred on a number of occasions to a comfortable Canberra consensus between the two major parties that only propose normalizing Closing the Gap policy solutions to deeply entrenched problems. This consensus is based on principles that combine a neoliberal focus on individualism, private property and material accumulation with a belief in mainstreaming. In my view this approach will not close gaps, alleviate poverty or address diverse Indigenous aspirations.

The third political force, the Australian Greens, are open to alternatives based on approaches that focus more on human rights and self-determination, that seriously engage with articles in the UN Declaration on the Rights of Indigenous.

Evidently it does not matter that statistics indicate that the current approach is not delivering adequate results, including for poverty alleviation.

Instead an unshakeable ideological stance is maintained by the major parties that integration into market capitalism will provide the one and only solution. In my view poverty alleviation for many Indigenous Australians will only occur if the policy focus is on livelihoods and accommodates diverse circumstances, is realistic, and is community driven rather than dictated from Canberra.

*September 2013*

## **AN UNCERTAIN FUTURE UNDER ABBOTT**

I have never met Australia's new Prime Minister Tony Abbott. While he seems to be a conviction politician he did not quite come close to claiming that he will 'Close the Gap' like he will 'Stop the Boats' or 'Scrap the Carbon Tax'.

But he has made it quite clear that Indigenous affairs is going to be a high priority for his government.

It is hard to get a sense in what way things are going to change in the next three years during the first term of an Abbott Government.

The Coalition's Policy for Indigenous Affairs was released a couple of days before the election.

This was poor timing for the thousands of Indigenous voters mainly in remote Australia who had already mobile voted before knowing what they were voting for, or against. But if the document had been available earlier I suspect it would have made little difference.

It has very little substance.

I have complained long and hard about the cosy Canberra consensus in Indigenous affairs since the Rudd Opposition acquiesced to the NT 'National Emergency' Intervention just over six years ago. And so just as Rudd endorsed the Intervention and then negotiated the COAG National Indigenous Reform Agreement to Close the Gap; the Nelson, Turnbull and then Abbott Oppositions have broadly agreed with the Closing the Gap policy framework.

Not to do so would be politically damaging. Just as 'Little Children are Sacred', so is the right of every Indigenous Australian to be a gap free subject.

Not to support the Closing the Gap framework is to support the persistence of gaps in employment, education and health outcomes, not to mention imprisonment rates, poverty, housing inequality and much more.

The Coalition's Policy for Indigenous Affairs is quite inconsistent on whether it endorses the Closing the Gap framework, or not.

At once the Policy states that 'you do not have to look very closely at the Prime Minister's [Julia Gillard] recent report on Closing the Gap [February 2013] to conclude that Labor's approach to Indigenous Affairs has not worked'.

I note here that there have been five annual Closing the Gap reports since 2008 but never did the Coalition Opposition suggest that Labor's approach was not working. Instead there was unusual bonhomie and bipartisanship.

As reported in the mainstream media ‘Mr Abbott also welcomed Prime Minister Julia Gillard's candour in delivering a mostly positive, but mixed, report card on progress towards meeting six targets that were agreed after former Prime Minister Kevin Rudd delivered the formal apology to the stolen generations in 2008. "We need this level of candour to achieve genuine progress and genuine closing the gap”.’

And then the Policy states ‘The Coalition will continue the current level of funding expended on Closing the Gap activities, but will examine the costly programmes to make sure that they are directly working to meet the Closing the Gap targets’.

This suggests a commitment to the same targets and funding but with better outcomes.

It is stated that Labor’s problem was that it failed to monitor and evaluate Indigenous programmes and this has led to chronic waste and lost opportunities.

The Strategic Indigenous Housing and Infrastructure Programme (SIHIP) that has now transformed into the National Partnership Agreement for Remote Indigenous Housing is singled out for special belated criticism as an ‘absolute disgrace’ even though it appears to be meeting its admittedly inadequate targets according to the ANAO.

A meta-analysis ‘Too much ‘Dreaming’: Evaluations of the Northern Territory National Emergency Response Intervention 2007–2012’ by Susie Russell and myself completed in December 2012 suggests otherwise: it enumerated 98 reports, seven parliamentary inquiries and hundreds of submissions in one jurisdiction, the Northern Territory, alone. There has been no shortage of evaluation.

Deploying the authority of the ANAO (ignored with respect to housing) the Coalition Policy looks to sheet home much responsibility for ‘bureaucratic failure and incompetence’ to the key Australian Government agency responsible for Indigenous programmes (FaHCSIA) for failing to adequately perform its lead agency role.

So how will the Abbott Government achieve this difficult objective that has bedevilled Indigenous policy for decades now? The challenge is not just how to coordinate Commonwealth Indigenous specific and mainline programmes, but also those of other levels of government in Australia’s federal system.

The answer seems primarily to involve altering the machinery of government by transferring responsibility for Indigenous programmes to the Department of Prime Minister and Cabinet so that under the Abbott Government ‘Australia

will in effect have a Prime Minister for Indigenous Affairs and a dedicated Indigenous Affairs Minister’.

This is an interesting proposition on several grounds.

On one hand it is reminiscent of arrangements 20 years ago during the Keating years when there was a dedicated Minister for Indigenous Affairs and an Office of Indigenous Affairs in the Department of Prime Minister and Cabinet. But at that time few programs were run by the Prime Minister’s Department and the Aboriginal and Torres Strait Islander Commission (ATSIC) had mandated responsibility for coordination and for administering \$1 billion of Indigenous-specific expenditure.

On the other hand it is as yet for from clear what transfers to the Department of Prime Minister and Cabinet will actually take place.

Even if programs transferred were limited to those run by FaHCSIA the size of PM&C will increase several fold, it will inherit a regional bureaucratic presence, and the department will shift from being primarily a policy department to a programme delivery department.

Additionally, an Indigenous Advisory Council of five members (already referred to as the IAC) to be chaired by Warren Mundine will be formed to ‘help ensure that the Indigenous programmes achieve real, positive change to the lives of Aboriginal people’. Just how this appointed Council, the anointed ‘Gang of Five’, will do this is difficult to imagine.<sup>16</sup>

Its chair was a member of the earlier selected rather than elected National Indigenous Council that superseded ATSIC and that was ineffective in helping the Howard Government (of which Abbott was a key Minister) achieve practical reconciliation, the now overlooked and failed quest to reduce Indigenous material disadvantage in the areas of health, housing, education and employment.

And another high profile member of the IAC membership announced as this is penned, Peter Shergold, was not only head of PM&C during the late Howard years, but also presided over the implementation of connecting government to respond to Australia’s priority challenges and the new mainstreaming in Indigenous affairs post-ATSIC.

These ‘innovations’, mainly based on New Labour precedents in the UK, failed to deliver either practical reconciliation or coordination or better outcomes than during the ATSIC years. Now he is back for another go.

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<sup>16</sup> After the election the number on the Indigenous Advisory Council was quickly increased to twelve with a process of self-nomination that was far from transparent resulting in the current ‘Gang of Twelve’.



In a speech to the now defunct Bennelong Society in September 2004 Tony Abbott started by stating:

For 200 years, nearly every speaker on Aboriginal policy has dwelt on problems: the difficulties of preventing conflict, building relationships, generating resources and dealing with dispossession. Problems there are and they can't be ignored or glossed over. They are among the most serious and intractable problems our society faces.

Indeed.

And how will the Abbott 'new' arrangements help to solve them? Not, I would suggest, by recycling unelected and contentious people from the past as his key advisers, people who while individually successful have no track record of delivering success in Indigenous policy. Nor by marginalising well-established bureaucratic institutions like the Productivity Commission and the Australian Institute of Health and Welfare or a host of other more independent research institutions at arms-length from government. Monopolistic advice from like-minded people is not the way to foster the sort of competition of ideas and advice that will be needed in the increasingly complex 21<sup>st</sup> century to address increasingly complex Indigenous development challenges.

Of particular concern, while critical of the absence of proper monitoring and evaluation under Labor, no new institutional mechanisms have been proposed to monitor how the new government will measure its performance in meeting the national Closing the Gap goals. Here Abbott has struck it chronologically lucky because results from the 2016 Census will not be available till well after his first term; and results from the National Aboriginal and Torres Strait Islander Social Survey to be conducted next year are likely to be dismissed as too early to reflect his 'new' approach.

Evidently, the Coalition believes that Indigenous Australians deserve a better future, with more job opportunities, empowered individuals and communities, and higher standards of living. But despite neoliberal commitment to transparency, there are no targets or performance evaluation frameworks in the Coalition Policy. Nor is there any attempt to establish representative political mechanisms like ATSIC to ensure that Indigenous people actually have voice in judging the performance of the Australian government.

It would be good if by and by the self-labelled Prime Minister for Indigenous Affairs were judged on his portfolio performance. But I suspect that Australian democracy won't work quite like that.

*October 2013*

## **SEEING THROUGH THE SMOKE AND MIRRORS OF A BLACK JOB HUNT**

During the 2013 Federal election campaign the Abbott Opposition made a number of announcements on Aboriginal employment.

On 17 August Tony Abbott told us that he would boost employment for Indigenous Australians first by creating up to 5,000 job opportunities for Indigenous Australians with an additional investment of \$45 million to support the GenerationOne employment model.

The statement noted that the Coalition is a strong supporter of GenerationOne and the Australian Employment Covenant and stated that since the inception of the Australian Employment Covenant 60,000 jobs have been pledged by Australian employers for Indigenous Australians.

The Coalition committed to commission a review of Indigenous employment programs within one month of election and announced that Mr Andrew Forrest has agreed to chair the review.

The statement lauded the GenerationOne employment model that unlike many existing employment and training programs apparently only provides practical training for guaranteed jobs.

A specific section on Employment in the Coalition Policy focused on two headline issues.

First the Coalition would ensure adults go to work and would work with all stakeholders to improve employment opportunities for Indigenous Australians, particularly those who live in remote communities.

Second, the Coalition would ensure that training leads to jobs. Again reference was made to the employment review that would ‘properly consider innovative proposals backed by the real commitment of employers to finally end the cycle of entrenched Indigenous employment programmes’.

The review would report to the Prime Minister within six months of a Coalition Government taking office.

A month after winning the election the new Prime Minister formally announces the review with his Parliamentary Secretary, the Hon. Alan Tudge, a former Deputy Director of Noel Pearson’s Cape York Institute for Policy and Leadership, now to guide and shape the Review process with Mr Forrest.<sup>17</sup>

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<sup>17</sup> This piece was written before Professor Marcia Langton was appointed to work on the Forrest Review in mid-November 2013.

And a week later the website of the Department of Prime Minister and Cabinet provided more detail with some concocted Questions and Answers, a range of possible issues to be included, options for stakeholder involvement and commitment to an interim report to be released in December 2013.

Extraordinarily, on October 19 Tudge while purporting not to pre-empt the review's findings published an opinion piece in *The Australian* with the title 'Forrest Plan is Just the Job' and the opening lines 'The Fortescue boss's approach to employment works well'.

Tudge also tells us that a major problem in employment retention for Indigenous people is actually remote housing which apparently ties individuals to a life of passive welfare dependency; Tudge states that if you stay in a place where there are no jobs, you get a free house; if you move to get a job you lose the house.

Really?

Indigenous employment is a pressing social issue that deserves careful policy consideration, especially as governments have proved incapable of making any headway in reducing disparities between Indigenous and non-Indigenous employment levels; or in getting the Indigenous unemployment rate down to an acceptable level by wider Australian standards.

Both the five-yearly census and the annual ABS publication Labour Force Characteristics of Aboriginal and Torres Strait Islander Australians (that was not published in 2013) demonstrate this categorically. The latter in particular shows that irrespective of whether Indigenous people live in major cities, regional areas or remotely, their unemployment rate varies from 13 percent to 19 percent, 2.7 to 5.5 times the non-Indigenous rate.

There are aspects of this review that suggest it might be doomed to fail before it has even begun.

First the Abbott Government seems either oblivious to, or selectively has chosen to ignore an independent Australian National Audit Office report *Indigenous Employment: The Australian Government's Contribution to the Australian Employment Covenant* published in June 2013 at a very transparent cost of \$313,059.58.

This Report queries the apparent success of the Australian Employment Covenant that committed in 2008 to secure 50,000 sustainable jobs for Indigenous Australians.

It notes, for example, contestation between the Department of Employment and the AEC on sustained outcomes with the former quantifying approximately

6,000 26-week outcomes, the latter 62,000 pledges and 15,000 outcomes.

This is quite a difference.

The ANAO also notes that by May 2012 the Australian government has assisted 73 AEC employers with \$132 million in funding; elsewhere this figure is put at \$150 million by March 2013.

These substantial sums are not mentioned in any Coalition documentation; the AEC is an Australian government subsidised employment and training program.

Second, as noted last year by my colleague Kirrily Jordan it is far from clear if the 10,500 job placements claimed by Forrest in an address to the National Press Club 'A Call to Arms: We have the Weapons we Need the Leadership to End the Disparity' correspond to 10,500 people moving off welfare into work or moving to work for an AEC employer from other paid work. There are no independent metrics to verify the sustainability of jobs

The ANAO was scathing of the absence of formal or regular monitoring mechanisms established by the Australian government to assess performance. What this suggests quite clearly is that the AEC itself needs to be reviewed.

But instead of doing this, the new government has made a pre-emptive commitment of \$45 million to GenerationOne/AEC; and appointed its founder to head the review. Surely the deep structural perceived and potential conflicts of interest are apparent to all?

This fiasco made me recall with some nostalgia other more considered ways of reviewing and thinking about Indigenous employment and training from the 'self-determination' days.

In October 1984 the Hawke Government appointed a Committee chaired by Aboriginal leader Mick Miller to review Aboriginal employment and training programs. The Committee included HC 'Nugget' Coombs and the Aboriginal educationalist Mary Ann Bin-Sallik; it was supported by a departmental secretariat, actively engaged with communities, sought public submissions and invited expert input. Here I declare my involvement: I made a submission to the review and was one of the academics it consulted. A serious 450-page published report was produced in a year with 164 recommendations.

The Miller Committee differentiated settled from remote Australia and documented the diversity of circumstances within both. In the remote areas, that are undeniably most challenging, it focused on community development rather than on statistics about individuals and it critiqued earlier approaches for being over-focused on commercial rather than developmental priorities.

The Miller Committee noted, with realism and honesty, that ‘for a number of economic, geographic, political and social reasons for the longer-term future, a substantial proportion that may well be over 50 percent of the Aboriginal working age population will not be centrally concerned with the regular labour market’. The review focused on a livelihoods approach rather than just on labour market outcomes.

The Committee predicted that in remote areas the majority of Aboriginal people will continue to live in areas where they have ‘tribal and cultural bonds to the land’ even if economic development for material betterment was absent and that remote-living people are generally unwilling to migrate for jobs.

It argued for more opportunity to enable Aboriginal people to develop a greater degree of self-sufficiency; this was to occur through government support to build an economic base and the facilitation of diverse productive activities wherever people had access to resources and comparative advantage.

More recently such strength-based approaches are termed Asset-Based Community Development.

Subsequently a series of strategies were included in the Aboriginal Employment Development Policy for appropriate productive activity where Aboriginal people lived.

Unfortunately the AEDP’s statistical goals, devised post-Miller by bureaucrats for political purposes, were over-ambitious and destined to fail, a little like the current Closing the Gap employment goal: then and now there is insufficient investment in establishing local economies and little divesting of property rights over valuable resources on the expanding Indigenous land base.

In *Anthropology of Policy* (2007), Cris Shore and Susan Wright remind us, policies are instruments of governance; they operate as ideological vehicles and as agents for constructing subjectivities and organizing people within existing systems of power and authority.

This is precisely what we see with Abbott’s Indigenous employment review. The issues identified to date focus on conventional labour market approaches for unconventional Indigenous circumstances.

Powerful like-minded people have been recruited to head the review with little prospect of innovation or acknowledgement of difference—normalisation pays lip service to the importance of difference then presses on remorselessly to promulgate and support imagined future labour market mainstreaming.

The hard issues have not been explicitly raised to date: Has the abolition of programs such as the Community Development Employment Program done

more harm than good in increasing 'passive' welfare?

Do outcomes on Cape York under the Cape York Welfare Reform trials or in jobs with AEC employers represent good value for significant public money? Why did the differential between Indigenous and non-Indigenous employment outcomes increase between 2006 and 2011?

Why are annual ABS data on Indigenous labour market outcomes not available this year, and possibly in the future?

Evidently, such questions do not matter.

The way this review was established lacks sufficient legitimacy, appropriate conceptualisation and sound governance.

Whatever the new government's fine intentions, it is an early disappointment.

*November 2013*

## **SCULLION PEDDLES PIPEDREAM REFORMS**

The Coalition's Policy for Indigenous Affairs released on 5 September 2013 stated that Indigenous people in remote areas have no property rights.

This observation is bewildering and wrong given that one-third of the Australian continent is under some form of statutory land rights or exclusive and non-exclusive native title determination following successful land claims and native title determinations over the past 35 years.

The election statement can be interpreted in various ways. It could be a genuine mistake. Or it could be electioneering hyperbole, like the adjacent suggestion in the policy statement that Indigenous people in remote Australia have no jobs, which clearly many have.

Alternatively, no property might be code for land that is held under inalienable group title rather than tradeable individual title, the hallmark of private property and western capitalism.

Most pertinently, if Aboriginal traditional owners in Northern Territory townships have no property rights, then what is it that Minister for Indigenous Affairs Nigel Scullion is seeking to secure through so-called whole-of-township leases?

A media release on 17 October 2013, just a month after the election, refers to an historic Arnhem Land agreement with traditional owners of Gunbalanya to lease the township to the Commonwealth for 99 years; soon after a similar agreement was secured at Yirrkala.

Both agreements received front page coverage in the Murdoch media.

Such agreements, Minister Scullion proposes, will open up business opportunity and home ownership for Aboriginal people on Indigenous land.

The Minister calls on communities throughout the Northern Territory to think about entering into similar arrangements with the Australian Government.

Understanding what is at stake in this reform of land tenure in the Northern Territory is extremely complex and politically fraught.

But as traditional owners in the NT enjoy free prior informed consent rights it is imperative that they understand what might be at stake before finalising any long-term leases.

Despite the Minister's reference to his agreement of 17 October 2013 as historic, whole-of-township leases have been completed with six communities

on the Tiwi Islands and on Groote Eylandt since 2007.

This means some information is now available to inform choices that traditional owners might make.

And a similar agreement in the form of a Memorandum of Understanding was signed between Mal Brough on behalf of the Commonwealth and Galarwuy James Yunupingu on behalf of the Gumaitj Clan on the 20<sup>th</sup> September 2007 for a township lease over Gunyangara (near Yirrkala); that MOU lapsed, as might recent ‘agreements’.

Whole-of-township leases are a particular form of leasehold hurriedly introduced by the Howard Government in amendments to the *Aboriginal Land Rights (Northern Territory) Act 1976* (the *Land Rights Act*) when it enjoyed majorities in both Houses of the Australian Parliament in 2006.

These leases are often referred to as s19A leases reflecting the insertion of this section in land rights law that allows land trusts to grant a lease over an entire township on Aboriginal land to an approved Commonwealth entity, the Executive Director of Township Leasing for up to 99 years.

In effect the Executive Director, a Commonwealth appointed statutory office holder is granted authority to administer these leases and to grant further sub-leases, with most revenue raised earmarked for traditional owners.

This arrangement introduced in 2007 can be contrasted with the s19 option—land use agreements—that have existed in the Land Rights Act since 1976; these are contingent on traditional owner consent on a case-by-case basis, are administered by Aboriginal land councils, and require Commonwealth ministerial approval if of large scale or long term. The reasons for this amendment can be variably interpreted.

In 2006 in submission to a Senate Inquiry I was critical of the amendment because I could not see how the individualization of group-owned land would facilitate access to commercial finance for housing and business development. Indeed the economic logic behind the reform was mainly driven by the thinking of Peruvian economist Hernando de Soto who argued in his influential book *The Mystery of Capital* that capitalism can address problems of poverty by formalising individual property rights in housing, land and small business.

De Soto also argued that government bureaucracy is bad for the economy.

De Soto’s ideas were heavily and selectively promoted as a policy option by a diverse alliance including the late Helen Hughes from the Centre for Independent Studies, the highly influential Noel Pearson and Warren Mundine and long-term bureaucrats Mike Dillon and Neil Westbury in *Beyond Humbug*.



I am far from alone as a critic of de Soto; in 2006 the International Institute for Environment and Development (IIED) published a thorough critique of de Soto *Mysteries and Myths: De Soto, Property and Poverty in South Africa*.

To be fair, de Soto's call for converting informal property into private property through systematic titling was a policy prescription for urbanised Peruvian slum dwellers not remote living Aboriginal Australians who enjoy a formal system of property ownership.

But the IIED study showed that anticipated credit effects generally fail to materialise and converting property into capital can result in the formation of a renting class and associated inequality.

Aboriginal land ownership in the Northern Territory is, of course, far from informal, although Aboriginal people often live in slums in the tiny townships targeted for reform.

Indeed the 2006 land reform aimed to simplify what was regarded by the Howard Government as over-regulation and institutional barriers in land matters.

The Commonwealth aimed to break the perceived monopoly and inefficiency of the existing statutory system overseen by land councils and deal directly with traditional owners—an approach mining companies would covet.

There were other emerging reasons for the proposed reforms including a growing recognition that widespread reluctance by governments to enter s19 agreements with land owners since 1976 had placed Territory and other assets at risk; and an inherent tension in townships between the rights and interests of traditional owners and of other Aboriginal residents.

Both were legacies of the pre-land rights period when Aboriginal populations were paternalistically centralised and then managed by the colonising state and its agents.

The Northern Territory Intervention interrupted and obfuscated this reform project through the compulsory leasing of 'prescribed communities' for five years.

The High Court in *Wurridjal v Commonwealth* [2009] HCA 2<sup>18</sup> held that 'just terms' compensation was payable for such compulsory acquisition of property; and traditional owner awareness of their property rights in townships has been heightened.

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<sup>18</sup> See: *Wurridjal v Commonwealth* [2009] HCA 2

Fast forward to the present: in *Land Reform in the Northern Territory: evidence not ideology* the Central Land Council notes that over twenty 40-year housing precinct leases in its jurisdiction have been signed using existing s19 machinery.

In contrast, the Executive Director of Township Leasing has completed just six s19A whole-of-township agreements since 2007 at great expense.

The establishment of the Office of the Executive Director of Township Leasing deserves careful scrutiny because it is poorly understood.

For a start, the costs of running the Office and multi-year upfront payments to traditional owners come from the Aboriginals Benefit Account (ABA), a statutory body established by the *Land Rights Act* to hold and disburse the equivalents of mining royalties raised on Aboriginal land.

This imposed arrangement is cost neutral for the Commonwealth as it is entirely funded by the ABA.

This latest land reform intervention is replete with contradictions like so much in Indigenous affairs.

While ostensibly about providing certainty for all land users and placing land tenure on a commercial footing, much is made in policy rhetoric about ‘respecting cultural links to land’ and ‘traditional land holding systems’.

In reality this reform is fundamentally about extinguishing land rights in townships for a century in return for money.

And while the Executive Director is required to operate independently and commercially, he is appointed by the Minister, is implementing Commonwealth policy, and has his performance assessed by the Commonwealth.

It is far from clear if this cosy arrangement administered from Canberra will ensure best outcomes for traditional owners. It has certainly not prevented the Director forgoing rent on public housing in accord with government wishes.

Traditional owners will need to carefully consider the relative benefits of s19 and s19A leases, with the former allowing them a greater say about what happens on their land and greater financial leverage, the latter purporting to provide the better commercial opportunity.

Some early analysis of 2006 and 2011 census data indicates no development difference between Wurrumiyanga where the first whole-of-township agreement was completed and nearby Pirlangimpi where Tiwi appear better off.

Indeed the main change evident is a rapid growth in the non-Indigenous population at Wurrumiyanga and a growing disparity between Indigenous and non-Indigenous incomes there, which raises crucial questions about who is actually benefiting from this reform.

Traditional owners must also recognise that upfront payments from the ABA will need to be repaid from future lease and sub-lease income streams; and that the administrative costs of the Office of Township Leasing will need to be deducted from such income.

Such complex detail can be easily overlooked as the Commonwealth strategically deploys apparently generous community benefit packages (including e.g. public housing, a cemetery, a football oval, a health and wellbeing centre at Wurrumiyanga) as deal-clinching sweeteners.

The right of traditional owners to make choices over the administration of their land should be respected.

But choices need to be properly informed and fairly made.

In whole-of-township leasing arrangements authority over land use will be ceded to the Commonwealth—a form of re-colonisation by Canberra with the Executive Director the new ‘superintendent’ over land administration.

Whether this loss of authority is offset by development benefit will need careful assessment.

It is unclear why Senator Scullion is currently peddling a pipedream based on the ideas of de Soto in Arnhem Land.

Perhaps he believes land reform will enhance economic independence through ownership of businesses and homes?

It is more likely, in my view, that whole-of-township leasing will enhance dependence on the state, its bureaucrats and external businesses.

It is important that traditional owners are not caught up in enthusiastic reform ideology that resists scrutiny because it appears progressive and alleges to look after their property interests—the very property interests that evidently, according to the Coalition Policy for Indigenous Affairs, do not exist.

*December 2013*

## MINING IS NOT FOR EVER

On 29 November last year Rio Tinto announced that it would suspend production of alumina at its Gove refinery.

This announcement was hardly a surprise, the smelting plant was reputed to be losing Rio Tinto \$20–30 million per month and closure was based on the company's commercial accountability to its shareholders.

It had become increasingly clear that even with access to cheap gas to offset the burden of dependence on heavy fuel oil the Gove operation was commercially unsustainable—even with Commonwealth willingness to be guarantor on a \$800 million pipeline across Arnhem Land.

It is ironic that suspension was announced soon after the 50<sup>th</sup> anniversary of the Yirrkala bark petitions made to the Australian parliament in 1963. The anniversary was a timely reminder of iconic Yolngu opposition to mining on their traditional lands, an opposition unjustly dismissed by Mr Justice Blackburn in the NT Supreme Court in 1971.

The legal principle of *terra nullius* on which Blackburn relied was later judged wrong in the High Court Mabo judgment of 1992.

The special *Mining (Gove Peninsula Nabalco Agreement) Ordinance* of 1968 that issued special mineral leases for a period of 42 years, renewable for a further 42 years, was set in legal concrete.

This special ordinance was a special deal. The Commonwealth, keen to see the development of the north as part of a nationalist project, would only issue mining leases if a major bauxite treatment plant was constructed.

This required a significant area on the Gove Peninsula to be revoked from the Arnhem Land Reserve. And it meant a sweetheart deal on royalties, with a rate struck well below the usual standard.

The Yolngu suffered a double injustice: not only did they see their traditional lands alienated for a minimum 84 years, they were also required to effectively subsidise the national economy and a multinational corporation by receiving less compensation. I first discovered this double jeopardy when researching for a book *Aborigines and Mining Royalties in the Northern Territory* in 1983.

Fast forward to May 2011 when Rio Tinto welcomed a new era in sustainable development with the signing of the Gove Traditional Owners Agreement between Rio Tinto Alcan and Yolngu Traditional Owners with much political fanfare.

With time there have been changes. With land rights law, underlying title was now vested with an Aboriginal land trust, although the existing 84 year mining lease was guaranteed.

And the mining company was different; Rio Tinto acquired Alcan Gove in 2007.

The new 2011 deal is reputedly worth between \$15 and \$18 million per annum to Gove traditional owners to 2053, according to the Agreement, Treaties and Negotiated Settlements project website, the only publicly available information on the agreement.

There was also by now a different view about mining among with key Gumatj and Rirratjingu land owners seeing the mine, and the alumina refinery that had been significantly expanded with a \$3 billion investment, as an opportunity. In December 2012 *The Australian* reported ‘the curse of the bauxite mine becomes a late dawning opportunity for the Yolngu clans’; and the Gumatj clan headed by Galarwuy Yunupingu planned to establish its own bauxite enterprise to feed the expanded refinery.

Even in June 2013 Yunupingu remained optimistic after a Memorandum of Understanding was signed to investigate bauxite extraction on the Dhupuma Plateau on Gumatj country.

Rio Tinto’s suspension decision came suddenly, despite rhetoric of sustainability just two years earlier: ‘This agreement is living proof of the great long term benefits that can be secured when mining companies and Traditional Owners work together in good faith for a common purpose’.

In fact it needs much more than good faith—favourable exchange rates, a high global price for aluminium and secure access to subsidised fuel are also essential.

The mainstream media universally condemned the decision highlighting the loss of over 1000 jobs at the plant with only 350 left in mining, the devastating flow on impacts on the mainly white township of Nhulunbuy, the negative impact on the regional economy and northern development and the anticipated collapsed value of the township real estate market. Yunupingu lamented the lost opportunity and the loss of a reputed 70 Indigenous jobs.

From a broader regional Yolngu perspective things can be seen a little differently.

This is because after 45 years, census data show that there have been few employment benefits to the region, only a handful of Yolngu from the townships of Yirrkala and Gunyanarra and from homelands in the region

actually work for Rio Tinto Alcan.

This fact did not stop the *The Australian* from editorialising on 27 November 2013 that hundreds of employees of Rio Tinto Alcan are Indigenous workers and that plant closure would be devastating for their families, local towns and the investments made by companies and governments in enhancing their skills. The excessive focus by the media, politicians and others on the tragedy of closure overlooks that from a regional Yolngu perspective other factors have played significant roles in their declining fortunes. One has been the demolition of the Community Development Employment Program.

I recall vigorously debating this issue with Marcia Langton at the 2008 Garma Festival of Traditional Culture, with Phillip Adams mediating: Langton saw CDEP as an 'exceptional' welfare trap and destructive, I saw it as productive and its abolition as a terrible mistake.

Whichever perspective one supports, there is no doubt that the wellbeing prospects for people in the region have declined as CDEP has been incrementally throttled, replaced for most participants by unemployment, welfare and greater poverty.

Another has been the declining fortunes of the visual arts in the aftermath of the Global Financial Crisis.

The production and marketing of art has been a major Yolngu success story that saw sales and returns to artists grow rapidly and uninterrupted for two decades.

Art, mainly produced at homelands, is a crucially important source of income, but there was no rescue package for struggling Yolngu artists as sales plummeted.

More positively, natural and cultural resource management work by the Dhimurru and Yirralka land and sea rangers in their respective Dhimurru and Laynhapuy Indigenous Protected Areas has been remunerated far more realistically by the state, Rio Tinto and fee-for-service clients.

Indeed more Yolngu work for these community-based ranger groups than for Rio Tinto Alcan Gove.

In her Boyer Lectures 2012 Marcia Langton warned that 'Mining is the only significant industry in remote [Indigenous] communities and dependence on it may leave these communities in a precarious position when operations stop'.

'High levels of dependence on mining can be detrimental for Indigenous and rural and regional communities, so development aimed at increasing economic

diversity is needed’.

Indeed. 45 years after mining started not only have Yolngu chosen not to directly engage in mine employment, but the sustainable footprint that Rio Tinto extols has never eventuated until suddenly there is a ‘transitional support plan for Nhulunbuy’.

It is unfortunate that nascent plans by the Gumatj to mine bauxite might not proceed.

What has recently unfolded at Gove is instructive and replete with sad irony. First, in 2013 Indigenous Chief Minister Adam Giles decided to protect the gas interests of future generations of all Territorians and risk Rio Tinto mothballing the refinery, which is precisely what happened—such governmental vacillation can be interpreted as a form of ‘sovereign risk’.

Second, just as the drama at Gove was unfolding the Minister for Indigenous Affairs Nigel Scullion was conducting consultations with Yolngu at Yirrkala for a 99 year whole-of-township lease.

Such an arrangement aims to facilitate individual home ownership at the very moment that a real estate market 14 kilometres away at Nhulunbuy is collapsing.

This might highlight for Yolngu the risk of home ownership and the fact that capital gains from housing are far from guaranteed.

Third, as the Abbott Government is considering how to develop the north and undertaking a review of Indigenous employment and training, it is instructive to consider just how difficult enterprise and job creation can be—manufacturing at Gove has failed despite being underwritten directly and indirectly by the Australian taxpayer and Yolngu for decades.

Yet there has been little attempt to ask seriously if the 1960s dream of a giant alumina smelter in remote north-east Arnhem Land actually makes any commercial sense? The answer in today’s globally competitive world screams ‘no’.

There are parallels here with Henry Ford’s Fordlandia project, an early 20<sup>th</sup> century attempt to build an artificial township and cultivate plantation rubber deep in the remote jungles of the Amazon that also failed spectacularly.

Perhaps it is timely to be more respectful of sustainable Aboriginal businesses like the Buku-Larrngay Mulka Arts Centre; and to consider the areas where Yolngu have comparative advantage in the delivery of environmental services to Rio Tinto, Customs, Australian Quarantine, the Department of Environment,

and NT Fisheries.

Let's hope that the Yolngu not just mine workers are provided structural adjustment transition support, not to cope with the loss of a handful of jobs, but to address the endemic poverty that many have faced experienced as minerals were profitably extracted from their land.

There is however no talk yet of such a package for Yolngu in the region that could include the reinstatement of CDEP, better arts support, realistic support for homelands, and enhanced opportunities in environmental work—including rehabilitation necessitated by strip mining, and waste water and red mud disposal.

Evidently, mining is not for ever, ever; and what is unfolding at Gove is a timely reminder of this.

*February 2014*



## **BLACK ECONOMY NEEDS RE-THINK**

Tony Abbott delivered his first very brief Closing the Gap Prime Minister's Report as the parliamentary year opened in February.

He noted a change of emphasis from 'what the Government is doing to how our people are living'.

The use of the possessive and inclusive 'our people' could be viewed as paternalistic or as symbolic of his quest to be 'a Prime Minister for Aboriginal Policy'.

The simple slogans that Abbott repeats again and again were evident, as in his directive to his appointed Indigenous Advisory Council: 'For the gap to close we must get the kids to school, adults to work and the ordinary law of the land observed. Everything flows from meeting these three objectives'.

I want to focus on just one of these objectives, getting adults to work.

Abbott noted that the goal of halving the gap in employment outcomes between Indigenous and non-Indigenous Australians within a decade (by 2018) was failing—the gap was widening.

He delivered a parliamentary speech that attracted considerable media attention and adoration.

This might be because for him 'Aboriginal policy has become personal rather than just political'.

His parliamentary secretary Alan Tudge (who is assisting chair Andrew Forrest and Marcia Langton in a review of Indigenous training and employment) recently put things this way: '... in one indicator, out of the six that were reported at the start of the year, we, in fact, were going backwards, where the gap was getting larger not narrower'.

'That indicator was in employment. This is particularly disturbing because in some respects it is the most important indicator. We know that if people have a job then most other things tend to take care of themselves'.

I sought to critically engage with such thinking and provide a long 50-year view on economic matters in a presentation I made at the recent Australian Institute of Aboriginal and Torres Strait Islander Studies (AIATSIS) conference 50 Years On: Breaking Barriers in Indigenous Research and Thinking.

I want to refer here to three historical observations from my paper.

First, I noted how 50 years ago there was no notion of Indigenous economy; assimilation was in vogue.

The Menzies government provided the following policy definition:

All Aborigines and part-Aborigines are expected to attain the same manner of living as other Australians and to live as members of a single Australian community enjoying the same rights and privileges, accepting the same responsibilities, observing the same customs and influenced by the same beliefs, hopes and loyalties as other Australians.

This definition fitted well with the then emerging modernisation paradigm in development thinking; there was no conceivable alternative to joining the mainstream economy and society.

In 1964 Donald Horne in *The Lucky Country* noted that all the governments concerned with Aborigines (he excluded Tasmania because he suggested they were all killed there) are now committed to assimilation. Quoting the words of Peter Coleman of the *Observer* he noted:

Assimilation ultimately means absorption and that means extinction. As a 'nation' with its own way of life and even as a race the aborigines are still destined to disappear ... It is one of the ironies of our history that the only recompense we are able to give this race for what we have done is to help it disappear.

Things changed quite dramatically after the 1967 referendum deleted section 127 of the Constitution and allowed Indigenous peoples to be included in 'reckoning the number of people of the Commonwealth'. While initially in 1971 only 116,000 Indigenous people were enumerated, by 2011 this number had grown to 548,000, a growth of nearly 500 per cent.

This was not a population that was disappearing.

The availability of data provided a means to quantify an increasingly visible Indigenous economy; it also rendered Indigenous employment participation statistically visible.

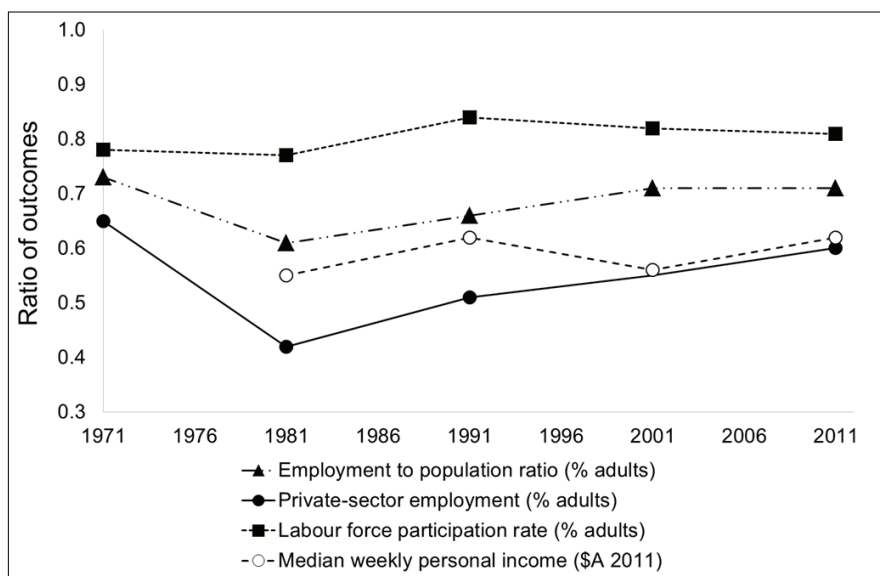
In 1987, the notion of statistical convergence for Indigenous and other Australian was first proposed by the Hawke government—the Aboriginal Employment Development Policy sought statistical equality by the year 2000; and failed.

More recently, from 2008 we have seen the hegemonic dominance of Closing the Gap discourse introduced as an element of the National Apology and including targets like the goal to half close the employment gap that Abbott and Tudge lament is widening.

Indeed the following graph that tracks some outcomes from 1971 indicates that

statistical disparity is relatively intractable.

Some things were better then than they are now.



*Ratio of Indigenous to non-Indigenous employment and income outcomes 1971–2011*

Henry Reynolds in *Forgotten War* has described the colonial land grab here as one of the greatest illegal appropriations of land in world history.

This has been partially countered in the past 50 years by a transfer of land back to traditional owners, a ‘land titling revolution’: Indigenous economy is now spatially visible.

The impact of this change continentally has been significant: in 1964 there was no legally recognised Indigenous land ownership, today 33 per cent of Australia is under some form of Indigenous title.

However, property rights remain weak despite the use of weasel words like ‘exclusive possession’.

The ABS has enumerated nearly 1,000 discrete Indigenous communities on or within 1 km of Indigenous land.

Perhaps paradoxically the visibility of these communities, mainly in remote Australia, has resulted in an almost pathological national attention to their circumstances—they have become the recent focus of a disproportionate, but still hopelessly inadequate, assistance as citizens, with Indigenous people in more settled regions being neglected.

While to date most of this land titling action has been in remote regions, there is possibility that determinations (mainly of non-exclusive possession) will cover more and more of settled Australia where up to 40 per cent of the Indigenous population currently resides.

And where land is held under exclusive possession there is potential for a reframing of development thinking beyond seeing integration as the only answer.

This is partly because mineral mapping indicates that some Indigenous areas are highly prospective so there are opportunities for benefits to be leveraged from mining.

And because much Indigenous land has experienced relatively little environmental disturbance and has retained high conservation values there are also alternate possibilities around the production of ecological commodities—fresh air, water, carbon abatement and sequestration, and biodiversity.

In *Scales of Justice* Nancy Fraser uses the notion of ‘misframing’ to refer to a type of injustice that arises when first order questions of justice are framed in a way that wrongly exclude some from any consideration.

In Australia, thinking about Indigenous economy has been misframed because of a governmental preoccupation with integration and statistical equality which forecloses the claims of Indigenous people who want something different.

Fifty years ago it was suggested that assimilation would result in disappearance.

There is no doubt that some powerful Indigenous and non-Indigenous political actors today would like to see any notion of Indigenous economy disappear, to be thought of no differently from late capitalist Australian economy as neoliberal or free market.

The AIATSIS conference was titled ‘Breaking Barriers in Indigenous Research and Thinking’.

In my view there has been far too little breaking of barriers in thinking about Indigenous economy and persistence in a monolithic developmental approach that has never delivered and has been insufficiently tolerant or supportive of pluralistic forms of economy.

Reframing thinking about Indigenous economy might require less emphasis on Closing the Gap, and more on unconventional alternatives that may not eliminate disparity, but may accord better with the aspirations of many

Indigenous people.

I advocate for one possible reframing with the concept of economic hybridity that depicts market, state and customary sectors delivering livelihood; and acknowledges a mix of capitalist and non-capitalist relations of production in many contemporary Indigenous contexts.

Economic hybridity proposes that especially where people have new found rights in land based on custom, it is likely that custom looms large and can make contributions to livelihood, what Abbott refers to as ‘how our people are living’.

The model is not prescriptive, but it is different from others like Noel Pearson’s quest for a ‘radical centre’ where Indigenous people can simultaneously engage with the ‘real’ economy while morally restructuring problematic aspects of their cultural lives and retaining distinctiveness.

Fraser suggests that the political space for social justice will require a framework that reflects three dimensions: recognition, redistribution and representation.

If Abbott wants to be effective he may need to look beyond the cabal of black and white advisers who provide viewpoints that mirror his own and that look little different from the policy discourse of 50 years ago.

It is time to reframe thinking about Indigenous economy to recognise difference; to equitably redistribute resources to reflect past neglect and injustice; and to facilitate representation to ensure that there are institutional means, like the elected National Congress of Australia’s First Peoples, to give effective voice to diverse Indigenous aspirations.

In his Closing the Gap report, Mr Abbott lauds ‘Noel Pearson’s prophetic call for the “right to take responsibility”’. Evidently the man who wants to be a Prime Minister for Indigenous Policy will take personal responsibility if his government fails ‘to deliver a demonstrable improvement in the lives of Indigenous people across our country’.

*March/April 2014*

## **HORROR BUDGET HAS NO DOLLARS OR SENSE**

The 2014–15 Federal Budget is a horror budget for Indigenous Australians because many Indigenous people are especially vulnerable residing in communities that are neglected, still facing many barriers of racial discrimination and exclusion, and living in deep poverty.

There has been much public debate about the likely negative impact on vulnerable Australians of social and welfare policy measures embedded in the Budget that will see increasing inequality.

But there has been little recognition of just how worse this will be for Indigenous people because of over-representation among the vulnerable.

If proposed measures pass Senate scrutiny and are implemented many Indigenous people will inevitably be condemned to live in deeper poverty and their children and grandchildren will face bleaker futures as a neglected Indigenous underclass.

Embedded in the Abbott government's first budget are some chilling echoes of the confrontationist approach of John Howard with the 1996 National Commission of Audit (an instrument replicating Margaret Thatcher's UK Audit of 1983) which was followed by unjustified cuts of \$460 million to the ATSIC budget and gave rise to a hostile political relationship that endured until ATSIC was abolished in 2005.

Also buried in the 2014–15 Budget papers are indications of a fundamental shift in policy that has received little public attention in part because it is concealed deep within the Budget Statement for the Prime Minister and Cabinet Portfolio as Outcome 2: Indigenous and summarised in just two pages (35 and 36).

Some of this change has been foreshadowed in new administrative arrangements announced in September 2013 that saw radically altered departmental responsibility for Indigenous affairs with most Indigenous specific programs centralised in the Prime Minister's Department and overseen by the self-proclaimed Prime Minister for Indigenous Affairs.

Counter to the rhetoric, however, many programs still remain with mainline agencies including Attorney-General's, Education, Employment, Health, Human Services and Social Services.

Most focus to date has been on the 150 programs transferred to the Department of Prime Minister and Cabinet as the agency taking primary responsibility for Indigenous affairs.

Following the Budget these have been streamlined into five broad areas that reflect the priorities of the government: ensuring children go to school, adults work, Indigenous business is fostered, the ordinary law of the land is observed and Indigenous culture is supported.

Note that these are quite explicitly identified as the priorities of the government, not of the intended beneficiaries of programs.

The five areas are Jobs, Land and Economy; Children and Schooling; Safety and Wellbeing; Culture and Capability; and Remote Australia Strategies. Each area highlights that it will focus ‘particularly on remote communities’ which suggests that the Remote Australia Strategies might be redundant.

They are bundled together under the broad rubric Indigenous Advancement Strategy.

The Prime Minister’s Indigenous Advisory Council optimistically anticipates in its Budget 2014–15 Communique that the \$534 million cut in Australian Government Indigenous Expenditure will be absorbed by reducing the costs of administration.

At the level of political rhetoric this all looks quite rational.

This is precisely why some critical analysis is required.

To begin, the broad framework of the Indigenous Advancement Strategy appears to replace the ubiquitous COAG Closing the Gap framework based on cooperative, even collaborative federalism and a series of National Partnership Agreements.

The terminology of advancement resonates with post-Enlightenment, evolutionary and colonial implications: advancement to what: Assimilation? Sameness?

As Amerindian scholar Vine Deloria Jnr warned long ago in *Custer Died for our Sins* (1969) equality must not be confused or conflated with sameness; ‘civil rights’, he noted, ‘is a function of man’s desire for self-respect not for equality’.

The discourse around this advancement strategy indicates an ideological and moral crusade by the Abbott government to ‘develop’ and ‘advance’ the Indigenous people of remote Australia.

This is a fundamental retrograde shift of policy to the conservative comfort zone, targeting the 20 per cent of the Indigenous population who live in remote communities, highly visible and easy to target, discursively at least.

And these are the people perceived in most need of transformational advancement and norms reshaping on a number of grounds.

So-called discrete Indigenous communities are almost invariably located on or adjacent to Indigenous land, claimed under land rights and native title laws because of proven continuity of custom and connection to country.

These are the people who have norms and values that are most strongly connected to kin, community and country, they are perceived as the last bastion of alterity and cultural difference, that openly challenges the conservative neoliberal vision to transform all Australians into highly individualistic and materially acquisitive neoliberal subjects.

Delving into the specifics of the new approach raises a number of important questions about its coherence and consistency of which the policy architects may not even be aware. So let me raise a few.

On jobs, land and economy, what exactly are the jobs and commercially viable businesses anticipated?

And why is it that Indigenous people should be able to garner economic benefit from land that was only available for claim because of its limited commercial value? Where is the focus on local competitive advantage and alternate forms of economy?

On school attendance, will attendance particularly in remote communities, improve education outcomes and provide a pathway to jobs and the good life where people live? The emphasis on attendance begs too many questions on appropriate curricula, forms of pedagogy, bilingual education and learning on country for a future on country.

On applying the ordinary law of the land, particularly in remote communities, what room is there for applying competing customary laws with local legitimacy?

What are the risks that enhanced policing will merely enhance interaction with the criminal justice system or unproductive policing practices like the ordinary law of vehicle registration?

On supporting Indigenous Australians to maintain their culture, is this limited to the high culture or is it inclusive of everyday culture, including participation in religious and mortuary ceremonies?

And while strategic investments focused on flexible local solutions under remote Australia strategies sounds admirable, what happens if there is a mismatch between Government and community priorities?



Some early answers to these difficult questions have been provided by Nyunggai Warren Mundine, the Abbott government's principal adviser, a black spokesman recruited to help formulate and then justify the government's crude campaign of advancement.

He gets numerous 'exclusives' in the mainstream media and more air time to promote the government's approach than the Prime Minister for Indigenous Affairs.

In a headland speech 'Improving employment outcomes in remote Australia' delivered in Darwin a week after the budget, Mundine inadvertently illustrated some of the flaws and conflicts in the new approach.

One assumes that the government concurred with his views as their anointed and remunerated Chair of the Indigenous Advisory Council.

Mundine suggests that remoteness is not a barrier to employment in remote Indigenous communities.

He wants to see communities opened up to the free market and land tenure privatised and yet simultaneously wants to see local jobs reserved for local people who after following realistic plans and pathways he imagines will eventually replace all outsiders, turning communities into Indigenous-only places.

Such pathways will need Indigenous people to modify their unacceptable contemporary cultural practices such as participating in prolonged mourning rituals for the numerous deceased so as to better meet competitive labour market requirements. And local customary practices of sharing with kin will need to be curtailed.

So much for supporting the maintenance of culture.

Finally, Mundine suggests the aims of all organisations will need to be redefined to ensure delivery of outcomes in jobs, education and making communities safer as prioritised by government or else be defunded.

This makes a mockery of community priority setting and seriously risks destroying many successful Indigenous organisations.

Such hyperbole and inconsistency in Mundine's views could be readily dismissed except that they match the new framework.

At the national level the Abbott Government approach signals a return to the bygone notion of practical reconciliation: advancement focuses on absolute rather than relative wellbeing.

One suspects that the difficult policy of Closing the Gap is being abandoned and replaced by a focus on absolute improvement, a task that is tolerant of growing inequality even if it succeeds.

However, as the just-released COAG Reform Council's report on Indigenous reform and performance shows Indigenous people everywhere are deeply disadvantaged and massive gaps in socioeconomic outcomes remain. There is no evidence whatsoever that Indigenous people living in non-remote Australia, 80 per cent of the Indigenous population, gain equitable access to mainstream services.

Ultimately the 'new' crusade promoted by the Abbott government seeks to promote the advancement of Indigenous peoples to assimilation or disappearance, it is as blunt and brutal an approach as the 1960s policy of assimilation.

What is especially insidious about this new crusade is that the government is dismantling institutions like the COAG Reform Council and the National Congress of Australia's First Peoples that might respectively provide independent assessment of its performance or assess its political legitimacy according to global human rights standards.

Instead the diabolical mess of current policy will be monitored and evaluated from within government.

I end my final column with an acknowledgment of those who established *Tracker*, for their foresight and hard work over the past three years to provide alternative viewpoints to those promoted by the dominant, at times inflammatory, mainstream media.

I am grateful for the opportunity to be a part of the *Tracker* team since its inception; may its independent editorial spirit live on in the ongoing efforts of its expert staff.

The German philosopher GWF Hegel is the attributed source of the adage 'History shows that we never learn from history'.

Evidently, this applies to successful Indigenous publications closed down at a time when alternate political views need to be heard more than ever.

Evidently, this applies to the newest Australian government experimental project of improvement that replicates past failures based on assimilationist imposition rather than self-determining negotiation.

June 2014

## **PUBLICATION DETAILS<sup>19</sup>**

‘Canberra consensus hurting black progress’ was published in *Tracker*, April 2011, p. 31.

‘Debunking the culture theory myth’ was published in *Tracker*, May 2011, p. 27.

‘Fairly debating diverse Aboriginal futures’ was published in *Tracker*, June 2011, p.41. A version was also published as ‘Important questions for policy makers’, *The Drum Opinion*, 16 May 2011, <http://www.abc.net.au/unleashed/2692730.html>

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<sup>19</sup> All initial references are to the hard copy publication of *Tracker* magazine that was also published online until June 2014. *Tracker* allowed publication of a version of the ‘Evidently’ column with other news media, mainly via an arrangement with *Crikey* that ran from October 2011 to March 2014. Online versions of two pieces were published on the ABC’s *The Drum Opinion* and *New Matilda*.

‘Five years on... NT communities are still not normalised’ was published in *Tracker*, June 2012, pp. 42–43. A version was also published as ‘NT prescribed communities: not normalised, exited, eliminated’, *Crikey*, 12 June 2012, <http://www.crikey.com.au/2012/06/12/nt-prescribed-communities-not-normalised-exited-eliminated/>

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## 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:

Journal Coordinator  
Jumbunna I.H.L. Research Unit  
University of Technology, Sydney  
PO Box 123 BROADWAY NSW 2007  
Ph: 02 9415 9655  
Fax: 02 9514 1894  
Email: [jumbunna.journals@uts.edu.au](mailto:jumbunna.journals@uts.edu.au)

### Submission Process

1. Contributions can be sent to: [jumbunna.journals@uts.edu.au](mailto: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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University of Technology, Sydney

Level 17, Tower Building, City Campus, No.15 Broadway, Sydney

PO Box 123, Broadway, NSW, 2007, Australia

Phone: +61 2 9514 9655 • Fax: +61 2 9514 1894

Email: [Jumbunna@uts.edu.au](mailto:Jumbunna@uts.edu.au) • Website: [www.jumbunna.uts.edu.au](http://www.jumbunna.uts.edu.au)