

Wakerman, J. and Raymond, N. 2005. 'Sifting through the evidence – Is Aboriginal health getting worse?' *Impact* (Summer): 12–20.

Notes

- 1 This last observation is clearer with the benefit of hindsight as it was probably not obvious that this strategy was not risky at the time.
- 2 Hanson defended herself against allegations of racism arising from her claim 'Aboriginals received more benefits than non-Aboriginals'. She then asserted that 'mainstream Australians' were subject to 'a type of reverse racism' and that 'present governments are encouraging separatism in Australia by providing opportunities, land, moneys and facilities available only to Aboriginals'.
- 3 For example, Hunter, Kennedy and Biddle (2004) estimate 'equivalised' income by dividing household income by household size to control of household size.
- 4 Where household welfare is measured by equivalised income.
- 5 The last 10 years have seen a substantial increase in transfers to families, especially families with children (e.g. Family Tax Benefits etc.). However, given that the census measures pre-tax income, this explanation is only valid if the transfers occur outside the tax system (not as tax rebates) and hence could be construed by respondents to the respective censuses as being part of their gross income.
- 6 Note, the employment rate after labour market programs is slightly better when compared with those who did not start any such program (about 10 percentage points).
- 7 Case management was an important feature of labour market interventions in the Working Nation period during the mid 1990s where individual jobseekers with a long history of unemployment were assigned a 'manager'.
- 8 The 'modernisation project' is not a formally constituted project, but rather refers to efforts to enhance the capacity of those engaged in customary Indigenous society to actively interact with the modern economy.

INDIGENOUS AFFAIRS POST-ATSIC

by Larissa Behrendt

John Howard's approach to Aboriginal and Torres Strait Islander people and their issues was evident well before he became Prime Minister. He argued passionately against the establishment of a national representative body during the debates about the Aboriginal and Torres Strait Islander Commission (ATSIC) legislation and saw the establishment of such a body as divisive and a form of separatism.

Howard's views on native title were also very clear and his speech to the Longreach community was indicative of the way in which he characterised native title as being a threat to his idea of Australian values. His address to the Longreach Community Meeting in Queensland is revealing. He begins with his ideology of the "white man on the land", the rural idyll:

although I was born in Sydney and I lived all my life in the urban parts of Australia, I have always had an immense affection for the

bush. I say that because in all of my political life no charge would offend me more, than the suggestion that what I've done and what I've believe in has not taken proper account of the concerns of the Australian bush (cited in Parliamentary Joint Committee 2000: 276).

There was never an equivalent place in Howard's national story for Indigenous people. They did not fit into this sentimental, nationalistic perspective. But this ideological perspective also framed his views on the rights of Indigenous people. In his speech, Howard went on to articulate how he saw the rights of farmers trumping those of Aboriginal people:

the plan the Federal Government has will deliver the security, and the guarantees to which the pastoralists of Australia are entitled...

Because under the guarantees that will be contained in this legislation the right to negotiate, that stupid property right that was given to native title claimants alone, unlike other title holders in Australia, that native title right will be completely abolished and removed for all time ...

That if there are any compensation payments ordered to be made in relation to the compulsory acquisition or compulsory resumption of any established native title rights anywhere in Australia, that compensation will not be borne by the pastoralists of Australia, it will be borne by the general body of the Australian taxpayers (cited in Parliamentary Joint Committee 2000: 276-277).

An increase in the property interests of pastoralists, at the taxpayer's expense, is not characterised as 'something for nothing'. The right of the native title holder to negotiate is dismissed as

merely the tool of troublemakers, not a valid property interest that is rooted in a cultural, legal and historical relationship:

We knew the right to negotiate was a licence for people to come from nowhere and make a claim on your property and then say until you pay me out, we're not going to allow you to do anything with your property. Well let me say I regard that as repugnant, and I regard that as un-Australian and unacceptable and that is going to be removed by the amendments that are already in the Federal Parliament. You won't have to put up with that anymore (cited in Parliamentary Joint Committee 2000: 278).

John Howard, in fact characterises the exercise to protect a property right as 'un-Australian'.

These comments are indicative of Howard's discomfort with Indigenous rights and also reveal his deeply held views that the pendulum had swung too far in favour of Indigenous people under Keating and it was time to take the ideological ground back.

His views were reiterated at the Australian Reconciliation Convention in 1997.

In facing the realities of the past ... we must not join those who would portray Australia's history since 1788 as little more than a disgraceful record of imperialism ... such an approach will be repudiated by the overwhelming majority of Australians who are proud of what this country has achieved although inevitably acknowledging the blemishes in its past history (Howard 1997).

As Howard spoke, delegates at the Reconciliation Convention stood and turned their backs on him. Howard looked visibly shaken as he delivered his speech to a hostile audience. This

occasion became a symbol of Howard's unease with the concept of reconciliation and the hostility in his relationship with Aboriginal and Torres Strait Islander people and their supporters.

In his comments at the Reconciliation Convention is a strong signal of his tacit support for the attacks that would start to grow on the 'black armband' view of history. This was the colloquial name for the work of historians, particularly Henry Reynolds, Lyndall Ryan and Peter Read, who had focused on documenting the massacring of Aboriginal people on the frontier or had sought to capture the stories and experiences of the stolen generations (Reynolds 1981; Reynolds 1998; Reynolds 1999; Ryan 1996; Read and Edwards 1989). Howard did not take a front line role in these history wars. The lead in attacking the 'black armband view' was taken by Keith Windshuttle and right-wing newspaper columnists (Windshuttle 2002).

But Howard was not passive in this war. He understood the stakes and he actively ensured that appointees to important cultural institutions such as the National Museum of Australia and the Australian Broadcasting Corporation (ABC) shared his ideological perspectives on the national narrative.

Over the period of his prime ministership, John Howard reinforced and perpetuated his view that Australia's history should not acknowledge events or perspectives if it made white people feel guilty about their past.

At the hand-over of the Final Report by the Council for Aboriginal Reconciliation in 2000, the Prime Minister announced that his government rejected the recommendation of a treaty – the centrepiece of a rights agenda – with Indigenous peoples preferring instead to concentrate on what he called 'practical reconciliation'.

'Practical reconciliation' described a policy approach that claimed to target areas such as health, education, housing and employment (Howard 2000). This rhetoric of 'practical reconciliation' was also used to dismiss the rights agenda – an agenda that was interested in greater legislative protection of rights such as native title and cultural heritage, constitutional change and a treaty.

This rhetoric that 'practical reconciliation' dealt with 'real' issues and the rights agenda was abstract, the luxury of the elites and had failed to deliver was powerful and influential. Howard's government was able to construct a false dichotomy that fundamentally trivialised and marginalised the debates about better protection of Indigenous rights.

This false dichotomy overlooked the way in which the protection of rights includes the ability to exercise economic and property rights and that these rights delivered real outcomes to Aboriginal people: return of and access to traditional land; access to natural and other economic resources; and steps towards ensuring that Indigenous communities can be economically self-sufficient.

It is against the ideological battlefields – the culture wars, 'practical reconciliation' versus the rights agenda, the scepticism of Indigenous self-determination and the embrace of assimilation – that the policy developments in Indigenous Affairs under Howard needs to be viewed.

The End of ATSIC

The Aboriginal and Torres Strait Islander Commission (ATSIC) was established in 1989 under the Hawke Government.

ATSIC was an experiment in public administration. It has an elected arm and an administrative arm with a CEO who

is legislated to carry out the decisions of the Board while also being answerable to the Minister. The elected arm consisted of a national body – the Commission – and a network of Regional Councils. The ATSIC Act provided for Regional Councils to undertake planning processes that determine the priority areas for their communities. It was silent, however, on the relationship between the Regional Councils and the ATSIC Board so it is little wonder that the relationship worked well.

The workability of this arrangement, and other administrative, structural and governance issues within the legislative framework of the organisation, was always going to be a challenge.

The shadow of the possibility of its abolition hung over the national representative body from the moment of Howard's election in 1996. The early signs that it was in danger of being abolished were apparent in hindsight.

While ATSIC was given a limited mandate, it was blamed for every policy failure that occurred while it existed. A large percentage of its budget is quarantined for the Community Development Economic Program (CDEP) – a work for the dole scheme – and the Community Housing and Infrastructure Program (CHIP). It had no fiscal responsibility for the key areas of health and education and was a supplementary funding body for areas such as family violence. A large part of the responsibility for policy development and service delivery remained with federal and state governments, but this did stop poor socio-economic statistics, such as low levels of literacy in Indigenous communities and poor health outcomes, always being proffered as evidence of the fact that ATSIC was 'not working'.

For example, Christopher Pyne, a South Australian Liberal Member of Federal Parliament delivered a speech in March 2003 that targeted ATSIC with an attack that played on current

public misconceptions about its roles and responsibilities. He did not inform his audience that ATSIC does not provide education services; the Commonwealth and State Governments do. He attributed responsibility for Indigenous housing to ATSIC alone when in fact ATSIC was a supplementary funder with the State governments the primary service providers. He stated that ATSIC was not, as an institution, accountable when, in fact, nine clear audits and assessments of ATSIC service provision had shown the opposite (Pyne 2003).

A review of ATSIC had been undertaken in 2003 and delivered its report *In the Hands of the Regions: A New ATSIC* (Hannaford, Huggins and Collins 2003). It showed that, while there were many criticisms about some of the structural problems within ATSIC, there was support for the concept of a national representative body and an interest in seeing more power devolved from a national body to regional councils. This focus on regional representation is not surprising. It is often a preferred level of representation for Indigenous people who feel they can focus more specifically on their particular issues and priorities at this level.

The fate of the peak Indigenous organization was sealed when leader of the Opposition Mark Latham announced that, if elected, he would disband it. He proposed to replace it with a directly elected body to advise government and another body to distribute funding.

This policy announcement emboldened the Howard Government to respond swiftly and to announce its intention to abolish ATSIC immediately on the basis that it was ineffective in dealing with the issues faced by Indigenous Australians.

Legislation dismantling ATSIC was passed on 16 March 2005 with the support of the Labor Opposition. It left the 35

regional councils in place until 30 June the following year. At the time the legislation passed, ATSIC had already been split in two with the creation of a more independent administrative arm, Aboriginal and Torres Strait Islander Services (ATSIS). Programs had already been moved from ATSIC back into the Department of Family and Community Services and the Department of Employment and Workplace Relations.

While the Howard agenda was no surprise, Latham's support for the abolition of ATSIC smacked of popularism in the lead up to an election and disappointed many. His lack of consultation with the Indigenous communities about the future direction of policy making and program delivery at the national level was seen as patronising and paternalistic by many Indigenous leaders.

The crisis that faced ATSIC was exacerbated by the personalities on the Board. The Chair, Geoff Clark, was subject to allegations of engaging in sexual assaults over twenty years earlier – he would eventually be found not guilty of the charges in a criminal court – and Deputy Chair Ray 'Sugar' Robinson was constantly dogged by allegations of financial mismanagement and had an earlier conviction for sexual assault overturned on a technicality. These matters dominated press coverage of ATSIC and obscured any constructive analysis of what worked and didn't work within the ATSIC system.

When ATSIC was implemented as a cornerstone of the Labor Party policy of 'self-determination', Indigenous people across the country were quick to point out that this was not their idea of 'self-determination', that the peak organization was simply one that was part of the Federal government. Yet, for all its flaws, this strange experiment in public administration has proven to have been the high watermark for Indigenous involvement at the national level in relation to policy making and service delivery.

In ATSIC's place, the Howard Government established an appointed body – the National Indigenous Council.

From Elected to Hand Picked – The National Indigenous Council

A National Indigenous Council (NIC) was established and appointments announced on 6 November 2004. The NIC was to advise the Federal Government on Indigenous issues. It consisted of fourteen appointed members. While the Federal Government has claimed that this new body is not designed to replace ATSIC, it became the primary Indigenous advisory body at the national level.

Appointed bodies are nothing new in the Indigenous arenas; most Indigenous bodies have them including the Indigenous Land Corporation (ILC), Indigenous Business Australia (IBA) and Aboriginal Hostels. But the creation of a body of appointed individuals as the replacement of an elected body that had responsibility and accountability to Aboriginal people raised the following criticisms:

- Appointed representatives have no responsibility to represent broader Indigenous interests; they are appointed as individuals and act in that capacity. Unlike elected representative, appointees are not accountable to the community whose interests their decisions will affect. When she was asked how she would involve Aboriginal communities in the processes of the NIC, Chairperson Sue Gordon replied:

Well, all those things have to be worked out yet. It may be that we will set up a main system out to Aboriginal organisations because they're ... a lot of Aboriginal communities are on computer now, so that helps a lot. I don't know how we're going to work with Aboriginal groups, because as I said at

the outset, we're individuals. We're there to give an individual point of view (cited in ABC 2004a).

- The appointed structure did not have links to regional bodies or to state/territory governments and bodies. It lost the information flow from regions to the national level that was part of the ATSIC model.
- The new body was advisory only. It has no capacity to ensure that its advice is followed. In particular, the appointed body had no leverage with the bureaucracy. ATSIC had an administrative arm and then a relationship with Aboriginal and Torres Strait Islander Services (ATSIS). The advisory body has no such interface with the federal bureaucracy.
- The process of appointment excluded Indigenous people from input into membership of the body. This meant there was no sense of ownership of the body from the Aboriginal community.
- People appointed to the NIC were likely to have political positions that coincided with the federal government. They certainly did not include people who had questioned or criticised Howard Government policy on Indigenous issues.

The inclusion of Warren Mundine, then the Junior President of the Australian Labor Party (ALP) was touted by the Howard Government as an endorsement of the NIC and evidence of a bi-partisan approach. The ALP supported the appointment by claiming that Mundine's inclusion was a way they could work within government.

But Mundine's involvement effectively muted ALP criticism of NIC endorsed policies and, more importantly, was the first indication that policy approaches being developed by the Howard Government and endorsed by the NIC would closely reflect the policy positions of a future ALP government.

This became clearest with the land tenure principles that were endorsed by the NIC. These included the support of the compulsory acquisition of Indigenous land where traditional owners did not give consent. This notion of compulsory acquisition would become policy as part of the Northern Territory Intervention and remain in place under the Rudd Government.

There were two key ideological approaches that gained strength under the tenure of the NIC: the re-emergence of the policies of mainstreaming and assimilation and the emergence of the policy of shared responsibility or mutual obligation.

Assimilation and Mainstreaming

The key criticism levelled against this return to the ideologies of 'mainstreaming' and 'assimilation' which the NIC endorsed were that these policies had failed in the past to shift the poorer health, lower levels of education, higher levels of unemployment and poorer standard of housing that Aboriginal communities have experienced. They had not offered ways to protect Aboriginal cultural heritage, interest in land and language. And they have not offered a way in which Aboriginal people can play the central role in making decisions that will impact on their families and communities.

This was partly because mainstream services need to develop specific mechanisms and strategies for Aboriginal clients and they have to do this with stretched resources. In addition to these challenges, Aboriginal people continue to claim that they are often subjected to racism within those mainstream services.

There was no evidence that the ideologies of mainstreaming and assimilation that failed so dismally in the past would work now. The shift in the delivery of Aboriginal policy and programs back to mainstreaming in the post-ATSIC environment did not

offer any new insights or any promise of more effective policy-making and program delivery.

The mainstreaming of Indigenous programs has not been accompanied by any significant increase in funding for key socio-economic areas. For example, during the free-spending promises of the election from both major parties, there was no increase in funding to Aboriginal health. Access Economics, in a report titled *Expenditures on Aboriginal and Torres Strait Islander Health*, estimated that Indigenous health needs were under-funded by \$452.5 million a year (Access Economics 2005). Over \$60 billion was spent on health by governments each year, so the under-funding would have required less than a 1% increase in that spending.

The myth of 'practical reconciliation' was that while the rhetoric focused on the areas of health, housing, education and employment, these areas were underfunded under the Howard Government. An analysis of budget figures in the 2001–2002 period highlights how little of the dollars that were designated for Indigenous-specific programs went on the key areas supposedly targeted under the policy of 'practical reconciliation'.

Of the \$2.3 billion the Federal Government claimed it spent on Indigenous-specific programs in 2001–2002, ATSIC received only \$1.1 billion. Over 80 per cent of that budget was quarantined for CDEP and housing programs. The other \$1.2 billion of government funding that was directed towards Indigenous-specific programs was dispersed through other government agencies and departments not monitored closely enough to ensure that money allocated for Aboriginal and Torres Strait Islander issues was being used effectively, efficiently and for the benefit of Indigenous people.

Part of that \$1.2 billion dispersed through government departments in the 2001–2002 budget went towards defending the

stolen generations case brought by Peter Gunner and Lorna Cubillo in the Northern Territory (*Cubillo v Commonwealth* 2000). It also included \$16.3 million that went into the various areas of the government that were actively trying to defeat native title claims.

Analysis of federal budget spending showed little money spent effectively on the issues that are affecting Indigenous communities but money being spent on stopping Aboriginal and Torres Strait Islander rights from being recognised.

Shared Responsibility Agreements

The establishment of the NIC coincided with the rise of a new ideology driving Aboriginal policies – mutual obligation or shared responsibility.

A key premise of this ideology is that the chronic problems that face Indigenous communities are not the under-spending and neglect of Indigenous housing and education, but rather are perpetuated by the behaviour of Aboriginal people. The solutions to improving the socio-economic disadvantage of Aboriginal people, under this thesis, require behavioural change. The policy approach links behavioural change with incentives or punishment.

The Federal Aboriginal Affairs Minister, Amanda Vanstone, stated that a Shared Responsibility Agreement was:

an example of how we want to work in all the communities, sitting down with them, talking about what they want, talking about what they can do in exchange, working with the State Governments, working out a partnership agreement about where we can go from here ...

If this agreement goes ahead, and it works, what could anyone complain about? A community gets what it wants – a

petrol bowser – that gives them a chance for a bit of economic development, people might stop and get petrol, they can put a store there and don't have to drive themselves 70 kilometres away to get petrol and then back again. And the kids get better health outcomes. Who could complain about that? (cited in ABC 2004b).

The example of a petrol bowser, referred to by the Minister, was the subject matter of a Shared Responsibility Agreement negotiated between the Mulan Aboriginal community in a remote area of Western Australia and the Federal and Western Australian Governments. It provided that in return for the community committing to certain hygiene measures to address health problems, the government would contribute \$172,000 for petrol bowzers in the community. As part of the agreement, the WA Government would undertake to monitor and review the adequacy of health services in the area, where trachoma rates have been described as the worst in the world.

The Agreement set out a series of responsibilities for the Mulan community, including: starting and keeping up a program to make sure kids shower every day and wash their face every day; ensuring that rubbish bins are emptied twice a week; ensuring that the rubbish tip is properly managed; and monitoring and reporting on the extent to which the community, family and individual address the commitments set out in this agreement.

The agreement that had been heralded as an example of the success of the new policy approach quickly started to provide evidence of some of the policies failings. Mulan's Aboriginal Corporation administrator, Mark Sewell, however, argued that the media stated that the community itself came up with the idea, and approached the government:

There was two separate things. We wanted to improve kids' health and wanted to get fuel sales here as well. And we just felt that, you know, perhaps to show Government that we really mean business, we sort of put it down as an agreement where we'd work on the kids' health if the Government could help us with the fuel bowzers (cited in ABC 2004c).

This showed that governments had identified programs that had already been established as community initiatives and linked them to the provision of essential services or infrastructure. It gave the public perception, however, that the Mulan community had to be coerced through the agreement to undertake a hygiene program.

Other criticisms of the policy approach were made. Labor's Shadow Indigenous Affairs Minister, Kim Carr, referred to the agreement as patronising and coercive:

What are the obligations from government, what are they doing? All the obligation seems to be on the community. There's nothing really mutual about this -- I wonder if it is a free informed choice by the people... My fundamental objection to this approach is it's racially discriminatory (cited in Karvelas and Banks 2004).

The only Aboriginal member of Western Australia's Parliament, the Member for the Kimberley, Carol Martin, was critical, saying she was "offended that people need to sit up and beg" (cited in ABC 2004d). She said that:

the problems have been there for many years, but they've always been about not having enough funds, not having the right infrastructure, not having the right services, not having employment (cited in ABC 2004d).

The agreement was reported in the media on the day of the first meeting of the NIC. Speaking at the end of the first meeting, chairwoman Sue Gordon said such deals were good if local communities were supportive of them:

I don't view anything which is going to benefit Aboriginal people – which Aboriginal people themselves put up – as being paternalistic, because it's not being imposed (on) Aboriginal people. ... Rather, it's Aboriginal people saying this is what they want to do as a shared responsibility (cited in Karvelas and Banks 2004).

In the first year that Shared Responsibility Agreements were the cornerstone of a new approach to Indigenous policy by the Howard Government, \$100 million was allocated to them. At the end of the year it was shown that only 25% had made its way into actual Indigenous communities, with \$75 million going to administration.

The following year, the government quietly moved away from the agreements.

The Emergency Intervention

On 21 June 2007, Indigenous Affairs Minister Mal Brough announced that, as a result of the Northern Territory government's failure to take action on the *Little Children are Sacred* report, authored by Pat Anderson and Rex Wilde, that had noted the high rate of child abuse and neglect of Aboriginal children, the Federal Government was going to intervene.

The Northern Territory Intervention was designed in Canberra in a forty-eight hour period and included the following measures: widespread alcohol restrictions; quarantining welfare payments and linking them to school attendance; compulsory

health checks to identify health problems and signs of abuse; forced acquisition of townships through compulsory leases with just compensation; increased policing; introduction of market based rents and normal tenancy arrangements; banning of pornography and auditing publicly funded computers; scrapping the permit system; and appointing managers to all prescribed communities.

All of this was to be overseen by a Taskforce headed by the Western Australian magistrate Sue Gordon. Gordon was also the Chair of the handpicked Howard Government's NIC. The NIC had previously produced a paper critical of communal land holding and developed a set of principles around land tenure that included support for the compulsory acquisition of Aboriginal land.

As the details of the Intervention plan emerged, one of the first things that became apparent was that the Intervention strategy had no reference to the *Little Children are Sacred* report it purported to rely on, following none of its recommendations. The report had specifically noted that it was a crucial part of the response to child sexual abuse to work in conjunction with the community, especially on measures such as establishing dry areas and dealing with substance abuse. In these types of approaches, experience and research all pointed to the crucial need to involve communities intricately to ensure their success.

Heavy-handed, top-down interventions such as enforced prohibition have never proven effective, whether introduced in the black or the white community. It is telling that the federal government sought fit to consult with Noel Pearson in Cape York before announcing their 'emergency' but did not consult with the leaders or communities in the Northern Territory who were going to be subjected to this punitive and draconian

approach. Indigenous community leaders in the Northern Territory raised concerns about the lack of consultation and respect, noting that whenever there has been a national emergency, the Prime Minister flies in to speak to those affected but did not, at any time, extend that courtesy in this instance. Apart from the protocols and niceties, the research clearly shows that the most effective way to develop policies and implement programs into Indigenous communities is to have those communities integrally involved in them. It's not just a matter of good manners; it is a matter of effective practice and policy. The top-down, paternalistic imposition of half-baked policy ideas is a recipe for failure.

Other practical concerns were raised about the interventions said to target child sexual abuse. Why are welfare payments being tied to school attendance when there are not enough teachers and classrooms in the Northern Territory to cater for all of the Indigenous students? Why were mandatory examinations proposed when this not only breaches the rights to privacy and overrides the need for parental consent but there are not enough doctors on the ground to perform these examinations? What happens when a problem is found? Where are the counselling and health services to deal with problems as they are discovered? Why isn't funding being spent on developing community medical services that have been crying out for more resources for decades? Why is the government focusing on proposals where there is not proof of outcomes while they fail to provide adequate resources to the programs and strategies that we already know do work?

Beyond the practicalities of purely interventionist approaches were some larger questions about the strategies employed in the Intervention. Why were issues related to Indigenous control of

their land being tied to the issue of child sexual abuse? The other fundamental criticism that was raised was concerns about the changes to the permit system and the intention to compulsory acquire land.

Even the Northern Territory Police Association stated that the repeal of the permit system would actually make it harder to monitor the movements of people into Aboriginal communities and therefore making it harder to stop drugs, alcohol and paedophiles from going in to vulnerable Aboriginal communities. The change seems to be much more focused on opening up Aboriginal land to non-Aboriginal interests, a philosophical approach that accords with Howard Government policy in relation to Aboriginal communal land holdings generally.

The proposal to compulsory acquire townships not only raises questions about how this strategy could possibly assist in dealing with issues of child sexual abuse, it also gives some insight into why the timing of the Intervention raised so many questions amongst those who follow Indigenous affairs in the Northern Territory. Only a week before, Brough had presented an agreement to an Aboriginal council in the Northern Territory offering to address basic housing repairs in exchange for the lease back of their land. The council rejected his offer saying that they did not want to sacrifice their control over land, especially not for something like basic infrastructure which should not be bartered with by the government like that. Brough was publicly humiliated by the council's stance and suddenly there was an emergency in the Northern Territory and the compulsory acquisition of land, that Aboriginal communities had not wanted to relinquish control over, was part of the package.

The other crucial issue raised in the Anderson Wilde report and overlooked completely by the federal government response was

the failure for any of the measures to deal with underlying issues, specifically the under-funding of basic Indigenous health services and housing needs. For example, Aboriginal housing needs in the Northern Territory had been estimated to be under-funded by approximately \$2 billion. Yet nothing in the Intervention package seeks to address these underlying issues of disadvantage.

This was a profound flaw in the Intervention package because it means that the whole approach is predicated on dealing with the symptoms rather than the causes of dysfunctional Aboriginal communities. Research and reports into the high instance of violence and abuse in some Aboriginal communities consistently point to the fact that cyclical poverty, including poor health and poor environmental health, contribute to the breakdown of the social fabric in communities and when that happens communities become dysfunctional.

The other issue raised by the *Little Children are Sacred* report but overlooked by the raft of changes proposed in the Intervention was the fact that the report found that a large number of perpetrators of abuse of Aboriginal children were non-Aboriginal. Nothing in the Intervention attempted to deal with these non-Aboriginal perpetrators and instead seemed to work on the assumption that the problem was primarily one within Aboriginal communities.

In the face of the myriad of growing concerns and questions, the rhetoric was powerful: 'it's all about the children'. And with this mantra, anyone, no matter what colour or what their on-the-ground experience, who dared to ask questions about either the motivation or the mechanisms employed by the Intervention, was deemed to be part of the problem. This tactic was designed to silence those who are going to be most affected by these interventions. Aboriginal people had every right to ask questions

of a government who had over a decade to deal with issues of disadvantage within Aboriginal communities. They had every right to be sceptical of a government who had given them failed policies like 'practical reconciliation' and 'shared responsibility agreements' and now said 'trust us, we have the answers'.

In many ways, the intervention in the Northern Territory is a textbook example of why government policies continue to fail Aboriginal people:

- the policy approach was ideologically led rather than making any reference to the research or understandings about what actually works on the ground;
- in fact, the policy approach contained in the Intervention actually lies in direct contradiction of what the research shows us works and what experts recommend as appropriate action;
- the rhetoric of doing what is in the best interests of Aboriginal people, or children, masks a list of other policy agendas that are unrelated to dealing with systemic problems of violence and abuse and seek to undermine community control over their own resources; and
- the approach is paternalistic and top down rather than a collaborative approach that seeks to include Aboriginal people in the outcomes.

While community leaders and representatives, particularly the Coalition of Aboriginal Organisations worked tirelessly on developing an alternative policy response and lobbying parliamentarians to amend the harshest aspects of the legislation, the Northern Territory Emergency Response passed without amendment and with only one day allocated to a senate hearing to enable public submissions.

Only the Greens and Democrats, with some ALP parliamentarians from the Northern Territory, gave adequate scrutiny to the Bill. But overall, the ALP had quickly given its in-principle assent to the Intervention when it was first announced. As an opposition party, they did not question any of the aspects of the plan that are patently flawed to anyone who knows anything about Indigenous affairs. Some observers commented that the legislation contained plenty of things that should have provoked the ALP, especially the proposed changes to the permit system, the changes to the *Aboriginal Land Rights (Northern Territory) Act 1976* (Cth) and the attempt to subvert and override the *Racial Discrimination Act 1975* (Cth).

This was, in hindsight, the first clear sign that key policy directions under the Howard Government were not going to alter under a Rudd Government.

The Rudd Government: The Apology and other Symbolic Acts

When the Rudd Government came to power on 24 November 2007, there was an expectation that a national apology to the stolen generations, that had been recommended in the *Bringing Them Home* report and denied by John Howard, would finally be delivered. On 13 November 2008, the first parliamentary sitting day of the new government, that apology was delivered.

The occasion was historic and large crowds gathered in Canberra and other capital cities to hear the speech. Rudd devoted a section of his speech to addressing the sector of the Australian community who did not understand why the apology was necessary.

Over the period of his time as Prime Minister, John Howard reinforced and perpetuated his view that our country's history

should not acknowledge events or perspectives if it made people feel guilty about their past. I think that a majority of the people responded positively, after such a period of negativity, to the more forward looking and inclusive vision for Australia that Kevin Rudd articulated in his speech.

This fundamental shift in position on this issue of an apology raised expectations that the Rudd Government would significantly alter the policy directions of the Howard Government in the Indigenous Affairs portfolio as well. The speech certainly indicated that there is an opportunity now for a renewed dialogue about the unfinished business of reconciliation.

There was always a clear understanding that while the apology was of fundamental significance to the Aboriginal community, especially members of the stolen generations and their families, its symbolic significance included the fact that once the history, including past government wrongs was admitted, it should be followed by more concrete and practical steps forward to deal with the entrenched disadvantage within Aboriginal and Torres Strait Islander communities.

A review into the Northern Territory Emergency Response, headed by Peter Yu, promised to be the first occasion on which the Rudd Government could alter the policy approaches of the Howard Government, particularly the more heavy-handed aspects of the Intervention.

The NTER Review recommended the current blanket application of compulsory income management in the Northern Territory cease and that income management only be available on a voluntary basis to community members who choose to have some of their income quarantined for specific purposes, as determined by them. It further recommended that compulsory income management should only apply on the basis of child

protection, school enrolment and attendance and other relevant behavioural triggers and that all welfare recipients should have access to external merits review.

These recommendations were ignored. It was the clearest indication that the Rudd Government was going to follow the policy approach established by the Howard Government, especially in relation to two controversial areas: compulsory income management and the linking of leases of Aboriginal land to access to housing money.

Compulsory Income Management

The most powerful example of this is the quarantining of welfare payments and its spurious links to improving school attendance. This was included as part of the Intervention with the seductive rhetoric that it would be linked to school attendance. This played well with an electorate who probably assumed that poor attendance rates and poor educational outcomes for Aboriginal children were caused by the poor parenting of Aboriginal parents.

However, the only evaluated trial of a scheme linking welfare payments to school attendance – the Halls Creek *Engaging Families Trial* (DEWR 2006) undertaken from February to July 2008 – found that the attitudes of parents of Aboriginal children were only one of the factors that affected school attendance. The evidence pointed to the pivotal role that teachers and the school culture itself plays in a community where children decide their own time use patterns at a very early age.

The evaluation also showed that poor or good attendance did not necessarily run in families. In one family of five children, attendance ranged from 14% to 88%. It was also found that the housing situation in Halls Creek – where overcrowding is a

critical problem – is unlikely to provide an environment where families can be ‘school ready’.

There is no evidence that shows that linking welfare to behaviour reforms is effective. In fact, there is evidence to suggest that the imposition of such punitive measures in an already dysfunctional situation will exacerbate the stress in a household.

And what the evidence does show works in getting Aboriginal children into schools are the following:

- breakfast and lunch programs;
- programs that bring the Aboriginal community, especially Elders, into the schools;
- Aboriginal teachers aides and Aboriginal teachers;
- curriculum that engages Aboriginal children; and
- programs such as that developed by Aboriginal educationalist Chris Sarra that marry programs that promote self-esteem and confidence through engaging with culture with programs that focus on academic excellence.

These effective programs and strategies show the importance of building a relationship between Aboriginal families and the school in order to target issues like school attendance. It also shows that there is much that the schools can also do to engage children with schooling. It suggests that, rather than simply punishing parents for their children’s non-attendance, the government should be providing schools and teachers that meet the needs of the Aboriginal community.

It should be noted that it cost the taxpayer \$88 million to make the initial administrative changes in Centrelink to facilitate the welfare quarantining but not one dollar was spent in the Intervention on any of the types of programs that have been proven to engage

Aboriginal children in schools. All this in communities where only 47c is spent to the \$1 spent on non-Aboriginal students, in communities where there are not enough teachers and classrooms.

A punitive measure placed on families to ensure their children come to school is hypocritical from any government that neglects the same children by failing to provide adequate funding for a teacher and a classroom. Even if it did work to physically bring more children into a classroom, what is the quality of the education they will receive when there has been underinvestment in teachers and educational infrastructure?

The problematic nature of the policy did not end there. The policy wasn't applied simply to parent's whose children did not attend school. It applied to anyone who lived in a prescribed area who was on a welfare payment – whether their children went to school or not, whether they even had children or not. There were people who had fought in wars and managed their money their whole lives who suddenly found their veteran's pensions quarantined.

When this policy was rolled out, the legislation suspended the *Racial Discrimination Act* from applying (meaning that complaints could not be made to the Australian Human Rights Commission), suspended protections and rights of appeal under the Northern Territory anti-discrimination legislation and suspended the rights to appeal to the social security appeals tribunal. It took away the rights of the most marginalised within our community to complain about unfair treatment or unfair impact to just about anyone.

Compulsory Leasing and Housing Policy

There are some stark differences between the treatment of housing in the community sector and Aboriginal community owned housing.

Housing in the community sector is the responsibility for the Commonwealth Minister for Housing, Tanya Plibersek. Aboriginal housing falls under the Commonwealth Minister for Indigenous Affairs, Jenny Macklin.

Plibersek supports the establishment and use of the community housing sector to manage social housing. She has said that she wants to see the growth of the number of “sophisticated not-for-profit housing organisations” that would operate along side state-run housing providers (Plibersek 2004). Plibersek has been supportive of what she thinks community based housing organisations can provide and has observed that they are good at tenancy management, often have lower rates of rental arrears and better track records at maintenance than state housing authorities.

By comparison, Macklin does not support Indigenous community housing providers. She has policies aimed at closing down the sector in favour of mainstream public housing. She does not have the same confidence in the Indigenous housing sector that Plibersek has in community housing. She seems to believe that they are poor managers and that maintenance is a problem. That is part of the thinking in why Aboriginal communities need to sign lease agreements in order to access housing money. Macklin has said,

Lease arrangements are required to secure this major public investment in the communities and to make sure that housing and management can be reformed to improve tenancy management, maintenance and repairs (Plibersek 2004).

Macklin is placing a lot of faith in mainstream housing providers to deliver for Aboriginal people. She has said that state and

territory public housing authorities have a set of management systems in place that are desperately needed and lacking in remote communities and these communities will benefit from the “strong regulatory framework provided by the State” (Behrendt 2009). Strangely, the Housing Minister does not seem to share this view. Plibersek has recognised the failures of mainstream public housing authorities to deliver. Of the same system she has said, “We are often not delivering opportunities for public housing tenants; 90% of stock is held by eight government providers; and our system is not transparent or accountable” (Plibersek 2004).

Plibersek supports the transfer of the title of public housing *from* state and territory housing authorities *over to* the community housing sector so that they can provide housing. Macklin has a completely different attitude. She is insisting that the title of the land on which community housing is built must be transferred *from* the Aboriginal community *to* state housing authorities through a long term lease (from 40 – 99 years). Housing will be delivered by government housing authorities (the same one’s that Plibersek described as ‘not transparent or accountable’) and is contingent on communities leasing their land back and that responsibility for management of the housing be handed back to the public housing authority.

This is the housing policy that Macklin has stuck tenaciously to as part of the Northern Territory Intervention and has rolled it out in other states. More questions have been asked after the \$800 million housing program in the Northern Territory did not deliver one new house in 18 months.

Walpiri Elder, Harry Nelson Jakamarra, has said,

The Intervention housing program has not built any new houses at Yuendumu. We are just being blackmailed. If we don’t hand

over our land we can’t get houses maintained, or any new houses built. We have never given away any Warlpiri land and we are not going to start now (Intervention Walk Off 2009).

This policy of linking land tenure to access to Commonwealth housing money has now been rolled out in all states and territories.

Evaluating Policy Success

There is also hard evidence that the policies of the Intervention are not meeting the stated policy objectives of improving the life of women and children in the Northern Territory.

A Whole of Government Monitoring Report, *Closing the Gap in the Northern Territory* (FAHCSIA 2009), which tracked data from January 2009 to June 2009, gave a snapshot of some of the failures to improve socio-economic indices as well as problems with the benchmarking used by governments in testing whether policies are working.

The report showed that school attendance rates have not increased. In fact, they have decreased. While there was improvement from June 2008 of 2.1% for primary students and 3.5% for secondary students, the overall rate has decreased fractionally from where it was in June 2007 (63.1% to 63%). On this measure, there has been no improvement in school attendance over the period of the Intervention.

The School Nutrition Program has been spread into 68 schools by June 2009, an increase from 55 schools in June 2008. This might seem like an achievement for the Department of Education, Employment and Work Relations, but since the money to support the program is taken from the quarantined income of parents, it is an achievement of the Aboriginal parents who are financially supporting it.

A key way in which the health statistics are benchmarked is by counting how many Child Health Checks have been undertaken. There have been 14,610 since the Intervention and 80% have resulted in referrals of some kind. What is not included here is that while the Intervention health checks in the Katherine region have reached 74% of children in the area, the community health service screens 96% of children (Behrendt and Fisher 2009). Children that are not caught by the Intervention health checks are being caught by the work of community health organisations like Sunrise. The concern is that the ones that are slipping through the Intervention health checks are more likely to be at risk so the health statistics gathered from the Intervention health checks are under-reporting medical problems.

The other statistical benchmark relied on in the report to monitor health are hospital admissions. These are useful but have some limitations. For example, the report shows that there were 413 admissions for nutritional anaemia and malnutrition in 2006/2007, 327 in the 2007/2008 period and 293 for 2008/2009.

While this would indicate a decrease, hospital admission is not the only way to measure prevalence of anaemia. Sunrise Health Service has tracked this in the 96% of children it screens and the rates are of concern. From a low in the six months to December 2006 of 20 per cent – an unacceptably high level, but one which had been reducing from levels of 33 per cent in October 2003 – the figure had gone up to 36 per cent by December 2007. By June 2008 this level had reached 55 per cent, a level that was maintained in the six months to December 2008. In two years, 18 months of which has been under the Intervention, the anaemia rate has nearly trebled.¹

The report also shows the governments lack of rigour in policy analysis in the section on welfare quarantining. Success

benchmarks are measured by how much money has been quarantined (\$197.7 million), how many Basics Cards have been handed out (95.9% of income managed customers had basic cards (how are the 4.1% who don't have the card accessing their quarantined money?) and how many people are signed up (73 communities and ten town camp regions). There is no mention of how it is assessed in terms of improving people's lives.

These statistics overlook the continual complaints of Aboriginal people about how the system leaves them without dignity and takes away their capacity to adequately budget for things. Statements in the report like "It (income management) ensures that Commonwealth Income Support and Family Assistance payments are used for the benefit of children and to increase the financial security of people raising children" (Behrendt and Fisher 2009) are not substantiated. That might be what the government hopes will happen. It might be what they have intended. But there is no proof that this is what is happening just because more people are on the scheme.

The issue of fresh food consumption is also covered in the report. It refers to a survey of store operators about their 'perceptions' of the effect on community residents. The best way to ask about the impact of quarantining on people is to ask the people who were affected, not the storeowners who have a quasi-monopoly on the quarantined money.

Even with the potential bias of the store owner's survey, the results are not overwhelming. While 68.2% reported an increase in fruit and vegetables, that means that 31.8% didn't (19.7% reported that there had been a decrease). Further, 68.2% reported an increase in healthy food purchase in general, which means that 31.8% didn't (and again, 19.7% reported an actual decrease). This means that one in five stores are saying that they

are selling less fresh and healthy food, which should be a matter of deep concern. Also, 47% of store operators reported an increase in clothing sales, revealing that more than half – 53% – didn't, with 25.8% reporting an actual decrease.

The statistics missing from the report are any benchmarks about housing. This may be fobbed off as part of the responsibility of the Northern Territory government but the buck stops with the Minister that the \$800 million housing program has not delivered a single house. Instead, the report focuses on the number of leases that have been signed by communities as part of the Intervention's changes to land tenure. These leases are required by Minister Macklin before she will release money for housing repairs or new housing. These communities include Ampilatwatja who, though signing a lease, did not receive any assistance. Their town became overrun with sewerage as a result of the neglect and the extreme health risk – especially to children. The community have decamped and resettled elsewhere.²

Closing the Gap

The starkest difference between the Rudd Government and the previous Howard Government has been the willingness of the former to embrace the symbolic acts of reconciliation. The national apology was a key example of that. The Rudd Government also endorsed the *Declaration on the Rights of Indigenous Peoples* on 3 April 2009. In the accompanying speech, Minister for Indigenous Affairs, Jenny Macklin stressed that the Declaration had no legally binding effect.

Aside from these two significant symbolic actions, key policy agendas have remained primarily unaltered under the Rudd Government. Nowhere is this clearer than with the

determination in which the original policy mechanisms created as part of the Northern Territory Emergency Response have been adhered to, especially in relation to compulsory income management and housing policy.

The Rudd Government also introduced the language of 'closing the gap' to describe the key objective of Indigenous policy. It has become clear that this is a focus on reducing socio-economic disparity on a range of indicators – health, housing, education, employment. This policy agenda overlooks other important goal that should be the centre-piece of Indigenous policy – the sustainability and viability of Aboriginal and Torres Strait Islander cultures and the protection of the rights of Aboriginal and Torres Strait Islander people.

Until there is a broader differentiation on the policy front between the Rudd Government and the Howard Government that goes beyond a difference in the embrace of symbolism, the danger will be that Rudd's concept of 'closing the gap' will become exactly the same as Howard's concept of 'practical reconciliation'.

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Notes

- 1 Sunrise Health Service have documented instances in which the roll out affected people's capacity to purchase food. This included diabetics, with no local store access, unable to access food for weeks at a time. Their response to this situation was to sleep until food became available. They also believe that the regime of income management has not reduced alcohol or drug consumption, indeed alcohol restrictions on prescribed communities has merely shifted the problems to larger towns or bush camps. And it has not stopped 'humbug' or the conversion of Basic Card purchases into cash for grog. There is also no evidence that it has increased the consumption of fresh food amongst Aboriginal families, which is vital to fighting anaemia.
- 2 For a history of the Ampilatwatja walk off, see <http://interventionwalkoff.wordpress.com/>