

POSITIVE DISCRIMINATION
MEASURES IN AUSTRALIAN
INDIGENOUS HIGHER
EDUCATION: LESSONS FOR
CHILE

by

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ABSTRACT

Positive discrimination measures in Australian Indigenous higher education:

Lessons for Chile

By Vanessa Jara Labarthe

This thesis explores the conceptualisation, development, and implementation of positive discrimination measures in context of the higher education of Indigenous people. I set out to consider the implications of the Australian experience for the development of approaches to positive discrimination policy and programs for Indigenous people in Chile. I look particularly for lessons in the development and implementation of two positive discrimination measures that have emerged in Australia over the last four decades: ABSTUDY and the National Aboriginal and Torres Strait Islander Education Policy (1989). The Australian experience has been forged over a longer time-frame than Chile and an assumption I am making in this thesis is that lessons from this experience are potentially useful for the Chilean Indigenous higher education context. My inquiry is to understand not just the positive effects but also the limits that positive discrimination measures contribute to the higher education access, participation, and outcomes of Indigenous students.

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LIST OF ACRONYMS

- ABSEG** Aboriginal Secondary Grants Scheme (Australia)
- ABSTUDY** Aboriginal and Torres Strait Islander Study Scheme (Australia)
- ACT** Australian Capital Territory (Australia)
- AECG** Aboriginal Education Consultative Group
- AEP** Aboriginal Education Policy (Australia)
- AESIP** Aboriginal Education Strategic Initiatives Program (Australia)
- AHRC** Australian Human Rights Commission
- AIME** Australian Indigenous Mentoring Experience
- ANU** Australian National University (Australia)
- APA** Australian Postgraduate Award (Australia)
- ATAR** Australian Tertiary Admission Rank
- ATSHEAC** Aboriginal and Torres Strait Islander Higher Education Advisory Council
- ATSIC** Aboriginal and Torres Strait Islander Commission (Australia)
- AUSTUDY** Australian Government Scheme of Educational Allowances (Australia)
- AVCC** Australian Vice Chancellors' Committee (Australia)
- CASEN** National Socioeconomic Survey (Chile)
- CDEYA** Commonwealth Department of Education and Youth Affairs (Australia)
- CGEIB** General Coordination of Bilingual Intercultural Education (Mexico)
- CODISRA** Presidential Commission against Racism and Discrimination (Guatemala)

CONADI National Corporation of Indigenous Development (Chile)

DEET Department of Employment, Education and Training (Australia)

DEETYA Department of Employment, Education, Training and Youth Affairs (Australia)

DEST Department of Education, Science and Training (Australia)

DETYA Department of Education, Training and Youth Affairs (Australia)

FCAATSI The Federal Council for the Advancement of Aborigines and Torres Strait Islanders (Australia)

ICIE Indian Control of Indian Education (Canada)

IESALC International Higher Education Office for Latin America and the Caribbean

IEU Indigenous Education Unit

IHEAC Indigenous Higher Education Advisory Council (Australia)

ILO International Labour Organization

INALI National Institute for Languages (Mexico)

ITAS Indigenous Tutorial Assistance Scheme

JUNAEB National Board of Student Aid and Scholarships (Chile)

MCEETYA Ministerial Council for Employment, Education, Training and Youth Affairs (Australia)

MEF Maori Education Foundation (New Zealand)

NAAF National Aboriginal Achievement Foundation (Canada)

NAEC National Aboriginal Education Committee (Australia)

NATSIEP National Aboriginal and Torres Strait Islander Education Policy (Australia)

NESA National Employment Strategy for Aboriginals

PAAEA Aymara student Support Program (Chile)

PAAEM Program for Mapuche Student Support (Chile)

PAE Special Admission Program (Colombia)

PES Pensioner Supplement Scheme (Australia)

PNUD United Nations Program for Development

PRODEPINE Project for the Development of Black and Indigenous peoples of Ecuador (Ecuador)

PRONABES Mexican national program of scholarships for higher education (Mexico)

PSSSP Post-Secondary Student Support Program (Canada)

PSU University Selection Test (Chile)

RACS Office for the Andean Region and the Southern Cone

SFSS Student Financial Supplement Scheme (Australia)

TAFE Technical and Further Education (Australia)

TEPA Tertiary Education Program for Aborigines (Australia)

TES Tertiary Education Strategy 2002/2007 (New Zealand)

UAIM Autonomous Indigenous University of Mexico (Mexico)

UCT Catholic University of Temuco (Chile)

UFRO University of La Frontera (Chile)

UINPI Intercultural University of Indigenous Peoples and Nationalities (Ecuador)

UNAP Arturo Prat University (Chile)

UNDA University of Notre Dame (Australia)

UNESCO United Nations Educational, Scientific and Cultural Organization

UNIBOL Bolivian Indigenous Universities (Bolivia)

UNIK Intercultural Indigenous University Kawsay (Bolivia)

URNG National Revolutionary Unity of Guatemala (Guatemala)

USAC University of San Carlos (Guatemala)

UTA University of Tarapaca (Chile)

UTS University of Technology Sydney (Australia)

VET Vocational Education Training

WAACHS Western Australian Aboriginal Child Health Survey (Australia)

Introductory Remarks

This thesis assumes from the outset that there are beneficial effects to be derived from positive discrimination measures. It is however, a difficult, perhaps an impossible, task to determine direct causal relationships between positive discrimination measures and their effects on student outcomes. An extensive international Indigenous higher education literature, for example, attests to the many intervening factors that pose barriers or affect the success of Indigenous higher education students, even when students have gained access to universities via positive discrimination measures and/or when their chances of success are argued to be enhanced by further positive discrimination measures within the university (Nakata, Nakata & Chin 2008).

However, causal complexity does not mean that the effectiveness of Indigenous higher education policy and programmes, as positive discrimination measures, cannot be made the subject of scrutiny, only that determining causal links to student outcomes is likely to be too difficult to enable valid or useful conclusions to be drawn. Indeed, a preoccupation with the logic of causality may itself condition the sorts of discussions and debates that are possible in relation to the effectiveness of positive discrimination measures.

Despite this difficulty, legitimate questions about positive discrimination measures still remain open to inquiry: Do positive discrimination measures work in the ways intended or imagined? The challenge becomes how to explore that question. My proposition in this thesis is that the effectiveness of positive discrimination measures can be scrutinised against the terms of their own rhetorical and administrative conditions. For example, does a positive discrimination measure such as financial assistance actually provide for reasonable conditions for students to meet their study commitments, namely sufficient time on study tasks, living conditions conducive to study, the ability

to meet educational fees and fund the necessary educational resources? Or, to take another example, does a policy that supports special entry provisions also provide sufficient support for students to overcome the associated level of academic 'under-preparation' that necessitated them to enter by special provision in the first place? Or, are there unseen or unacknowledged limits associated with procedures of implementation and compliance processes of governments or universities? Asking these sorts of questions turns the inquiry towards the conditions of positive discrimination measures and whether these enable or limit Indigenous students' chances of access, participation, retention and successful outcomes. The question about effectiveness then is able to be re-focused towards the conditions of the recruitment and deployment of positive discrimination measures as 'conditions' which promote possibilities or constraints for Indigenous students pursuing the goal of higher education. The focus of my inquiry, then, is directed towards revealing the intents, assumptions and changing conditions of the Australian positive discrimination measures that are being investigated and to track how these come to inhibit or enhance the progression towards the intended goals.

However, this focus took some time to emerge. Concerns about the difficulties in evaluating the effectiveness of positive discrimination measures were not the only ones that led me to settle on this focus. Two other areas of concern presented themselves for consideration. The first was the issue of context. An examination of the deployment of positive discrimination measures in Australian Indigenous higher education, which aims to draw out the implications for the Chilean situation, suggests that any conclusions need to be drawn against and informed by an understanding, not just of Chile, but also of the Latin American context in which Indigenous peoples' colonial and contemporary positions in relation to higher education have been more

broadly constituted¹. Further, the measures of Australian positive discrimination under investigation in this thesis need to be understood as responses to both the particularities of the Australian context to which they have been applied and the colonial history from which they have emerged. The approach to inquiry needs to accommodate the traversal between these two contexts to bring to light any salient differences, which may compel different rationales and/or arguments for and against positive discrimination practices in Chile.

The second issue concerns the conceptualisation of positive discrimination itself. Is positive discrimination to be taken for granted as a practice that benefits prospective Indigenous higher education students or, even more generally, Indigenous people? I have noted, at the outset, that this thesis assumes there are benefits. However, this does not mean that the concept is beyond exploration or question. Where did this practice come from and why? What assumptions guide its logic? What questions have been asked of it or what sort of debates and discussions has it produced? Do these have any relevance to my approach to inquiry and can they inform my analysis and conclusions? The answer is that both these contextual and conceptual concerns are relevant. These have been the subjects of the preliminary explorations in the first part of my thesis. These early explorations have enabled me to build a more informed position from which I have been led to settle on, firstly, my focus of inquiry, secondly, the methodology I have elected to use, and thirdly, the sequence and organisation of this thesis.

This thesis begins in Chapter 1 with a description of the salient developments that contextualise Latin American Indigenous higher education in a number of Latin American countries. I look particularly at developments in Bolivia, Peru, Ecuador, Colombia, Mexico and Guatemala – countries with large

¹ I have translated quotes from Spanish authors into English for the benefit of the Australian examiners.

Indigenous populations. It is by no means a comprehensive review of Latin American education priorities, but sufficient to set the context for my focus on positive discrimination measures for Indigenous students in the higher education areas. Chapter 2 discusses these developments in relation to Chile and in more detail regarding positive discrimination measures. These two Chapters put front and centre of my inquiry the situation of Indigenous people in higher education studies in Latin America. This background is essential for readers unfamiliar with developments in Indigenous higher education in the Latin American context. It also assists me to draw conclusions from my inquiry by bringing to awareness any assumptions that might lead to misunderstanding, misinterpretation or misapplication of ideas or practices across borders.

Chapter 3 explores in more detail the concept of positive discrimination, its history, rationales and inherent tensions. This exploration raises some methodological issues relevant to the approach taken in this thesis. For this reason, a discussion and description of methodology and methods—especially Foucauldian discourse analysis—follows next in Chapter 4.

In Chapter 5, I provide some historical background to the Australian Indigenous higher education context. This provides the necessary background to situate the close analysis of the two positive discrimination measures taken in the following two chapters. As with my Chapter 1 and 2 descriptions of the Latin American Indigenous higher education context, this background also assists me to draw conclusions from my inquiry by bringing to awareness any assumptions that might lead to misunderstanding, misinterpretation or misapplication of ideas or practices across borders.

All of these Chapters set the stage for a closer, more critical and discursive explication to reveal the assumptions and reasoning that underpin two specific Australian measures under investigation in Chapter 6 (ABSTUDY, a student allowance program) and Chapter 7 and Chapter 8 (the 1989 National

Aboriginal and Torres Strait Islander Education Policy statements and implementation). These examinations will focus primarily on policy texts, program documents and bureaucratic instruments for implementation and review of these two positive discrimination measures. Included in my analysis is a consideration of the effects of changes over time, particularly on the conditions which enable or limit the capacity of these propositions to achieve substantive equality in the form of education outcomes. The implications of all my explorations and lessons for Chile are discussed in the final Chapter.

Chapter 1

INDIGENOUS HIGHER EDUCATION IN LATIN AMERICA

In this Chapter, I present an overview of some of the more significant developments in Indigenous Higher Education across a number of Latin American countries. I do this through a review of the relevant literature emerging from or about those contexts. Alongside descriptions of the developments, I provide some of the assessments of achievements so far, some critiques of current limits and some of the recognised challenges and possible remedies, reported in the literature. Where possible, I draw attention to the political histories that shape governmental responses to Indigenous peoples and their demands or actions in these countries. My aim is to build up a picture of the emergence of attention to Indigenous higher education in different national contexts, as well as the responses. The similarities and shared concerns, as well as the Indigenous diversity within and across these countries, are brought to light. The overall intent is to provide a view to some of the conditions that shape the Indigenous higher education context in Latin America. This enables the contextualisation of Indigenous peoples' historical and ongoing struggle to participate in higher education on their own terms and to take advantage of the opportunities it presents.

Broadly speaking, Indigenous higher education in Latin America has been established as one of the most important needs of Indigenous peoples (Choque 2011, p. 139). However, until relatively recently, higher education programs in Latin American universities have not been greatly concerned with or included Indigenous peoples or their knowledge, perspectives or concerns. In relation to Indigenous education, governments have been mostly concerned with State public education at the primary level for assimilationist purposes. As a result of this lack of focus, Indigenous peoples continue to be marginalised from the university sector. However, since the 1980s, according

to Daniel Mato, public and private higher education institutions and private foundations have:

established policies of special quotas and scholarship programs, and other ways of support aimed at improving the chance of access to and completion of Higher Education studies for Indigenous and Afro-descendants in conventional higher education institutions. (Mato 2012, p. 19)

Despite these efforts, the chances for Indigenous students to access and complete studies in traditional (Euro-Western) universities are still uneven and unfair due to the ongoing history of discrimination and disadvantage that Indigenous people have continued to face. For Mato (2010), even though these policies are oriented towards achieving the inclusion of Indigenous people, the study programs and the areas of research of traditional universities still exclude the more general economic, social and political needs of Indigenous peoples:

There are few universities that incorporate knowledge, languages, proposals and modalities of learning of these peoples in their curricula, deliberately contributing to the valuation of cultural diversity, promotion of equitable intercultural relations and forms of citizenship that ensure equal opportunities. (Mato 2010, p. 109)

Nevertheless, some attempts have been made to develop more responsive approaches to meet Indigenous peoples' own needs for higher education. The main goal for these new Indigenous institutions has been the 'collective aspiration to improve the state of poverty and neglect which has characterized Indigenous peoples' (Barreno 2003, p. 13). Education is seen as one of the keys to this process. These Indigenous higher education initiatives began to emerge towards the end of the 1980's and were managed and carried out by Indigenous and non-Indigenous actors alike in countries such as Guatemala and Nicaragua. At the same time, other initiatives emerged in other Latin American countries and many of them are still in formation. As Barreno notes, 'universities, institutes or Indigenous higher education programs in

Latin America are recent'(2003, p. 13) when compared with traditional Western (European-inspired) institutions of higher learning. The universalisation of higher education and the spirit of intercultural education are therefore still pending.

Bolivia

The development of higher education in Bolivia has occurred in both public and private universities and other institutions of higher education and more recently in the creation of three productive, intercultural, communitarian Bolivian Indigenous Universities (UNIBOL) in August 2008. The goal of the latter, according to government Decree 29.664 of 2 August 2008, is to transform 'the colonial character of the state and higher education through the formation of human resources based on a sense of community productiveness and cultural identity' (Choque 2011, p. 140). This push has come from the Evo Morales Government, which has transformed many of Bolivia's previously discriminatory and exclusionary policies towards Indigenous peoples as part of a broader framework of social democratic redistribution of wealth and representation in Bolivian society. It is no surprise that Morales is Indigenous and comes from the rural coca growing regions of the country. The Constitution of the Bolivian State now recognizes Higher Education as 'intracultural, intercultural and multilingual' (Choque 2011, p.144) and establishes in its Articles and Clauses that culture, knowledge and native languages should be preserved and disseminated. It also states that 'the installation of regulatory progress responds to demands from the local, national, regional and international levels to make effective education an exercise of human rights' (Choque 2011, p. 140).

The impact of Indigenous social movements in Bolivia on Indigenous higher education has been studied by Crista Weise (2004). She highlights the difficulties in defining what is or what should be understood as Indigenous Higher Education, and defines it as 'the university-level educative

opportunities offered by all universities established in both the public and private system and which is available to and/or in use by Indigenous populations' (p. 34). Two types are thus on offer: public or private universities with specific formative programs oriented to Indigenous populations; and experiences or constitution of universities self-denominated as Indigenous. For Weise:

[i]t is evident that exclusion and marginalisation of Indigenous people in higher education is greater than non-Indigenous people and it has its origin in the lower levels of the educational system, specifically in the inadequate preparation of primary and secondary schooling. (2004, p. 52)

Nevertheless, there is no national plan or program oriented toward the development of policies that ensure more equity in the access to education at all levels. An issue which impedes planning is the lack of statistics about the ethnic origin of students in higher education, despite their obvious existence within tertiary education institutions. Rodríguez (2006) points out, in addition, that 'universities are receiving urban Indigenous students who speak the Spanish language, but also students whose language is not Spanish but one of the so-called original languages' (cited in Pedroza & Villalobos 2009, p. 39). The different languages spoken result in Indigenous students experiencing learning challenges related to the use of the oral and written language of university instruction. Access to Western-oriented universities produces further barriers for Indigenous students.

In relation to self-denominated Indigenous universities, Zapata (2008) has called attention to the fact that these Indigenous universities are closely related to Indigenous movements and that 'some of them adopt a radical culturalist approach in trying to differentiate them from Western knowledge' (p. 10). One example is the Andean University Kawsay, which was 'formed by the initiative of some Indigenous scholars' (Zapata 2008, p. 10). Cerruto (2009) explains that in 1999 the Centre of Native Cultures Kawsay was created with the principal goal of creating 'the first public university of

Indigenous peoples: the Intercultural Indigenous University Kawsay (UNIK)' (p. 124). According to Cerruto, 'the project proposes a model of territorial, political, intercultural, multilingual and multicultural education to achieve a multinational state' (2009, p. 124). Another example of an Indigenous university in Bolivia is the Public University of El Alto, created in 2002 as an act of Parliament in response to the social demands of the inhabitants of the city. In 2003 the University was awarded academic autonomy (Zapata 2008, p. 10). Weise (2004) clarifies, however, that while this University declares itself Indigenous, this does not imply changes in its academic structure. According to Weise, this very university offers the same programs as other universities. There are two other such Indigenous university-like institutions: the Unity of Sacta Valley and the Indigenous University Tahuantinsuyo-Ajlla. According too Weise (2004), they have not formally established themselves as Indigenous Universities.

Despite the existence of these institutions and the enrolment of Indigenous students, the development strategies in the sector have not been standardised, let alone differentiated for Indigenous populations. For this reason, higher education policies do not take into account the specific orientations of Indigenous populations or the mechanisms which might favour the broadening, access, and coverage of their higher education, nor the starting point of the students. Other difficulties that Indigenous Universities in Bolivia have been facing are related to infrastructure, financial support and, according to Choque (2011), the more general reduction in the amount of scholarships for Higher Education awarded to Indigenous people, peasants and people of African descent.

Despite their official recognition in the national Constitution, and the efforts of universities and international foundations to improve the performance and outcomes of Indigenous students in higher education, these efforts have not been enough to address the full extent of the needs and difficulties that Indigenous students face in trying to gain a higher education.

Peru

According to Chirinos & Zegarra (2004), 'Peru, along with Bolivia, Ecuador, Guatemala and Mexico is one of five Latin American countries where the amount and proportion of Indigenous people is greatest' (p. 9). To determine who are or who can be considered Indigenous in Peru, Chirinos & Zegarra present three positions:

To consider as Indigenous only Amazonic peoples with recent and relative contact with non-Indigenous society; to consider Indigenous Andean and Amazonic peoples that preserve their first, native languages; or to consider as Indigenous any group that preserves cultural heritage. (Chirinos & Zegarra 2004, p. 9)

As Córdova (2011) sees it, the Peruvian educational system, in relation to Indigenous people, is very inequitable at all levels, but the equity gaps are much more evident and critical in the area of higher education access: 'while 35.1% of young people from 18 to 20 years with Spanish language have accessed Higher Education, this percentage is reduced to 10.6% for people with natives languages' (p. 329). Both Barreno (2003) and Córdova (2011) observe that there is no information about the exact number of Indigenous students in Higher Education. Córdova (2011) explains that nowadays it is difficult to measure the level of access of Indigenous students in Higher Education because Peruvian universities in general do not ask about the background of their students. But, according to Villasante (2008),

[t]he lack of pro-Indigenous educational policies and non-existent official statistics on Indigenous presence does not mean they do not exist or are not present in the classroom as students or as teachers. (cited in Córdova 2011, p. 343)

Despite the Peruvian Constitution recognizing the right to have an ethnic and cultural identity and despite Article 2 establishing the protection of the ethnic and cultural plurality of the nation, there is no legal recognition of Indigenous peoples as such (Córdova 2011). In relation to policies related to Indigenous

education, the Constitution established the promotion of intercultural education but only for primary and secondary levels. When referring to higher education, there is no explicit reference to interculturality or any topic related to Indigenous knowledge. While the General Educational Law (28.044) establishes that education is an essential right for all people and mentions as principles of education 'equity, inclusion and interculturality' (Córdova 2011, p. 331), it only refers to primary-level education.

López & Machaca (2008) point out that 'about a decade ago, in Chile and Peru, the issue about the access of Indigenous peoples to higher education gained a unique importance' (p. 28), even though they had access for some time before that. Once again there is no adequate statistical information that can show the number, or extent of Indigenous participation in higher education since then. According to López & Machaca (2008), this may be a result of 'actions of resistance and self-defence or as a result of the process of acculturation involved' (p. 28). Thus, these situations make difficult the accurate determination of coverage that higher education has on the Indigenous population.

Peruvian Indigenous Education has been related to the model of compensatory policies or affirmative action for authors such as Pedroza& Villalobos (2009), Anson (2009) and Córdova (2011). Pedroza& Villalobos (2009) state that equity has been a main goal in the implementation of compensatory policies or affirmative action in the educational system in general, but mainly in the higher education sector. They define compensatory policies or affirmative action as 'planned actions, focused on entry, access, retention and graduation from the social groups in situations of risk: women, Indigenous and the disabled' (p. 35). The compensatory policies are based on the notion of justice as equity or compensation 'for disadvantages in achieving opportunities and obtaining benefits. We must point out that there is no single conception of the idea of compensating, as there are different purposes from different ideological positions' (Pedroza& Villalobos 2009, p. 35).

However the State is not the only actor in the Indigenous higher education field in Peru and indeed elsewhere in Latin America. Ansion (2009) explains that in two universities, the San Antonio Abad National University (Cuzco) and the National University of San Cristóbal, Huamanga (Ayacucho), an affirmative action program called Hatun Nan has been carried out and funded by the Ford Foundation. This program is also active in Chile. Ansion also highlights the origin of this program as part of the interests of an international non-state Foundation to develop affirmative action for Indigenous peoples where the State's presence is absent, dysfunctional, or at best weak.

Córdova (2011) highlights the struggle of many Peruvian Indigenous organizations to open access to public universities for their youth, even though some universities 'have established agreements for the allocation of special quotas and scholarship programs aimed at improving the accessibility of young people of Indigenous and African descent to higher education studies' (Córdova 2011, p. 344). Other actions that can be classified as affirmative actions are the elimination of entrance exams, the offer of social support services, and special programs of academic support. In this regard, López and Machaca (2008) argue that the programs of academic support and the establishment of specific areas and interdisciplinary fields 'are the only ways that have been explored nowadays for Peruvian universities to respond to the needs and demands of Indigenous peoples' (p. 31). Córdova (2011) argues that many of the students enrolled through quotas face difficulties in adapting and succeeding in the universities and that a range of academic and other factors should be considered in the development of better strategies to improve the access, retention and results of Indigenous students in the universities.

Ecuador

Ecuador is a culturally and ethnically diverse country expressed through 'thirteen nationalities' and fourteen different Indigenous peoples, who

comprise 7% of the population (Nemogas, n.d). In Ecuador there are enormous comparative inequalities of access to higher education across all groups, but especially for Indigenous peoples. According to the information of the Ecuadoran Region VI population Census,

the rates for access to higher education for all young people between 18 and 24 years is 3% for Indigenous people, 6% for black people, 14% for mestizos, 8% for mulattoes and 19% for white people. (cited in Rama 2003, p. 37)

Nemogas (n.d, n.p.) asserts that regions with high proportion of Indigenous peoples suffer the most from poverty and underdevelopment in the country, as well as in the field of education 'because poverty itself and the need for labor in the fields force parents to withdraw their children from schools and colleges' (n.p.). As well, Nemogas (n.d.) notes that many Indigenous communities are geographically remote and 'the possibilities for Indigenous access higher education are extremely limited because the main universities are located in the most populous cities, such as Quito, Guayaquil and Cuenca' (n.d, n.p.).

Efforts to address cultural diversity in higher education have been underway for some time, but progress has been slow. García (2004) reports that in the Higher Education Law of 2000,

there is no inclusion of cultural diversity variables (in this case, Indigenous and Afro-Ecuadorian) in their conceptions and practices. Despite the constitutional advances achieved in this area, by 1998, after six years, none of the reforms has been instituted in the field of higher education in the country. (cited in Cuji 2012, p. 214)

While in 2010 the Organic Law of Higher Education (LOES) was established, which makes direct reference to interculturality, cultural diversity, and ancient knowledge, among other things, according to Cuji (2012), these are always considered to be the responsibility of the State when it comes to embedding these goals in higher education.

Nevertheless, by 2009 the Ecuadorian Higher Education system was composed of 71 universities and 380 Institutes. At least 9 Indigenous institutions of higher education are part of this system and they are designed to respond to the needs of the ethnically diverse population. For example, the University of San Francisco of Quito runs an Ethnic Diversity Program that seeks to improve conditions for students from different ethnic groups in the country. According to Cuji (2012), ‘this initiative does not intend so much to interculturalise the University, as to facilitate the access of Indigenous and African-Ecuadorian people to regular degrees to improve their chances of graduating’ (p. 215).

Other universities, such as the Private Technical University of Loja and the State University of Bolívar, are conventional institutions that have open initiatives to increase the entrance of the Indigenous population. According to Cuji (2012), these institutions ‘have generated specific degrees or training programs. These programs seek professional training of Indigenous people and the recovery of ancestral knowledge in relation to their primary education’ (p. 215). The Andean University, Simon Bolívar, has priorities for interculturality and all academic offerings include interculturality as a research topic. The Intercultural University of Indigenous Peoples and Nationalities (UINPI), Amawtay Wasi, is ‘the most ambitious and symbolic of the aims of the Indigenous movement. This university wants to establish a non-conventional institution, trying to promote research and recovery of ancestral knowledge’ (Cuji 2012, p. 216).

The establishment of a quota program to assure the access and enrolment of Indigenous students in Higher Education institutions is another action that has been taken by some universities in Ecuador. According to Zapata (2008), ‘in Ecuador there are seven universities that have or have had such programs, which primarily address issues related to education, interculturality and language at both under- and postgraduate levels’ (p.8).

As in some other countries, non-governmental organisations provide support for Indigenous students. Since 1992 the German foundation, Hanns Seidel, through its cooperation projects, has maintained a scholarship program for Indigenous students interested in doing university studies. Another action for Indigenous students is the Project for the Development of Black and Indigenous peoples of Ecuador (PRODEPINE), which was developed from 1998 to 2002. One of its components was the formation of Indigenous professionals and scholarships ‘were designed to cover the fees of enrolment and part of the costs of transport, materials, housing, amongst others’ (Pedroza& Villalobos 2009, p. 14). However, despite all of these actions taken by the State, universities and Foundations to improve the access and experience of Indigenous students in higher education, there are still many issues to be recognised or addressed.

Colombia

The new National Constitution of Colombia, established in 1991 to replace the rigid, centralist and conservative version penned in 1886, includes some Articles and references to Indigenous Education. According to IESALC – UNESCO (2004), through the Constitution, the Colombian State ‘recognizes the ethnic and cultural diversity of the country’ (p. 40) and this recognition translates into more specific rights:

such as the right to self-determination of Indigenous people, the right of protection of their cultures, the use and the official character of their languages, bilingual teaching, education in respect for identity, equal access to opportunities in research, science and culture. (IESALC 2004, p. 40)

Article 7 specifically establishes that ‘the State recognizes and protects the ethnic and cultural diversity of the Colombian Nation’ (Mato 2012, p. 51). Article 68 ‘establishes that members of ethnic groups shall be entitled to an education that respects and develops their cultural identity’ (Mato 2012, p. 51). Further, according to Mato,

Articles 53 and 93 of the Constitution dictate that ratified international treaties have the force of law, and human rights conventions have the same status as the Constitution, with all the provisions of this instrument fully in force in Colombia. (2012, p. 52)

There is no specific reference to Indigenous Education in general or Indigenous Higher Education in particular in the Constitution. According to Mato (2012), while the Law of Higher Education (1994) says nothing in particular in regard to Indigenous Higher Education,

the Ministry of Education, through Resolution No. 9549 of 1986, created a special system of professionalization for teachers working with Indigenous people, with the help of primary teacher schools and colleges of Education. (p. 52)

In this way, many alliances and collaborative works were developed between Indigenous organizations and universities. For example,

[s]ince 1992 programs in the University of Amazonia, University of Cauca, University of La Guajira, Technological University of Pereira and the Bolivarian Pontifical University, have been established in alliance with the Missionary Institute of Anthropology, the National Open and Distance University, and the Marian University. (Mato 2012, p. 52)

In Colombia, as well, there are policies for Indigenous access to university, established under agreements or resolutions that have the aim of facilitating access through special entry quotas or other such actions, including the reduction or flexibility of entry requirements and tuition fees. For example, universities may

establish lower tuition rates and financing agreements, upon condition of obtaining acceptable marks. Within these programs are grants, such as the Álvaro Ulcué Chocué Fund and the PAES Program (Special Admission Program); the National University of Colombia also includes a loan-scholarship for students. (Moreno 2011, p. 71)

In general, however, the access policies are very heterogeneous and respond idiosyncratically to the criteria of each university. The reality of Indigenous participation in Colombian higher education is presented by Moreno (2011) thus:

The reports indicate that for every 10,000 Colombians, only 6.3 Indigenous people enter the system of higher education. 24.3% of these attend technical education programs, 3.07% attend technical colleges, and 72.6% attend university. There is a high percentage of Indigenous students about whom there is little idea of which courses they are studying. However, 24% participate in areas of knowledge to do with education, which is the highest represented area for Indigenous students. (Moreno 2011, p. 71)

So in spite of all these efforts, there are no regulations in terms of access and ‘much less still about the retention of Indigenous students in university programs’ (Caicedo & Castillo 2008, p. 73). Caicedo and Castillo also recognize that the strategy of privatization of universities, which has been taking place in Colombia in recent years, has also affected the response to the demands of Indigenous students and for this reason ‘each university, as part of their recognized autonomy, organizes things as they see fit or as they can’ (2008, p. 68). Each university individually establishes action plans and support for Indigenous students. Caicedo and Castillo also note however, that when Indigenous students enter university,

in the admission test and in the course programs there is no place recognized for their knowledge and skills, for the logical thought processes, knowledge-gathering methodologies and world views of the communities to which these students belong. (2008, p. 66)

Another issue highlighted by Moreno (2011) is that in Colombia ‘the efforts of Indigenous organizations in higher education are still not recognized’ (p. 78) their participation and proposals are framed within legal and administrative formalities, but with little impact or influence on the

development of programs or curricula. Other limitations are related to the lack of adequate financial resources from the Ministry of Education,

thus requiring access to international cooperation, which paradoxically is limited in its financing of Indigenous educational programs, as it is considered that education is an obligation of the State to their citizens. (Moreno 2011, p. 78)

The debate about the conditions and the reality of Indigenous students in higher education in Colombia is still open and in constant development.

Mexico

Mexico is said to be a 'pluricultural country, in which live a little more than 10 million Indigenous people, representing 9.8% of the total population of the country' (Gallard & Henríquez 2006, p. 27). According to Barreno (2003), 'Mexico has the major part of the Indigenous population of the continent, composed of groups with more than fifty languages and other cultural features that differentiate them from the rest of the population' (p. 42). In 1992 and 1994 the Mexican Constitution was reformed and Article 2 now states that,

the nation has a pluricultural composition, originating with its Indigenous peoples, who are those that descended from populations that inhabited the present territory of the country at the beginning of colonization and who maintain their own social, economic, cultural and political practices, or at least part of them. (cited in Bastida 2012, p. 276)

Section 5 of Article 3 of the Constitution requires that the State shall promote and attend to all types and forms of education, including higher education with an intercultural focus. Article 7 establishes that 'the awareness of the plurality of the nation and respect for the linguistic rights of Indigenous peoples will be promoted through education'. In 2003, the General Law of Linguistic Rights of Indigenous Peoples was promulgated. Officially, then, these statements provide the basis for ensuring that 'the Indigenous

population has access to compulsory education, bilingual and intercultural... and in secondary and higher levels education will promote interculturality, multilingualism, respect for diversity and language rights' (cited in Bastida 2012, p. 280).

While education in Mexico is considered by the majority of the population as a tool for social mobility, to Schmelkes, 'access to higher education is a privilege' (2003, p. 1). For Barreno (2003), although there are 1.8 million students enrolled at university level, little is known about the number of Indigenous students in this count. As Schmelkes (2008) explains:

[t]here are no statistics on the subject, for students in universities (or secondary education) are not asked to provide data on whether they are Indigenous or if they speak an Indigenous language. However, it is estimated that only between 1 and 3% of college tuition is Indigenous. (p. 1)

Sandoval and Guerra (2007) point out how 'in the late 1990s, because of the initiatives of mestizos [mixed-race people], there began to flourish Indigenous education institutions, such as the Autonomous Indigenous University of Mexico (UAIM)' (p. 274). The UAIM emerged from the reactivation of the Institute of Anthropology of the Occidental University of Sinaloa in 1998 to attend specifically to the Yolem'me Mayo Indigenous population. Other associated measures include the creation of both the National Institute for Languages (INALI) and the General Coordination of Bilingual Intercultural Education (CGEIB). The CGEIB was created in 1991 with two aims: 'to provide culturally and linguistically appropriate education to Indigenous people at all educational levels; and the other, to offer intercultural education for all people, including at all levels of education' (Schmelkes 2008, p. 3). The CGEIB promoted the creation of Intercultural universities as part of their goals, and in 2003, the first of the Intercultural Universities was created in the State of Mexico. Now, eleven Intercultural universities are operating in Mexico with seven of them created directly at the request of the General Coordination of Intercultural and Bilingual Education (Schmelkes 2008).

There are also other Intercultural Universities that do not belong to the network created by the CGEIB, such as the Indigenous Intercultural University Ayuuk of Oaxaca (Bastida 2012). This University is a private, non-profit part of the Jesuit University System and follows some of the principles of the General Coordination, it also has its own guidelines.

Other actions to improve the access and performances of Indigenous students in Mexico are related to the granting of benefits, either by the state, foundations or universities themselves through scholarship programs. According to Gallard and Henríquez (2006), there are at least three strategies to improve the income of Indigenous people in higher education. The first is the Mexican national program of scholarships for higher education (PRONABES). This program's 'resources are provided by the federal government and state and federal education institutions equally' (Gallard & Henríquez 2006, p. 33). The strategy of granting scholarships has also been adopted by other institutions, such as the Ford Foundation. In 2001 it established the Postgraduate Scholarship for Indigenous People, 'a program oriented to support Indigenous students of the country interested in conducting a Masters or PhD in Mexico or another place' (Gallard & Henríquez 2006, p. 35). Finally, the largest university in Mexico, the National Autonomous University of Mexico, established a program of scholarships for Indigenous students. Despite these programs, these scholarships do not attend to the needs of all students. Lack of access to resources affects not just Indigenous students. According to Schmelkes (2008),

[r]esources in general for universities in the country are scarce; for intercultural universities, even more so. These institutions are growing and require federal and state grants as well in order to grow at least at the same pace. This is something that has not happened and there is a risk of lowering the quality of the offerings for lack of resources, especially the inability to offer good wages to teachers, who in general, leave their place of living to move to the sites where the universities are located. (p. 16)

In addition, Intercultural Universities face challenges because these institutions have different approaches and perspectives on curricula development according to their own context. Curricular conflict is directly linked to struggles over ‘the universal and particular designs that exist in all areas of university knowledge’ (Sandoval & Guerra 2007, p. 279), which do not reflect or correspond to the very real communal forms of living of those few Indigenous students that can actually attend these institutions. Further, according to Sandoval & Guerra,

even when it is recognised that they are providing spaces for the creation of new forms of thinking, recognition by the State is limited and since they are seen as arising on the margins of Indigenous peoples real interests, do not have much acceptance among their communities either. (2007, p.281)

So despite governmental actions and the creation of Intercultural Universities, Indigenous peoples still face difficulties in order to access higher education. In broad summary, the factors that affect access are ‘poverty, the educational quality received by Indigenous people in pre-university levels, geographic distance from educative centres, cultural barriers and discrimination’ (Gallart & Henríquez 2006, p. 32).

It is important to note that from these developments, including Indigenous policies and the creation of Indigenous institutions, organisational and political structures were generated in the context of the growing struggles and demands of Mexican Indigenous peoples themselves, who have dragged the government (at times kicking and screaming) to contemplate the reasons for neglect of Indigenous people and to enact change; in other words, ‘they have forced the government to find answers for the enormous problems of Indigenous peoples in Mexico’ (Sandoval & Guerra 2007, p. 275). The Mexican Indigenous policy has been criticized for operating only through a rhetorical change of conceptualization, passing from the denominated ‘bicultural-bilingual education’ to ‘intercultural education’ (Sandoval & Guerra 2007, p. 276). The Intercultural universities are centred only on the

recognition of marginalized identities and the tolerance of them, without considering the ideological, economic and political aspects that underpin the problems in the first place.

Guatemala

Guatemala is a Central American country with a land area of approximately 107,117 square kilometres (about half the size of the state of Victoria in Australia). Politically divided into 8 regions, 22 departments and 333 municipalities (Chojoj 2011, p. 246), the country became independent from Spain in 1821. It has a substantial Indigenous population. According to Cojti (2009),

[the country] is made up of four peoples of different civilisational origin: the Creole-Ladino; of European origin, the autochthonous Maya; the Xinca, also autochthonous but not of Mayan origin; and the Garifuna people, of Indigenous-Caribbean and Afro-Caribbean origin.... The Maya are the largest Indigenous grouping and comprise 22 linguistic communities or 'ethnic groups' (p. 291).

According to the 2002 Census, 57% of the population or 6,438,051 people were Indigenous (UNESCO 2004, p. 16). Of the national population, Chojoj (2011) identifies 39.26% (4,411,964) Maya; 0.045% (5,040) Garifunas; 0.14% (16,214) Xincas; and 60.07% correspond to Mestizo/Ladino [mixed race] people (p. 246). In socio-economic terms, according to Cojti (2009), 70.9% of people who live in extreme poverty are Indigenous; 48.5% of those classified as poor in the country are Indigenous; 20.5% of the lower-middle class are of Indigenous origin; 6.8% of the middle class are Indigenous; and 2.7% of the upper class is Indigenous. Based on the same census, in relation to education, 7.0% of the urban population had some university education compared to 0.5 % in rural areas. Similarly, 27.1% living in urban areas had some degree of secondary education compared to 6.5% of the rural population (UNESCO 2004, p. 21). In addition, Chojoj (2011) reports:

As regards the level of scholarship achieved by the different peoples who make up the country's overall population, according to the CODISRA (11), 8.5% of the non-Indigenous population (Ladino-mestizo) has reached the tertiary level and 0.53% postgraduate studies; of the Mayan population, 1.67% have reached university level and 0.01% postgraduate level; of the Xinca population, only 1.4% have reached tertiary level, while for the Garifuna population there are no figures. (p. 247)

These participation rates are despite Article 74 of the Guatemalan political Constitution of 1985, which established State education as free and in which the State will provide and promote scholarships and education credits. Article 76 then goes on to declare that: '[i]n the schools established in zones of predominantly Indigenous population, teaching must be imparted preferentially in bilingual format' (UNESCO 2004, p. 249).

In relation to statistics of the number of Indigenous student enrolments in higher education, however, there is no official data segregated by each Indigenous group. Apparently this is to avoid perceptions of discrimination, but it means in practice that there is no way to quantify how many Indigenous students are actually enrolled or in which university (Cojti 2009).

In 1996, as a result of the Peace Accords signed by the government of Guatemala and the four guerrilla forces grouped in the Unidad Nacional Revolucionaria Guatemalteca [National Revolutionary Unity of Guatemala, URNG], the government, in Chapter III of the Constitution, established a formal commitment to create a Maya University or Institution of Indigenous Higher Education. According to Barreno (2003), this has never happened.

In Guatemala there are 18 higher education institutions, including universities and institutes. Only one of these universities holds the status of State University — the University of San Carlos. This university is the authority in higher educational issues and is the only state university for the four Indigenous communities of Guatemala. According to Cojti (2009), 'the direct effect of this constitutional disposition to grant a public, higher education

monopoly to USAC is the impossibility of creating a Maya university, which the Peace Accords stipulated in 1995 and 1996' (p. 293).

The absence of an Indigenous university in Guatemala has maintained the reproduction of Ladino Western knowledge through the existing universities and despite their autonomy, the universities 'have not been able to free themselves from the project of a monocultural and monolingual nation, applying assimilationist and segregationist solutions for Indigenous peoples' (Cojti 2009, p. 294). Thus, universities make no distinctions between Ladino and Indigenous students and do not recognize cultural differences or social inequalities between the respective groups, with the consequent categorisation of Indigenous peoples as Ladinos without further acknowledgment of them.

However, there have been attempts to institute positive actions. In 2003, the Vice Ministry of Bilingual Education was established with the aim of establishing the framework for cultural and linguistic pertinence of educative services in Guatemala. It also established the aim of, among other things, promoting and strengthening 'educational policy for the development of Indigenous peoples' (Chojoj 2011, p. 251). In terms of the actions to promote inclusion of interculturality into higher education, in the same year the Comisión Presidencial contra la Discriminación y el Racismo (Presidential Commission Against Racism and Discrimination) (CODISRA) was established. Based on its efforts, a policy on racial discrimination in Guatemala was developed,

covering the areas of the economic-social, political-juridical, cultural, citizenship formation, equality of access to State services, particularly in education, health, housing, employment and environment, which all sought to establish good interethnic relations in the country. (Chojoj 2011, p. 252)

According to Montejo (2011) however this has not been an easy task. There were several difficulties in implementing the action plans established in the policy due to 'the indifferent and prejudicial attitude of high and intermediate

level functionaries and their stereotypical image of Indigenous peoples' (Montejo, cited in Chojoj 2011, p. 253). Another difficulty highlighted by Montejo is related to the lack of government funds to accomplish the goals of the policy, and the fact that the funds come from international agencies and organizations such as USAID and the German GTZ.

In a broad sense, the programs oriented to Indigenous higher education students in Guatemala can be organized into two groups: financial help to study certain university programs or financial help to study Indigenous programs. The programs in the first category 'facilitate access to a defined number of pre-existing university courses, available to everyone, including non-Indigenous students. These are not "decolonized" or "multiculturalised" or positively accepting of Indigenous cultures' (UNESCO 2004, p. 63). In relation to the second group (financial help to study Indigenous programs), the amount of support is less than the first category and is oriented toward supporting the enrolment of Indigenous students in programs specially developed for them, focusing on Indigenous issues, and to be replicated later in their communities. Universities struggled with this

because they do not have adequate teaching staff, they do not know the whole graduate profile required by the market or the profession, in part because of their disconnection with Indigenous reality. Sometimes it is the authorities themselves (the universities) which do not understand what is at issue and the direction which should be taken. (UNESCO 2004, p. 64)

Despite attempts to undertake positive action, Guatemala faces serious challenges in meeting its stated commitments to Indigenous people's education. Resourcing issues, the lack of higher education statistical data on Indigenous groups, the urban-rural socio-economic divide, the lack of recognition and identification of Indigenous needs for programs, ongoing discriminatory attitudes and practices on the part of some officials, all conspire to continue the marginalisation of Indigenous groups.

Summary

These brief descriptions by no means encompass all the issues and debates around Indigenous higher education issues in Latin American countries. My aim has been to provide some background for understanding some of the key attempts to address the position of Indigenous peoples in higher education in Latin America. Spanish colonization and the modern nation-states that this history has brought into being have transformed the political, economic and social landscapes once inhabited by a great diversity of Indigenous groups. In recognition of population diversity, Interculturality is the current educational model proffered for inclusion of all groups, including Indigenous people. Interculturality often appears also as a rationale for the promotion of a just unity of diverse peoples in these countries, where 'racial' origin and mixing have historically been closely linked to socio-economic circumstances or status. Interculturality is often reflected in official statements of intent, but appears more difficult to bring to realisation, though sometimes developments have been able to occur through the efforts of interested actors and without any official planning.

It is clear that while there are differences in their approaches and timing, these countries all confront shared challenges in building effective models for Indigenous higher education. These include the challenges of lifting the higher educational participation rates of all citizens, not just Indigenous peoples, through a fair distribution of scarce national resources, while also addressing the inequities of educational resourcing at primary and secondary levels. Also shared are the challenges associated with Indigenous languages, Indigenous knowledge, and those required for engagement in conventional university programs. Poverty, remoteness and inadequate schooling also feature as common barriers to Indigenous participation in higher education.

It is noteworthy then that in the context of the enormous challenges Latin American countries face more generally, they all appear to be making some

effort to develop and implement strategies to improve Indigenous peoples' access to higher education, to develop Indigenous institutions or programs that encompass or work with Indigenous knowledge, perspectives, languages or goals, and, in a few cases, to develop strategies to support Indigenous students in their study in conventional universities. These strategies can be understood as positive actions, if not positive discrimination measures, and they include such things as quotas for access, adjustments to entry processes, financial and scholarship support, and the development of Indigenous curricula and universities in some places.

However, it is also clear that it is difficult to determine the onward progress achieved by these efforts. In almost all countries the identification of Indigenous students is not yet fully systematized; and within the category of Indigenous, particular groups are also not widely identified. Reliable statistics on Indigenous students' participation, retention and success are therefore not available. This means that not only can the effort of governments and universities not be assessed, but also that the impact of these efforts on Indigenous students' participation, retention and outcomes remains a future area of work, at least in official realms, if not in the universities themselves.

Chapter 2

INDIGENOUS HIGHER EDUCATION IN CHILE

In this chapter, I explore the developments that have shaped Indigenous higher education in Chile through a review of the relevant available literature. However, I explore and discuss Chile in more detail for it is this context on which my analysis of Australian measures will be brought to bear and against which its implications will be drawn.

Chile is a South American country that shares borders with Argentina, Peru and Bolivia. According to the last officially published National Census in 2002, of the Chilean population of 15,116,435 inhabitants; 692,192 peoples (4.6% of the total) declared their belonging to one of the eight Indigenous groups: Alacalufe or Kawaskar, Atacameño or LicanAntay, Aymara, Colla, Mapuche, Quechua, Rapa Nui and Yamana or Yagan. Mapuche people represents 87.3% (604,349 inhabitants) of the total of Indigenous peoples, Aymara 7% (48,501 inhabitants), and Atacameños comprises 3% (21,015 inhabitants) of the total Indigenous population. Chile has a very strong connection at historical, political and legal levels to the notion of sovereignty based on a single nation. It follows that the national Constitution does not recognise other peoples, nations, or ethnic groups that may exist in the country; and concepts such as diversity, multiculturalism and interculturalism are not represented in the Chilean Constitution at all. This came about as a result of a particular and nationalistic vision established in the 1980s during the dictatorship of Augusto Pinochet and modified only partially during the emerging years of the social democratic government of Ricardo Lagos in 2005.

Higher Education has become an important instrument for social development and social mobility for the majority of Latin American countries

over the last 30 years and Chile has not been an exception. However, as in other places, the access of Chilean Indigenous students to higher education has been a relatively recent phenomenon that has slowly accelerated in the context of national developments (Abarca & Zapata 2007; Donoso 2005; Bello 1997; Maillard, Ochoa & Valdivia 2008). For example, Abarca & Zapata (2007) link the slow incorporation of Indigenous students into higher education to their slow incorporation into mainstream Chilean society and to the benefits of economic growth in this period. Similarly, Bello attributes the increase in numbers of Indigenous students in higher education since the 1980s as part of the expansion and consolidation of public education and changes in the economic and social context of Indigenous people, including the role that Chilean government Indigenous scholarships have played in increasing this access (Bello 1997). Donoso (2005) notes that the biggest increase of Indigenous students in higher education occurred after the dictatorship period (1973-1989), promoted by the actions established by the Concertación Government². While acknowledging these increases, Maillard, Ochoa and Valdivia (2008) and López and Machaca (2008) draw attention to the gap in access and participation that still remains compared with the non-Indigenous population. Despite the increase of Indigenous students in higher education, the number of Indigenous enrolments is less than 50% of non-Indigenous enrolments (López & Machaca 2008).

In relation to all students, Chacón (2003) reported that in 1990 the number of enrolments in universities was 250,000 students and by 2000 the number had grown to around 400,000. A bigger expansion was presented by the United Nations Program for Development (PNUD)(2005), with a rate of increase of 322% of enrolments in undergraduate programs between 1990 and 2004. In 2012, the National Education Council stated that by that year the number of higher education enrolments were ‘1,032,571 students, including universities

² Coalition of Centre-Left political parties

and other tertiary institutions' (Mora 2012, p. 231). In relation to Indigenous students, data provided by the 2009 National Socioeconomic Survey (CASEN) show the percentage of non-Indigenous students' enrolments in higher education was 29.9%, while Indigenous enrolments were 18.6%, which represents an important increase since 1996 when the enrolment rate was 9.6%. However, statistical data on completion rates are non-existent or sketchy at best. An appropriate analysis of this data requires the consideration of the previous educational experiences of Indigenous students and the scores obtained by these students in the national college entrance exam (PSU) because 'there is a direct relationship between the kind of educational institution and the access to university' (Mora 2012, p. 220). It is well known that, educationally, those Chileans who are 'coming generally from vulnerable sectors, suffer the disadvantages of the system' (Mora 2012, p. 220).

In relation to funding for higher education, since the formation of the post-dictatorship Concertación administration (1990-2010), the Chilean Government has significantly increased student funds and general investment to support higher education. During the period 1990–2005, for example, investment in higher education increased from USD56 million to USD122 million (Espinoza, González & Latorre 2009, p. 103). The emphasis of this increased financial support was related to two main objectives: quality and equity for students of all socio-economic levels, especially those coming from lower socio-economic backgrounds and other disadvantaged groups, such as Indigenous peoples. However, the 2003 National Socioeconomic Survey had shown a continuing unfavourable gap in all areas of society for Indigenous groups. Despite the fact that all indices have experienced improvement, these are lower than those of non-Indigenous population. For example, 'this gap is expressed as a 28.7% poverty rate compared to 18.1% for the non-Indigenous population' (Abarca & Zapata 2007, p. 65). The gap is thus an issue that targeted policies and social programs so far have failed to resolve.

Chilean Indigenous Law 19.253 (*Ley Indígena*) and Indigenous higher education

The Government has played an important role in promoting access and outcomes for Indigenous students in Higher Education through the 1993 Chilean Government *Ley Indígena* – Indigenous Law (Bello 1997; Abarca & Zapata 2007; Williamson 2008; Zapata 2008) and particularly through the establishment of financial aid to support these enrolments. As mentioned above, the Chilean constitution does not recognise the existence of Chilean Indigenous groups, in spite of a history of claims, demands and discussions in recent decades. The importance and presence of these demands for recognition promoted the enactment in 1993 of Law 19.253, also known as Indigenous Law, which established standards for the protection, promotion and development of Indigenous peoples, as well as the creation of the National Corporation for Indigenous Development (Government of Chile 1993). The Law emerged as a response from the first democratic government after the end of the dictatorship period to the emergent demands of Indigenous communities. The areas covered by this Law are: Indigenous cultures and communities; recognition, protection and promotion of Indigenous lands; Indigenous development; culture and Indigenous education; participation; national corporation of Indigenous development; special rules for judicial procedures; and special provisions. For the purposes of this thesis, we will examine in detail the Articles related to Indigenous education, with a focus in higher education.

The Indigenous Law became the foundation for the creation of the National Corporation of Indigenous Development (CONADI) as the institution in charge of the design and enactment of all Indigenous policies and

responsible for promoting, coordinating and implementing the action of the State to encourage the full development of Indigenous individuals and communities in economic, social and cultural matters and to promote their participation in

national life. (Foundation for the Eradication of Poverty 2014, p. 20, my trans.)

In Title I, Section 1, Article 1, the Law states:

The State recognizes that Chile's Indigenous inhabitants are the descendants of human groups that have existed in the national territory since pre-Colombian times and which conserve their own ethnic and cultural manifestations, land being for them the principal foundation of their existence and culture.

The State recognizes as the main Indigenous ethnic groups in Chile: the Mapuche, Aymara, Rapa Nui or Easter Islanders, the Atacameñas, Quechua, Collas and Diaguita communities in the north, the Kawashkar or Alacalufe and Yamana or Yagan communities of the southern channels. The State values their existence as an essential part of the roots of the Chilean nation and its integrity and development, according to their customs and values. It is the duty of society in general and the State in particular, through its institutions, to respect, protect and promote the development of Indigenous people, their cultures, families and communities, taking appropriate measures for such purposes and to protect the land. (Government of Chile 1993, p. 1, my trans.)

In these statements, this first section recognises Chilean Indigenous groups with little regard for them as nations or colonised peoples. It specifies that the State values their existence, but as part of the ancient heritage of this nation, and establishes the duties of respect, protection and promotion of issues related to them, laying the foundations for any future action regarding Indigenous affairs. Section 2 is related to Indigenous status. Article 2 states:

Those considered Indigenous to the effects of this law are persons of Chilean nationality according to the following conditions:

- a) Those who are children of an Indigenous father or mother, whatever the nature of their filiation, including adoptive; what is meant by Indigenous father or mother is those persons who have descended from the original inhabitants of the lands identified in Article 12, Numbers 1 and 2.
- b) The descendants of the Indigenous groups that inhabit the country, provided they have at least one Indigenous surname; a non-Indigenous name will be considered for the purposes of this law, if the origin is established as Indigenous for three generations; and
- c) Maintain cultural characteristics of an Indigenous ethnic group, understood as the practice of ways of life, customs and religion of these ethnic groups in a customary manner or whose spouse is Indigenous. In these cases, it is necessary also to self-identify as Indigenous.

The establishment of Chilean nationality as the first condition to be recognised as a Chilean Indigenous person, reinforces the importance given by the policy to the nation-state as the main institution to rule Indigenous peoples, and establishes its position of dominance and sovereignty in relation to and over its inhabitants, in this case, Indigenous peoples. Title IV of the Law is related to Culture and Indigenous Education and through two Articles it establishes the actions to be taken by the State and its institutions in relation to Indigenous education. Article 32 states:

The Corporation, in the areas of high Indigenous density and in coordination with the corresponding departments or agencies of the State, will develop a bilingual intercultural education system to prepare Indigenous students to function adequately both in their society of origin and the global society. For that purpose, it may finance or make agreements with the Regional Governments, municipalities or private bodies, permanent or experimental programs. (Government of Chile 1993, p. 8)

Article 33 states:

The law of public sector budgets will consider special resources for the Ministry of Education designed to meet Indigenous scholarship program. The participation of the Corporation should be considered in the preparation, global orientation and in the process of selection of beneficiaries. (Government of Chile 1993, p. 8)

Apart from these two Articles, then, the Law did not include any other Article or reference to Indigenous education. There is some mention of Indigenous cultures and language, but not in particular about what would be the focus or the specific goals of Indigenous education. A closer examination of Article 32 reveals both its inclusive and progressive intentions and yet its constraints as a legal document. It refers to the establishment of a bilingual intercultural educational system to prepare Indigenous students to ‘function adequately’ in their local and global society. By the nature of being a high-level legal document, what is meant or imagined to constitute the adequate functioning of Indigenous students is left open to interpretation by those involved in any derivative policy and practice. Agreements at lower levels of Indigenous education governance, for example, do provide possible spaces for interpretation to be determined in the light of Indigenous peoples’ stated interests and needs. However, at the higher education level, the constitution of an education for ‘function[ing] adequately’ in global society might rationalise access to only unchanged university curriculum, which disregards Indigenous interests, needs, knowledge and values. Or, the constitution of an education to enable Indigenous people to ‘function adequately’ in local society might rationalise limited forms of education, which continue to exclude Indigenous students from wider participation in global society. These tensions emerge in the polarities of local-global oppositions, namely polarities that arguably constitute the Indigenous educational position in problematic ways; for example, as if the Indigenous ‘local’ is not conditioned by the ‘global’. Further evidence of this positioning of Indigenous education is that the

Article implies that only Indigenous students are in need of receipt of an intercultural education, when the conceptualisation of Interculturality in education implies the educational engagement of all students through this model.

While Articles such as this one are intended to be broad and not too prescriptive in relation to practice, they arguably hold open the possibility of maintaining the status quo as much as they hold open the possibility of real reform. Nevertheless, this Law was the first targeted and particular action to take into account the Indigenous issues that had been largely ignored by Chilean education policy makers previously and can be viewed as an affirmative action. To understand how the Indigenous Law in Chile has interpreted and shaped education measures in practice, I turn to examine more closely the Chilean Indigenous scholarship strategy enacted in 1993 and the intercultural and bilingual educational programs launched in 1996. I then turn to discuss other measures taken in Indigenous higher education that have been developed through the spirit of the Law rather than the letter.

Indigenous Scholarship Program

This scholarship program represents the earliest practical positive action taken with regard to Indigenous education in Chile. It consists of an annual grant to support the retention of Indigenous students in the educational system for students from vulnerable socio-economic backgrounds. It has been increased gradually since its enactment in 1993. The program provides economic support from the seventh year of primary education until the end of higher education, through the delivery of a freely disposable amount of financial support, which is paid according to an instalment plan. To become a beneficiary of this program, students must meet the criteria established in the Law, including proof of their vulnerable socioeconomic status. In 2006, students' families 'must receive a monthly family income no more than 112,000 Chilean pesos, equivalent to USD\$162, as a basic requirement for the

application' (Andraca 2006, p. 34). They must also maintain good academic performance with academic marks equal or higher to 5.0 out of 7.0.

The amount of money provided varies for each educational level. For higher education, the amount is 607,000 Chilean pesos per year and issued in ten instalments of 60,700 pesos. The scholarship coverage 'increased by 39% from 2009 to 2012, offering 63,216 pesos' (Mora 2012, p. 222) per instalment in 2012. By 2015, the annual amount established for a higher education student settled at 630,000 pesos per year. As an agency of the Ministry of Education, the management of the scholarship is ceded to the National Board of Student Aid and Scholarships (JUNAEB). The students can use the money provided by this program freely, but it is clearly insufficient to cover their living expenses. The monthly amount has to be complemented with other financial support, including family support, other scholarships or even credits that students have to obtain to fund their studies.

According to Abarca & Zapata (2007), the scholarship program for Indigenous students was aimed at solving equity and equal opportunity problems, as part of a 'new deal' between the Chilean Government and Indigenous peoples to support Indigenous students through all educational levels. It is important to note that the institution in charge does not provide national statistics about the number and extent of coverage of this scholarship on a yearly basis, which limits the possibilities of developing an accurate analysis of how this program is actually working. The limited information available has focused mainly on the access of Indigenous students into higher education, but it has proved impossible to find further or consistently reported information about retention and outcomes. As well, there is a lack of evaluations about its functioning from the government or institutions related to this program and little information available has been presented by scholars and non-governmental institutions.

For the purpose of this thesis, this affirmative action strategy is established in Law and is operating in practice as a progressive measure, but it has not been the subject of evaluation for its effectiveness as an instrument to improve Indigenous higher education outcomes. However, the reported increases in Indigenous enrolments, since 1993, at least point towards its contribution to improving the access of Indigenous students to higher education.

Intercultural Bilingual Education Program – Ministry of Education

The second action established by the Indigenous Law was the development and enactment of an Intercultural bilingual education program by the Ministry of Education as the responsible institution. It was finally launched in 1996 through the implementation ‘of the first pilot programs nationwide in different cities with the support of universities and municipalities’ (Mora 2012, p. 220). It is important to note that this program has been established only for the primary level of education and for this reason it only receives a broad overview here. The Intercultural Bilingual Education Program has been implemented through several actions, such as voluntary workshops of Indigenous language and culture and to a lesser extent as plans and a program proposed by schools themselves through ‘curricular adaptation of the subjects to the culture of the students without changing the objectives and minimum content of teaching’ (Loncon 2010, p. 80). The modality of workshops has been problematic considering its voluntary nature and the fact that it is not inserted in the formal curriculum. Another issue is that instead of focusing on the teaching of Indigenous languages in schools, their actions have promoted a biased and folkloric vision of Indigenous peoples and cultures.

Universities and Indigenous higher education

It is important to reiterate that there is no national policy specific to Indigenous peoples in higher education in Chile. However, there are some universities and other tertiary institutions that have designed programs, courses and other actions for Indigenous students in an autonomous way and

not as part of a nationwide policy. At the undergraduate level, there are only two specific programs created with an intercultural approach: the Catholic University of Temuco (UCT) runs the Intercultural Bilingual Basic Pedagogy in a Mapuche context, offered to all students; and the Iquique campus of the Arturo Prat University (UNAP), which offers a program of Intercultural Basic Pedagogy in an Aymara context with special entry for Aymara and Quechua Students.

The program of Intercultural Bilingual Basic Pedagogy in a Mapuche context was created in 1992, initially oriented towards only Mapuche students under a system of special admission entry. By 2000, the program was open to all students and the admission was via the national college entrance exam (PSU). A key objective of the program is also:

[t]o train teachers with skills to work in intercultural contexts, particularly Mapuche, with knowledge of the science of education and Mapuche educational knowledge to formulate, develop and evaluate educational and curricular projects, incorporating intercultural educational approaches that consider the participation of Mapuche kimche (wise men) as agents to collaborate and take responsibility for the definition of school educational purpose. (UCT 2003³)

According to Williamson (2008), 'between 1992 and 2004 about 90 students graduated from this program' (p. 131). It was not possible to locate any other statistics or evaluations of this program, which again is indicative more generally of the poor statistical tracking of Indigenous higher education students in Chile.

The Arturo Prat University (UNAP) established in 1993 the first Special Training Program for Teachers in an Aymara context. Forty-five students were enrolled, of whom 24 completed the program. The following years the

³ See website at <http://www.uct.cl/>

program had no enrolments until 1996. This highlights the small numbers of Indigenous students able to access or benefit from the program. In both versions of the program, the students enrolled via special entry admission - all of them had Indigenous backgrounds and were recipients of scholarships. In 2002 the program was reopened for Indigenous and non-Indigenous students:

To train professionals and citizens with strong responsibility and commitment with respect to intercultural education as a way to promote the development of a society that respects and values its multicultural and multilingual character. (UNAP 2002⁴)

Another relevant case is the Pontifical Catholic University of Chile, the most prestigious private university in the country, which runs a campus in the city of Villarrica, in the heart of the Mapuche region. This campus has a program of General Basic Pedagogy with a focus on the rural Mapuche. At the campus there is also a Centre for local development, education and multiculturalism with key aims:

1. To design and implement teaching-learning courses of the first and second cycle of primary education, taking into consideration education policies, the current curriculum framework and the context.
2. To lead the group process of a class for learning and personal development of students in a supportive work environment that meets the administrative requirements.
3. To implement teaching-learning processes that promotes quality and innovation in different contexts. (PUC 2015)

However, similar to the previous experiences described above, there is a lack of statistical data sets about enrolment, performance or outcomes of students

⁴ See website at http://www.unap.cl/prontus_unap/site/edic/base/port/inicio_nuevo.html

from this university. These examples represent the small scope of efforts of actors interested in the Indigenous educational cause.

Pathways to Higher Education, Ford Foundation

This program was established by the Ford Foundation through its Office for the Andean Region and the Southern Cone (RACS) at the University of La Frontera and the University of Tarapaca, as well in other countries such as Peru and Bolivia. In its early stages, this program considered only one Chilean university, the University of La Frontera, as a pilot institution in 2003, with an estimated duration of five years. The program sought to address the educational reality of ethnic minorities in 12 regions, with a view to supporting improvements and development of academic programs to overcome factors of inequality and discrimination in access to education for these target groups. The purpose of these projects was to ‘strengthen global, innovate, and expand policies and affirmative action (AA) programs designed to increase the chance that Indigenous students of each sex, would successfully complete his or her undergraduate studies at universities in the RACS’ (Williamson 2008, p. 140), providing specific opportunities for students to enhance their learning, increase graduation rates, and develop skills to continue graduate studies.

At the University of La Frontera, this project was named Rüpü, which means ‘pathway’ in Mapudungun (Mapuche language), the main beneficiaries being Mapuche students. This program has two objectives:

[O]ne academic, focused on the development of actions to form competencies which ensure not only income, but retention and graduation of Indigenous students (and in less time); the second is socio-cultural and seeks to re-affirm and consolidate identity, develop self-esteem and learning and cultural reinforcement of Mapudungun. (Williamson 2008, p. 141)

The program was developed in two stages: the first, intended to be developed in one year, was aimed at creating awareness about the situation of the

Mapuche student population at the University of La Frontera (UFRO) and existing affirmative action policies at that institution, in order to propose guidelines for the development of an academic support program. The second stage, of two years of duration, included 'basically the development, organization, implementation and evaluation of the Program for Mapuche Student Support (PAAEM), outlined in the previous stage' (González 2007, p. 143). The main aim of the Program for Mapuche Student Support was to implement a group of academic, social, cultural and recreational activities, to promote a significant increase in the 'chances of success in undergraduate and improve the chances to continue graduate studies among Mapuche students' (González 2007, p. 159). The program was implemented through computer and communication workshops and tutoring programs (academic support). The socio-cultural area included workshops on socio-affective development, interpersonal relationships, self-esteem, Mapudungun, and Mapuche culture; forums on Mapuche society and culture; social events (cinema, meetings, shows, sporting activities); and student initiatives.

In relation to the evaluation of this program, González states that by 2007 results were still preliminary. In a very broad sense, the main changes promoted by this program were 'better learning, better adaptation to university life, acquisition or reaffirmation of their ethnic identity, and empowerment of students' (González 2007, p. 165).

At the University of Tarapaca (UTA), the Thakhi (pathway, in Aymara language) project was established. It was aimed at the implementation of affirmative action for the reinforcement of ethnic identity and academic and pedagogical support. It also sought to prevent university dropout of Indigenous students. Initially, it was located at the Faculty of Education and Humanities at the University of Tarapaca. Activities started in 2006, focusing on students belonging to Indigenous communities from Arica, Camarones, Parinacota y General Lagos. Its main objectives were:

1. To evaluate the policies and initiatives of affirmative action developed by the University of Tarapaca for the benefit of the academic community belonging to the Aymara culture or other Indigenous people; and
2. Promote the incorporation of affirmative action policies for the benefit of Aymara students of the University of Tarapaca that can significantly increase the indicators of academic performance in undergraduates thus promoting their incorporation into the graduate programs. (Equitas Foundation, n.d.)

The activities included Indigenous language lessons, Indigenous history and culture, production of articles and research publications in history and/or Indigenous worldviews, curricular teaching activities in various disciplines and academic tutoring support for students. The Affirmative Action program was implemented through the Aymara student Support Program (PAAEA), which had as its main goal:

To create a set of academic, social, cultural and recreational activities that can significantly increase the chances of success in undergraduates and enhance the possibility of continuing postgraduate Indigenous students of the University of Tarapaca. (Fernández et al. 2011, p. 66)

Alvarado et al. (2010) state that from its beginning and until 2008 the main activities developed by this program were focused on: research and evaluation of affirmative action policies and the development of an integrated program of institutional affirmative action policies for Aymara students, including the development of an information system that allowed for their identification; the mapping of Aymara students' academic and psycho-social needs; the monitoring of academic performance, including persistence and repetition of subjects, from the time students enter university until their graduation; and the 'evaluation and dissemination of results of the project's impact' (Alvarado et al, 2010, p. 213). According to Fernández et al. (2011) 'during 2007 and 2008, the program benefited 511 students of Indigenous descent, mainly Aymara' (Fernandez et al 2010, p. 67). Unfortunately, once again, it was not

possible to find more work on this, especially the statistics to explain the functioning and outcomes of this program in recent years. In relation to the program's achievements, Fernández et al. observed that the affirmative action

responded to the needs and interests of students from a perspective centred on both the academic level and their historical and cultural roots. It has motivated the interest of students who do not belong to Indigenous peoples, who requested participation and were included in activities that motivated them. (Fernández et al. 2011, p. 68)

Like the Rüpü program, Thakhi emerged as a space for the promotion of affirmative action for Indigenous students in Chilean higher education. It has positioned and made visible the situation of Aymara students within the University of Tarapaca and it has promoted supportive actions to improve their educative experiences. However, there are still many challenges to be addressed; for example, the inclusion of Indigenous issues as part of university policies and the reinforcement of more effective academic support actions. The systematic collection of statistical data is another area of challenge. However, these challenges go beyond the action and extent of this program, and require foremost an institutional and governmental led agenda on the education of Indigenous students the tertiary level.

Summary

My description of developments in Indigenous higher education in Chile provides an overview of the national circumstances and responses that have shaped its progress so far. As in other Latin American countries, Indigenous higher education is only one part of a larger reform context, which includes the very pressing need for educational development at primary and secondary levels. And these concerns again are nested within larger concerns about how to address, on a range of fronts, issues of social inequity, poverty and future prosperity across the whole of Chilean society. The Indigenous Law goes some way to recognising the existence of Indigenous people within the

nation, their unique status as original inhabitants and the need for special measures to be taken with regard to meeting their needs and improving their circumstances. The post-dictatorship Chilean governments should thus be commended for their leadership on the Indigenous priorities.

In relation to higher education, however, only the scholarships strategy has national coverage. In addition, and similar to situations in some other countries, positive but quite specifically-targeted actions are being undertaken in educational spaces by educators and philanthropic actors, despite an absence of formal policies or official endorsements of strategies. In some of these efforts, it is possible to discern that Indigenous students' educational challenges are being understood beyond the provision of access and that some universities and educators are working hard to respond to these issues. Nevertheless, the scale of all these efforts appears to be small and not sufficient to close the significant gaps in access between Indigenous students and other students. As is the case elsewhere, much less is known about Indigenous student retention and outcomes in higher education. In Chile, as it appears to be the case all through Latin American higher education, the gathering of Indigenous statistics are not systemised and not the most pressing priority. Yet without them it would seem difficult to evaluate where and what effort is needed and to direct changes and improvements at the policy and practice level.

Chapters 1 and 2 provided an important policy context for understanding the developments in Indigenous higher education in Latin American generally and Chile specifically. While clearly, national politics, economics, and historical and contemporary social conditions play a role in what is possible to achieve in practice, there is evidence of both symbolic rhetoric and practical effort to redress some of the neglect and mistreatment of Indigenous groups in colonial situations. In my exploration of these early developments, the terminology of affirmative action or 'positive action' has been used loosely and incidentally to name those actions that appear to promote the access,

participation and outcomes of Indigenous students in higher education. But can these legitimately be called forms of positive discrimination in favour of Indigenous students? How do these generalised and haphazardly applied attributions compare to the broader conceptualisation of this notion as a basis for action in higher education? For this I turn to an exploration of the conceptualisation of positive discrimination, a term used interchangeably with affirmative action and positive action, but which more closely aligns with the legal basis of all these terms.

Chapter 3

THE CONCEPT OF POSITIVE DISCRIMINATION: HISTORY, RATIONALES AND TENSIONS

In its simplest terms, positive discrimination measures – also referred to as affirmative action or positive action in some places – aim to give special considerations to individuals on the basis of their membership of a social group which has been identified on some basis of disadvantage in relation to other groups in society (Wang 1983). Historically, the concept of positive discrimination arose as a response to efforts to eliminate discrimination in the second half of the 20th Century following the establishment of the United Nations and the Universal Declaration of Human Rights. The Human Rights’ charter set down the equal rights and freedoms of every human being ‘without distinction of any kind, such as race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status’⁵. All national states were encouraged to observe these rights by means of progressive measures, beginning from the premise of equality before the law for all citizens (Zachariah 1972).

India is credited with being the earliest nation to institute the foundations for positive discrimination (Moses 2010; Bacchi 2004). Zachariah (1972) notes that as early as 1950 the Republican Constitution of India, which followed India’s independence from British colonial rule in 1947, included articles which prohibited ‘discrimination by the State or citizens on the grounds of religion, race, caste, sex or place of birth’ (p. 18). However, Zachariah also notes that ‘several articles in other parts of the Constitution require the State

⁵ See website at www.un.org/en/documents/udhr

to discriminate in favour of certain 'backward classes' (p. 18) and he cites Article 46 as an example:

The State shall promote with special care the educational and economic interests of the weaker sections of the people, and, in particular, of the Scheduled Castes and the Scheduled Tribes, and shall protect them from social injustice and all forms of exploitation. (Zachariah 1972, p. 18)

According to Zachariah (1972), this position built to some extent on earlier attempts from the 19th century onwards to address the extreme levels of discrimination experienced by such groups as the Untouchables and other lower castes and tribes, through the provision of special arrangements for their protection and social advancement. It also implied early recognition that making discrimination illegal in the formal sense would not easily overcome inherent beliefs and culturally-embedded practices of discrimination against some groups, unless additional measures were taken.

The rationale most commonly advanced for positive discrimination measures begins from an argument 'that membership in an under-privileged group deprives individual members of that group the equality of opportunity available to other members of society' (Wang 1983, p. 192). However, as Wang points out, in practice this argument can still lead to mechanisms for positive discrimination on the basis of 'individual neediness without reference to ascriptive characteristics' arising from membership of a group, and that some 'group-based reasoning is required as well' (1983, p. 192). According to Wang, groups' entitlements to positive discrimination measures proceed from three main grounds: (a) significant historical negative discrimination (for example, African-Americans, women, Indigenous people); (b) special status based on recognition of inherent rights or constitutional provisions (for example, Indigenous people, India's scheduled castes and tribes); and (c) sometimes for the purpose of political and economic integration of a group in the interests of stabilizing plural societies (for example, Malaysia).

Promotion and defence of the concept of positive discrimination have largely proceeded on arguments about the structural barriers to equality of opportunity and the challenges in overcoming the historical effects of sustained exclusions of some groups of people from active or equal participation in the civic, social, economic and political life of the nation – a participation that has given opportunities and benefits to some groups, while instituting barriers to other groups. However, there was early recognition, in the United States for example, that in addition to overt structural discrimination there were also more subtle forms of discrimination that undermined equality of opportunity, despite the formal recognition of the equality of all citizens before the law. Moses (2010) attributes the phrase ‘affirmative action’ to President Kennedy, who in 1961 issued ‘Executive Order No. 10925, requiring all government agencies to go beyond passive non-discrimination to take affirmative action so as not to discriminate in hiring’ (Moses, 2002, p. 108 cited in Moses 2010, Table 1, p. 213). Laws prohibiting discrimination that relied on passive non-discrimination did not necessarily ensure anti- or non-discriminatory outcomes in practice.

The rationale for positive discrimination therefore questioned the liberal democratic assumption that formal equality was sufficient to provide equality of opportunity to all, ‘without regard to history, context, and past or present discrimination’ (Moses 2010, p. 222). As early as 1965, President Johnson’s defence of affirmative action deployed further argument to underscore this rationale; namely, that equality of opportunity does not necessarily arise from the equal treatment of all individuals: ‘You do not take a person who has been hobbled by chains and liberate him and then say “You are free to compete with others”, and still believe [that you are] being fair’ (Davis 1993, p. 5, cited in Bacchi 2004, p. 132). In extending the interrogation of the underlying assumption of a formal equality that relied on passive non-discrimination, Young (1990) suggests, ‘[i]f discrimination serves the purposes of undermining

the oppression of a group, it may be not only permitted but morally required'(cited in Moses 2010, p. 222).

These outwardly contradictory positions – instituting positive discrimination as a means to achieve non-discrimination - are expressed through different statements within Constitutions, legislation, policy, or directives of a significant number of nations across the globe. Not surprisingly, this paradox provides the basis for ongoing challenges to positive discrimination measures on the grounds that it perpetuates discriminatory treatment, institutes forms of reverse discrimination that place advantaged social groups at a disadvantage, and/or provides for the preferential treatment of some groups over others and as such undermines equality of opportunity and equality before the Law (e.g. Connerly 2000; 2009). An early attempt in some places at resolving this paradoxical impasse was pursued 'by locating affirmative action programmes as exemptions to anti-discrimination statutes, indicating they were to be considered exceptional, temporary and challengeable in law' (Bacchi 2004, p. 133).

The concept of positive discrimination and its derivative practices have as a result been challenged. For example, challenges at Law, as well as via State executive orders and/or public mandates have overturned, banned or limited affirmative action instruments in employment and student admissions in higher education within several jurisdictions in the United States (Moses 2010). In Australia, the first positive discrimination case for the High Courts, *Gerhardy v. Brown*, highlights the inherent problem:

Gerhardy's case arose out of the appellant's attempt to prosecute the respondent under the Pitjantjatjara Land Rights Act for having entered the Pitjantjatjara lands without written permission, as required under the Act. The respondent challenged the prosecution on the grounds that the section under which the prosecution was brought (s. 19) was invalid by reason of inconsistency with the federal Racial Discrimination Act. He claimed that this section discriminated against him on

grounds of his race. Had he been a Pitjantjatjara he would not have required such written permission. (Wood 1987, pp. 130-1)

In liberal democracies, where positive discrimination mechanisms have been instituted, as Wang (1983) has noted, ‘there is an obvious tension between the principle of egalitarianism, which is based on *individual* equality of opportunity, and the claims of *groups* of people to preferential treatment based on their historical identity or position vis-a-vis a territory or country’ (p. 193, author’s emphasis). Thus a group’s acceptance by the wider society as a target of positive discrimination measures in employment and education most often pivots, as well, on the condition of socio-economic and educational disadvantage. For opponents of positive discrimination, this raises the question why such measures cannot be rationalised on the basis of individual need and so foreclose on the need to undermine the principle of egalitarianism, a founding democratic principle. Situated around and between these polarized positions is a complex and contested ongoing debate at the levels of philosophy, theory, law, and practice.

In sum, then, the timing of introduction and the forms of positive discrimination measures vary across different countries. However, from the beginning of its emergence to the present, acceptance and defence of the concept of positive discrimination for designated groups of people has required firstly, the support of various arguments that can justify it alongside anti-discrimination principles; secondly, grounds for eligibility for groups who assert the need for positive discrimination (or have that need asserted on their behalf); and thirdly, a degree of public acceptance of it as a fair re-distribution of social resources that supports rather than undermines egalitarian principles.

Positive discrimination and higher education

Along with employment, higher education is a primary site where positive discrimination has been instituted in nations across the globe. In higher education, positive discrimination measures aim to give special consideration

to individuals on the basis of their membership of a group, which has been identified as under-represented in higher education because of factors associated with disadvantage. This disadvantage may be recognized on the basis of some specified criteria, such as gender, social class/income, racial, ethnic, language, minority, geographical, or historical status.

To be more than rhetorical instruments, positive discrimination measures require the implementation of concrete mechanisms to achieve their intents. On an international scale, positive discrimination arguments appear to be directed mainly towards adjusted practices for selection and admission to higher education. This is understood to be a direct way to provide access by recognising structural barriers to equality of educational opportunity. In higher education, the test of equal opportunity for all has often been evaluated through the aspiration of proportional population representation of designated disadvantaged groups in the student population. The establishment of numerical quotas or reserved places for particular groups (e.g. India, Malaysia) or the by-passing of normal competitive processes and qualifying standards of entry (e.g. Australia) are two common approaches (Wang 1983; Bin Sallik 1991). However, positive discrimination measures can be expressed via a range of additional or alternate practices, such as designated financial assistance programs for identified groups, academic support provisions beyond that available to all students, or special programs, special policy development, or special institutions for the designated group. In essence, positive discrimination measures in higher education disrupt the traditional basis of individually competitive merit-based selection as the condition for participation in higher education (Wang 1983).

From an examination of positive discrimination rationales deployed in higher education in five national contexts, Moses (2010) argues that rationales fall into four categories of argument: remediation of past discrimination; economic arguments for disadvantaged people to contribute to national economies; diversity arguments that stress the educational and society

benefits that flow from embracing social diversity in higher education; and social justice arguments, which stress the individual and wider social benefits of equitable access to higher education for inclusion into participatory democracies, which depend on the concerted efforts of an engaged citizenry. Moses (2010) further categorized these as fitting two overarching rationales: instrumental and moral. Instrumental rationales emphasize positive discrimination ‘as a means to an end; ...such as providing society with more workers from disadvantaged groups or making institutions of higher education more diverse places’ (p. 218). Moral justifications ‘appeal to deeper beliefs about what is right and good and how people ought to be treated; these can be backward looking or forward looking’ (p. 218). Moses (2010) cited Anderson’s (2002) ‘compensatory’ and ‘integrative’ categories as justificatory examples of backward and forward looking rationales: the first a ‘backward looking remedy for [past]discrimination’; the second looking forwards ‘to dismantle current barriers to equal opportunity’ (see Moses 2010, p. 218).

The general philosophical tensions that are engaged through the arguments of those for and against positive discrimination as a principle have been briefly outlined above. In higher education, critics of positive discrimination have also made arguments grounded in perceptions of the educational effects of positive discrimination practices. Fischer & Massey (2007), for example, have summarized the three main arguments deployed by those against positive discrimination practices in relation to college admissions in the United States:

- (1) affirmative action constitutes reverse discrimination that lowers the odds of admission for ‘better’ qualified white students;
- (2) affirmative action creates a mismatch between the skills of the student and the abilities required for success at selective universities, thereby setting up beneficiaries for failure;

(3) affirmative action stigmatizes all members (sic) the target group as unqualified, which results in demoralization and substandard performance regardless of individual qualifications. (p. 532)

Negative assertions about positive discrimination have produced attempts to investigate its effects, including the effects on admissions of withdrawing positive discrimination measures (e.g. Wang 1983; Hsia 1988; Tzannatos 1991; Fischer & Massey 2007; Francis & Tannuri-Pianto 2012). General conclusions are difficult to draw from discrete studies when different national, social and political contexts condition the assumptions and framing of studies. However, in a US study by Bowen and Bok (1998), the elimination of affirmative action was calculated to ‘raise the average admissions rate for White students by 2 percentage points, from about 25% to 27%, a small margin’ (Moses 2010, p. 222). On the basis of these findings, Loury (2002) provided some perspective to those supporting the ‘against’ position:

Why, then, all the energy...angst...handwringing... clamour, why all the concern that America is being run aground, that our standards are being trashed, that the barbarians are at the gate? Why such resistance when, as the data in Bowen and Bok’s book strongly suggest, the boundary of racial hierarchy is being erased just a little bit by the trickling few black students who, at the margin and because of the colleges’ practices of affirmative actions, are being inducted into the leadership cadres of the United States? (cited in Moses 2010, p. 222)

As Wang (1983) has pointed out, ‘positive discrimination makes educational selection an overtly political issue’ (p. 199). Nevertheless, some have offered criticisms of positive discrimination in higher education access on the grounds that positive discrimination can produce relatively small proportions of educated elites from within disadvantaged social groups – groups which continue to remain overwhelmingly poor or disadvantaged due to the neglect of improving education at the primary and secondary school levels (e.g. Tzannatos 1991; Wang 1983). An inference is that positive discrimination in higher education, at the neglect of attention to equitable outcomes in

schooling, is possibly an inefficient means of redistributing resources for the equal educational opportunity of all. However, further to this concern, inattention to the schooling outcomes of groups targeted for positive discrimination measures at the higher education level would appear to be to be implicated in the continuing need for positive discrimination measures to improve access to higher education. While the continuing need for it has been used to argue that positive discrimination in higher education is a failure (e.g. Tzannatos 1991), it also calls into question the sufficiency of the equality of opportunity principle, when the results of its application in schooling remains wanting. However as Moses (2010) concludes:

As affirmative action in higher education continues to be debated around the world, one thing is clear. The increased access and opportunity that come with affirmative action policy benefit students who for one reason or another are disadvantaged in society. This is no small thing. (p. 224)

The significance of historical and other particularities in national contexts for positive discrimination rationales and practices

While Moses (2010) argues strongly for wider mobilization of the social justice rationale in higher education, her analysis also supports the idea that the particularities of national contexts will to some extent dictate which rationales predominate and which may be useful for supplementary justification. In some contexts the need for ‘rationales based on the need to compensate for past discrimination’ will be ‘compelling and salient’ (p. 218), but will be less acceptable or compelling to the wider polity and the Courts in other contexts. Similarly in some contexts, instrumental rationales may be more acceptable and compelling, when strongly supportable but opposed moral arguments produce irresolvable tensions.

To explore how the public discussion, debates and contests around affirmative action in higher education were contextualized by the ‘unique national contexts’ in which they occur, Moses (2010) examined five diverse

national contexts – France, Brazil, India, South Africa and the United States – to foreground how justification arguments in relation to higher education are shaped by the history and particularities of the social contexts, identities and values of each nation. Moses’s analysis is useful for the purposes of this thesis because, as she states: ‘Each of these countries can learn from each other. Ultimately, how affirmative action disputes are worked out will affect the lives of many underrepresented students and these democratic societies’ (p. 211). For example, Moses took into account the national self-perceptions or identities that shape affirmative action discourses and debates in these respective countries:

For France, it is an ideology focusing on unity, universalism, and the assimilation of immigrants into French culture... India is moving from the caste ideology of inherent inequality to a social consciousness of systemic disadvantage and the benefits of diversity in social life...South Africa has moved gradually from the apartheid ideology of inequality to reconciliation and national unity...U.S ideology centers on the nation as a liberal democracy... and Brazil’s national ideal has been that of a racial democracy, characterized by a belief that race does not matter socially or politically. (2010, p. 213)

These perceptions of national identity or image underscore corresponding perceptions of inequities in educational opportunities and higher education access and produce different rationales for positive discrimination measures. For example, Moses (2010) contends that in France official attitudes and policy support the assimilation of immigrants (who constitute the nation’s increasing racial, cultural and religious diversity) and the positioning of them as French. So in France, a rapidly increasing cultural diversity has not been mobilised to expand what it means to be French, as multicultural policy attempted to do in Canada and Australia, for example. As a result, in France, the socio-economic and educational inequitable outcomes of immigrant groups have been slow to emerge as linked to institutional or discriminatory practices. According to Moses (2010), although there has been anti-discrimination law since 1972, there have been no affirmative action directives

at government level, although affirmative action measures have emerged from within some higher education institutions. At the government level, it has taken civil unrest to 'shift the tide towards affirmative action' (Moses, 2010, p. 216) although Presidential promises reported by Moses were directed towards quotas and state financial aid for low income students. Although this means that by default many recipients would be from ethnic minorities, it also demonstrates how class and lack of financial resources remain the enduring explanations of educational inequity. Issues of discrimination on the basis of race, colour, culture, religion or language remain submerged because of a belief they should not matter. Colour and race 'blindness' remain a national French virtue and a demonstration of its egalitarian ethos.

South Africa, on the other hand, since the fall of the apartheid regime, whose ideology adhered to the notion of inherent racial inequality, has made race (and gender) the primary basis of affirmative action policy. The history of South Africa necessitates large-scale redistribution of capital and social resources in favour of the majority. With 79% of the population categorized as 'Blacks', only 1% goes on to higher education. Affirmative action is grounded in the Constitution and a 2006 Higher Education Act which directs universities to increase admissions of 'Blacks' and other under-represented categories. Despite this, Moses reports ongoing concerns in national discussions and debates over conflicts between the rationales of positive discrimination and reconciliation discourse. The need for such a large redistribution of social resources highlights the previous privileges of Whites and loss of these privileges is able to be re-presented in terms of a penalty against Whites, particularly lower socio-economic Whites.

In contrast with both these countries, according to Moses, the national narrative of Brazil as a 'racial democracy' has been exposed as masking the cause of 'disparate levels of educational attainment by race, ethnicity and social class' (2010, p. 217). Citing Htun (2004), who characterized Brazil's self-perception 'not as a people composed of distinct "races" but as a multi-

coloured national race', Moses (2010, p. 218) reveals how discussions about positive discrimination measures have pivoted on debates about the relative weighting given to the significance that race, as opposed to class, plays in educational inequity. Race is considered a more divisive issue than class by opponents of positive discrimination, while supporters argue that race is a significant social issue that must be acknowledged. As in other places, when colour or race-blindness underpins perceptions and principles of egalitarianism, inequities in educational opportunity and access are viewed through the less contentious prism of economic disadvantage, even when the relationship between race and economic disadvantage is understood.

The debates and contests that play out according to the national particularities and histories that produce consideration of positive discrimination measures are a reminder of:

how flexible, adaptive and contextual affirmative action has in fact been in different parts of the world. Its ambiguity and adaptability are both its strength and its fragility. It is not a fixed formula for governmental action transportable from one country to another, nor is it a precise legal or constitutional arrangement of universal application. Yet it does have a core feature. Wherever it may function and whatever its terminology, it involves focused and deliberate governmental intervention that takes account of the reality of race to deal with and overcome the problems associated with race. (Sachs 2006, p. x, cited in Moses 2010, p. 224)

Positive discrimination as policy and discourse

Positive discrimination, as discussed above, is presented as a conceptual proposition. In the sense that this is a proposition to achieve a purposefully progressive intent through a deliberated set of rationales and principles for action, positive discrimination can also be understood as policy; for example, policy which is brought into being and action through a political will to serve particular interests and ends. Bacchi, a theorist in the field of policy analysis (e.g. 2000, 2004), has positioned policy as discourse (2000), and affirmative

action as ‘part of a discursive contest, not as something grounded in “principles”’ (2004, p.131). Through this positioning, the contests that expose the tensions in debates for and against positive discrimination can be examined more closely.

Bacchi (2004) argues for examination of the premises of the concepts underpinning arguments. For example, she reveals how the dominant notion of positive discrimination as a preferential treatment represents the subjects of positive discrimination policy as the problem: the ‘targets’ or subjects of positive discrimination policy ‘are the ones who must change’ (p. 132). Further, she contends, ‘the implication is that that they could not have achieved this level of success on their own’ (p. 135), thus constructing targeted groups in deficit terms. In addition, the representation of the target groups as the problem positions the solutions of special treatment as acts of generosity:

Those who are willing to make ‘special’ provisions to assist them past the hurdle of their ‘backwardness’ appear as benevolent and indeed as beneficent. The conditions by which these ‘benefactors’ came to power and maintain power remain unproblematized. Affirmative action becomes a species of charity and the question becomes – just how much ‘assistance’ do the ‘disadvantaged’ need? And how much ‘assistance’ is ‘permissible?’ (Bacchi 2004, p. 132)

In Bacchi’s view, by constituting the subjects of positive discrimination as the problem, the status quo is allowed to remain unchallenged in any real structural sense even when supporters of the conceptualisation of positive discrimination as preferential treatment ‘are committed to deep-seated structural transformation’ (2004, p. 129). However, as she goes on to reveal, the problem can be viewed in other ways. Rather than challenging ‘special’ access provisions as a special benefit that denotes preferential treatment, the notion of merit-based access as a ‘fair’ process can be challenged. Bacchi (2004) draws attention to other theorists who challenged assumptions and put

up other representations of the problem, as it relates to the processes of employment appointments. Standards and processes of the meritocratic basis of appointments were posited as not fair or objective, but subjected to the cultural and procedural biases of those who instituted them and through which they maintained their authority and power bases. These charges could be similarly applied to higher education standards and procedures for selection for admission and for priorities in program and research development. Further, Bacchi exposes challenges to the conditional basis of affirmative action measures as an exemption to anti-discrimination law. This logic, she asserts, 'assumes that social rules are generally fair but that some people face prejudicial attitudes and/or incidental blockages which hold them back' (p. 133). She draws on the work of others to support her argument:

Donald Black (1989) offers a very different analysis of the problem. He challenges the notion that the law is primarily an affair of the rules and that discrimination is an aberration. He shows that many factors... influence who will win and what the punishment will be. If discrimination is not an aberration, in his view, treating it as such necessarily hides the way in which 'social differentials pervade the law'. It follows that attempts to redress this privilege are not discrimination, positive or otherwise, but efforts to do justice. (Bacchi 2004, p. 133)

For Bacchi, however, the problem 'is not the condition of being targeted but the discursive construction of affirmative action as "preferential treatment"' (2004, p. 135). As she points out, in reference to the characterisation of Aboriginal people as disadvantaged on the one hand, and on the other hand as privileged beneficiaries of affirmative action, 'other groups who are targeted for regular [government funding] allocations, such as war veterans, wheat farmers and car manufacturers, do not get characterised in this way' (p. 135). Thus some forms of preferential treatment are acceptable and others are considered to be excessive if they interfere with procedures considered to be already quite fair. In this way, 'the conceptualization of affirmative action as

“preferential treatment” sets limits on the kinds of programmes considered acceptable’ (p. 135).

Bacchi’s detailed genealogical excavations lead her to conclude ‘that it forms part of a framework of meaning which leaves equal opportunity assumptions basically in place’ (p. 134). Speaking of employment rather than access to higher education, she asserts,

[c]onceptualizing affirmative action as ‘preferential treatment’ therefore shapes the discussions in ways which work toward delegitimizing the reform and rendering it ineffective. Within this framework it becomes impossible to question the standards applied to those currently holding positions of power and authority, or which continue to be used in hiring and promotion. It becomes impossible to draw attention to the background rules which protect the social status quo. Indeed, the concept appears to fit with those rules. The argument that members of disadvantaged groups need ‘advantages’ implicitly accepts that in general equal opportunity works fairly and equitably. (2004, p. 136)

For Bacchi the dilemma is clear:

as long as the background rules of a society go unchallenged, the ‘request’ for resources for members of groups remains a species of charity bestowed by beneficent people on representative individuals of some groups. (2004, p. 139)

At the surface level of description and analysis, then, the assumptions which underpin the way discussions about positive discrimination are shaped and conducted are not necessarily revealed for interrogation. This suggests that deeper or different sorts of investigations are required to challenge the commonly accepted and taken-for-granted meanings expressed in debates and discussions about positive discrimination. In turn, this has methodological implications for this thesis.

Chapter 4

METHODOLOGY

In my methodological approach, I treat positive discrimination as discourse, which has formed around the notion of equal opportunity to provide special and beneficial measures to members of identified groups, as a remedy for past negative discrimination. To explore complexities in the constitutive characteristics of positive discrimination measures in Indigenous higher education, and to ensure that I am able to bring to the surface for interrogation some of the ‘taken-for-granted’ premises and assumptions that are at work in the government’s policy and program texts, I will draw on the work of Michel Foucault (1972). Foucault’s archaeological approach to knowledge production is a well-argued methodological tool for illuminating the discursive contexts in which knowledge statements are made and remade in the everyday world and come to find their coherence in public discourse.

While Foucault’s approach enables me to attend to issues of subjectivity and historical knowledge/power relations in ways that are useful for my investigation of the positive discrimination measures, the centrality of Indigenous people to my inquiry requires further framing. For this purpose, I draw also on the work undertaken by Martin Nakata (1997). Nakata’s seminal study of the archives on Torres Strait Islanders led to a re-conceptualisation of the contemporary space for Indigenous people as a Cultural Interface, one he argues is informed by the positioning effects of the corpus of knowledge produced through Western understandings of Indigenous people. Both theorists inform (a) the need to investigate the discursive space where public statements such as positive discrimination measures are made and remade in tandem with their constitutive basis in power/knowledge relations, and (b) the need to consider in more detail the knowledge production processes by which the subjects of policy statements and positive discrimination measures

are turned into objects of particular discourses. My primary task in this study, then, is to investigate whether, and reveal how, such statements and measures come into existence and cohere with/on colonial terms and how this coherence delimits what can be enacted on behalf of Indigenous Australians. In short, I examine 'solutions' to the 'problem' of a disadvantaged group in higher education in order to reveal and consider what is 'un-problematized' in the acceptance of these positive discrimination measures as solutions to effect change.

Archaeology of knowledge and statements

Foucault's archaeology of knowledge, *L'Archéologie du Savoir* (1980), underpins my methodological considerations as his work expresses historical interest in the way human subjectivities are produced through both knowledge and discursive practices, which change and shift over time. Foucault reveals how subjectivities are not inherent or fixed, but are contingent on the conditions which give rise to their production. The concept of 'contingency of human subjectivity' emerged through Foucault's bringing to light the systems of thinking that underpin discursive productions (García 1988). His method is to explore the substrate of knowledge production for evidence of the continuities that work to stabilize discourses and at the same time the discontinuities that unsettle and disrupt them by providing spaces for resistance to established ways of thinking. These disruptive practices - both the concert and tensions in movements between continuities and discontinuities - offer my investigation a point of entry to the constitutive characteristics that come to shape social practices and, in turn, the narratives that coalesce around positive discrimination measures.

Foucault (1980) proposes that discursive statements are characteristically discontinuous. What gives them the illusion of unity and continuity in the development of a discipline or field of knowledge (for example, anthropology), are the conditions of possibility within a dominant 'episteme'.

An 'episteme', for Foucault, is a kind of 'epistemological unconscious' particular to a given historical period; a set of fundamental assumptions or a configuration of knowledge, which has become so naturalised and internalised as to be invisible to those who hold the assumptions. He explains:

I would define the episteme retrospectively as the strategic apparatus which permits of separating out from among all the statements which are possible those that will be acceptable within, I won't say a scientific theory, but a field of scientificity, and which it is possible to say are true or false. The episteme is the 'apparatus', which makes possible the separation, not of the true from the false, but of what may form what may not be characterised as scientific. (p. 197)

An episteme which has become 'naturalised' and taken for granted as truth-telling, is assumed in what Foucault later calls a 'discursive formation'. Together they work as an 'apparatus' within which discursive operations and the set of enjoined relations they are linked to underpin a 'science' or discipline to which they refer - a positivism which enacts authority in a given area of knowledge.

Discursive formations then are the composite of an identifiable 'regularity of relations', or relations signifying a coherent whole without internal differences. Gee, who takes a socio-linguistic approach to methods of discourse analysis, explains discourses as

[d]ifferent ways in which humans integrate language with non-language 'stuff' such as different ways of thinking, acting, interacting, valuing, feeling, believing, and using symbols, tools and objects in the right places and at the right times so as to enact and recognize different identities and activities, give the material world certain meanings, distribute social goods in a certain way, make certain sorts of meaningful connections in our experience, and privilege certain symbol systems and ways of knowing over others. (2001 p. 12)

In other words, we can only speak from within discursive formations of one sort or another. For the purposes of my thesis, discourses and discursive

formations around positive discrimination and its beneficial intentions can be seen to produce and legitimate subject positions (who speaks and who does not); operate processes of inclusion and exclusion in the definition of what forms an object of knowledge (what is spoken/written about), and provide conditions (unity and coherence) to rule what can be said and what is to remain unsaid. The conditions of possibility of statements categorise and infer in a particular way according to a particular episteme present within that field of knowledge. A statement in this sense, and for Foucault, always belongs to one field or discursive formation rather than another (it cannot exist in any meaningful way outside of a relationship with other cognate statements – it is bound up with them).

The conditions of possibility establish and delimit the governing ‘rules’ by which statements are considered meaningful and relational within an encompassing ‘formation’. For example, there are rules that establish and designate institutional bodies and certain spokespersons as the appropriate authorities for the formation of an object of discourse, as in, for example, government development of Indigenous higher education policy. Rules thus designate: who is permitted to speak or write and whom we should listen to (the question of credibility and certification); where statements can and cannot be made (the location of the enunciation of acceptable statements); and what is a viable form of discourse (the stylistic and organisational constraints on statements). For example, Indigenous people speak in English, the language and communicative registers of those in power. But statements by them may be reassembled or reconfigured and selectively chosen within other discursive formations to produce a new illusion of unity or continuity, since systems of dispersion underpin all discursive statements and give them relational coherence, which is not the same as a notion of ‘truth’. For example, the ways Indigenous people’s needs have come to be reduced in public and policy discourse as the same as for any equity group; or the ways Indigenous self-determination priorities have been commandeered within a

unity ticket for reconciliation agendas. Policy statements, like all statements when gathered together in a discursive formation, are provided conditions, the necessary elements for their participation in an 'authorised' discourse, which returns to the accepted statements logical 'truth-telling effects' according to the rules of the field of that particular discourse. Logically and rationally, what can be considered possible or impossible lines of thought and action are delimited at the boundaries of discursive formations. These boundaries represent the limits of discourse, and namely the point where some statements appear incoherent, unintelligible or irrational because they do not cohere with, and so make no sense within, the available or acceptable ways of speaking on any matter. Once again, Gee (2001), provides some ways to reveal the discursive rules that underpin statements:

What systems of knowledge and ways of knowing are relevant (and irrelevant) in the situation? How are they made relevant (and irrelevant), and in what ways? What social languages are relevant (and irrelevant) in the situation? How are they made relevant (and irrelevant), and in what ways? What are the situated meanings of some of the words and phrases that seem important in the situation? What cultural models and networks of models (master models) seem to be at play in connecting and integrating these situated meanings to each other? What social goods (e.g. status, power, aspects of gender, race and class, or more narrowly defined social networks and identities) are relevant (and irrelevant) in this situation? How are they made relevant (and irrelevant), and in what ways? (Gee 2001, p. 103)

The task then for my thesis is to seek out the conditions that give rise to a discursive formation on Indigenous policy from a disunity of objects, forms, concepts, and statements from the known 'archive'. That is, a focus on rules and conditions that provide the point of unity for positive discrimination measures to be enacted in one way and not another. In Foucault's terms, the point of entry to the archive is through the collection of statements, words, actions, symbols, all material traces left behind by a particular historical period and culture. My investigation delves into such material traces in order to

identify the regularities in discursive practices, as well as to investigate any contradictions or silences to ascertain how they exemplify different formations or how the formation in which they are found attempts to make them a 'natural fit'. Formations of statements about the assumed Indigenous subject, or positive discrimination, be they in agreement or not, in unity or disunity, can then be mapped in order to understand their rules of the formation, the conditions of their possibilities/impossibilities. The various inscriptions of the Indigenous subject who needs positive discrimination measures can then be revealed as an 'interested' assemblage of discursive events, ordered into a particular narrative according to the logic and the interests of those vested with the authority to make public policy statements on Indigenous peoples within an institutionalised field, rather than some 'natural' configuration.

For these reasons, Foucault's archaeological work on the knowledge production process reminds us that to adequately describe relations between discursive statements, we must not dismiss any discontinuities, contradictions, or fractures in the edifice of discursive continuities since they can intimate and reveal the 'constructedness', the very building blocks, of any given set of statements gathered into a discursive formation. The conditions for the unity of discursive statements (such as similarity of objects, modes of expression, concepts, or themes) will also then need to be considered as conditions for disunity. In the preface to *The Order of Things*, Foucault reflects on Jorge Luis Borges's whimsical and humorous taxonomy of animals to highlight the cultural situated-ness (personal or institutional) and the often arbitrary nature of all attempts to categorize the world and other human beings:

This book first arose out of a passage in Borges, out of the laughter that shattered, as I read the passage, all the familiar landmarks of thought—our thought, the thought that bears the stamp of our age and our geography—breaking up all the ordered surfaces and all the planes with which we are accustomed to tame the wild profusion of existing things and

continuing long afterwards to disturb and threaten with collapse
our age-old definitions between the Same and the Other.
(Foucault 1970, p. xv)

Foucault's archaeology of knowledge can thus be understood as a kind of formal method that seeks the description of a discourse, its internal and external relationships and the continuities and discontinuities that enable the establishment of its possible statements about the world, as well as the relations of possibility or conditions for its emergence as 'statements'. Statements, as I have tried to show here, inherently have rules to their formation. These rules, to Foucault, are the 'conditions of existence in a determinate discursive distribution' (Foucault cited in García 1988, p. 50). Moreover, discursive formations and their rule-bound statements carry out a policing function, they determine what can and can't be said, what is accepted as valid knowledge and what is not, who is a subject of discourse and who is an object, and so forth.

Subjects and objects of knowledge

To analyse the formation of subjects as objects of a specific knowledge, it is necessary to understand what Foucault terms 'surfaces of emergence', the 'authorities of delimitation' and the 'grids of specification'.

'Surfaces of emergence' draws our attention to where the objects of a specific knowledge emerge in a given discursive formation, the fields in which an object first arises; that is to say, the space where the objects of a discourse can emerge and can produce questions, such as 'where did it emerge, how was it named and analysed in a historical moment, why did this object emerge instead of another?' The Chilean Indigenous Law, for example, can be identified as a historical moment of emergence of two interrelated phenomena: the decade of the nineties with the more forceful appearance of Indigenous rights discourse in Latin America more generally; and the return to formal democracy in Chile. These two events are central in explaining the

emergence of Indigenous issues within the discourses of Chilean legislation and as an object of discussion and presence in mainstream media.

‘Authorities of delimitation’ draw our attention to how every field of knowledge is defined, bounded, and separated by the institutions that are recognized and accepted as authorities to classify, establish and designate what can circulate as legitimate knowledge and what cannot; for example, the processes through which the contours and limits of a given object of knowledge are adjudicated. For the Chilean case, the government and politicians have the authority to establish laws and policies that frame legal issues, as well as policies that will have an impact on Chilean society. But the government and politicians also establish which issues will in fact become the subject of a law or policy initiative and which will not; and in the Chilean case, it is never altogether clear which individuals, collective voices, or institutions are charged with the authority to frame and generate authoritative statements on issues such as Indigenous education.

‘Grids of specification’ draw our attention to the systems in which the objects of discourse are separated, opposed, and classified into different concepts and as objects of a specific discourse. Therefore, it is necessary to consider the elements that articulate a concept and the ways that any concept has been named and staged as an object of a discourse. For example, in the case of Chilean policies we find the concepts of ‘integration’, ‘nation’, and ‘Chilean identity’, among others, around which and through government discourse on Indigenous peoples have been established and legitimated. But the emergence of discursive objects must still address the complexity of the relations between the object and its different surfaces/planes of emergence on the one hand, and the way the various surfaces of emergence overlap or mutually influence each other – not just the individual planes of emergence, but their mutual imbrications and tensions that arise therein (the space theorised in Nakata’s Cultural Interface, for example) and how these then give rise to discursive objects.

An example of how these three elements work can be found in Foucault's history of madness (1989), in which he studied how the concept and the understanding of madness came to be produced and reproduced over time. He found that the discourses about madness came to be produced by and for medical and other authorities related to the field of mental illness. These authorities, he was able to show, established the concept of madness, the discussions about it, its conceptualization, and so on – the authority to speak on madness is self-instituted, self-arrogated, by authority itself. Another example would be Indigenous higher educational policies. Nakata (1991) was able to demonstrate in his study of Indigenous education policy statements that understandings of 'Indigenous' in policy were established by 'authorities' assumed through the narratives of colonialists to name and relate Indigenous people as 'cultural subjects' and in doing so rendered them as objects of charity; that is to say, by persons or institutions with the 'accepted' authority to establish what can be constituted as 'the' understandings and dimensions of 'Indigenous issues'.

Knowledge, power and subjectivity

The history of research that purports to work on behalf of and in the interests of Indigenous people is a vexed one. For this reason, I pause here to address Indigenous research concerns about power, subjectivity and knowledge by situating Foucault's conception of power in relation to other Indigenous research methods (e.g. Martin 2003). I do this before I turn to the seminal work by Nakata (1991, 1997, 2007) to help with the conceptualisation of the contemporary Indigenous space that I will draw into my interpretative framework.

For many Indigenous scholars, relations of power between Indigenous people and nation-states are viewed in structuralist terms, as relations of dominance and subordination over Indigenous people and their knowledge by non-Indigenous people (e.g. Smith 1999). Historically this dominance was

achieved through imposed colonial regimes, and in contemporary times is carried forward in European and Western modes of thought and methods of knowledge production (e.g. Smith 1999). In relation to research methods, this concern about the dominance of nation-states' social structures and/or Western thought in Indigenous contemporary spaces has led to the emergence of Indigenous methods in the Critical Theory tradition as a way to resist and re-write the Western, and to privilege and reclaim Indigenous meanings (Denzin, Lincoln & Smith, 2008).

This critical tradition embraces a conception of power as oppressive, and as located in social structures. In this conception, power is something achieved by those who produce knowledge that serves and maintains their social interests at the expense of less powerful others. Knowledge, situated and contextually produced commentary on social reality, is paraded as universal 'truth' and exercises its power through its prior institution and legitimation by authorities vested to legitimate or de-legitimate this or that discursive construction. In this conception of power, and in a classic structuralist move, the locus of agency is shifted from the human subject to the encompassing social structure. Critical Theory researchers hold that power is able to be disrupted by the less powerful through ideological critique of systems and practices of domination (revealing their faultlines and blindnesses, their underlying logical contradictions and discontinuities) and through actions committed to social change, and both these methods of research are widely pursued to support Indigenous interests in the research process (e.g., Rigney 1999).

In contrast, the Foucauldian view of power 'rethinks the location of power [and] its nature' (St Pierre 2000, p. 491) and considers both its productive and repressive effects. In simple terms, Foucault conceives power as networks and asymmetries of relations, both positive and negative in their effects. Conceived in this way, power has effects but also limits and these limits provide spaces for freedom. According to Elizabeth St Pierre, a

poststructuralist educational researcher, this freedom lies in the human ability 'to analyse, contest, and change practices that are being used to construct ourselves and the world, as well as the practices we ourselves are using in this world of praxis' (2000, p. 493). In this conception of power, human agency cannot be determined even if it is constrained and limited: 'Power is always a matter of both being positioned by [close and distant] social forces and responding to being positioned in unique and agentive ways' (Kamberilis and Demetriadis 2005, p. 47).

'Truth' and 'claims to know' the Indigenous subject

Knowledge has produced 'truths' about Indigenous people that have rationalised their historical treatment (see Nakata 1997). Since the early years of the colonial period in Australia, as well as in Chile, Indigenous issues have been framed and contextualised within Western perspectives of imperial power that have first dispossessed and then positioned Indigenous peoples in various ways over time, all the while dismissing or ignoring Indigenous knowledge, perspectives or inherent or civic rights. In the second half of the twentieth century, the global decolonising movement, supported by the global Human Rights discourse, illuminated the historical injustices perpetrated upon Indigenous populations and brought recognition to their cause. As my explorations of the conceptualisation of positive discrimination have revealed thus far, Indigenous people became re-framed within a Western discourse of disadvantage as the result of prior 'unequal' treatment. Indigenous peoples are positioned as the subjects of this discourse as not just 'requiring' but 'deserving' extra-ordinary measures to address this disadvantage. Whilst considered positive measures, these special measures are of course forms of continuing external intervention that continue to effect the positioning of Indigenous subjects within relations of knowledge and power. As Nakata has argued in his historical analysis of the positioning of Torres Strait Islanders within Western disciplinary knowledge (especially anthropology), the portrayal of Indigenous peoples as 'disadvantaged' has 'opened up a discursive space to

produce a certain kind of truth' (1991, p. 30). He (1997) claims that this discursive positioning is a continuance of Western 'truth-making', which in earlier times had positioned Indigenous people as 'savages' in need of civilising, 'lost souls' in need of Christianity, and as 'children' in need of paternal protection. These discursive constructions of 'who they were' allowed colonial administrations to rationalise the Islanders' need to assimilate European knowledge, work ethics and social values. Nakata (2007) was able to study these continuities and discontinuities in the changing constructions of the Indigenous education subject. From once being understood as mentally inferior, in more recent and supposedly progressive eras, Indigenous students came to be understood sociologically as 'culturally-deprived' people to explain their lack of progress in Western education. Then the discursive grounds shifted towards a view of Indigenous peoples as 'culturally-distinct' people, whose unique traditions and cultural customs were celebrated as worthy of preservation as part of the nation's heritage, linking their cultural development to the past and not the future. Education became the object that required reform and in ways particular to Indigenous Australians. However, in each case, Indigenous Australians were seen to be in need of assistance or support by governments and/or the wider non-Indigenous community. According to Nakata (1992), the more recent 'truth' about Indigenous disadvantage continues in this tradition to rationalise government action according to Nakata (1991). Despite efforts to consult with Indigenous people and afford them a semblance of self-management or determination, this discursive formation still nevertheless operates from within a Western understanding of Indigenous people and education (Nakata 1991, 2007).

The Cultural Interface

Nakata's (1991) study of the national policy found that '[e]ducation policies are at the textual intersections of National, State and Territory governments' priorities and political philosophies' (p. 28). In this discursive space, he argues, policy responds to the ideology and vision that the government of the day

presents in relation to wider national narratives, within which are domesticated their understandings of Indigenous people's goals and needs. This space, where different actors position their discourses according to their particular perspectives, which 'may be compatible, cooperative, contradictory, or even antagonistic' (p. 28), is one of convergence and an example of what Foucault described as a discursive formation, which produces forms of unity that results in 'a common epistemological standpoint' (p. 29) - formations that have not proven to be necessarily advantageous to Indigenous Australians.

Nakata's concept of the Cultural Interface proposes what can be viewed as a poststructuralist quest 'to trouble' the oppositional binaries through which Indigenous and non-Indigenous relations have been constructed, in order to find a different space for thinking about alternate possibilities. For many years, Nakata's work has focused on how Indigenous – and especially Torres Strait Islander – understandings are produced. He recognises other Indigenous perspectives in the contested space of Indigenous and non-Indigenous relations, such as those of Smith (1999) and Moreton-Robinson (2007), which advocate for the predominance of Indigenous voices and which subordinate or exclude, as a practice of resistance, non-Indigenous perspectives. However, Nakata chooses to highlight the importance of going beyond the traditional 'us/them' binary in relation to Indigenous and non-Indigenous positions. He theorises the Cultural Interface as both the real and conceptual space in which Indigenous and non-Indigenous meanings and practices have been interrelating and mutually transforming life-worlds for generations. The Cultural Interface, he argues, is a space 'constituted by points of intersecting trajectories' (Nakata 2007, p. 199), formed by dynamic relations and intersections 'of time, place, distance, different systems of thought, competing and contesting discourses within and between different knowledge traditions' (Nakata 2007, p. 199) and where different people with different histories converge. The Interface allows for the re-examination of intersections and trajectories between Indigenous and Western knowledge

systems as they are constituted at the local level, organised and ordered by the rules of their formation and not through some distant narrative of a dominant nation-state. For Nakata, in the Australian context, Indigenous and colonial perspectives, meanings, and worldviews have always been in dynamic interaction since the early years of colonisation, even if within asymmetrical power relations to the benefit of the non-Indigenous Australian majority. The task in contemporary times, Nakata suggests, is to ask new questions of the informing elements of our understanding of everyday discourse and the manifestation of practice as they (and we) may well be implicated in the ways we enact the contemporary space to bear down on Indigenous people and positive discrimination measures.

Nakata's departure from the established structuralist position pivots on the emphasis he gives to convergences, rather than the divergences, between Indigenous and non-Indigenous positions and meanings. He highlights the notion of convergence within the Interface as one that enables the rediscovery of silenced 'truths' and/or alternate possibilities. As a space full of contradictions, ambiguities and conflicts, the Interface informs

what can be seen or not seen, what can be said or not said, heard or not heard, understood or misunderstood, what knowledge can be accepted, rejected, legitimised or marginalised, or what actions can be taken or not taken on both individual and collective levels. (Nakata 2007, p. 199)

This view of intersections shape the framework in which 'people are understood, explained and regulated, and through which they understand, contest, resist, explain, self-regulate and uphold themselves' (Nakata 2007, p. 199). This enables Nakata (2007) to question the privileging in Indigenous political discourse of a singular, unified 'Indigenous' position that sits in opposition to all that is non-Indigenous. This conceptualisation of the Cultural Interface enables him to assert that in contemporary situations it is difficult to discern what is Indigenous and what is not Indigenous, and more importantly, which discourses, knowledge assertions, actions, arguments, and

claims to truth uphold the interests of Indigenous people and which do not. For the analysis of how Indigenous students have been discursively constructed in policy, the Cultural Interface provides a particular perspective for the investigation of positive discrimination measures that goes beyond the simplistic Indigenous/non-Indigenous binary, and includes the heterogeneity and complexity of intersections in contemporary spaces where knowledge, meaning, and identities are in permanent flux and transformation.

Focus of Study

My thesis focus on positive discrimination measures in Australia to support the progress of Indigenous Australians in higher education studies started out with a proposition that the effectiveness of positive discrimination measures can be scrutinised against the terms of their own rhetorical and associated conditions. The use of Foucauldian archaeology is to enable me to render policy statements and positive discrimination measures by the Australian government as a point of entry to rediscover their constitutive characteristics, the rules to their formation, and the conditions for their emergence, their possibility. Nakata's Cultural Interface allows us to look more closely at these statements as at a point of convergence with Indigenous standpoints, but at the more local level where statements find their coherence and acceptance in a 'common sense'; and that requires an analysis of both the production and reception of statements engaged in a more localised meaning-making process rather than an analysis that looks to the production of statements as the result of some pre-given, distant entity.

To investigate how Indigenous people and their educational aspirations have been recruited to a policy discourse and promised support is essentially a consideration of how Indigenous Australians and their aspirations have been constituted at the level of statements made about them, as both subjects and objects of government intervention. In the following Chapter, I outline some of the history of Indigenous colonial experience that led to an effort to

reform Indigenous affairs' policy approaches from the 1970s. This provides some background to the Australian federal government's attempts to redress racial discrimination through anti-discrimination legislation. I then outline some of the major developments in Indigenous higher education reform to contextualise the emergence of positive discrimination measures in Indigenous higher education. In the two analytical Chapters that then follow, I analyse one of these special measures scheme, ABSTUDY, to reveal how the discursive elements both enable and limit the promise of equal opportunity for Indigenous people in higher education. I then turn to examine Indigenous higher education policy statements and priorities to illuminate the production and rules of formation of the Indigenous subject as object of Australia's national policy priorities. My concluding chapter discusses the implications of my analysis for the future production of Indigenous higher education policy and practice in Chile. My concluding remarks focus on what lessons can be learnt from an examination of the Australian experience of applying positive discrimination measures to provide equality of educational opportunity, as the means to enable Indigenous students to achieve a more substantive equality expressed in educational outcomes.

Chapter 5

INDIGENOUS HIGHER EDUCATION AND AUSTRALIAN POSITIVE DISCRIMINATION

The legacy of British colonisation of Indigenous Australia is not dissimilar to the colonial legacy in other parts of the globe where imperial interests have prevailed over formerly autonomous Indigenous groups. Loss of land, disease, violence and decimation of populations, and destruction of the means and customary supports of traditional ways of life resulted in impoverishment, exploitation, and exclusion to the fringes of the new invading society. In Australia this process began in 1788 when the first penal colony was established on the harbour where Sydney now stands. At the time there were more than 200 language groups living in all areas of the continent. The vastness of the continent meant that the colonial expansion into Indigenous lands took place over time with different impacts on groups occurring at different times and jurisdictions (Rowley 1971). The six Australian States came into official existence at different times in the 19th Century as the separate colonies gained the power of self-government from London. Australia did not become a Federation of States and Territories until 1901.

The 1901 Australian Constitution expressly excluded Aboriginal people from its terms. At the time, the term ‘aboriginal’ was applied to mean continental Aboriginal people and Torres Strait Islander people who were the original inhabitants of the Torres Strait Islands. Section 51 of the 1901 Constitution stated that:

The Parliament shall, subject to this Constitution, have power to make laws for the peace, order, and good government of the Commonwealth with respect to... [t] he people of any race,

other than the aboriginal [sic] race in any State, for whom it is deemed necessary to make special laws. (xxvi)

Until 1967, Section 127 stated that: '[i]n reckoning the numbers of the people of the Commonwealth, or of a State or other part of the Commonwealth, aboriginal [sic] natives shall not be counted' (The Australian Constitution Note 21, p. 36). The influx of Asians and South Pacific Islanders was a contentious issue at the time of Federation and immigration policy sought to exclude 'coloured races', in what became known as the White Australia policy. According to Gardiner-Garden (2007), the drafters of the Constitution meant to exclude Aboriginal people from the discrimination directed against other non-White ethnicities, especially Asians. However, this also meant that Aboriginal people did not enjoy the same access to Commonwealth benefits and entitlements enjoyed by other Australian citizens and so was discriminatory in effect. For example, 'the Commonwealth's passage of legislation such as the Invalid and Old-age Pensions Act 1908 and Commonwealth Franchise Act 1902, excluded Aboriginal people from its benefits' entitlements (Gardiner-Garden 2007, p. 4), that is, from social security payments and voting.

Leading up to Federation and until 1967, legislative powers specific to Indigenous people resided with the States:

Although legislation in this period varied greatly by state, in every jurisdiction it tended to touch on similar areas and in every area laws intended for the 'protection' or 'welfare' of Aboriginal people became laws which dispossessed, oppressed and alienated Aboriginal people. (Gardiner-Garden 2007, p. 5)

Gardiner-Garden (1999) has characterised the early policy eras up until the mid-20th century as dispossession, protection and assimilation. Dispossession was enabled by the legal understanding of the continent as '*terra nullius*' (nobody's land) due to the lack of a sovereign entity. In response to the abject degradation of Aboriginal people that occurred in the first 100 to 150 years of colonisation, the Protection era was formalised by specific legislation for

Aboriginal and Torres Strait Islander people in each State. Such legislation emerged at different times from the late 19th Century, though there had since the beginning been haphazard efforts to respond to the deterioration of the Aboriginal conditions of existence (Gardiner-Garden 1999). Designed to protect the 'remnants' of an assumed to be 'dying race' and to curtail further inter-mixing of White and Aboriginal people, protection primarily meant removing Aboriginal people to Government reserves, Church missions, or training institutions. In this era, the Aboriginal 'problem' was not considered to be the declining 'full-blood' population, but the rapidly increasing part-Aboriginal population (Rowley 1971). From 1937, formal policies of assimilation intensified the paternal underpinnings of protectionist policies and continued their segregationist aspects by working to absorb all Aboriginal people, 'but not the full blood', into the general population (Gardiner-Garden 1999, p. 3). This policy direction, which was aimed at part-Aboriginal people, relied on the determination of an individual's Aboriginal blood quantum and close surveillance of all Aboriginal and part-Aboriginal people by State officials or agents to discern who was to be permitted to live in the wider society and who was not (Carlson 2011). These processes of administration curtailed freedom and civic entitlements, removing Aboriginal people's control over their own lives. Examples of negative discrimination through protection and assimilation eras included the control of freedom of movement and where Aboriginal and Torres Strait Islander people could reside and with whom they could reside, the control of where Aboriginal and Torres Strait Islander people could work, the denial of entitlement to full wages, control of individual's access to their earnings, control over permission to marry, and control over children. Aboriginal children became in effect wards of the State, whether they had parents and relatives who could care for them or not, and the removal of children from Aboriginal parents and families was justified on various grounds through to the 1960s and 1970s. These discriminatory practices were oppressive and traumatic in effect and

have left an inter-generational legacy felt to this day (Gardiner-Garden 1999; Wilson 1997).

In the post-World War II era, various United Nations declarations, public concern, and growing Indigenous activism placed pressure on all Australian governments to review and repeal negative discrimination practices in relation to the Indigenous population. Early United Nations instruments included the Declaration of Human Rights in 1948, the Declaration on the Granting of Independence to Colonial Countries and Peoples in 1949, and the Declaration on the Elimination of All Forms of Racial Discrimination in 1963. In Australia, in support of growing Aboriginal activism and public concern about the conditions of Aboriginal people, the Federal Council for the Advancement of Aborigines and Torres Strait Islanders (FCAATSI) was formed in 1958, largely by non-Aboriginal people (Torres Strait Islanders were included in the title in 1964). It was made up primarily of Aboriginal welfare organisations and affiliations with the Trade Union movement and the Australian Labor Party and focused on Aboriginal working conditions (Read 1990, p. 74). In 1965, at a Conference of Commonwealth and State government ministers, ‘the first suggestion that Aborigines had some right to choose whether or not they wished to be assimilated appeared in an official statement of policy’ (Coombs 1976, p. 2).

In 1967, a resounding Yes vote by the Australian electorate in a national Referendum enabled the Federal government to amend the Constitution. In relation to Indigenous affairs, the Referendum sought to make amendments to sections 51 and 127 of the Australian Constitution through the removal of the words ‘other than the aboriginal [sic] people in any State’ in section 51(xxvi) and through the removal of the whole of Section 127. At the time, the conservative Liberal-Country Party Coalition was in power. The referendum henceforth made it possible for the Commonwealth of Australia to ‘legislate on issues directly affecting Aboriginal peoples and led to a range of federal policy initiatives being implemented, often (but not always) run in

conjunction with state and territory governments' (Zubrick et al. 2006, p. 40). Ironically, the two 1967 Constitutional amendments wrote Aboriginal and Torres Strait Islander people out of the Constitution altogether. They are now assumed as part of the collective 'Australia citizens'. Indigenous Australians thus do not have a special identification in the Australian Constitution and the Australian Government is now currently in negotiation with the Indigenous community about the terms of inclusion and the timing of a national referendum on the subject (Australian Human Rights Commission, hereafter AHRC 2011).

As a result of the 1967 Referendum success, FCAATSI:

urged the Federal Government to immediately: establish a national policy on Aboriginal affairs; create a bureau of Aboriginal Affairs; provide for a survey team of experts to inquire into all matters relevant to Aboriginal affairs; make provision for the establishment of a national secretariat involving all state Aboriginal authorities; establish a national Aboriginal education foundation; and establish a national Aboriginal Arts and Crafts Board. (Gardiner-Garden 2007, p. 14)

Since 1967, successive Federal Governments have directed funding and Federal policy in Indigenous affairs, in addition to those provisions made within State jurisdictions. The Federal government established the Office of Aboriginal Affairs, 'an advisory body that was given funds to ascertain the most urgent needs of the Aboriginal community' (Reconciliation Australia 2007, p. 3). The first Minister for Aboriginal Affairs, WC Wentworth, was appointed in February 1968. Despite resistance from parts of his own Government, Minister Wentworth 'was able to initiate several Federal programs specifically aimed at satisfying desperate Aboriginal needs' (Reconciliation Australia 2007, p. 3). Another change that emerged early on in the Federal sphere was the establishment of a new administrative and practical definition of Aboriginality that 'was based on descent, community

and self-identification, not the blood-quantum classifications of the past' (Reconciliation Australia 2007, p. 3).

Through the early rounds of consultation by the Office of Aboriginal Affairs, it became clear that wherever Aboriginal people lived – remote, regional or urban – they rejected the notion of assimilation (Coombs 1976). However, Herbert Cole 'Nugget' Coombs, who was an advisor to the Federal government in this period, also reports that it was not until 1975 that the notion of choice was inscribed in a national election policy platform, when the conservative Liberal-Country Party stated they recognised 'the fundamental right of Aborigines [sic] to retain their racial identity and traditional life style or where desired to adopt a partially or wholly European lifestyle' (Coombs 1976, p. 6). While this right to choose appears to have gained wide acceptance in principle, there has been wide contestation between governments and Indigenous leaders about the appropriate policy and programmes to support this.

Despite a general bi-partisan approach to support Indigenous people's right to choose, there have also been differences between the responses of the two main political parties, Labor and Liberal (conservative), reflected in their shifting attitudes to various Indigenous conceptual frameworks for reform, as governments go in and out of power (Gardiner-Garden 1999). Gardiner-Garden (1999) names some of the Indigenous framings for reform: Land Rights; self-management; self-determination; self-government; sovereignty; treaty; social justice; and reconciliation. Gardiner-Garden's (1999) account, for example, reveals that in the period from 1967 to 1999, Labor governments consistently embraced the concept and language of Indigenous self-determination and recognised Land Rights as fundamentally linked to this concept. Liberal Coalition governments consistently returned to the more restricted concept and language of Indigenous self-management and considered Land Rights as a separate issue.

While changing government responses continue to shift the parameters for Indigenous affairs policy back and forth, the persistence of these conceptualisations over time suggest the fundamental importance to Indigenous Australians of control over traditional lands and decision-making, as well as the importance of a renegotiated relationship with Australian governments, institutions and non-Indigenous Australians. More recently the issue of Constitutional Recognition of Indigenous Australians has emerged, following Australia's ratification of the UN Declaration of the Rights of Indigenous Peoples in 2007 (AHRC 2011). The Declaration was ratified by the Labor Government on its return to power in 2007 and was followed by a National Apology to Aboriginal and Torres Strait Islander people on the floor of the Parliament in 2008 by the then Prime Minister, Kevin Rudd.

The context of positive discrimination in Australia

In the absence of the Australian Constitution's protection of human rights, the Whitlam Labor Government (1972-1975) moved to introduce anti-discrimination legislation. The Racial Discrimination Act (Cth) 1975, (forthwith RDA 1975), followed in principle the International Convention on the Elimination of all forms of Racial Discrimination (ICERD). In Article 1:1 it set out the definition of racial discrimination accordingly:

In this Convention, the term 'racial discrimination' shall mean any distinction, exclusion, restriction, or preference based on race, colour, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life. (RDA 1975)

The provision for special measures, what have come to be called positive discrimination, affirmative action or positive actions is set out in Article 1:4 of the RDA:

Special Measures taken for the sole purposes of securing adequate advancement of certain racial or ethnic groups or individuals requiring such protections may be necessary in order to ensure such group or individual enjoyment or exercise of human rights and fundamental freedoms shall not be deemed racial discrimination, provided, however, that such measures do not, as a consequence, lead to the maintenance of separate right for different racial groups and that they shall not be continued after the objectives for which they were taken have been achieved. (RDA 1975)

In Articles 2:1 and 2:2 these principles are stated in more intentional terms. For example, in relation to 2:1: ‘States Parties condemn racial discrimination and undertake to pursue by all appropriate means and without delay a policy of eliminating racial discrimination in all its forms’ (RDA 1975). Article 2:2, refers to special measures, for example: ‘States Parties shall, when the circumstances so warrant, take, in the social, economic, cultural and other fields, special and concrete measures’ (RDA 1975).

Those currently arguing for changes in the body of the Australian Constitution to ensure protections against discrimination for Indigenous Australians have pointed to the vulnerability of the RDA to legislative amendments and suspension to facilitate governments’ circumvention of its terms: ‘what the state gives, the state can take away’, as an Australian Indigenous legal academic has expressed it (Davis, 2009 cited in AHRC 2011, p. 8). According to the Aboriginal and Social Justice Commissioner, the RDA ‘has been compromised on three occasions: each time it has involved Aboriginal and Torres Strait Islander issues’ (AHRC 2011, p. 8), in each case by the conservative Howard government between 1997 and 2007. In each of the three instances – the Hindmarsh Island Bridge Act 1997 (Cth), the Native Title Amendment Act 1998 (Cth) and the Northern Territory Emergency Response Act 2007 (Cth) – Commonwealth Acts were respectively ‘inconsistent with’, ‘limited the scope of’, and suspended the RDA (Bielefeld and Altman 2015, p. 197). Bielefeld and Altman express concern that ‘rights-removing laws’ can be argued as special measures ‘that promote beneficial

outcomes for Indigenous peoples' when there is little evidence of beneficial outcomes (2015, p. 198). Others (e.g. Hunyor 2009) have expressed similar concerns in Australia about the use by governments of the notion of the RDA's special measures in ways that are negative, reduce Indigenous rights, or which, in effect, facilitate a 'new paternalism' (Bielefeld & Altman 2015, p. 203). A complex field of legal argument and critique has also emerged in cases in which challenges to positive discrimination for Indigenous people by non-Indigenous people have gone to court; for example, *Gerhady v Brown*, 1985 (see Wood 1987; Hunyor 2009). As in the United States, issues at contention include the limits of formal equality in achieving substantive equality and the grounds on which special measures are argued to be discriminatory rather than compensatory efforts required to achieve substantive equality (e.g. Wood, 1987; Hunyor 2009). For example, Brown (2012) like Bacchi (2004) criticises how the various Commonwealth Discrimination Acts 'treats a special measure as a 'special' kind of 'exception' to unlawful discrimination, rather than conceiving of special measures as positive measures for the promotion of equality' (2012, p. 24).

However, despite all these complexities and setbacks, it could be said that the RDA 1975 exemption approach has generally promoted the acceptance of the use of special measures in the form of positive discrimination in Indigenous employment and higher education in Australia. In the former, Aboriginality can be considered a genuine job description criterion in some circumstances; for example, in the provision of services to Indigenous people, including in higher education. In higher education, positive discrimination measures extend to employment, differentiated admissions processes for Indigenous students, specific financial assistance schemes (like *Abstudy*), access to supplementary tutoring, personal support services run by Indigenous people, and in some places special academic programs designed for Indigenous people only (Bin-Sallik 1990). In this context at least, it can be argued that the

special measures exemption has generally been understood as aiming to protect things done to benefit a disadvantaged group from being challenged as discriminatory by non-members of the group who do not receive the benefit. (Hunyor 2009, p. 43)

Hunyor goes on to report that ‘Abstudy has been upheld as a special measure when challenged by a non-Aboriginal person (Bruch v Commonwealth, 2002)’ (2009, p. 43). This suggests that positive discrimination measures are not beyond challenge by individuals, but able to be justified at Law by defending the benefits of ‘unequal’ treatment to achieve a more substantive equality. Education and employment are perhaps the two primary areas that promote the possibility of equal opportunity for Indigenous people as a group and as individuals.

Developments in Indigenous higher education in the post-referendum reform period

Until the Referendum there were no specific Aboriginal education policies at the Federal level, as the States had responsibility for Aboriginal education. The exception was the Northern Territory, which was a Commonwealth jurisdiction. Across the country, Aboriginal and Torres Strait Islander access to education was limited to what Bin-Sallik (1990) has called ‘education for servitude’ (p. 7). Bin-Sallik also reports that while there was no official policy for segregated schools, this often happened in practice. Not only were the majority of Aboriginal children residing on Missions and Reserves, White parents often objected to the presence of Aboriginal children in State schools, leading to separate schools in some towns (1990, p. 9). The detailed archival work of Fletcher (1989) of the history of education policy in New South Wales, particularly in regards to the use of schools in government policy between 1788 and 1982, confirms an ongoing form of exclusion practised by the wider the community. The presence of Aboriginal people at the tertiary level was negligible though not known up until the late 1960s. In 1966 Charles Perkins, who led the “Freedom Ride”, became the first reported Aboriginal

person to graduate from Sydney University, followed by Eric Wilmott, one of the Australian leading Indigenous scholars, who graduated from the University of Newcastle in 1968 (Bin-Sallik 1990).

Against this background, after the Referendum, the entry of the Federal Government into the domain of Indigenous education signalled their intent to remedy and reform. To situate the meaning of these early reforms, some understanding of the Australian tertiary education system as well as the initial thrust of Indigenous Affairs policy is useful.

At the time, Australia had a two-tier system of tertiary education. The lower level mainly comprised Institutes of Technology and Colleges of Advanced Education which generally awarded Diplomas and were oriented to training and employment in various trades and vocations, a major one being teacher training. At the higher level, universities awarded degrees and were distinguished by the emphasis given to research and higher degrees in the academic disciplines, as well as professional undergraduate degrees. At the end of the 1980s these two tiers were restructured and Institutes of Technology and Colleges of Advanced Education were subject to various amalgamations, given the status of universities, and were required to upgrade programs to meet degree standards. This sector became the higher education sector we know today. A lower vocational strand became the Technical and Further Education (TAFE) system, which delivers post-secondary training in the form of Certificates and Diplomas, and more recently now provides an alternate pathway onto higher education for those who have not completed Year 12 schooling. TAFE is the public arm of a sector that includes many private colleges as well (Croucher, Marginson, Norton & Wells 2013).

The earliest 'significant reforms to Aboriginal education in Australia commenced with the introduction of the Aboriginal Secondary Grants Scheme (ABSEG), later to be known as ABSTUDY' (Kerwin & Van Issum 2013, p. 6). From 1969, with few Indigenous people eligible for entry to

tertiary institutions, these financial aid schemes were mostly ‘used for apprenticeships and job training programs’ and to support Indigenous students ‘to remain at school beyond the compulsory age’ (Bin-Sallik 1990, p. 16). However, it soon became evident that progress in Indigenous affairs policy would be impeded without larger numbers of Indigenous graduates. The Whitlam Labor government which came to power in 1972 facilitated the concept of Aboriginal self-determination by providing ‘a legal basis for the incorporation of Aboriginal communities and their organisations’ as a means ‘to independent and distinctively Aboriginal development’ (Coombs 1976, p. 6). This goal entailed an ‘increased demand for qualified Aboriginal people to take up positions in the growing Aboriginal private and public sector organisations [and by 1981] some 600 positions were identified for Aborigines... in the Australian Public Service (Bin-Sallik 1990, p. 1). Because few Aboriginal people were qualified to enter tertiary institutions, efforts were made by Aboriginal people and supporters to establish appropriate programs to meet these demands.

The first special education programs were set up in Institutes of Technology beginning in 1973 and came to be known as ‘enclave programs’, as they were separate and apart from other programs and only open to Indigenous people. Initial programs were unaccredited, operated on academic and institutional goodwill and uncertain ‘project’ funding and were far below normal tertiary standards. However, they quickly developed and within a decade there were ‘some fourteen or more’ (Bin-Sallik 1990, p. 1). By 1988, the number of these programs had risen to 42 and operated in Universities and Colleges of Advanced Education as well. The number of Indigenous people accessing standard university and advanced education programs was assumed to be low though there was no way of identifying them in the early decades (Bin-Sallik 1990). Another major development that shaped Indigenous tertiary education in the first two decades was the 1977 National Aboriginal Education Committee’s Teacher Education Policy to produce 1,000 Aboriginal and

Torres Strait Islander teacher graduates by 1990 and which increased Indigenous participation in this area. The Miller et al. report (1985), in effect, a review of the National Employment Strategy for Aboriginals (NESA), noted the most Aboriginal enrolments continued to be in the sub-tertiary sector and emphasised the need for qualified Aboriginal people right across the professional spectrum and acknowledging the link between stable employment and higher qualifications.

Throughout the decades of 1970 and 1980 other reviews and inquiries were undertaken, highlighting the differences between Aboriginal and non-Aboriginal peoples' 'participation, retention and outcomes' (Zubrick et al. 2006, p. 40) as well as drawing attention to the obstacles to progress. These reviews and reports include: Funding Priorities in Aboriginal and Torres Strait Islander Education (Commonwealth Schools Commission & National Aboriginal Education Committee, 1984); the review of Support Systems for Aboriginal Students in Higher Education (Jordan 1984); Philosophy, aims and policy guidelines for Aboriginal and Torres Strait Islander education (National Aboriginal Education Committee, 1985); Aboriginal Education (House of Representatives Select Committee on Aboriginal Education, 1985); and Policy statement on teacher education for Aborigines and Torres Strait Islanders, 1986). In 1988 the Aboriginal Education Policy Task Force 'recommended a coordinated National education policy be formed' (Zubrick et al. 2006, p. 40) which led to the formation in 1990 of the National Aboriginal and Torres Strait Islander Education Policy (NATSIEP), commonly referred to as the AEP (Aboriginal Education Policy). This policy will be the subject of study in the next Chapter.

The release of the NATSIEP/AEP (1990) coincided with the restructuring of the Australian higher education sector. In the following two decades to the present, there have been changes in the Australian higher education sector in general that have seen an expansion in enrolments, the growth of a significant international student population, efforts by universities to respond to the

increasing cultural diversity of students, and concerns about student equity in terms of categories of educational disadvantage – remote, rural, lower socio-economic status, disability, gender and, of course Indigenous people (Bradley et al. 2008). In the same period, Indigenous higher education has been understood within social justice, reconciliation, and equity frameworks and universities been made more accountable to their progress in this area through annual reporting to the Federal government. This period has also seen the growth in Indigenous student enrolments in all universities and increasingly across all university faculties, disciplines and standard degree programs. Annual Indigenous enrolments appear to have stabilised around the 15,000 mark in recent years. In addition, in the last two and a half decades there has been an increased focus by the Commonwealth government on tracking Indigenous higher education statistics and an increase in the numbers of Indigenous school leavers entering universities. Significantly, the growth in Indigenous graduates and postgraduates has led to a growth in higher education and Indigenous Studies scholarship, lending more weight and authority to Indigenous leadership in universities. The Indigenous Higher Education Advisory Council (IHEAC) was established in 2004 (now the Aboriginal and Torres Strait Islander Higher Education Advisory Council, ATSIHEAC) to provide policy guidance to the Commonwealth government on Indigenous higher education issues.

In 2011, a major Review of Higher Education Access and Outcomes for Aboriginal and Torres Strait Islander People was conducted for the Commonwealth government to focus ‘on the specific barriers that are preventing Aboriginal and Torres Strait Islander people from achieving their full potential in higher education’ (Behrendt et al 2012, p. ix). In 2014, Universities Australia, the peak body representing Australia universities noted that:

Australia’s Indigenous population is under-represented in the university system. According to the Review, Indigenous people

comprise 2.2 per cent of the overall population, but only 1.4 per cent of student enrolments at university in 2010, including only 1.1 per cent of higher degree by research enrolments. Staffing levels are also low, with 0.8 per cent of all full-time equivalent academic staff and 1.2 per cent of general university staff in 2010 being Aboriginal and Torres Strait Islander people.

The Review noted the poor recognition given to Aboriginal and Torres Strait Islander studies, the lack of visibility of Aboriginal and Torres Strait Islander cultures and knowledge on many campuses, and the low levels of participation of Aboriginal and Torres Strait Islander people in university governance and management. The most important factors identified as leading to Aboriginal and Torres Strait Islander students' premature withdrawal from studies included financial pressures, social or cultural alienation caused by the academic demands of study, and insufficient academic support. (Universities Australia 2014)

This summary does not provide a full statistical analysis of student progress through higher education. The Review also drew attention to the retention and completion rates of Indigenous students who gain admission. Indigenous retention rates were reported to be 63.4% for Indigenous students in comparison to 79.8% for non-Indigenous students. Completion rates for Bachelor programs were reported to be 40.8% for Aboriginal and Torres Strait Islander students while for non-Indigenous students they were 68.6% (Behrendt et al. 2012, p. 7).

Positive discrimination in Indigenous higher education

Since the first programs in 1973, Indigenous higher education students have required special measures of positive discrimination. The 1984 Jordan review, for example, noted that in addition to special admissions processes and financial support through Abstudy, all the enclave programs that were reviewed provided separate Aboriginal forms of: academic support, counselling facilities, structures supporting the maintenance of an Aboriginal identity, and the provision of a separate space to complement these last three aspects (Bin-Sallik 1990, p. 39). These elements have been extended over the

decades to meet the needs of Indigenous students in all undergraduate programs through the development of Indigenous Education Units. These exist in some form in all public Australian universities and are funded by the Federal government on a per student basis. Bin-Sallik (1990) asserted that without these supports and separate practices ‘most students would have been excluded from participating in higher education’ (p. 39). The Final Report of the 2011 Review (Behrendt et al. 2012) supports the notion that this is still the case for many Indigenous students because although progress has been made, efforts are still required to ‘close the gap’ in access, participation, and outcome rates between Indigenous and other students. At the same time, a ‘whole of university strategy’ is recommended to address the presence of Indigenous students in all faculties and programs, which includes the provision of academic support by/within the faculties. The Review asserted that Indigenous Education Units do not have the ‘reach, resources or discipline-specific knowledge to do so’ (2012, p. xi).

In Australian higher education, positive discrimination strategies over the last four decades have remained largely committed to the idea of it as a ‘special measure’ to benefit members of a disadvantaged group that has been previously discriminated against. If Indigenous students identify themselves, they can access additional measures to those available to other students or similar services tailored to be more appropriate to meet Indigenous student needs. These include measures such as special admissions programs and processes, designated financial aid such as ABSTUDY and other scholarships, Indigenous study spaces, allotted residential places, and additional supplementary tutorials. However, the degree to which students can benefit from such ‘preferential treatment’ varies. Some of these positive discrimination measures are available to all Indigenous students, for example, special admissions, but others are subjected to further discretionary criteria, for example, Abstudy financial assistance. Here complexities emerge around the distribution of limited resources and around the conditional nature of

support for 'special' entitlements implied through the various interpretations of the meaning of 'equality', 'equality of opportunity', 'substantive equality', 'equity' and 'fairness' (which is a deeply-embedded value in Australian civic life).

For the interests of my thesis, a question presents itself: If 'the gap' between Indigenous and non-Indigenous student access, retention and outcomes remains significant after four decades of positive measures, then can it be said that these positive discrimination measures are effective in achieving their intended goals? Clearly, there are complex conditions to consider in the intersections between official policy positions, Euro-Western higher educational practices, the conceptualisation and deployment of positive discrimination measures, and the student admission and support practices that have evolved to support Indigenous higher education students in Australian universities.

To explore these conditions in more depth, I turn now to investigate the NATSIEP/AEP (1990) and the Abstudy/ABSTUDY financial assistance programme for Indigenous higher education students. The policy provides the broadest platform from which Indigenous strategies in higher education have been envisioned nationally. It sets the parameters and encapsulates the assumptions which guide Indigenous advocacy, argument, and rationales for practice across the sector. It guides government and universities responses to Indigenous goals to determine their own directions. As a programme, Abstudy/ABSTUDY has been in operation almost since reform began in the 1970s. It has also been subject to many changes and reviews over time and thus provides a useful site for investigating the changing conditions and rationales in relation to its intended goals. For this reason, I examine the ABSTUDY program first.

Chapter 6

STRATEGIC FINANCIAL INCENTIVES AS A POSITIVE DISCRIMINATION MEASURE

ABSTUDY: A Positive Discrimination Measure?

In this Chapter my analytical aim is to reveal the discursive conditions of the Australian government's primary financial assistance programme for Indigenous higher education students. To do this I provide an explication of the scheme since inception to reveal how the rationale and implementation of the scheme shifts over time in response to changes in the wider context of government, higher education, and Indigenous affairs. My analysis emerges through the examination of a series of key review documents, produced over time within these changing contexts. A Foucauldian approach enables me to reveal the positioning of Abstudy within the broader discursive contests that produce and enable perceptions of Abstudy as 'preferential treatment' (see Bacchi 2004) and as meeting or breaching national concepts of 'fairness' in the distribution of limited resources (see Moses 2010). This analytical approach also enables me to bring to the surface various discursive tensions that reveal the shifting constitutions of Indigenous student subjectivities. As I proceed, Nakata's notion of the Cultural Interface as a place of tensions and contradictions can be evidenced. I bring these strands of analysis to the surface as I describe the evolving Abstudy scheme throughout the chapter before drawing out a position on the salient points in the summary at the end of this chapter, and in preparation for my concluding points in the final chapter of the thesis.

The beginning of Abstudy

Following the successful 1967 Referendum, the Australian Government in November 1968 announced the establishment of the Aboriginal Study Grants Scheme, Abstudy, 'to assist Aborigines who wished to undertake courses of further education after secondary schooling' (Williams & Chambers 1984, p. 3). It was an early first step towards a positive discrimination measure in Indigenous education to be enacted nationally by the Australian government. From the start of the 1969 academic year, Aboriginal students 15 years and over became eligible to apply for financial assistance through this scheme. The first version of the Abstudy Scheme was an initiative of the Gorton Liberal Coalition Government, with Malcolm Fraser as the responsible Minister. According to Price (2012): 'Fraser had a vision that through the policy put in place during his tenure, Aboriginal and Torres Strait Islander people would achieve educational outcomes equal with non-Indigenous Australians' (p. 7). The scheme in 1969 offered:

a living allowance of up to \$1,100 per annum payable to a single grantholder, with a married grantholder receiving an additional \$7.00 per week for his wife (or, presumably, husband in the case of a female student) and \$2.50 per week for each dependent child. All compulsory fees related to the course were met under the terms of the grant and a book and equipment allowance was paid up to a maximum of \$100 per annum (Williams & Chambers 1984, p. 3).

For the time, these allowances were considered substantial – approximately 60% of the national minimum wage, and were well received by Indigenous Australians. According to Schwab and Campbell (1997), 'in the financial year 1968-69, a total of \$62,177 was spent on the Abstudy scheme. During that first year, 115 grants were made by the Commonwealth and administered through the Commonwealth Department of Education and Science' (p. 1). Eligibility was focused on Aboriginal students undertaking studies in the following areas:

- a) Courses at educational institutions: universities, colleges of advanced education; technical colleges; agricultural colleges; other government institutions, including schools; and (in some cases) non-government institutions, e.g. Private business colleges.
- b) Other courses run by government and private organisations: these include adult education and technical and further education courses.
- c) Special courses for Aborigines mounted by institutions or arranged by the department, including: reading/writing; maths; vocational training; dressmaking; nutrition and house management; vehicle maintenance; hygiene and deportment; small business management; art, craft, music; general education.
- d) Attendance at conferences and seminars, generally on education matters, where some sort of study or training is involved.
- e) Study tour for people who hold important positions in Aboriginal communities or organisations to enable them to become better informed on matters such as education and welfare. (Williams & Chambers 1984, p. 8)

As a positive discrimination measure to lift the formal training and education beyond the schooling years, the Australian government's first move was to financially support Australia's Indigenous people with: a living allowance, a dependant's allowance, textbooks and equipment allowance, establishment allowance, clothing allowance, and travel for students living away from home, tutorial assistance, and the payment of all compulsory course fees. It is important to mention that for students who received Abstudy, their access to other government assistance was limited. For example, a full-time Abstudy recipient was not allowed to receive other financial assistance from the Australian government, such as the Unemployment Benefit. In this early period and at the surface level, Abstudy appears to be conceptualised as a positive discrimination measure necessary to address the unique

circumstances that impact on Aboriginal Australians seeking access to further education as a result of past negative discrimination.

Though Abstudy commenced in 1969, very soon it became evident that, without better educational outcomes at the secondary school level, few Indigenous Australians would be able to utilise the Abstudy awards (Williams & Chambers 1984). For this reason, at the beginning of 1970, a new scheme, the Aboriginal Secondary Grants Scheme (ABSEG), was created:

Under this scheme, grants were made available to Indigenous students over 14 years of age, but under 21, for payment of compulsory fees, a textbook and a uniform allowance. Students living at home could receive an incidental allowance and those living away from home to attend school could receive a living allowance and assistance with boarding costs and fares. In some cases, 14 year olds received ABSEG at primary school. (Stanley & Hansen 1998, p. 25)

To qualify:

a person must be Aboriginal or Torres Strait Islander descent, identify as such, and be accepted as such by the community in which the person lives. Students must be under 21 years of age on 1 January of the year of the grant and attend an approved secondary school or class. (Williams & Chambers 1984, p. 13)

In relation to the benefits of ABSEG, the scheme considered the payment of living allowances for students living at home, boarding allowance for a student to live away from home to go to school, books and clothing allowance, personal allowance paid to the student, fees, fares, excursions and extra tuition. Exceptions for the benefit of this scheme were related to cases in which students 'were recipients of other help, such as Assistance for Isolated Children Scheme, Secondary Allowances Scheme, Soldiers, Children Education Scheme, Adult Secondary Education Assistance Scheme, and Aboriginal Study Grants Scheme' (Williams and Chambers 1984, p. 13).

In 1973, the Labour Minister of Education, Kim Beazley Snr., approached Cabinet to further extend the ABSEG scheme (Beazley 2009) to include all Indigenous students attending secondary school regardless of age. He also moved to commission Professor Betty Watts to review the scheme, and her report came in 1975 as the Labour government was being removed from power. The Watt review reported that the scheme had gained some success 'in encouraging secondary Indigenous students to stay at school longer, but that the proportion who remained after the age of 15 remained markedly less than that for non-Indigenous students' (in Stanley and Hansen 1998, p. 25). Nevertheless, in the ensuing years up to 1984, 2,951 Indigenous students remained in school to Years 11 and 12 compared with 1,600 in 1982. A returning Coalition government in 1975 and 1976 extended Abstudy 'to cater for Indigenous students in remote areas; specialist instructors were sent to communities where local expertise was not available' (History of ABSTUDY 1969-1997).

The extension of financial assistance to Indigenous secondary students underlines the impact of the colonial legacy on the goal to provide equal educational opportunity in post-schooling education. It suggests that there was early recognition that the introduction of special measures in post-compulsory education, to overcome past negative discrimination, would need to be ongoing unless governments also took positive actions to encourage Indigenous students to continue to participate in secondary schooling. Historically, Indigenous Australians were overtly and covertly excluded from schooling and especially in relation to continuing on to upper secondary schooling (Bin-Sallik 1990; Fletcher 1989).

The 1984 Review of Abstudy

In 1984 Don Williams and Barbara Chambers were commissioned by the Australian Government to review the initial Abstudy program. The review broadly concluded that 'Abstudy was still decades away from achieving

educational quality but had facilitated greater participation by Indigenous people in education, and should be maintained' (Parliament of Australia 1999). They considered all previous reports in the area of Aboriginal Education, such as those of the National Aboriginal Education Committee (NAEC)⁶, the National Aboriginal Conference, the Watts review of ABSEG (1976), the Aboriginal Futures report (1982), the Report of the Committee of Inquiry into Education and Training (1979), and the Studies of Tertiary Students Finances (1981–1983), and concluded that the:

1. Increased participation in secondary education, particularly in years 11 and 12, is crucial if tertiary participation rates are to increase.
2. Because many mature-age Aborigines have not acquired a full secondary education, they constitute a group with special needs.
3. Financial support is an important factor, but only one of several factors affecting participation rates in tertiary education.
4. Income support for young people in Australia is under review. At present the schemes are numerous and complex.
5. The high level of unemployment among young people in Australia needs to be taken into account when planning income support schemes for study, unemployment and other areas of need.
6. The place of income-testing, based on the student's and/or parents' incomes, is a fundamental consideration in all income support scheme.
7. Special scholarships, awarded on the basis of merit or to facilitate the achievement of particular goals, have been advocated.

⁶ The NAEC was a coalition of Indigenous leaders across Australia who were keenly interested in advancing Indigenous education priorities. They were appointed and resourced by the Australian government.

8. Competition for scholarships might be a significant motivator among students generally.
9. TAFE for Aborigines is an expanding area and accounts for a large increase in Abstudy expenditure.
10. The education of Aboriginal teachers and teacher aides has been designated as a priority.
11. Education officers play a key role in the administration of Abstudy. Suggestions have been put forward to train more Aboriginal education officers and to establish para-professional positions for Aborigines to support them in their contact with students.
12. The National Aboriginal Education Committee (NAEC) has recommended that a Tertiary Education Program for Aborigines (TEPA) be established within the Commonwealth Department of Education and Youth Affairs (CDEYA) to administer all funds for special measures for Aborigines in tertiary education.
13. Abstudy is not enshrined in legislation.
14. Abstudy incorporates many of the special measures advocated by researchers and authorities to promote equality of educational opportunity for Aborigines in Australia. (Williams & Chambers 1984, p. 58)

The reviewers reported that Abstudy delivered approximately 13,000 grants in 1983 and concluded that Abstudy had probably been the principal reason for Indigenous participation in tertiary education after 1969 (p. 345). Although the reviewers accepted 'that a confluence of many other forces has contributed to increased participation and that Abstudy has been essentially a facilitating agent' (Williams & Chambers 1984, p. 345), little was made about what those 'other forces' might be that were also involved in the

implementation and outcomes of the scheme. Overall, the reviewers observed that one of the positive outcomes of the introduction of the Abstudy was that it encouraged Aboriginal people to transition from secondary to tertiary education, and especially the older people with no formal education to consider study as an option. In this regard, Abstudy opened up access to the educational system in ways that were never imagined in the original design of the scheme.

Despite the advances, and after 16 years of increased participation rates in tertiary education, Williams & Chambers (1984) contended the gains 'were still much lower than the general non-Aboriginal population' (p. 345) and subsequently put forward strategic recommendations related to the design, implementation and outcome of Abstudy. The first recommendation of Abstudy is related to the future of the scheme:

- a) That Abstudy be maintained primarily as an assistance scheme for individual Aboriginal students until such time as their overall tertiary educational attainments are approximately the same as those in the wider Australian society,
- b) That aspects of the current Abstudy scheme which involve substantial and continuing assistance to tertiary institutions for formal programs, not be part of Abstudy but form part of a Tertiary Education Program for Aborigines (TEPA),
- c) That the funding of relatively short special courses, which are mounted by both tertiary institutions and other organizations to meet particular needs, continue to form part of Abstudy, but a concerted effort be made to meet educational needs through TEPA wherever possible, and
- d) That Abstudy, TEPA, ABSEG and other similar schemes to promote Aboriginal education form part of a Commonwealth Aboriginal Education Program. (Williams & Chambers 1984, p. 347)

The second recommendation was about the policy development and administration of Abstudy:

a) That the NAEC [The National Aboriginal Education Committee] continue to be the chief source of policy advice to the Minister on all aspects of a Commonwealth Aboriginal Education Program,

b) That CDEYA [Commonwealth Department of Education and Youth Affairs] through the Aboriginal Educational Branch and State Offices be responsible for administering the Commonwealth Aboriginal Education Program and participating in policy development, and

c) That links be maintained and developed between the NAEC and AECGs [state Aboriginal Education Consultative Groups] and between the Aboriginal Education Branch of CDEYA and the Aboriginal Education Branches in the State and Territorial Education Departments. (Williams & Chambers 1984, p. 350)

The third recommendation was related to the transfer of education functions to CDEYA. This recommendation suggested that:

a) Those Commonwealth departments, other than CDEYA, which currently provide additional funds to tertiary institutions offering courses for Aborigines, transfer these functions with associated funding and staffing to CDEYA,

b) That Abstudy be the main form of Commonwealth assistance for individual Aboriginal students undertaking courses in tertiary institutions and,

c) That these arrangements be contingent upon the acceptance by the Government of the new scale of Abstudy allowances proposed in this report. (William & Chambers 1984, p. 351)

The fourth recommendation was related to the Government's definition of an Aboriginal. The recommendations stated:

- a) that Abstudy continue to be restricted to Aborigines and Torres Strait Islanders,
- b) that the existing definition of an Aboriginal or Torres Strait Islander for the purposes of administering the Scheme be maintained,
- c) that Government departments and agencies responsible for administering Aboriginal assistance schemes standardise their procedures for applying the definition and determining Aboriginality, and
- d) that the Government consider commissioning a review of the situation of South Sea Islanders to determine whether they are in need of special educational assistance and welfare, and whether they have a legitimate claim for such assistance given the history of indentured labour in Australia. (William & Chambers 1984, p. 353)

The fifth recommendation, crucially, issued warnings about Income Testing:

- a) It not be introduced for at least 10 years (i.e. not before 1994), and
- b) Any decision to consider introducing it after 1994 involves a thorough study of its likely impact. (William & Chambers 1984, p. 356)

Unfortunately, the full impact of income testing was not foreseen and has yet to be sufficiently researched, since much tighter statistics tracking Indigenous access to and outcomes from higher education are yet to be established. In fact, Recommendation number 28 was specifically related to Abstudy statistics and it stated:

that the ADP section within CDEYA be commissioned as soon as possible to work with the Aboriginal Education Branch, NAEC, and the Statistical Section of DAA to develop a new

system for generating Abstudy statistics which focuses more on students and courses rather than the number of grants made. (William & Chambers 1984, p. 392)

Finally, Recommendation 29 was related to the evaluation of the scheme:

- a) that greater emphasis be placed on the evaluation of Abstudy courses and programs,
 - b) that funds be made available for the commissioning of minor external evaluations of aspects of Abstudy at the State, regional and local levels, and
 - c) that Aboriginal involvement in evaluations be kept at a high level.
- (William & Chambers 1984, p. 392)

In total this set of recommendations reveals how in its early period, Abstudy allowances for Aboriginal students sat within and supported a larger package under which was assembled a range of government inputs into special programs and other assistance for Indigenous people. These programs and allocations supported Indigenous access to post-secondary institutions for which they would not otherwise have qualified for entry or afforded the costs. The impediments to Indigenous access were therefore understood to be not simply about the financial disadvantage of individual members of the group, but of the educational disadvantages experienced by the group as whole, due to past negative discrimination in all areas of Indigenous life. At a surface level, the review recommendations appear to support the idea of Abstudy arrangements as part of a range of positive discrimination measures designed to go some way to provide the conditions needed for equal educational opportunity; not just admissions, not just financial assistance, but appropriate programs and support to meet Indigenous educational realities and goals. Further, the wide range of these recommendations reveals a concern for the larger approach to Indigenous higher education, prior to the emergence of any official policy.

However, each of the recommendations of this review bears closer examination for evidence of the various discursive tensions within which discussions and debates about the effectiveness of Abstudy occur and which condition the recommendations that are possible.

In relation to the first recommendation (the future of the scheme), it is relevant to mention that the expected outcomes of Abstudy were directly related to a predicted increase in Aboriginal education reaching the same level as that of the 'wider Australian society' (Williams & Chambers 1984, p. 347). This suggests that there was recognition that positive discrimination measures to provide 'equal educational opportunity' would be needed until Indigenous students as a sub-cohort of students achieved a more 'substantive equality' in the form of 'equal outcomes' to non-Indigenous students. While this statement appears to be weighted towards, and benignly supportive of, the interests of Indigenous students, it also enables the representation of Indigenous students as the beneficiaries of 'equal opportunity' in contradistinction to non-Indigenous students as not the beneficiaries of equal opportunity measures. This emerges as something factual and therefore neutral. The subjectivity of non-Indigenous students as the normative rather than the privileged bearers of educational opportunity is submerged in such statements. Further, when given the benefits of 'equal educational opportunity' without sufficient support to achieve 'equal outcomes', through other additional inputs, Indigenous students are able to be positioned in deficit terms. From the Foucauldian perspective, at the surface level of statements the positioning of Indigenous students as 'deficient' subjects of educational opportunity is rendered invisible via this default to the normative standards of non-Indigenous student achievement represented by educational outcomes. This positioning is enabled by the exclusion from consideration of all the other factors that are impediments to Indigenous people's educational achievement, including and most notably factors related to the effectiveness of educational programs provided to Indigenous students.

In addition, while the good intentions underpinning Abstudy as an affirmative program are evident, it is not clear to what extent this comparison reflects the interests of and relevance to Aboriginal people's own aspirations. Statistical comparisons provide one measure of movement towards equal outcomes and thus matter to governments and others invested in improving Indigenous futures, but do these reflect real, practical, long-term outcomes on the ground? This is important in order to comprehend how the needs of Aboriginal people in education come to be constituted and represented in relation to their position in Australian society and how the policy/program makers are able to prioritise to Indigenous needs and purposes in pursuing further education. In Bacchi's terms, this enables the Australian government, as the representatives of Australian society, to 'bestow' 'beneficent' actions onto Aboriginal people, without reordering any priorities within their own spheres of interest (2004, p. 139).

Further to this, my explications enable analysis that situates the Abstudy program as the site of a discursive contest rather than a singularly and morally 'principled' stance (Bacchi 2004). Discursive contests signal where different perspectives are negotiated and resolved (or not resolved): 'policy documents constitute a presence of a range of discourses at a single discursive site' (Nakata 1991, p. 28). For example, Nakata was able to show in his study (1991) of the first national Indigenous education policy statements, the Indigenous people were cast in the policy narrative as 'cultural subjects', free of the characteristics that might inform a 'colonised subject' needing higher levels of resourcing based on reparation and compensation for squatting on Indigenous people's lands. My interrogations are similarly interested in tracing the positioning of Indigenous students in the evolving discursive conditions of Abstudy policy/programs. Relevant to this is keeping an analytical focus on what Moses (2010) referred to as the two overarching rationales for positive discrimination, instrumental (means to an end) and moral (what is right and good) rationales. The former provides space for rationales that

support the interests of educational institutions and the nation-state and the containment of Indigenous interests within these. The latter provides scope to engage on the fundamentals of colonial injustice and notions of social justice, reparation and Indigenous self-determination through policies and strategies of positive discrimination.

For the second recommendation, the Review suggested that: ‘centralising all Aboriginal tertiary education programs in the Aboriginal Education Branch of CDEYA [Commonwealth Department of Education and Youth Affairs] is the best alternative’ (Williams & Chambers 1984, p. 348). This recommendation is fundamentally about where to house the bureaucracy of Indigenous education. The recommendation was seen as necessary because CDEYA had developed the expertise and had the equipment to administer student assistance schemes and the reviewers recognised their good functioning in the administration of Abstudy. The reviewers also stated that the ‘Aboriginal Education Branch of CDEYA, in cooperation with the NAEC [National Aboriginal Education Committee], is becoming and should continue to become the main administrative agency for carrying out Government policy in Aboriginal education’ (Williams & Chambers 1984, p. 349). It was also highlighted that ‘the successful blending of policy advice and administrative functions will depend upon the maintenance of the goodwill and cooperation that exists at present between the NAEC and the Aboriginal Education Branch’ (Williams & Chambers 1984, p. 349). This recommendation calls for the coordination and integration at all levels of the different actors related to the implementation and delivery of the scheme, in order to maintain the good functioning and good results observed by the reviewers. What can be observed in these recommendations is the interest of the reviewers in giving – to some extent – independence to the administration of the Scheme, maybe as a way to increase its impact and effectiveness among Aboriginal people, giving them or their institutions an important role to play,

involving Aboriginal peoples so as to ‘make them part of’ their institutions in the administration of issues related strictly to them.

Here we see the close identification of Abstudy in the mid-1980s with a package of government-provided assistance programs and as the site of bureaucratic and Indigenous (NAEC) deliberation that also served as a primary arena for *de facto* Indigenous educational policy development. This was enabled by the ‘advise and consult’ processes established in Indigenous affairs by the Whitlam government in the early 1970s (Coombs 1976). It gives weight to the notion of policy in Indigenous higher education as a discursive contest (Bacchi 2004) and an interface where different sets of interests require negotiation by Indigenous actors (Nakata 2007). A range of intersecting discourses representing a range of interested actors constitutes this contest and includes the politics and ideology of governments, bureaucratic interests, educational institutional stakeholders and interests and the interests of Indigenous people as represented by NAEC delegates and as framed by the politics and goals of Indigenous self-determination. Thus recommendations to place Indigenous education within the responsible education department enable it to appear to prioritise educational expertise and at the same time remove it from the Indigenous affairs portfolio, which is more directly charged with, and invested in, designing reform that accounts for Indigenous views. However, the focus of my analysis on the changing discursive conditions for debates on Abstudy will enable me to consider some of the effects of this movement of Abstudy’s bureaucratic location and whether these constrain or enable educational opportunity for Indigenous Australians. Of particular interest is a consideration of the positioning of the Indigenous subject through this closer proximity to educational policy/programs for other students.

The third recommendation proposed that ‘education functions within the Department of Aboriginal Affairs should be transferred to CDEYA (the department responsible for education) where the NAEC can advise the

Minister on the development of a Commonwealth Aboriginal Education Program' (William & Chambers 1984, p. 351). The reviewers' interest was vested in locating the educational functions into the primary education portfolio of the Australian government (away from the Department of Aboriginal Affairs, which had primary responsibility for broader community development) and, at the same time, keeping the coordination within the National Aboriginal Education Committee in the development of a national education program for Aboriginal people. The repeated intention to maintain and centre Abstudy within a more defined educational strategy is clear. In these early days of the Abstudy program, it also made clear that the Australian government was keen to hold the Abstudy grant scheme in high priority and to prevent it from being categorised and 'levelled' with other government welfare schemes, such as unemployment benefits or education allowances for non-Indigenous peoples. The Review maintained the ideal of establishing Abstudy as the main form of assistance for Aboriginal students as an important action that provided funds for the first time in Australia. However, once again, the emphasis of this recommendation is on bureaucratic arrangements and the report begins to emerge as mainly concerned with the administration of the scheme. In effect, the report speaks to the government and bureaucracy. As a programmatic evaluation, it was less concerned about the academic results and performance of the recipients of the program, which might have been significant for the overall analysis of the Government's initiative namely, its ability to deliver outcomes for Aboriginal students.

The fourth recommendation was related to the Government's definition of an Aboriginal person and called for the maintenance of Abstudy exclusively for Aboriginal people. The legitimacy of this part of the recommendation is warranted by the morality of keeping the distribution of the funds 'fair', considering that this scheme was the first education funding program for Indigenous people in Australia, and as with any other financial help provided by taxpayer revenue, it needed to be well administered. Significantly, at this

stage, the concept of 'fairness', as it is applied to the distribution of resources, is invoked to prevent members of other groups from accessing funds intended for Aboriginal Australians.

However, to maintain exclusivity for Aboriginal students requires policing Aboriginal students' identity to ensure no other students take advantage of a 'special benefit'. The burden of proof of identity status falls on all Aboriginal students in order to catch out the occasional rogue claimant. However, colonial history led to such displacement and disintegration of Aboriginal groups, some people experience major difficulties in proving their lineages (see Carlson 2011). Despite Indigenous Australians' pride in asserting their identity, government demands for proof of Aboriginal and Torres Strait Islander identity is a contested area of debate in Indigenous Australia, in which some argue that the need to prove identity adds insult to colonial injury (see Carlson 2011). The regulation of Aboriginal identity rests on rules associated with its discursive formation as an object of changing colonial policy over time (Carlson 2011). The burden of proof is transferred to Indigenous Australians and not to the former colonisers, who disrupted and overlaid the traditional identity affiliations of Indigenous Australians.

The fifth recommendation was perhaps the most contentious – income testing for the awarding of the Scheme. Here can be evidenced the first iteration and deployment of the concept of 'fairness' in a way that begins to derogate the rationale of positive discrimination as a response to past negative discrimination. The reviewers stated that in 1976 the review of ABSEG by Betty Watts (1976) had as one of its conclusions that the scheme had to include income testing, but without any detail about the timing to introduce it. According to the Williams and Chambers review, in those early years it was not worth testing income to prove the eligibility of Aboriginal students for the grant, acknowledging that Aboriginal people were mostly at a low-income level. Nevertheless, during the 1980s, the Australian government started to base many of its social welfare and educational policies on the basis of

economic need: 'it is on the basis of need that additional funds have been allocated for Aboriginal education and funds have been cut back for affluent private schools' (William & Chambers 1984, p. 354).

The principle of supporting the 'need' is related to the idea of focalizing the resources, especially within social and public policies, in order to optimize the use of financial support to people who can demonstrate that they are in a 'needy' situation based purely on socio-economic location. That is to say, through income-testing, people would be able to demonstrate their financial situation and to prove their eligibility for a certain benefit. According to the review, Aboriginal people who participated in the evaluation of Abstudy 'felt that Abstudy should continue indefinitely as a special right for all Aborigines. Implicit in this view is a rejection of income testing' (William & Chambers 1984, p. 354). Positive discrimination was seen to be a 'right' and a key plank in improving Indigenous life chances.

The debate about income testing was developed in regard to whether education should be considered as an equivalent right to the 'right to land' for Aboriginal people, or if it should be considered as a basic right for all Australians, even if there were other reasons as to why the introduction of income testing should pertain to potential recipients of Abstudy. As part of this debate, some considered that if Abstudy was established as a positive discrimination action, it should not be income tested in order to be granted, so that the special treatment that underpins the principle of positive discrimination for Aboriginal peoples is preserved. This requires the acknowledgement of the social, historical and economical context and background of Aboriginal people, when compared with the rest of Australian society, otherwise the establishment of the scheme as part of a positive discrimination measure would be meaningless. The 1984 Review concluded, 'an income test, while appearing neutral, might be an unfair measure of the capacity of an Aboriginal family to support dependent students through tertiary education' (William & Chambers 1984, p. 355).

Despite the review upholding the case against income testing at this stage, here, most starkly, we see positive discrimination policy in terms of a discursive contest (Bacchi 2004). This reaffirms the easy slippage from the conceptualisation of positive discrimination as a legitimate measure to redress and eliminate past and ongoing negative discrimination, to a tacit acceptance of positive discrimination as a 'preferential treatment' that places at risk the Australian concept and value of 'fairness'. The concept of fairness supports a national narrative which is considered essential to Australia's view of itself as an egalitarian nation. A 'fair go for all' frames almost all public debates about the redistribution of wealth and income tax and also frames many policy rationales, including in higher education (e.g. Department of Employment Education and Training 1990). The recruitment of concepts of 'fairness' to debates and deliberations about special provisions for Indigenous students supports Moses' position (2010) that national contexts bear down on the rationales for the application of positive discrimination measures and their implementation. As Bacchi also notes '[c]rucially, the understanding of what is considered "fair" is endogenous to this larger belief system' (2004, p. 143). The concept of 'fairness' is applied not just on the basis of past negative discrimination borne by all Aboriginal people, (which is the legal basis for positive discrimination measures), but on the basis of internal differences within the group. Here 'fairness' remains tied to notions of egalitarianism that do not 'account for history, context, and past or present discrimination' (Moses 2010, p. 222). From this perspective, the application of tests of 'fairness' implies a 'level playing field' exists for Indigenous and non-Indigenous students, which belies the legacy of past negative discrimination on current generations of students. That is, the subjection of both Australian non-Aboriginal and Aboriginal students to assessment for educational assistance on the basis of equal income levels submerges or places out of view the presence of other factors that impede Indigenous access, participation and outcomes and denies the original injustice of dispossession.

Recommendation 28 called for the improvement of the production of Abstudy statistics to have better information about the implementation and outcomes. At that time, the 1984 Review reported that universities did not have specific statistics for Aboriginal students. The reviewers contend that ‘from the inception of the Abstudy Scheme statistics have been compiled and published’ (William & Chambers 1984, p. 390). Nevertheless, it is often difficult to access those statistics. It is important to highlight that statistics about enrolment, retention, and outcomes for Aboriginal people are crucial to determine to what extent the Abstudy program has been successful or not. For this reason, this recommendation is still relevant today. Its importance is not only in the production of statistics about how many people have been and are benefitting from the scheme, or how much money has been expended, but also about the performance, retention and outcomes of Aboriginal students at tertiary education institutions.

According to Recommendation 29, evaluation of the scheme was considered important for providing information about its functioning. However, there was no scope in the 1984 review to evaluate courses as part of its objectives. The evaluation of any policy allows not only the consideration of its functioning, but also provides the opportunity to promote the participation of the recipients of the grant in the evaluation process and even further, to the restructuring or modification of the scheme. Without regular evaluation and review, the efficacy of positive discrimination measures is not known.

In sum, analysis of review recommendations reveals the allegiance to government and administrative concerns about the efficient running of the scheme. This is not surprising for a review initiated by government. However, the positioning of the recommendations within the terms of the review process provides an insight into the regularity and ordering of statements that give rise to the discursive formation of priorities within Indigenous higher education. Through my analysis, what emerges to have continually slipped beyond the reviewers’ analysis is a more explicit position for the evaluation of

Abstudy as a positive discrimination action; that is to say, as a scheme targeted for the improvement of Aboriginal and Torres Strait people in their access and outcomes in formal education, in response to current levels of educational disadvantage, incurred as a result of past negative discrimination. The reviewers had opportunities to weigh in more on the significance of the Abstudy program as particular to Aboriginal people to recompense their historical situation. One missed opportunity was to centralise a narrative of Indigenous students as colonised subjects, who endured past negative discrimination that has placed them at considerable educational disadvantage in Australian higher education at all points of access, participation and outcomes. Instead, the analysis that emerges through the recommendations follows a narrative that supports an Australian national belief about 'fairness', which begins to position Indigenous students as individually 'needy' recipients of preferential treatment via a 'species of charity' (Bacchi 2004, p. 139) at the largesse of the taxpayer and government. While the review attempts to mediate what can be viewed as discursive contests related to income-testing, the national narrative is upheld and the legitimacy of positive discrimination is brought into question. In this process, the representation of the educational issues that are implicated in 'substantive' equality of opportunity defaults to recommending arrangements for the fair and efficient administration and awarding of the program. Establishing Indigenous Australians as subjects and objects of this discourse sets up a particular relationship between Indigenous people (who were backward, need help, but are still found to be deficient despite help) and non-Indigenous people (beneficent 'bestowers' of special benefits, which should nevertheless be limited according to the normative Australian values associated with egalitarianism).

In this way, Indigenous education priorities become relegated to the margins of a public discourse of goodwill that sets the limits of possibilities – something Foucault noted as crucial to revealing how things come to change for some and not others:

I would like to show with precise examples that in analysing discourses themselves, one sees the loosening of the embrace, apparently so tight, of words and things, and the emergence of a group of rules proper to discursive practice. These rules define not the dumb existence of a reality, nor the canonical use of a vocabulary, but the ordering of objects. (1972, pp. 48-49)

Changes in Abstudy following the 1984 Review

After the 1984 review, the Hawke Labor government duly changed ABSEG to Absec in 1985 and a few years later in 1988 combined both Absec and Abstudy programs into the new and current ABSTUDY (differentiated from the old Abstudy by the use of capital letters). However, the two maintained their differences in the combined ABSTUDY: 'Tertiary' for higher education and TAFE assisted courses and 'Schooling' for secondary education.

These changes occurred in the context of wider reform in Australian higher education, in what has come to be known as the Dawkins era (Croucher et al 2013). As a result of these reforms in the early 1990s, Australian universities were amalgamated with the second tier of tertiary education, Institutes of Technology and Colleges of Advanced Education. The latter were awarded the status of universities and set about upgrading academic programs to Bachelor degree status. The amalgamated sector became what is known today as the higher education sector (Croucher et al. 2013). These reforms drew Indigenous programs (and students) in the Institutes of Technology and Colleges of Advanced Education, where they were primarily located, into the university system. An Indigenous higher education sector began to emerge as these developments occurred.

Amidst the broader reviews occurring in the higher education context, and alongside the changes to ABSTUDY review, an Aboriginal Education Policy Task Force was appointed in 1988 by the Labour Minister for Employment, Education and Training, Hon J S Dawkins, MP, and the Minister for Aboriginal Affairs, Hon Gerard L Hand, 'to advise on all aspects of

Aboriginal education in Australia, assess the findings of recent research and policy reports, and prepare priorities for the funding of existing programs and new initiatives' (DEET 1988, p. 3). According to the information provided for the Task Force Report,

at the post-school level, there were fewer than 800 Aborigines enrolled in higher education courses in 1983. The level of enrolment was at that time being seriously affected by small numbers of students completing a secondary education and gaining admission to a university or college of advanced education. (DEET 1988, p. 8)

The 1988 DEET Report recognized the poor schooling conditions of many Aboriginal children, reflected also in older students and their chances to access tertiary education, even though in recent years there had been significant increases in the number of Aboriginal people in tertiary education and training. In relation to the increase of enrolment in tertiary education, the Report was clear:

Aboriginal participation in post-school education and training is concentrated in shorter courses, as evidenced by the fact that some three-quarters of Aboriginal students participate in courses of less than one year's duration, and in courses that do not lead to recognised awards or qualifications. (DEET 1988, p. 11)

Despite the previously mentioned advances, Aborigines were still significantly under-represented in higher education, such that in 1986, '0.6 per cent of the Aboriginal population were studying in universities and colleges of advanced education, compared with a rate for all Australians of around 2.5 per cent' (DEET 1988, p. 12).

As part of the outcomes of the Aboriginal Education Policy Task Force, five broad objectives were established to be part of a national Aboriginal Education Policy. These objectives pertained to all levels of education, including higher education:

- to achieve equity in the provision of education to all Aboriginal children, young people and adults by the year 2000;
- to assist Aboriginal parents and communities to be fully involved in the planning and provision of education for themselves and their children;
- to achieve parity in participation rates by Aboriginal people with those of other Australians in all stages of education;
- to achieve positive educational outcomes for Aboriginal people in schooling and tertiary education; and
- to improve the provision of education services across the nation at the local level. (DEET 1988, p. 17)

The final 1988 report to the Government established the necessary foundation for the Government to issue the first National Aboriginal and Torres Strait Islander Policy Statement in the following year. The key goal of the inaugural policy was to bring about a concerted effort to change things for the better for Indigenous Australians. This policy will be subject to further analysis in the next chapter.

In 1989 the Government

announced the Aboriginal Education Strategic Initiatives Program (AESIP, later IESIP [Indigenous Education Strategic Initiatives Program]). This marked a diversification of funding policy, because rather than provide benefits to individual students to enable them to study, IESIP directed funds to institutions such as universities and TAFE colleges for Indigenous education. In the same year, Parliament passed the Aboriginal Education (Supplementary Assistance) Amendment Bill 1989 ('the Principal Act') (the word 'Indigenous' replaced 'Aboriginal' after an amendment in 1995). This Act gave effect to IESIP's focus on education providers and their Indigenous education initiatives. (Parliament of Australia 1999, p. 2)

This was a significant shift towards incentivising, for example, higher education institutions to provide pathways and participation of Indigenous people in university studies.

In 1989 also, the House of Representatives Standing Committee on Aboriginal Affairs had given unequivocal support for ABSTUDY in its report, A Chance for the Future: Training in Skills for Aboriginal and Torres Strait Island Community Management and Development:

The Scheme over the nearly 20 years it has operated has been enormously successful in giving financial support to Aboriginal students to upgrade their skills and acquire additional educational qualifications. The Scheme has played a major role in the greatly improved educational standing of the Aboriginal community that has taken place in the last 20 years. In making its comments the Committee does not derogate from the vital role the scheme has played, and will continue to play, in upgrading educational standards for Aboriginal people. Overall, the scheme is strongly supported by the Committee and must continue as a discrete scheme designed to assist Aboriginal and Torres Strait Islander students (Stanley & Hansen 1998, p. 80).

In 1991 the Australian government parliament passed, by unanimity, the Council for Aboriginal Reconciliation Act 1991 with the aim of reconciling differences between Indigenous and non-Indigenous people by the end of 2000. According to Andrew Gunstone,

this ten-year [Reconciliation] process had three primary goals: to educate the wider Australian community about reconciliation and Indigenous issues; to foster an ongoing national commitment to address Indigenous socioeconomic disadvantage; and to investigate the desirability of developing some form of document of reconciliation, and if it was considered desirable, to provide advice concerning the content of such a document. (2008, p. 1)

The first part of this process was carried under the Labour Party Government, with Bob Hawke as Prime Minister. During the Hawke

Government, the Council for Aboriginal Reconciliation Act was established in 1991. The Council was proposed as a

national body to drive the process, with an Indigenous majority and twenty-five prominent members drawn from the business sector, trade unions, religious groups, the media, and community sector organizations (Brennan 2004, p. 2).

It was designed to promote reconciliation initiatives, and encourage through leadership, education, and discussion a deeper understanding of Aboriginal history, cultures, dispossession, and continuing disadvantage. (Brennan 2004, p. 3)

Very soon after this, Hawke was displaced as the Prime Minister. Paul Keating, the former Deputy Prime Minister, now in charge, issued the Labor Party Government with a renewed agenda, which included his own agenda for reconciliation with the Indigenous population. One of the key symbolic actions taken by Keating was the 'Redfern Speech'. This was the first time a political leader acknowledged in public the damage caused by colonial and contemporary governments to Aboriginal peoples in Australia. This was an attempt to rupture the Australian belief in the good intentions and essential benevolence of Australia's historical treatment of the Aboriginal population and the emergence of a revision of this narrative; one which recognised and implicated the governments and Australian society as a whole, in the legacy of disadvantage that accrued from colonial injustice. Discursively this signalled intent to reposition the relationship between Indigenous and non-Indigenous Australians as a respectful, equal partnership, and challenged the country directly to reconcile with its colonial past.

Four years later, the country rejected the new partnership and voted in 1996 to install John Howard as the new Prime Minister leading Liberal/National Coalition. Howard's Conservative agenda oversaw a significant shift in the conceptualisation of 'reconciliation' and Indigenous affairs in general. He

largely rejected the previous Hawke and Keating Labor Governments' policies of advocating a limited notion of Indigenous rights (such as self-determination and native title, but not a treaty or National land rights) and symbolic reconciliation (such as formally recognising the Aboriginal flag). (Gunstone 1998, p. 1)

In relation to the Conservative's reconfigured aims for the Reconciliation process, a policy of 'practical' reconciliation was installed. According to Gunstone (1998), Howard's purpose was 'to redefine reconciliation as that concerned primarily with improving Indigenous socio-economic disadvantage rather than either the three broad reconciliation goals or symbolic acts of reconciliation, such as apologizing to the stolen generations' (p. 2). The Howard government moved systemically to tighten all benefits to Indigenous people and their rights to the land. For Gunstone and other critics, these changes were synonymous, with previous assimilationist policies, 'as an attempt to avoid any discussion and debate about the need for structural, institutional changes in Australian society' (1998, p. 4).

These changes draw attention to the significance of shifts and changes in governments for the larger public discourses which order and give shape to debates in Indigenous affairs. Analysis of changes to ABSTUDY in the Howard government era (1997-2007) will reveal, once again, how policy in Indigenous affairs can be viewed as a 'discursive contest' (Bacchi 2004, p.131) and the fragility of positive discrimination measures caught in the tensions between concepts of egalitarianism and perceptions of preferential treatment for Indigenous Australians.

ABSTUDY in the Howard government era (1997-2007)

ABSTUDY was one among many programs targeted by the new Coalition Government. Changes to ABSTUDY were positioned in relation to changes to the AUSTUDY scheme, which provided means-tested allowances for eligible non-Indigenous Australians. For example, the

Government released a Discussion Paper related to a Review of ABSTUDY ,in the context of the Government’s plans to introduce a Youth Allowance which will replace AUSTUDY and a range of other forms of income support for young people’ (DETYA 1997, p. 4).

Following the Bills Digest No. 16 (1999-2000) in the May 1997 Budget announced major changes to ABSTUDY to commence from 1 January 1998. The Government announced changes to ABSTUDY with the rationale of ‘Better Targeting of Abstudy’, as follows:

- These Budget measures ensure that Abstudy funds are more effectively targeted to improve educational outcomes for Indigenous people.
- The Government recognises that Aboriginal and Torres Strait Islander peoples are the most educationally disadvantaged people in Australia, with school retention rates well below those of other Australians. Although the number of Indigenous students enrolled at all levels of education has increased the gap between educational outcomes for Indigenous peoples and other Australians is still unacceptably wide. The Government will continue to provide support to improve the Indigenous outcomes of Indigenous Australians.
- The reforms announced in this Budget include changes to travel entitlements, additional incidentals allowance, and the ‘at home’ rate of school fees allowance. An abatement⁷ to all living allowances as well as income tests on the Masters and Doctorate Award allowances will also be applied.
- In addition, courses which are comprised wholly or substantially of away from base components, such as residential schools and field

⁷ Abatement is the reduction to Abstudy benefits as recipients’ earned or other income increases.

trips, will no longer be approved and a limit will be placed on the number of tertiary courses at undergraduate and higher levels for which assistance may be required. (Stanley and Hansen 1998, p. 33)

The rationale was to 'ensure that Indigenous Australian students receive the most appropriate form of assistance, with a view to maximizing Indigenous participation and retention rates' (DEETYA 1997, p. 4).

The ABSTUDY changes actually implemented in 1998 were:

- incorporation of abatement rates into the income tests applying to the living allowance and the dependent spouse allowance so that assistance would gradually decline with increasing income rather than suddenly ceasing at a specific income threshold;
- limitation of Away-from-Base assistance to a maximum of 40 days per year (8 weeks), and assistance for return travel limited to six trips;
- reduction of travel for compassionate reasons to two return trips a year;
- targeting of graduation travel entitlements to students who gained approval to undertake their course away from their permanent home, under conditions applying to accommodation and travel allowances;
- limitation of Additional incidentals allowance to a maximum of \$2,000 per year;
- capping of the allowance for travel and accommodation for post-graduate students at \$2080 a year;
- application of student and partner or parental income tests to Masters and Doctorate Award students and, in the case of students not meeting the relevant income test(s), cessation of the entitlement to supplementary Masters and Doctorate allowances;

- discontinuation of support for courses comprised wholly or substantially of away-from-base components (i.e. residential schools and field trips);
- application of an income test to the 'at home' rate of school fees allowance; removal of the entitlement to interstate travel for tertiary students undertaking basic tertiary courses and away-from-base activities as part of basic tertiary courses; and
- discontinuation of travel entitlements for dependents of students during the academic year. (DEST 2006, p. 38)

According to Gunstone, the implementation of these broad changes to the Scheme had an immediate negative impact on Indigenous participation:

these changes, which ensured the mainstreaming of Abstudy, saw a significant reduction of over 10 percent in the number of Indigenous people accessing both University and TAFE sectors in a single year, from 1998/99 to 1999/2000. (Gunstone 1998, p. 4)

While previous reviews of Abstudy had contested the fairness or otherwise of income-testing, the Howard government went ahead and implemented income and other restrictions. From the Foucauldian perspective, this represents a key discursive event in the development of measures on behalf of Indigenous people. The rationale of positive discrimination to rectify predicaments of Indigenous people as a result of colonisation is displaced in favour of other lines of reasoning to suit the conservative government. For example, as in Williams and Chambers discussion of income-testing in the 1984 review, the Howard government rationalises the implementation of income-testing of Indigenous students on the basis of an individualist moral ethic of 'individual neediness without reference to ascriptive characteristics' (Wang 1983, p. 192) that arise from membership of a group that has suffered past negative discrimination. At the same time, the changes proposed by Howard are presented as an instrumental means to maximise access,

participation and retention rates through a restricted allocation of resources that is argued to be more targeted and appropriate. The underlying proposition that sits safely just out of view is that a formal assessment of income equality meets the test for of equal educational opportunity.

Amidst concern from Indigenous Australians, in 1998 and almost thirty years after its establishment, a longitudinal analysis of ABSTUDY was commissioned by the Aboriginal and Torres Strait Islander Commission (ATSIC, which was the national Aboriginal representative body) and carried out by Owen Stanley and Geoff Hansen. The result was 'ABSTUDY: an investment for tomorrow's employment'. Its brief was to monitor 'the effectiveness of policies and programs for Indigenous peoples administered by other agencies. The main purpose of the review was to provide an input to the wider review of ABSTUDY being conducted by the Department of Employment, Education, Training and Youth Affairs (DEETYA)' (Stanley & Hansen 1998, p. 1). The review included a statistical report on the number of beneficiaries of the program, which went from 115 in 1969 to 48,769 in 1996, with the corresponding expenditure in 1969 of \$62,000 to \$131,631,000 in 1996. They also referred to a DEETYA Annual Report of 1995-96 which referred to an evaluation of ABSTUDY conducted in 1994-95: 'The review found that ABSTUDY was a major contributing factor to improving retention rates for Aboriginal and Torres Strait Islander students' (DEETYA 1996, cited in Stanley and Hansen (1998, p. 80). Another document cited by Stanley and Hansen was a draft evaluation report, 'An evaluation of ABSTUDY' by Anne Byrne (1995), which reported:

approximately half of all tertiary [Indigenous] students and more than a third of secondary [Indigenous] school students said that they would leave study if ABSTUDY was not available; and school students were more likely than tertiary students to consider ABSTUDY support to be adequate. (Stanley & Hansen 1998, p. 80)

The participants in the 1998 review by Stanley and Hansen, including people from all states and territories as well as members of DEETYA, highlighted the overall positive views about ABSTUDY:

- That despite some problems, ABSTUDY has been an outstanding success in allowing Indigenous people to gain access to education.
- Minor variations in the availability of benefits cause hardships and non-attendance.
- The name of ABSTUDY should stay and it should be administered separately from AUSTUDY.
- Despite the efforts of many DEETYA ABSTUDY staff, there are serious problems with the administration of the scheme and this needs review by DEETYA (Stanley & Hansen 1998, p. 81).

What was identified as important were the ‘linkages between improved levels of education and improved employment prospects and incomes for Aboriginal people’ (Stanley & Hansen 1998, p. 1). The review sought to show that, to the extent that ABSTUDY ‘leads to improved educational outcomes by enabling access and participation, the scheme also leads to improved employment and income outcomes for Indigenous people and therefore is an investment in employment’ (p. 1). The reviewers concluded that ‘ABSTUDY and its forerunners have contributed substantially to Indigenous educational successes to date’ (p. 2), but also highlighted that still there was a need for continued public investment in a special Indigenous student assistance scheme to address particular problems in education, employment, and income areas. In education, these were:

- a) Literacy and numeracy skills of Indigenous students are well below those of non-Indigenous students in primary schools.
- b) Since 1992, apparent retention rates to Year 10 for Indigenous students have declined at three times the rate for the Australian population as a whole, which has widened the retention rate gap (the

- different rates between Indigenous and non-Indigenous students) from 16.1% in 1992 to 20.9% in 1998.
- c) Apparent retention rates for Indigenous students to year 12 are much lower than for non-Indigenous students, with the retention gap being 42.1% in 1996. This retention rate and the gap are likely to get worse as the effects of declining year 10 retention rates flows through.
 - d) Indigenous disadvantage at the primary and secondary schooling level flows on to post-secondary education levels, most notably in the TAFE sector where most Indigenous students enrol and graduate in lower level courses designed to improve basic education and basic employment skills.
 - e) The proportion of Indigenous higher education award course completions, compared with all Australian completions, is about one-third of what it should be based on the proportion of Indigenous people in the Australian population. Furthermore, the latest proportion available (1995) indicates declining award completion outcomes, given the higher rate of population growth for Indigenous people and their younger age distribution compared with the overall Australian population.
 - f) Educational outcomes for Indigenous people are much worse in some regions of Australia than others, particularly in rural and remote areas with more traditionally oriented communities. Regional outcomes are 'hidden' in averaged national data.
 - g) The declining educational outcomes (falling secondary school retention rates and an increasing under-representation of completion numbers and higher award levels in the tertiary sector) for Indigenous people run counter to the eight year old National Aboriginal and Torres Strait Islander Education Policy (NATSIEP) goals (1989) and the more recent Ministerial Council for Employment, Education, Training and Youth Affairs (MCEETYA) priorities (1995), both

endorsed by the Commonwealth and all States and Territories.
(Stanley and Hansen 1998, p. 2)

- h) In relation to Employment and Income, the ongoing problems were:
- i) The employment status of Indigenous people is much worse than that of the non-Indigenous population and it appears to be getting worse. The longer-term prognosis for Indigenous employment is very alarming given the higher rate of population growth for Indigenous Australians.
- j) There is ample evidence to show that improving the level of education of Indigenous people will improve their employment prospects and their incomes.
- k) Employment prospects for Indigenous higher education graduates are particularly high suggesting a focus is needed to improve the proportion of graduates from the comparatively low level that already exists. (Stanley and Hansen 1998, p. 2)

The review also found the following matters related to ABSTUDY and the Need for Special Indigenous Students Assistance:

- a. ABSTUDY and its predecessors have been regarded by successive Commonwealth Parliamentary Committees, the Commonwealth Department of Education and its successors, and independent reviewers as successful schemes that have been a major factor in encouraging and enabling Indigenous students to access and participate longer in education.
- b. Given ABSTUDY's importance in improving access and participation, the scheme should not be judged as failing if educational systems, over which ABSTUDY has no influence, have not produced adequate levels of attainment for ABSTUDY recipients in those systems. However, the improved level of education in the Indigenous community that has followed increased participation should be regarded as an important outcome of the scheme.

- c. Successive reports show that ABSTUDY has been plagued with administration problems for at least a decade, and there is evidence that many of these problems persist today.
- d. A major deficiency in ABSTUDY administration is the lack of data being collected to measure the extent to which ABSTUDY has led to improved educational and employment outcomes for ABSTUDY recipients through greater access to and participation in education.
- e. Any review of ABSTUDY involving those responsible for its administration should give careful consideration to separating good policy objectives from failings in administration so that good policy is not abandoned as a simple means of overcoming administrative problems.
- f. The success of ABSTUDY in reaching its full potential depends on its financial adequacy given the comparatively lower economic status of Indigenous people in terms of employment, income levels and asset bases. There is a need for those responsible for administering ABSTUDY to review the current financial adequacy of the scheme in light of the current declining educational outcomes for Indigenous people.
- g. ABSTUDY has been important in improving Indigenous participation in education and thus in improving employment prospects and incomes.
- h. There is a strong case for retaining a special Indigenous student assistance scheme on the grounds that:
 - i. ABSTUDY has long been acknowledged as a successful scheme for improving participation in education;
 - j. Programs aimed at educational institutions to improve Indigenous education outcomes are limited by the extent to which Indigenous people are able to access and participate in education for want of adequate financial assistance;
 - k. ABSTUDY is an investment in employment;

- l. ABSTUDY is an investment in social well-being;
- m. Some opportunity costs of ABSTUDY are likely to be more costly in economic and social terms in both the shorter and longer terms;
- n. ABSTUDY, if sufficient, provides an incentive for Indigenous people to pursue education rather than resort to other means of income support that require less effort than education and offer little for future employment prospects; and
- o. On equity grounds, ABSTUDY offers an opportunity for Indigenous people to overcome the range of economic and social inequities they currently face. (Stanley and Hansen 1998, p. 4)

One important aspect explored in the Stanley and Hansen review was the changes to ABSTUDY in the 1997-98 Federal Budget. The review accepted there were issues with ABSTUDY and indeed identified areas where things might be improved. In relation to the administration of the scheme, they reported, there was evidence of ‘rorts’ and ‘waste’ about the delivery of the scheme. For example,

non-Indigenous students claiming ABSTUDY; ABSTUDY benefits being paid to parents and not being used for educational purposes; in cases of family breakdown, ABSTUDY living allowances being paid to parents and guardians benefited in the way envisaged. (Stanley & Hansen 1998, p. 83)

Examples of ‘waste’ included: ‘ABSTUDY recipients using ABSTUDY benefits to travel interstate for similar or identical courses offered closer to their home base; and ABSTUDY recipients using travel entitlements to undertake the same ‘basic’ course year after year’ (Stanley & Hansen 1998, p. 33). The reviewers called for the addressing of these situations but with careful consideration, because while some of the changes of the Budget appeared to be aimed at these problems, the risk of treating them in a general or universal way could impact on students with genuine needs.

Stanley and Hansen's (1998) review supported the continuance of ABSTUDY as a separate special measure, in recognition of the educational disadvantage of Indigenous Australians. However, they stopped short of argumentation that emphasised the legal and moral right of positive discrimination. Rather, Stanley and Hansen emphasised the instrumental advantages to doing so (Moses 2010), by a reasoning that linked ABSTUDY to educational access, participation and outcomes and educational outcomes to future employment and social well-being. Given that an Aboriginal representative body (ATSIC) commissioned the report, the appeal to the instrumental purposes of special measures perhaps suggests ATSIC's heightened awareness of the deeply conservative political conditions at the time and need to persuade government in terms that made sense to and could fit with the government's ideological worldview. For example, the terminology of 'investment in employment' can be viewed as strategically significant in that it coheres with dominant discourses within capitalist democracies, by signalling the importance of educational outcomes to Indigenous Australians as contributors to the economy rather than as an economic burden. These discourses position education as essential to the development of a workforce to support capital investment in industries, to maintain high levels of national employment and productivity, and to keep social welfare outgoings contained. This strategic compromise on the part of ATSIC can be viewed as a form of manoeuvring within the discursive field, in an attempt to recruit the dominant discourse for instrumental Aboriginal purposes.

The Stanley and Hansen 1998 review reflected an attempt by ATSIC to reposition the debate around the alignment of ABSTUDY with financial assistance allowances for other students. As noted above, in an earlier public Discussion Paper on ABSTUDY (DEETYA 1997), the Howard government had signalled its intention to review ABSTUDY's alignment with programs for other students. These other programs were also under review and the government declared that from 1 July 1998 'income support for eligible full-

time students aged 16 to 24 will be provided by the Youth Allowance. The Youth Allowance will replace AUSTUDY and a range of other income support schemes for young people' (DEETYA 1997, p. 7). A fundamental proposition in the DEETYA Discussion Paper was whether to maintain ABSTUDY as a separate scheme, or to incorporate the ABSTUDY living allowance into Youth Allowance. This was not a straightforward proposition for the Government as there were significant differences between ABSTUDY and the other allowances, particularly in terms of 'its client group, the [different] level of assistance and range of benefits provided, and the criteria used to establish independence' (DEETYA 1997, p. 8). The arguments presented in the review against this were:

- Indigenous Australians may require substantial assistance in order to improve participation and outcomes, and may not receive this level of assistance under income support arrangements applying to the non-Indigenous population.
- Those currently eligible for ABSTUDY include significant numbers in age groups outside the age range for the Youth Allowance. A significant proportion of Indigenous students may need to be assisted outside the Youth Allowance.
- Other groups may also not be eligible for the same level of assistance under the Youth Allowance (students in lawful custody, for instance). These groups would either lose eligibility or would need to be catered for under arrangements which would add to the complexity of the Youth Allowance.
- The different treatment of ABSTUDY recipients on issues as independence would need to be considered in any changes.
- Combining ABSTUDY with the Youth Allowance may reduce incentive for Indigenous students to study.
- Targeting assistance through the same means testing provisions applying to the non-Indigenous population (that is, including assets

and actual means tests which do not currently apply to ABSTUDY applicants) would add to the complexity of the application process. Given that fewer Indigenous families have large assets and complex financial arrangements, the gain in terms of better targeting might be small.

- Maintenance of ABSTUDY as a separate scheme may allow more effective delivery of assistance to Indigenous young people (for example, through the use of Indigenous staff and outreach to Indigenous communities). While suitable administrative arrangements could also be put in place under the Youth Allowance, maintenance of ABSTUDY administrative structures would provide a continued focus on Indigenous educational assistance and its delivery. (DEETYA 1997, p. 11)

Almost two years later, in December 1998, the Government announced that ABSTUDY would be maintained as a separate scheme (Parliament of Australia 1999, p. 2). Following the Bills Digest, however, it was clear that although the government retained it as a separate scheme, the alignment with other student allowance programs would proceed, as they announced intended 'changes to operate from 1 January 2000, which to a large extent would assimilate ABSTUDY benefits to those payable to non-Indigenous students under the Youth Allowance' (Parliament of Australia 1999, p. 2).

By December 1998, the Minister for Employment, Education, Training and Youth Affairs, David Kemp, formally announced the alignment of ABSTUDY benefits to the existing Youth Allowance available to all young Australians. Other benefits under ABSTUDY were aligned with other existing income support and entitlement schemes: Austudy, Newstart, Pensioner Education Supplement, Assistance for Isolated Children and the Australian Postgraduate Award (first aligned in 1998). The changes were to come into effect on 1 January 2000 (ATSIC 1999, p. 5). These changes included:

the alignment of ABSTUDY Living Allowances and means tests with those of the Youth Allowance for students aged 20 years or less and with those of Newstart for older students; replacement of income-tested dependent spouse allowance with Parenting Payment in keeping with mainstream provisions; and alignment of conditions governing fare assistance and sleeping berth travel for tertiary students with those applying under the Youth Allowance and AUSTUDY'. (DEST 2006, p. 41)

Minister Kemp claimed that these changes were 'designed to improve the 'clarity, simplicity, equity, administrative efficiency and accountability of ABSTUDY' (Minister Kemp's media release of 17 December 1998, quoted in DEST 2006, p. 41). Here, the linkages between the levels of financial assistance provision and education access, participation and retention rates and future Indigenous employment and economic participation disappear from view.

However, the concerns of Indigenous Australians did not abate and further attempts to maintain a focus on Indigenous educational impacts continued. In 1999, an analysis of the proposed changes commissioned for the Aboriginal and Torres Strait Islander Commission (ATSIC) was conducted to determine the impact of the proposed changes to be implemented in the year 2000. According to the ATSIC, the changes 'are a continuation of the process of ABSTUDY alignment with the general education, training and social service assistance schemes established by the Federal government' (ATSIC 1999, p. 5).

In 2000, ABSTUDY also suffered administrative changes, and was now to be managed by Centrelink, an Australian Government agency responsible for delivering a range of services and unemployment benefits to low-income and unemployed Australians:

under the terms of a contract with DEST, Centrelink is responsible for the general administration of the ABSTUDY scheme, specific services to Indigenous people which reflect the nature of the scheme, support, assistance in completing and

lodging application forms and promotion of the scheme through the provision of culturally appropriate services. (DEST 2006, p. 41)

The movement of the management of ABSTUDY to Centrelink removed it from the purview of the educational expertise that had been given as the rationale for the previous removal of Abstudy from the oversight of the Department of Aboriginal Affairs to the Education portfolio. Centrelink is the government bureau tasked with managing a range of payments and income supplements which constitute Australia's social security safety net for the most vulnerable in society, such as the unemployed, those unable to work or disabled, the aged, low-income families, single parents and child support. Australian public support for looking after the vulnerable in society is a national value that is balanced by understandings of fairness and a disdain for those who falsely claim benefits. The social security discourse under the Howard government focussed national attention on the latter. Under Minister Vanstone, Centrelink established Australia's largest database for cross-checking client information in relation to personal circumstances and income information. Indigenous Australians' entitlements to educational benefits came under this regime of surveillance.

Through this operational shift, the earlier prioritisation of Indigenous education assistance as a necessary and urgent positive discrimination measure to redress past treatment is delegitimised and recast as an excessive preferential treatment that is by its nature 'unfair'. That is, clever shifts in 'equity' term enables a political ideology to open the public space for the representation of positive discrimination as unacceptable if it instates group privilege via access to benefits above and beyond what other Australians have. Despite rhetorical statements to the contrary, these shifting conditions reposition Indigenous Australians, not as the most disadvantaged group in the nation as a result of historical negative discrimination, but as the 'unique beneficiaries of what is often called reverse discrimination' against other groups, in this case, all other Australians (following Gelder and Jacobs 1998,

p. 13, cited in Bacchi 2004, p. 135). Thus in this discursive contest, my analysis reveals that the national narrative of 'fairness' is a discursive constant and can be harnessed to support arguments in opposed directions. Views on what constitutes 'fairness' or even 'justice' are subjective and perspectival and open to revision in changing contexts, according to a political bent. In one swift act, the struggle of Indigenous Australians to overcome the disadvantage accrued from past discrimination and injustice is rendered no different from that of other individuals in similar financial circumstances.

However, what this positioning also obscured from view was a consideration of whether financial assistance for other students in similar financial circumstances was adequate or reflected the costs of living for students. Once again, Indigenous students' need for financial assistance was contextualised by wider discussions, which identified Indigenous students as sub-cohort of all other students. By 2000, concerns about the adequacy of government financial assistance for all Australian higher education students prompted the Australian Vice-Chancellor's Committee to commission the 2000 Survey of Australian Undergraduate University Student Finances. The first report put it bluntly: 'being a university student in Australia in the year 2000 is tough – financially speaking' (AVCC 2001, p. 2). The details reflect the complex context that many students of Australia have to face when studying a degree at University. For Indigenous peoples, this has to be analysed with regard to addressing the complexities and difficulties they face, considering their educational disadvantage. First, the broad findings of the survey:

- annual student budgets are in overall deficit by an estimated 21 per cent – in the case of full-time students, the estimated deficit is 42 per cent;
- seven in every ten students are in paid employment during university semesters – an increase by about one-half since 1984;

- among full-time students, the average number of hours worked by those in paid employment during semester is 14.5 hours per week – a three-fold increase since 1984;
- one in every ten students obtains a loan in order to be able to continue studying – the average amount borrowed is \$4,000, which is substantial in the context of the average income of students;
- one in every ten students in paid employment during semester ‘frequently’ misses classes because of that work;
- work adversely affects study ‘a great deal’ for two in every ten students in paid employment during semester;
- financial circumstances influence student choices regarding course undertaken (11.1%), university attended (17.4%) and mode of study (23.3%);
- of students who have financially dependent children, nearly two in ten miss classes ‘sometimes’ or ‘frequently’ because they cannot afford childcare; and
- one in every ten students misses classes ‘sometimes’ or ‘frequently’ because they cannot afford travel to university. (AVCC 2001, p. 2)

In relation to Indigenous students, the survey recognised that Indigenous students ‘have lower levels of age-specific participation in most forms of education than non-Indigenous students.... [and] the age-specific participation rates of Aboriginal and Torres Strait Islander people are quite low’ (AVCC 2001, p. 17). The survey showed that one of the groups of full-time students who were more likely to report that their educational choices were affected by financial circumstances were Indigenous students (p. 78). For the case of part-time students, again Indigenous students were affected in their educational choices for their financial situation.

For the case of paid employment, the survey showed full-time, non-Indigenous students ‘are more likely to be employed than Indigenous

students' (AVCC 2001, p. 99). Similar to full-time students, 'part-time students with higher incomes are more likely to miss university classes more than part-time students with lower incomes' (p. 109). According to 'government support', 'full-time students who receive Youth Allowance, Austudy or Abstudy report adverse effects of paid work on their study at a rate only marginally above that of students who receive no support' (AVCC 2001, p. 118). The survey also explained that there were groups more likely to report that their paid employment negatively affected their study a great deal. They were:

older, except for males over 45 years; from lower socioeconomic families – rates for the lowest category of socioeconomic status are more than two-thirds higher than for the highest category of socioeconomic status – 20.4 per cent compared with 13.0% for males and 18.5% compared with 11.6% for females; Indigenous female students – 21.2% for Indigenous students compared with 14.0% for non-Indigenous students. (AVCC 2001, p. 119)

The cost of travelling to attend classes was also established as affecting Indigenous students, because 'Indigenous students are more than twice as likely as non-Indigenous students to miss classes because they cannot afford to travel to university. This relationship holds for male and female full-time students and for female part-time students' (AVCC 2001, p. 141).

The next survey of the Australian Vice Chancellors' Committee in 2006 considered specific questions for Indigenous students. Those results were reported in a dedicated chapter due to the 'recognition of the often distinctive family and financial situations under which Indigenous students are studying and the need to develop policies and programs to raise higher education access, participation and completion rates' (AVCC 2007, p. 1). All Indigenous students in public universities were surveyed, and 1,207 responses were received:

80.7 per cent were undergraduate students, compared with 75.7 per cent for the non-Indigenous students. Seventy-one per cent of the Indigenous students were full-time students, comparable to the proportion of full-time students among non-Indigenous students in the sample; 69.7 per cent of the Indigenous students were female, compared with 66.6 per cent among the non-Indigenous students. (AVCC 2007, p. 43)

In relation to enrolment, some of the findings, when Indigenous students were compared with non-Indigenous students, found that:

Undergraduate Indigenous students were more likely than non-Indigenous students to be enrolled in enabling courses (3.8 per cent compared with 0.5 per cent) and diploma level courses (4.7 per cent compared with 1.7 per cent); and only 18.9 per cent of the Indigenous students were enrolled in Group of Eight universities, compared with 29.3 per cent of non-Indigenous students. (AVCC 2007, p. 43)

There were also demographic differences and that may affect the study of Indigenous students:

47.8 per cent of Indigenous students were aged thirty years or older compared with 30.2 per cent of all non-Indigenous students; 65 per cent of undergraduate Indigenous students were not financially dependent on others compared with 44 per cent of all undergraduate non-Indigenous students and, similarly, 78 per cent of postgraduate Indigenous students were not financially dependent on others compared with 71 per cent of all postgraduate non-Indigenous students; 18.8 per cent of Indigenous students reported they were the sole carer of another person compared with only 6.4 per cent of non-Indigenous students; 30.2 per cent of Indigenous students had dependent children compared with only 16.6 per cent of non-Indigenous students; and 15.0 per cent of Indigenous students reported having a disability or condition that affected their studies compared with 6.1 per cent of non-Indigenous students. (AVCC 2007, p. 43)

According to the income sources of Indigenous students, the survey also revealed that

undergraduate Indigenous students reported a higher average total income than non-Indigenous undergraduate students. The majority of the overall income for undergraduate Indigenous students came from paid employment, although the average amount earned from paid employment was lower for Indigenous students than for non-Indigenous students (\$11,490 compared with \$11,960). (AVCC 2007, p. 45)

In relation to expenditure and patterns of debt of Indigenous students, 'Indigenous undergraduate students reported slightly higher levels of total expenditure than non-Indigenous students (\$17,980 compared with \$17,390). The undergraduate student mean for general expenses was \$15,960 for Indigenous students compared with \$15,700 for non-Indigenous students' (AVCC 2007, p. 49). For the case of Indigenous postgraduate students, they 'reported lower general expenses than non-Indigenous students (Indigenous \$20,180 compared with non-Indigenous \$21,500), but significantly higher levels of study-related expenses (Indigenous \$2220 compared with non-Indigenous \$1870)' (AVCC 2007, p. 49).

An important issue revealed in the survey was that in relation to the influence of financial situation on capacity to study, choice of course, university and mode of study, the review found that the financial circumstances of Indigenous students have a profound effect on their university study and whether or not they even enter higher education studies. Predictably, concerns about their finances were higher for Indigenous students than non-Indigenous students and a simple analysis can gauge that these concerns will affect their performance at University, increasing the risk of leaving studies. The survey also highlighted Indigenous students as working longer hours on average than non-Indigenous students, which helps explain why their income levels were greater than those of non-Indigenous students.

Indigenous students also recognised the impact of work, 'with a large proportion reporting adverse effects' (AVCC 2007, p. 55). What is possible to read from the result of the survey is that financial issues quite clearly are

having a negative impact on Indigenous students. For example, if they have to find a job to increase their income, they are reducing their hours of study, and this is reported as affecting their performance and educational outcomes at universities.

The final results of the 2006 Survey presented in August of 2007 pointed to a continuing need to develop policies and programs to improve Indigenous higher education access, participation and completion rates, and that ‘the financial circumstances and income support for Indigenous students are likely to be central issues in advancing Indigenous higher education’ (AVCC 2007b, p. 54). The most important findings of the survey were:

- Indigenous students were far more likely to agree that their financial situation was often a source of worry to them (72.5 per cent) than non-Indigenous students (52.5 per cent);
- Indigenous students were almost twice as likely to go without food and other necessities because they could not afford them (25.4 per cent) than were non-Indigenous students (12.8 per cent);
- Indigenous full-time undergraduate students in paid employment during semester worked on average three hours per week more than their non-Indigenous counterparts in a typical week (17.8 hours, compared with 14.8 hours) and Indigenous full-time postgraduate students in paid employment during semester worked 3.6 more hours in a typical week than non-Indigenous postgraduate students (18.9 hours compared with 15.3 hours);
- A higher proportion of Indigenous students reported that they regularly missed classes or other study activities because of their paid work commitments (undergraduate 29.1 per cent compared with 25.7 per cent of non-Indigenous students; postgraduates 40.3 per cent compared with 26.7 per cent of non-Indigenous students);

- Indigenous undergraduates were more likely to have some form of income support than non-Indigenous undergraduates and they had a higher overall mean income (\$18,520) than non-Indigenous undergraduates (\$16,030). Indigenous postgraduates were also more likely to have some form of income support than were non-Indigenous postgraduates, however they had a lower mean overall income (\$32,060) than did non-Indigenous postgraduates (\$36,830);
- Indigenous students were more reliant than non-Indigenous students on university and student association subsidised services, such as childcare and counselling;
- Indigenous undergraduate students were far less likely to rely on cash and non-cash assistance from others than were non-Indigenous undergraduate students;
- Postgraduate Indigenous students were less likely to rely on non-cash assistance but more likely to rely on cash assistance than non-Indigenous postgraduate students;
- Indigenous students' general and study-related expenses were higher overall than those of non-Indigenous students;
- More Indigenous students had taken out a loan in order to study than non-Indigenous students (undergraduates 33.8 per cent compared with 24.4 per cent; postgraduates 34.4 per cent compared with 20.2 per cent);
- The average loan taken out by Indigenous postgraduate students in order to study (\$8250) was larger than the average loan taken out by non-Indigenous postgraduate students (\$6520); and
- More part-time Indigenous students indicated that they would prefer to study full- if their financial circumstances permitted it (76.7 per cent) than non-Indigenous part-time students (62.2 per cent), especially postgraduates (78.9 per cent compared with per cent). (AVCC 2007b, p. 56)

Here, the peak council of Australian universities, and their Vice-Chancellors drew attention to the changing study conditions of Australian higher education students amidst the changing conditions of a rapidly expanding and globalized higher education sector and decreased government funding for universities in real terms. Student finance is one small part of universities concerns over funding.

Significantly, amidst these wider ongoing debates and discussions in 2006, the Department of Education Science and Training conceded that the implemented 1998 - 2000 changes to ABSTUDY did have a negative impact on Indigenous students. However, the department was quick to emphasise the positive effects:

between 1993 and 1999, recipient numbers rose from just over 42,500 to 54,000. After 1999, growth was more erratic and generally weaker. The decline of 7.4 per cent to 50,028 recipients in 2000 was followed by an increase of 8.1 per cent in 2001. In 2004, there were 54,697 recipients, 1.5 per cent more than in 1999 and 28.6 per cent more than in 1993. (DEST 2006, p. 46)

This is a somewhat disguised representation of the statistical data to show the gains made in overall numbers at all levels against the previous ten years. But the results when disaggregated by educational sector show that in higher education, the number of ABSTUDY recipients hardly changed (5,324 in 1993 to 5,332 in 2004), with a decline in the year 2000 that directly relates to the changes made to the ABSTUDY program from 1998-1999 by Prime Minister Howard and Minister Kemp.

More significantly, the report conceded that the living allowance 'has never retained its 1993 value of \$3,618 although it did come relatively close to doing so in 1999' (DEST 2006, p. 56). In that year, the amount was \$3,545, although adjusted for increases in the CPI (the Consumer Price Index) it means a reduction in real terms. For example, it was conceded that by 2004:

the real value of Living Allowance was 14.6 per cent lower than it had been in 1993. The fluctuating trend shows two large declines. In the first of these, between 1993 and 1996, the average real value dropped by 11.9 per cent to \$3,190. The second major decline occurred between 1999 and 2003 when the value fell by 16 per cent, from \$3,545 to \$2,977. However this was followed by a 3.7 per cent rise in 2004. (DEST 2006, p. 56)

The review accepted that the long term reduction in the real value of the ABSTUDY Living Allowance was linked to ‘changes to the income tests and other conditions applying to ABSTUDY, either through their direct impact on actual payments or indirectly by encouraging or discouraging applications from individuals with different characteristics’ (DEST 2006, p. 56).

In sum, over the decade of the conservative Howard government, the earlier conceptualisation of ABSTUDY as a legitimate positive discrimination measure is displaced as ABSTUDY is brought into line with the normative rationales that support the allocation of student financial assistance on the basis of individual need. Indigenous students’ educational ‘needs’ are constituted not on the basis of past collective negative discrimination or their Indigenous status, but rather as individuals based on their socio-economic status. My explication and analysis reveal how over time and amidst shifts in discourses, a normative and instrumental rationale for Indigenous student assistance is used to submerge the positive discrimination and moral rationale based on historical negative discrimination against Indigenous people. This analysis also reveals how ABSTUDY continues to be a site for ongoing contests and debates shaped by the wider contexts and interests through which they are related and given their order.

ABSTUDY under the Rudd and Gillard Labor governments (2008 – 2013)

The DEST review of 2006 was the last ‘official’ submission related to the changes and implementation of the ABSTUDY Scheme. After that, it was

only possible to find isolated documents and information about the Scheme, especially in relation to the 'debate' about the permanency or not of the Scheme. This would appear to signal that the alignment of ABSTUDY with other student allowance schemes was to all intents accepted as reasonable or, at least, unlikely to change. However, Indigenous students' progress in higher education continued to be a subject for debate and continued to be contextualised by other changes occurring in the sector and the political persuasions of changing governments. Student finance continued to be one focus of wider debates about directions in higher education and Indigenous people continued to make representations on the matter.

In 2008, the recently elected Labor Government commissioned a major Review of Australian Higher Education (Bradley, Noonan, Nugent & Scales (2008). The Indigenous Higher Education Advisory Council to the Federal Minister took the opportunity to inform the reviewers of

the under-representation of Indigenous people within the higher education system as a whole with specific attention paid to the under-representation of Indigenous students. The factors behind such under-representation are complex, multi-faceted and interrelated. They include, but are not confined to, the high rates of poverty and its incumbent educational disadvantages; high attrition rates of Indigenous students, particularly in senior secondary school years; and the over-representation of Indigenous students undertaking vocational rather than academic studies in Years 11 and 12. The consequence is a low proportion of Indigenous students who possess the prerequisites needed to enrol directly into higher education courses. (IHEAC 2008, p. 1)

An important statement of the Indigenous Higher Education Advisory Council (IHEAC) submission to the Review panel suggests that

as there is no one Indigenous higher education 'problem' there is no one Indigenous higher education 'solution'. Council argues that in order to improve Indigenous higher education outcomes

across the sector a national approach is required. (IHEAC 2008, p. 1)

The suggested national approach had to be flexible, comprehensive and coordinated, considering the heterogeneity of Indigenous peoples in Australia. For the development of a national strategy, the Council identified a set of key policy strategies, which will be analysed in the next chapter.

In relation to the ABSTUDY Scheme, the Council's submission noted that: 'it has been reported that 25.8 percent of Indigenous students received ABSTUDY in 2006 compared to 19.2 percent of non-Indigenous students on Youth Allowance' (Universities Australia 2007, cited in IHEAC 2008, p. 17). From this it is agreed there is a larger proportion of Indigenous students receiving income support. However, concern is expressed about the numbers of not qualifying for full support and the financial strain on families:

It is not clear however how many Indigenous students receive the maximum payment amounts. Indigenous families on moderate incomes, who may well have, through their own efforts positioned their children to be more likely to succeed in schooling and higher education, are most at risk of not receiving full ABSTUDY support. (IHEAC 2008, p. 17)

The Council goes on to argue that, 'it has been well documented that the provision of government income support (and most scholarship support) for higher education students [of all backgrounds] does not come anywhere near meeting the costs of living and study' (University of Melbourne 2004, University of Queensland 2004, cited in IHEAC 2008, p. 17). This is even more so as they suggested for Indigenous students. One clear example is given:

an eligible Indigenous student who is under 21, living away from home and receiving the maximum ABSTUDY rate will receive \$9240 per annum. As an example of costs, the University of Melbourne estimates that living expenses for an individual student in a shared house within six kilometres of the university costs anywhere between \$16,500 and \$24,200 per

annum. A residential college for 40 weeks costs between \$22,900 and \$31,300 per annum. This does not include costs associated with study which can add up to \$2000 per annum. (IHEAC 2008, p. 18)

Considering the real living expenses, it is clear why so many Indigenous Australian students have to work to increase their income to cover the expenses related to their studies. Under the abatement conditions in the reconfigured ABSTUDY installed by Howard/Kemp, 'students can only earn \$6,136 per annum before their ABSTUDY allowance begins to be cut back. A student under 21 can thus bring in a combined total of \$15,376.40 gross; to earn more, the ABSTUDY allowance is cut back at the rate of 50c for every dollar earned' (IHEAC 2008, p. 18). A simple analysis shows that despite the low amounts of money given by ABSTUDY and its evident insufficiency to cover all the expenses related to study at university level, Indigenous students whilst allowed to earn an additional \$6,136 are penalised if they earn more money to increase their incomes. This level of income ill-affords a student to study in Melbourne, not to mention its lower value in relation to the nationally accepted poverty line status of \$21,000.

Here an important issue emerges: if the ABSTUDY scheme was created to reduce the inequalities in educational opportunity for Indigenous students, then increases in participation and improvements in retention rates cannot be achieved if the financial support is not adequate to cover the expenses related to study. As the IHEAC submission to the Bradley Review asserted, in order to improve Indigenous student performance and to reduce the educational gap in relation to non-Indigenous students, and to lift retention, progress and completion rates, 'Indigenous students need to spend more time at study to surmount the challenges arising from previous educational, language and skills shortfalls' (IHEAC 2008, p. 18). If they have to find a job to increase their income, they will have fewer hours to spend studying, affecting both their performance and outcome at university. The Council goes on to express broader concerns:

- Firstly, the erosion of government income support through the categories of assessable income, beginning from a parental gross income base of \$31,400 per annum and a scholarship or personal income base of \$6,130 per annum.
- Secondly, the conditions for independent status where it is easier for a student to achieve independent status through prison time rather than time spent in work trying to accumulate money to study. A student who takes time to work and achieve independent status risks forfeiting any serious savings through a waiting period before benefits will apply.
- Thirdly, there is an absurdly small differential between living at home and living away from home rates. The difference in rates equates to \$121 per fortnight before tax. (IHEAC 2008, p. 18)

The Council identified that, ‘together these conditions ensure Indigenous students have to work to support themselves to study and at the same time live in poverty. Furthermore, students who work are penalised in the process, ensuring that they cannot, through any means, get beyond a level of income that is insufficient to live on’ (IHEAC 2008, p. 18). The Council goes on to claim that ‘students are faced with a disincentive to study, given that, after all their effort, in dire poverty, with well reported social and health issues, and with reduced statistical chances of success, they must then repay a debt to the society historically responsible for their educational and social disadvantage’ (IHEAC 2008, p. 18). (This reference to debt refers to the Higher Education Contribution Scheme, or HECs, that provide loans to be repaid when their graduate incomes surpass a specified level. Unless they are in receipt of a scholarship that covers fees, and most scholarships do not cover fees, Indigenous students graduate or leave university with large debts, as do other Australian students who cannot pay these fees upfront.) However, even scholarship students are disadvantaged, as they are ‘similarly penalised for

high achievement because the income from the scholarship is assessable as income for income support purposes' (IHEAC 2008, p. 19).

Some of the effects of work and poverty on Indigenous students were detailed by the Council to the review panel: class absenteeism; not enough time to study; greater need of extra tutorial instruction, itself complicated by lack of time; under-nourishment; poor accommodation; and lack of sufficient money for incidentals like transportation and computer equipment. According to the Council's submission, any significant restructure of Indigenous student finances must take into account the 'educational challenges that Indigenous students face and the range of well-reported barriers that impinge on their success. This would provide a better rationale for calculating realistic living and study support that allows Indigenous students to focus on learning and study' (IHEAC 2008, p. 19). This is crucial for achieving the goal of reducing inequalities in educational opportunity and educational success for Indigenous students, because with adequate and realistic benefits Indigenous students will be less worried by external issues such as financial matters, and allow more time to be spent on their studies.

In 2009, the Indigenous Higher Education Council also made submissions to the Government's Review of the Australia's Tax System (Henry, Harmer, Piggott, Ridout and Smith 2009): 'on Indigenous student finances and the role of current arrangements in enabling or constraining improvements in Indigenous students' educational access, participation and outcome levels in higher education studies' (IHEAC 2009, p. 1). This submission was made first to raise concerns about the income test regime and thresholds for entitlements as these new parameters for ABSTUDY set forward in the Howard government era now resided within taxation laws. Second, the Council was keen to raise concerns about the status of student scholarships as this too was now determined by taxation laws which set the test for considering receipt of funds as assessable or non-assessable income. It was

feared that some student scholarships would count as assessable income; and if that was the case it would directly affect their ABSTUDY entitlements.

In 2013, a new report of University student finances commissioned for Universities Australia (previously the AVCC) was released, with the aim of providing ‘an evidence-based understanding of the financial circumstances of the student population in Australia (both international and domestic) through the collection of quantitative data on access to income support and scholarships, income from paid employment and the impact of paid work on study, study and living costs and student debt’ (Universities Australia 2013, p. 6). The report was revealing of the ongoing situation of Indigenous student finances:

- Around four in every five Indigenous students worried about their financial situation, and around a third reported they regularly went without necessities.
- Indigenous students reported higher rates of responsibility for family dependents than did non-Indigenous domestic students.
- About two-thirds (66.3 per cent) of Indigenous undergraduate students reported receiving no financial support from family; the corresponding figure for non-Indigenous students was 49.7 per cent.
- Indigenous students were more likely to be the sole financial provider for dependents, and were less likely to receive financial support from family or others.
- Almost half (47.0 per cent) of all Indigenous undergraduate students received ABSTUDY benefits, and significant proportions of Indigenous undergraduates also received other government income support (19.2 per cent), and government or university funded scholarship support (29.1 per cent and 21.1 per cent).
- With the exception of part-time undergraduates, Indigenous students’ expenses were greater than those of non-Indigenous students.

- There were only very small differences in the average number of hours worked for Indigenous and non-Indigenous students. The main difference between the two groups was that substantially more Indigenous students were in work that was related to their area of study. 41.9 per cent of Indigenous full-time undergraduates reported that their work was related to their study, compared with 27.2 per cent of non-Indigenous full-time undergraduates. (Universities Australia 2013, p. 9)

The results overall from the Universities Australia report reveal that Indigenous students: suffer different modes of financial stress compared to non-Indigenous students and this related closely to their historical disadvantage; and that they are usually older than other domestic students with a greater role in caring for others, as well as being the sole financial support for dependents. In addition, and similar to the results of the previous survey (2006), paid work is having a significant impact on their study, and let's not forget the environment and context from which they are coming from and the myriad pressures, as Indigenous Australians, they are constantly under. It is no surprise, therefore, that approximately half of these students report the negative effects of work on their academic performance, a significant increase of 41.7 per cent compared to that reported in 2006 and 'more than a third report missing classes because of work commitments' (Universities Australia 2013, p. 76). Part-time Indigenous students are even worse off, with two thirds reporting adverse effects of work on their studies and over half indicating class absenteeism as a result of work commitments, a 52.7 per cent increase over the 2006 survey. Indigenous postgraduate students report similar problems.

What might we conclude from the results of the 2013 report? Indigenous students are still in a disadvantaged position, despite some circumstances having improved in recent years. A Foucauldian analysis helps to reveal that the AVCC and IHEAC reports on student finance indicate that in relation to

the financial inadequacy of student allowances, there is an emerging coincidence of interests between Indigenous and non-Indigenous students. That is, alignment of these programs provides some space for the alignment of advocacy arguments to increase student allowances for all students. However, the IHEAC report enables the continued articulation of distinctions between Indigenous students' financial circumstances and needs in higher education and those of others, by reinstating the relations between finance and the conditions required for Indigenous students to overcome other impediments to educational success.

Summation

I return now to a consideration of ABSTUDY's initial and primary purpose as an equal educational opportunity measure; that is to say, as a positive discrimination policy underpinned by the acknowledgement of past negative discrimination that resulted in enormous historical inequities between Indigenous and non-Indigenous peoples within the educational sector in Australia. I do this by focusing on what my analysis was able to draw forward and, secondly, what can then be said about the effectiveness of Abstudy as a positive discrimination measure.

My examination of key Abstudy review documents was able to unfold the changing discursive conditions in which discussions, debates, actions, and changes to Abstudy were situated over time. My analysis reveals that Abstudy was initially conceptualised as a legitimate positive discrimination measure to redress the accrued educational disadvantages arising from past negative discrimination. The development of a separate program specific to Indigenous Australians acknowledged the enduring legacy of colonial practices that normalised this negative discrimination on the basis of Indigenous status.

My analysis has also been able to reveal that there were discursive contests and debates around Abstudy. As Abstudy was made the subject of reviews

over time, the focus of these debates shifted, as they were contextualised within a changing discursive terrain. The discursive terrain conditioned and positioned Abstudy debates primarily in relation to government priorities and political sensitivities. Over time through this process, Abstudy's relation to overcoming Indigenous educational disadvantage was relegated to the margins of debate and its bureaucratic management and location became a main concern. Positioned within this priority, the movement of Abstudy over time from the Indigenous Affairs portfolio, to the Education portfolio and then to Centrelink enabled Abstudy/ABSTUDY to be framed within a welfare discourse, in the form of an individual income support measure, rather than framed within a positive discrimination discourse that was grounded in notions of group disadvantage.

Contests over whether Abstudy should remain a separate 'special' program of study assistance and whether it should be subject to income-testing were two central areas of debate over time. My analysis has revealed how the conceptualisation of Abstudy as a positive discrimination measure was ruptured by realigning its rationale with those of other student income support programs. Also revealed is the central role of the Australian concept of 'fairness' in the reasoning that enabled this rupture. This key rupture was enabled by setting the concept and rationale for positive discrimination in contest with that of the Australian national value of 'fairness'.

My analysis in this chapter has also been able to reveal evidence that changes in governments and their accompanying political ideologies of persuasion provided the context for elevating a different logic through which to conduct 'reasoned' debate. Both in explicit and implicit terms, this logic framed Indigenous students' access to financial assistance on the basis of group status, as an excessive preferential treatment that amounted to a form of reverse racism that benefited one group over and above other groups. The coherence of this logic with the notion of 'fairness' appealed to and upheld a widely held egalitarian belief that the provisions of equal grounds for access to

financial assistance for all students was sufficient to provide a 'level playing field' for the most educationally-disadvantaged group in Australia.

However, my analysis also reveals how the national narrative was able to be harnessed at different times for different purposes. For example, the Australian belief in 'fairness' *both enabled and then later disabled* the initial acceptance of positive discrimination in the form of special measures such as Abstudy. Although I have drawn out how different political parties have ideologically framed debates by mobilizing the Australian discourse of fairness, a Foucauldian analysis is not so much invested in judging the political ideology, as it is in revealing the fragility of positive discrimination as a legitimate measure to redress past negative discrimination. That is, it is not just the subjectiveness of any test of fairness, but its coherence with common-sense discourses in wider circulation that renders positive discrimination vulnerable to the deployment of fairness arguments by different interests. My analysis reveals how easily such concepts can be worked and re-worked to position Indigenous interests, both positively and negatively, and yet still claim to be neutral and reasonable. It is in these ways that Indigenous students are positioned as recipients of charity and beneficence rather than the legitimate claimants of positive discrimination entitlements.

In the light of what my analysis has brought to the surface, what can be said about the effectiveness of Abstudy as a positive discrimination measure to provide equal educational opportunity? Over time, Abstudy has been largely delegitimised as a reform based on positive discrimination principles. In addition to this, the reviews of Abstudy over time prioritized the administration of Abstudy, rather than evaluating its relation to a more substantive equality of educational opportunity expressed in educational measures. Under these conditions, the effectiveness of Abstudy is limited to the interpretation of the statistics that report numbers of students who are eligible to access the Scheme. Such an evaluation is beyond the scope of this thesis. However, the recent work of Edwards and McMillan (2015) on

Indigenous participation rates in higher education studies when compared with other Australians is demonstrative of the ongoing need for a positive discrimination measure.



Figure 5 Enrolment outcomes for domestic bachelor students commencing in 2005 over a nine-year period to 2013, percentage of cohort by Indigenous status

From this report of the higher education sector, it can be asserted that the significant expenditure of money and the numerous reviews of Abstudy/ABSTUDY, the Program has not achieved its main goal of significantly improving educational outcomes for Indigenous peoples in higher education when compared to their non-Indigenous counterparts. The contribution of the Scheme to promote and improve the access of Indigenous students to education cannot be denied, and it should be maintained as one of the key measures to ‘close the educational gap’, but arguably only by returning to its initial condition as an act of positive discrimination and affirmative action and by considering the real costs of supporting the conditions for Indigenous educational success.

However, while the rupture to positive discrimination as a basis for Abstudy decoupled financial support from other barriers to Indigenous higher education students’ educational success, concern about these impediments

became the object of other deliberations, elsewhere. Some of the data represented in Abstudy reviews (e.g. Williams and Chambers 1984) provides evidence of the growing realisation early on of the significance of other barriers to Indigenous participation in higher education. The need for a larger policy position and a much broader approach to dealing with the legacy of past negative discrimination and its implications for Indigenous people's success in higher education was identified. For this reason, I turn now to examine the emergence of Indigenous higher education policy statements and how policy has operated as a positive discrimination measure.

Chapter 7

THE NATIONAL ABORIGINAL POLICY FRAMEWORK AS A POSITIVE DISCRIMINATION MEASURE 1989-1999

In this Chapter, I consider the development and use of Australia's national policy statement on Indigenous education, as a positive discrimination intervention in higher education to redress the effects of past and ongoing negative discrimination against Indigenous Australians. I firstly examine the background, purposes, and goals of the policy, in order to situate its emergence and explicate the logic of its formation. My aim is to establish sufficient context for the analysis that follows. I then employ a similar method to my analysis of Abstudy/ABSTUDY, by examining key reviews and other relevant documents that draw attention to the wider discursive context that conditions the policy's implementation in practice.

My aim is to reveal how these discursive conditions both enable and limit the policy's possibilities for providing equal educational opportunity, as a measure to redress past negative discrimination. It is important to emphasize that my analysis does not seek to evaluate the effectiveness of the policy as a positive discrimination instrument by attempting to measure and evaluate the reach of its application, the institutional strategies it gives rise to, or the Indigenous student outcomes that result. Nevertheless, in places I do attend to some examples of these, included in reviews and reports as indicative examples of progress.

Following Foucault, my analysis seeks to understand the discursive terrain which shapes, firstly, the production of the policy and, secondly, the ongoing discursive conditions that enable or constrain its implementation over time, in the context of higher education. These discursive conditions can be evidenced by analysis of the context, statements and positions within key reviews and

responses that emerge in the wake of the policy's operationalisation in higher education spheres. My analysis enables insights to be brought to the surface that allow something to be said, beyond the literal surface of the policy statements, about the way policy is taken up in and regulates the field of emerging practice. I do this by explicating how, and the way in which, key actors rationalise and/or contest the sense of and/or legitimacy of strategies in Indigenous higher education in relation to NATSIEP/AEP goals. Utilising a Foucauldian approach alongside Nakata's (2007) notion of the Cultural Interface also enables me to reveal the positioning of the NATSIEP/AEP policy (which expresses Indigenous goals) within the various and shifting discursive tensions produced by competing goals or priorities within the contexts of higher education and government. This analytical approach also enables me to bring to the surface various discursive tensions that constitute Indigenous higher education student subjectivities in and through policy. This enables insights into the limits and effectiveness of NATSIEP as a positive discrimination measure to redress Indigenous Australian's past negative discrimination in education.

The Emergence of the NATSIEP/AEP

Abstudy, which came into being in 1968-9, represented the first concrete positive discrimination intervention in Australian Indigenous education. A formal policy document (NATSIEP) did not emerge until 1989, twenty years later. Nevertheless, there were not only many initiatives at the Australian government level, involving the establishment of committees, identified funds and resources, and targeted educational programs in these two decades. There were also reports and proposals aimed at improving Indigenous people's educational experience through the different levels of education. These included, for example, such documents as, *Funding Priorities in Aboriginal and Torres Strait Islander Education* (Commonwealth Schools Commission & National Aboriginal Education Committee, 1984); *Philosophy, aims and policy guidelines for Aboriginal and Torres Strait Islander education* (National Aboriginal

Education Committee, 1985); *Aboriginal Education* (House of Representatives Select Committee on Aboriginal Education, 1985); and *Policy statement on teacher education for Aborigines and Torres Strait Islanders* (1986). Also influential in the lead up to the development of a formal policy for Aboriginal and Torres Strait Islander education was the *Report of the Committee of Review of Aboriginal Employment and Training Programs* (Miller 1985), which made recommendations in relation to education. All reached similar conclusions about Indigenous people's disadvantaged position and prescribed various actions to redress the situation within the frames of a national policy discourse about Indigenous issues.

As has been outlined in Chapter 5, following the 1967 Referendum the wider national policy discourse in Indigenous affairs was considered a non-partisan one, to the extent that the major political parties were agreed that policies were needed to improve the opportunities and futures of Indigenous Australians. Further, the major political parties accepted that previous government policies of protection and assimilation had failed Indigenous people and that Indigenous people should be able to participate on equal terms in the wider Australian society and, as well, choose the degree to which they wanted to also maintain and preserve their traditions (Coombs 1976). An important part of the non-partisan approach was broad acceptance on the part of all governments that better policy and practice in Indigenous affairs would be more likely to emerge if Indigenous people were consulted and given opportunities to advise governments on matters of concern to them (Coombs 1976). As has also been outlined in Chapter 5, the frameworks for developing Indigenous affairs policy also changed over time (Gardiner-Garden 1999). Amidst changing governments and changing times, tensions emerge between Indigenous people and governments around the meaning and implications of Indigenous self-determination, as opposed to Indigenous self-management. Later, tensions also emerge over the meaning and implications of social justice and reconciliation frameworks as rationales for

change in Australian society and social institutions to provide redress to Indigenous people (Gardiner-Garden 1999). Developments in Indigenous higher education policy engage this changing field of discursive contests, which at their heart are deeply political contests about the re-construction of the relations between Indigenous Australians and the nation-state.

Many of the developments that occurred in the first two decades of Indigenous education reform, following the entry of the Federal government into Indigenous affairs, could be characterised as *de facto* and *ad hoc* 'policy development'. However, with the exception of the Tertiary sector, education was the responsibility of the States and Territories and the Federal government's influence on policy in those jurisdictions was limited. The influence and interests of the NAEC, the longstanding National Aboriginal Education Committee, which since 1977 was the main source of Indigenous educational advice to governments, represented and gave credence to the need for a coherent, national commitment by all governments, in relation to Indigenous educational directions and goals.

As outlined in the previous Chapter, in 1988 an Aboriginal Education Policy Task Force, which included Aboriginal people and was led by an Aboriginal Chair, was set up to advise the Australian government, to assess the state of research, and set out the priorities for funding and initiatives across all levels of education. The Report provided the foundation for a more comprehensive national approach to Indigenous education policy (Hughes 1988). This event occurred alongside the wider context of heralded changes to Australian higher education by the then responsible Labor Minister, John Dawkins (Croucher et al 2013).

In their first statement, the Task Force set out the Indigenous aim: 'the Task Force seeks from the Australian Government a firm commitment to redress the severe economic inequality and social injustice faced by Aboriginal and

Torres Strait Islander Australians' (Task Force 1988, p. 1). The Task Force emphasised that:

equality for Aborigines in education is essential to the economic, social and cultural development of Aboriginal communities. Perhaps the most challenging issue of all is to ensure education is available to all Aboriginal people in a manner that reinforces rather than suppresses their unique cultural identity. The imposition on Aboriginal people of an education system developed to meet the needs of the majority cultural group does not achieve this. (Task Force 1988, p. 2)

The Task Force suggested,

any approach to Aboriginal education can only succeed if the Aboriginal community is fully involved in determining the policies and programs that are intended to provide appropriate education for their community. This means that government will need to establish a framework which enables Aboriginal people to effectively exercise their right to self-determination in education. (Task Force 1988, p. 2)

In these three statements, the Task Force is invoking the government's responsibility to Indigenous Australians to redress the effects of past negative discrimination and injustice. Further, the Task Force appeals to the legitimacy of positive discrimination by asserting the need for an education that is 'not the same as', but 'different from' that developed to serve the majority, in order to not undermine cultural identities. That is, where earlier forms of limited education access can be seen as instances of negative discrimination, the Task Force views equality of educational opportunity, within a discursive field of Indigenous people's rights to positive discrimination on the basis of Indigenous status (Wang 1983). This necessarily rationalises positive discrimination within Australian Indigenous education – for positive not negative ends - in recognition of disadvantage accruing from past treatment *and* the deleterious effects of being educated by the very systems that have positioned Indigenous people historically in negative terms vis-à-vis the European colonisers.

The Task Force also identified a number of barriers to Indigenous education:

- racial discrimination which serves to exacerbate the educational disadvantage faced by many Aboriginal people;
- social and cultural alienation which is experienced both in local communities and in schooling;
- economic disadvantage and poorer living standards which inhibit Aboriginal participation and impede successful completion of an education;
- geographical isolation which is experienced by the one-third of the Aboriginal population who live in Aboriginal townships, homeland communities or other small townships across the nation with less than 1000 inhabitants, and which are not as well provided for educationally as larger centres of population;
- and lack of co-ordination among services at various levels of governments which effectively isolates many Aboriginal people from available education programs. (Task Force 1988, p. 16)

These barriers present the impediments to access to equal educational opportunity, from the Indigenous perspective, and imply the areas of remedy: the attitudes of others, including teachers; the relationships between educational institutions and Indigenous communities; the educational curriculum; the financial and educational resources of families and communities; and the lack of coordinated services and information. At the surface level, this setting out of impediments to equal Indigenous educational opportunity displaces the positioning of Indigenous student subjectivities as deficit, and re-positions notions of deficit towards governments, education systems, and policy assumptions.

To provide redress, the Task Force established that an Aboriginal Education Policy should be based on five broad objectives:

- to achieve equity in the provision of education to all Aboriginal children, young people and adults by the year 2000;
- to assist Aboriginal parents and communities to be fully involved in the planning and provision of education for themselves and their children;
- to achieve parity in participation rates by Aboriginal people with those of other Australians in all stages of education;
- to achieve positive educational outcomes for Aboriginal people in schooling and tertiary education; and
- to improve the provision of education services across the nation at the local level(Task Force 1988, p. 17)

The concept of ‘equity’ invokes the concept of ‘fairness’ by presupposing the need for ‘fairness’ (Guy & McCandless 2012). Here, from the Indigenous perspective, the concept of equity embeds the notion that providing Indigenous people with the same (equal) forms of education as other social groups is implicated in unequal outcomes. The appeal to the equity argument signals an assertion of Indigenous goals in education policy. So while Indigenous people might seek equality of educational opportunity through equal access to education, an understanding is also asserted that education is not value-neutral, but reflects/represents the values and goals of the wider society. This supports the construction of the policy as a positive discrimination instrument. With an understanding, developed in the previous chapter, of the utilisation of the Australian concept of fairness in relation to Abstudy/ABSTUDY changes, my analysis reveals how this concept of equity is recruited by various actors and stakeholders in the Indigenous education policy development arena over time.

The Task Force also identified other areas essential to policy in Indigenous education that went on to be embedded in the National Policy Statement. These included: the recognition that equitable outcomes could not be

achieved without the involvement of Aboriginal people and the proper provision of educational services; and that equal educational opportunity could be demonstrated by the achievement of Indigenous participation rates comparable to other Australians, measured as parity on a population proportion basis.

The NATSIEP/AEP: premises, rationales, and goals

The National Aboriginal and Torres Strait Islander Education Policy – NATSIEP (DEET 1989), came about as a result of the work previously advanced over two decades, including a range of reports on Indigenous education. The need for a national policy that was comprehensive of all levels of education was premised on the recognition that Indigenous Australians were ‘disadvantaged’ – socially, culturally and structurally – in terms of education. The policy recognized the inadequacy of previous government actions derived mostly from non-Aboriginal policy makers. The policy was approved by all the States and Territories of Australia in 1989, and this agreement was widely considered an advance and improvement in terms of Indigenous education because of the consensus and unified support of different Australian actors implicated in the policy. That is, the need for a ‘concerted effort’ on the part of all State and Territory governments and the Australian government was recognised. NATSIEP (1989) was also a collaborative production between the NAEC and government and education stakeholders. It was grounded by the Aboriginal Education Policy Task Force report, which strongly asserted Indigenous goals and priorities. As such, the policy emerged as a collaborative but negotiated representation of Indigenous and government priorities at the Interface of quite distinct sets of Indigenous and non-Indigenous interests and systems for education (Nakata 2007).

Some Premises of NATSIEP (1989)

The Foreword to the policy sets out some of the premises on which the policy rests. Firstly, it identifies and describes who the subjects of the policy

are. Aborigines and Torres Strait Islanders are identified as ‘the Indigenous peoples of Australia’ (NATSIEP 1989, p. 5), and recognised for their ‘distinctive culture’ as an important part for the heritage of Australia. This pre-empts the inclusive and ‘restorative’ intentions of the policy, as well as the importance of cultural identity in any educational reform process, as emphasized in the Hughes (1988) report. Nakata (1991), in his analysis of the policy, has pointed out how ‘culture is prioritized over political rights’ of Indigenous peoples as the original, dispossessed and un-recompensed owners of the land (p.43). Instead, Indigenous students become the subject of educational reform, as recompense for the value of their culture, as part of the ‘living heritage’ of Australia (NATSIEP 1989, p. 5).

Secondly, on the other hand, the Foreword also pre-empts the positioning of the Australian governments’ responses. There is a strong statement of acknowledgement of how:

historically-developed education processes of Aboriginal culture have been eroded in many communities for a variety of reasons. The education arrangements and procedures established from non-Aboriginal traditions have not adequately recognised and accommodated the particular needs and circumstances of Aboriginal people’ (NATSIEP 1989, p. 5).

By admitting past mistakes, the premise of policy is positioned as an adjustment or a ‘righting’ of relations between Indigenous people and the nation-state. The recognition that non-Aboriginal traditions contribute to the failure of Indigenous students in education through the establishment of systems and actions not related or connected to Indigenous cultures (and knowledge), opens a space for negotiating with Indigenous people. In this conciliatory space, governments can concede that providing ‘the same’ education to Indigenous students can produce ‘unequal’ outcomes, through this acknowledgement of Indigenous people’s perspectives in the policy development process. However, it is perhaps more difficult to see at the surface level, how Indigenous stakeholders are positioned as ‘cultural’

advisors who work within the constraints of bureaucracies and largely unchanged education systems. At the same time, the government burden of responsibility for achieving equitable outcomes is shared with Indigenous people who begin to be positioned as complicit actors in the success or failure of any action established under the government's 'good intentions' framework.

The Foreword also pre-empts both a moral and instrumental rationale for policy-making, which goes some way to legitimize it as a positive discrimination measure (Moses 2010). For example, there is an assertion that 'education is fundamental in enabling Aboriginal people to exercise their rights and participate fully in Australian society' (NATSIEP 1989, p. 5). The exercise of rights implies a moral basis and participation in society an instrumental one. However, this statement also pre-empts policy emerging from within a wider field of contested discourses. At the Interface of Indigenous positions and governments' political interest in not being seen to 'privilege' one group over another, the exercise of Indigenous 'rights' and the language of 'participation' can be wielded for different purposes, as seen with the concept of 'fairness' in relation to Abstudy. The policy Foreword encapsulates and pre-empts discursive tensions in the space beyond policy as rhetoric, where policy is implemented as action.

Rationalising the need for policy

The need for a National Aboriginal and Torres Strait Islander Education Policy was set out in the Introduction to the policy in terms of:

- long-expressed educational aspirations of Aboriginal people that have as yet to been realised;
- persisting low levels of education participation and attainment of Aboriginal people;

- deficiencies in the provision and quality of educational services for Aboriginal people;
- the joint responsibilities of the governments of the States and Territories and the Commonwealth for the provision of educational services for Aboriginal people;
- inadequate coordination between State and Territory and Commonwealth, and non-government, education providers in respect of policies and programs or Aboriginal education; and
- a shared understanding that most of the current deficiencies can be rectified —though not by any one government acting alone, and not immediately; but only through cooperative, long-term strategies. (NATSIEP 1989, p. 6)

These statements present the rationale which enabled the emergence of the policy as a positive discrimination measure. As such, this representation of the need to rectify and reform is necessarily brief. However, these statements also signal and give some order to the areas for effort and implementation where policy needs to be directed. Policy statements therefore do not so much address or seek to encapsulate the philosophical basis, or the content, of education program reform for the different levels of education. Rather these statements rationalize a priori, the policy principles which follow.

For example, the referencing of ‘Aboriginal aspirations’ in the first statement signals the policy is inclusive of the Aboriginal position. That is, this statement presumes knowledge of the wider context of the policy’s emergence, through the involvement of the NAEC and the consideration of the Policy Task Force report. The policy is pre-empted and positions itself as something led by and responsive to Indigenous priorities in education. The second statement rationalizes the policy as a necessary intervention by acknowledging the continuing effects of colonial and ongoing educational policy on Indigenous participation in education. Then further to this, in the

next statement, government deficiencies in the provision of education are acknowledged. These statements lay the grounds for the following two statements, which relate to the responsibilities of governments to rectify the mistakes of the past. The final statement prepares the ground for a long-term and cooperative commitment to rectify the educational disadvantage resulting from past negative discrimination and to develop and implement programs and strategies for more equitable outcomes in education.

As the *a priori* rationale for the policy which will follow, this set of statements constructs and gives order to the parameters of policy. It signals the limits of policy as much as it signals the extent of its comprehensive reach across all levels of education and the reasons for its emergence. So in the Foucauldian sense, the justification grounds begin a process of ruling in and ruling out what can enter the policy statement and what cannot. However, implicit in these statements is a conceptualization of the policy as an attempt to redress past negative discrimination and ongoing Indigenous disadvantage.

In setting out the need for the policy, the introduction also contained a statement of principles. The policy is based on principles of 'social justice, equity, economic efficiency and cost-effective service delivery. It is also based upon the acceptance and valuing of cultural diversity' (NATSIEP 1989, p. 6). Here the discursive complexity of the policy document emerges, as competing discourses are brought into tension with each other and positioned according to the sensibilities of the wider society. Both social justice and equity are complex conceptualizations. Here they are left open to different conceptual, practical, subjective interpretations, and therefore discursive contest, from various stakeholder interests and positions. In addition to this, the linking of social justice and equity with economic efficiency and cost-effective service delivery signals one set of the discursive limits for any proposition put forward to redress past negative discrimination in the form of special positive discrimination measures. Economic efficiency and cost-effectiveness implies not wasting limited resources and emerges, at the surface level, as a reasonable

and neutral principle. However, considered against the enormous past deprivations endured by Indigenous people, as the most disadvantaged members of a nation whose prosperity was enabled by the taking of Indigenous lands without permission or recompense, this linkage appears much less reasonable.

The wording of such documents can serve a strategic purpose in allaying any perceptions of the wider society of an 'unfair' distribution of resources, when additional resources need to be allocated to Indigenous education. While such wording can be viewed as a pragmatic response to the reality of politics, nevertheless such wording evidences the discursive spaces in which positive discrimination measures are rendered fragile and at risk of erosion. In Bacchi's (2004) terms, policy can be seen as a discursive contest and not a set of principles, in the easy slippage away from the moral basis of positive discrimination as a remedy for past negative discrimination. In this way, Indigenous educational reforms are vulnerable to contestation on the grounds of preferential treatment in the distribution of resources.

The purpose of the policy

The goals of the policy are underpinned by two main purposes. The first was to respond to Indigenous people's needs and aspirations:

The fundamental purpose...is to develop appropriate ways of responding effectively and sensitively to the educational needs and aspirations of Aboriginal and Torres Strait Islander people. This requires a holistic approach, under the guidance of Aboriginal and Torres Strait Islander people, to achieve educational equity while accommodating cultural difference and recognising socio-economic disadvantage. (1989, p. 9)

Some additional supporting statements emphasised: the diversity within the Indigenous population and the different choices individuals make to balance participation in the wider society and the maintenance of cultural values; the priority Indigenous people give to education and the expectation of equal

educational opportunities to other Australians; a greater Indigenous influence in educational decision-making to ensure effective and appropriate educational services are developed; and a reminder that many Aboriginal and Torres Strait Islanders sought bi-lingual or bi-cultural forms of education.

The second purpose of the policy was to promote educational equity:

A major purpose...is to achieve broad equity between Aboriginal people and other Australians in access participation and outcomes in all forms of education. This purpose assumes that Aboriginal and Torres Strait Islander people are entitled to no less opportunity than is available to all other Australians, and they should have the opportunity to achieve at least at the levels of attainment for the Australian population as a whole. (NATSIEP 1989, p. 9)

The understanding of equity was clarified in a supporting statement:

In the pursuit of educational equity, the National Policy recognises the diversity that exists in...Aboriginal and Torres Strait Islander socio-economic circumstances, cultural values and educational aspirations. These factors...have to be taken into account in the design and delivery of educational services and in assessments of individual and group performance. (1989, p. 9)

Other supporting statements utilised participation statistics to stress the need for more effective policy and reiterated the need for 'strategies to promote equality of educational opportunity [to] accommodate diverse needs and circumstances' (1989, p. 9).

These statements promote the concept of equity as a way to achieve equality of educational opportunity, by recognising that the unique circumstances and cultures required forms of education that were not necessarily the same as those for other Australian students. The appeal to the concept of equity evidences the tensions between 'equality' as an egalitarian principle concerned with 'fairness' for all in Australian society and 'equity' as a means 'to distribute fairness' to those in society who are disadvantaged by the 'unequal'

distribution of resources and opportunities (Guy and McCandless 2012, S5). The policy iterates that Indigenous people desire ‘equivalency’ in education and governments must not demand ‘exact sameness’ (2012, p. S5). In this sense, the deployment of the equity concept promotes policy as a positive discrimination measure. As a concept concerned with the distribution of ‘fairness’, the equity discourse enables questions to be asked with regard to the appropriateness and effects of educational strategies for Indigenous students. However, deliberations about what might constitute good or appropriate education fall back into a much wider set of discursive tensions emerging from within an array of often competing discourses engaged across the boundaries of government, bureaucracies, education theory and practice, and Indigenous and Australian social and cultural values and knowledge. While the Policy can be used to rationalize particular educational program decisions, the educational theory that informs those decisions is regulated and ordered through this wider contest.

The third purpose for the policy is:

to develop a concerted effort to address the educational needs of Aboriginal and Torres Strait Islander people by co-operatively directing the strategies of the Commonwealth, the States and Territories, non-government education authorities and educational institutions, to achieve agreed goals. (1989, p. 9)

Supporting statements set out the reasons and the agreed aspects of policy and service delivery that extended across all the various educational jurisdictions.

The 21 long-term goals of NATSIEP

The NATSIEP policy goal statements were organized around four areas: involvement of Aboriginal and Torres Strait Islander people in educational decision-making; equality of access to education; equity of educational participation; and equitable and appropriate educational outcomes (1989, pp.

14-15). In accordance with these four areas, the policy set out 21 long-term goals (see Appendix 1) for pre-school, primary, secondary, post-compulsory secondary, technical, further and higher education. My focus emphasises statements that relate to higher education.

The intent of the 21 long-term goals was to 'guide the development of agreed educational strategies for meeting the different educational needs of Aboriginal people in the States and Territories' (NATSIEP 1989, p. 14). The long-term goals were preceded by some underpinning educational principles. In relation to higher education this was expressed in terms of Aboriginal and Torres Strait Islander students being:

more likely to succeed in post-school education when they are provided with sensitive institutional support, especially from Aboriginal and Torres Strait Islander people in professional roles, and from their peers; and when institutions recognise incremental achievements of students, and are flexible in respect of course scheduling and course completion requirements. (1989, p. 14)

The first series of goals (Goals 1-6) were related to the promotion of participation and involvement of Aboriginal peoples in educational decision-making. Goals 1 and 2 concerned pre-school primary and secondary levels. Goals 3 and 4 concerned post-secondary education, including higher education. Goals 5 and 6 concerned the development of Indigenous people's skills for participation in decision-making and arrangements to enable Indigenous people to provide advice in educational spheres.

In relation to higher education, Goal 3 called for the establishment of 'effective arrangements for the participation of Aboriginal and Torres Strait Islander students and community members in decision regarding the planning, delivery and evaluation of post-school education services, including...higher education institutions' (1989, p. 14). Goal 6 called to 'increase the number of Aboriginal and Torres Strait Islander people

employed as administrators, teachers, researchers and student services officers in...higher education institutions' (p. 14).

While the wording of policy documents aims to remain broad and open enough to allow some flexibility in interpretations to meet varied Indigenous needs and institutional circumstances, Goals 3 and 4 provide a sequential logic, where 'effective arrangements' pre-empt the need to increase the numbers of Indigenous people present in institutions. In this sense, these two goals legitimate the development of strategies in Indigenous higher education that denote special and exclusive arrangements that differ from those provided for other students and their communities, on the basis of Indigenous status – an Indigenous status recognised as educationally disadvantaged due to past negative discrimination. Goals 5 and 6 underline the importance of the skills base required for effective participation in decision-making and the mechanisms for advisory communications, suggesting that just increasing the numbers of Indigenous people involved in decision-making does not necessary imply 'effectiveness'.

These goals concerned with the establishment of effective arrangements in Indigenous higher education draw attention to the procedural elements of positive discrimination policy rather than the substantive educational elements. That is, these goals are about how to proceed, about processes, where co-operation amongst stakeholders implies the practices of recognition and inclusion on the part of the institution. Contained within the logic of inclusive practice, Indigenous people are required to adjust their values and practices to fit into the ways of universities; universities adjust by providing spaces and some flexibility in different arrangements, but remain unchanged as institutions and as the guardians of Western educational practices. Indigenous people, as participants in decision-making must negotiate from a basis of 'unequal' authority in higher education settings. However, while the policy is limited to legitimatizing their presence, it does provide a basis from

which to keep contesting and negotiating the terms and conditions of that presence.

The second series of goals (7, 8 and 9) relate to equality of access to educational services at all levels. Goals 7 and 8 relate to pre-school and schooling and Goal 9 relates to post-compulsory secondary schooling, including higher education. Goal 9 is concerned 'to ensure equitable access of Aboriginal and Torres Strait Islander people to... higher education' (1989 p. 14). These 3 goals look for the assurance of equality of access to education of Aboriginal students. The first two goals suggest acknowledgement that there is insufficient educational provisions at the pre-school and schooling levels. Goal 3 emphasizes 'equitable access' to higher education, without further clarification of what that implies. The terminology of 'equitable' rather than 'equal' may be recognition of the insufficient provision of schooling, which prevents many Indigenous students entering higher education on equal or 'the same' terms as other Australian students. That is, this may be a textual device to legitimize different admissions criteria and other special arrangements as positive discrimination measures.

The third series of goals (10, 11 and 12) were concerned with equity of educational participation, with the first two relating to pre-school and schooling levels and Goal 12 relating to post-compulsory secondary education, including higher education. These goals precede concerns for equitable and appropriate educational outcomes, expressed in the fourth series of goals (13-21). In relation to higher education, equity of education participation, Goal 12 was 'to achieve participation...in higher education, at rates commensurate with those of other Australians' (p. 15). This goal institutes measurements of Indigenous students in comparison to other Australian students. While this has the effect of positioning Indigenous students in relation to normative standards based on non-Indigenous expectations, it also provides a space of discursive contest for Indigenous people to question institutional barriers to Indigenous participation.

The fourth and by far the largest series of goals (13-21) were about equitable and appropriate educational outcomes. This was a broad set of goals and was focused on the educational goals and aspirations of Indigenous people.

The first four goals (13-16) related to the preparation and progress of Indigenous students through all levels of education. This draws attention to the importance of addressing all levels of education as preparation for the next, for example: the provision of 'adequate preparation of Aboriginal children through preschool education for the schooling years ahead' (goal 13), 'to enable Aboriginal attainment of skills to the same standard as other Australian student throughout the compulsory schooling years' (goal 14), 'to enable Aboriginal students to attain the successful completion of year 12 or equivalent at the same rates as for other Australian students' (goal 15), 'to enable Aboriginal students to attain the same graduation rates from award courses in technical and further education, and in higher education as for other Australians' (goal 16).

Through these linkages, the comprehensive reach of the policy across all levels of education gains its legitimacy and reinforces the stated rationale for developing a concerted approach between all stakeholders, in the interests of progressive educational outcomes. In this sense, the goals remain at the procedural level, even though they move closer to issues within education. What constitutes equitable and appropriate outcomes is explicitly positioned in terms of 'adequate preparation' in pre-school (goal 13), the 'same standards' in skills attainments in schooling (goal 14), and the 'same rates' of Year 12 completion and graduation in post-compulsory schooling awards, including in higher education (15, 16). These goals seek to respond to Indigenous aspirations for equal educational opportunities to those of other Australians.

The next three goals (17-19) were more closely tied to some educational goals specific to Indigenous aspirations and purposes for pursuing a culturally

supportive and appropriate education. For example, these emphasised the need ‘to develop programs to support the maintenance and continued use of Aboriginal languages’ (goal 17), ‘to provide community education services which enable Aboriginal people to develop the skills to manage the development of their communities’ (goal 18) and ‘to enable the attainment of proficiency in English language and numeracy competencies by Aboriginal adults with limited or no educational experience’ (goal 19). These goals were not differentiated according to level of schooling and not limited to formal institutions of education. As a policy device, the goals provide scope to design, fund, and implement educational initiatives external to formal ‘mainstream’ conceptualizations. They denote an area of more specialised educational activity beyond the scope of formal Australian educational institutions.

The final two goals (20-21) were concerned with the promotion in education of an appreciation of Indigenous history, cultures and identity for both Indigenous and non-Indigenous students. Specifically, the goals were ‘to enable Aboriginal students at all levels of education to have an appreciation of their history, cultures and identity’ (goal 20) and ‘to provide all Australian students with an understanding of and respect for Aboriginal traditional and contemporary cultures’ (1989, p. 15). These goals give legitimacy to Indigenous Studies as a curriculum area in Indigenous and Australian higher education and represent an attempt to ameliorate the perceived positioning effects of Western education on students’ cultural subjectivities, on the one hand, and the ignorance and prejudicial attitudes of other Australian students, on the other.

In sum, my presentation of the premises, rationales and goals of the NATSIEP policy reveals more than the good intentions of policy makers as they collaboratively take positive actions to redress Indigenous educational disadvantage. It also reveals how the construction of policy enables it to position itself as a special and positive discrimination measure to provide

redress for Indigenous disadvantage resulting from past negative discrimination. This positioning is enabled by premising the policy on Indigenous people's desires, aspirations, pronounced needs, and expectations of education. More difficult to reveal is how this positioning hides from view the lack of, or quite unequally distributed, educational provisions for Indigenous people that States should make for all its citizens as a matter of course. In this way, the policy is able to emphasise 'redress' for past negative discrimination as an extra special 'effort' that governments and other stakeholders need to orchestrate in a concerted way to assist Indigenous people to meet their goals and aspirations.

Likewise, the policy deploys inclusive notions of social justice and equity as a substitute for a more substantial and political Indigenous case for recompense or compensation for past injustice. The extent and substance of social justice and equity are tempered by competing discourses associated with the economics of education provision. In this way, the policy can be legitimized at the surface level as a positive discrimination measure, even as it is made the subject of constraint and containment within the wider contexts of budgetary and national education systems.

By its nature as a policy instrument, the NATSIEP (1989) emerges as a largely procedural instrument that does not deal fundamentally with deeper Indigenous educational issues and challenges. These are meant to be facilitated by the presence and authority of an officially endorsed policy document. However, policy sets parameters and allows some educational interventions to be more logical, acceptable or 'commonsensical' than others. The aspects and priorities of the policy that emerge in practice shape the direction of Indigenous education strategy and how educational issues can be discussed or be given priority. It is in this sense that the effectiveness of policy as the strategic framework for Indigenous higher education – that is what it is able to achieve or not achieve when interpreted and implemented in practice – is of interest to my thesis.

So I move now to explore its effects by examining a sequence of key reviews and reports, as indicative examples of its progress as a positive discrimination measure to improve educational outcomes of Indigenous people in higher education.

The Yunupingu AEP Review 1995

After the enactment in 1989 of the National Aboriginal and Torres Strait Island Education Policy (NATSIEP, hereafter referred to as the AEP), a reference group was established to undertake a national review of Indigenous education. Significantly, the AEP Review was chaired by Mandawuy Yunupingu, a Yolgnu educator from East Arnhem Land in the Northern Territory. Yunupingu was the first Yolgnu person to graduate with a university degree. As an original member of the Yolgnu Action Group, he is credited with conceptualizing the 'both ways' system of education, which incorporated both traditional and Western methods of teaching and knowledge transmission (Yunupingu 1990). His appointment as Chair to the AEP review lent legitimacy to this first review, on account of his commitment to both traditional and Western education. The review was announced in 1993, with the aim of examining 'the effectiveness of the strategies developed through the first triennium of the Policy, the outcomes achieved and the extent of unmet need' (Yunupingu 1995, p. 1). A Taskforce was established to undertake work associated with the Review and during 1993 it collected and analysed data on areas such as:

Aboriginal and Torres Strait Islander peoples' educational participation and attainment at all levels of education, financial data, and information on other matters associated with the AEP goals such as employment in the education industry of Aboriginal and Torres Strait Islander peoples'. (Yunupingu 1995, p. 1)

The Review analysed 'what has and has not worked' so far and future actions to increase positive outcomes (Yunupingu 1995, p. 3). In accordance with the

findings of the review, two main topics emerged: equity and reconciliation.

The first affirmed that:

we have no doubt that the educational experiences of Aboriginal and Torres Strait Islander people have improved over the last five years. More people than ever before are involved in educational decision-making and in the delivery of educational services. More have access to education facilities and participate in education, particularly in the technical and further education (TAFE) and higher education sectors. More use their knowledge and experiences of education to contribute both to their communities and to the wider Australian community. (Yunupingu 1995, p. 14)

Furthermore, these improvements were recognised by Aboriginal and Torres Strait Islander interviewees themselves. However, the review also stated the concerns expressed in some of the submissions received in relation to the lack of opportunities and equitable educational outcomes for Indigenous Australians – ‘culturally, economically, or politically’ (Yunupingu 1995, p. 14). These concerns are indicative of the challenges involved in reaching the goals of the AEP. However, these concerns also reveal policy limits and constraints imposed or revealed in the processes of implementation to practice. For example, submissions to the review reveal contests around the concept of ‘equity’:

Some consider that equity is to be interpreted solely or primarily in terms of the outcomes of ‘mainstream’ education in Australia and assume that these goals and outcomes are self-evidently desirable. Other submissions recognise that the educational inequity suffered by Indigenous people is not merely individual but related to cultural differences. They consider that greater equity can be achieved if educational processes are conducted with greater cultural awareness and sensitivity. A third perspective, which also presses for greater awareness and sensitivity, is that educational outcomes for Aboriginal and Torres Strait Islander students can only be equitable if there is a recognition that different outcomes are appropriate. (Yunupingu 1995, p. 14)

This statement underlines why positive discrimination needs to be understood as a discursive contest, rather than simply being grounded in principles upon which there is wide agreement (Bacchi 2004). It also begins to reveal the complexities engaged within these discursive contests. As stated earlier, the need for the policy was predicated on the principles of ‘social justice, equity, economic efficiency and cost-effective service delivery’ and this signalled the presence of competing discourses within the policy’s discursive field (NATSIEP 1989, p. 6). However, the singular concept of ‘equity’ is also revealed as a matter of discursive contest, through the identification of the different ways it comes to be talked about in relation to educational practice.

For example, the first perspective considered equity in terms of sameness, ‘by adapting individuals to mainstream educational and social policies procedures and practices’ (Yunupingu 1995, p. 14). Here, equal opportunity in education is understood to be available as a fundamental condition of an egalitarian society, and achieving equity the result of an individual’s own effort to make the most of these opportunities. This discourse of equity positions ‘choice’ as an individual responsibility to work within the mainstream education system and what it offers. What is less visible at the surface level is the overwriting of the principle of Indigenous self-determination, as a right to choose the degree to which an Indigenous individual or group participates in the wider society and/or develops Indigenous forms of contemporary social institutions. Here tensions between group rights (on which positive discrimination measures are based) and individual responsibilities (on which the wider society’s social values are based) emerge as discursive conditions of the meaning of ‘effective arrangements’ in policy implementation.

The second perspective called for ‘equity for Aboriginal and Torres Strait Islander students as a group: more culturally-aware and sensitive educational processes’ (p. 14), giving Indigenous people access to decision-making to further increase the potential for more and better educational ‘access, participation and quality of outcomes’ equal to those for other Australians (p.

15), but ‘defined differently for Indigenous and non-Indigenous Australians and differently for the various groups of Indigenous Australians’ (p. 15).

Here, this positioning of equity discourse recognises that cultural factors are significant in educational access, participation and outcomes and that these should be accounted for through culturally sensitive or appropriate strategies in education. Yet the underlying assumption is still that Indigenous access, participation and outcomes in education are ordered and related to Western education as the only choice for Indigenous students. This equity discourse is one of ‘accommodation of difference’ within a mono-cultural education system. Coomb’s (1976) observations about the persistence of assimilation as an organizing concept of government administration, even after it officially disappeared from Indigenous affairs policy are salient:

Newly formulated objectives even when accepted at the conscious level, will only slowly be ‘internalised’ among those responsible and even more slowly among the less interested. Thus it is certain that despite its disappearance from formal statements of policy ‘assimilation’ remains the unstated and unconscious source and purpose of official actions in many aspects of government action bearing upon Aborigines. (1976, p. 7)

The third perspective centred on the idea of ‘equity and difference’ and ‘recognition that different outcomes are appropriate’ (Yunupingu 1995, p. 16). This equity discourse questions the containment of Indigenous educational choices within those available to other Australians. It invokes the right to Indigenous self-determination as a right to choose and control different forms of education and non-normative sets of outcomes and educational measures, rather than normative outcomes and measures established through comparisons with other Australians. Both the concept of positive discrimination and the National Policy Statement (NATSIEP 1989) lend legitimacy to this equity discourse.

This evidence of discursive contest, as it was presented by the review, can be understood not just as different understandings of what ‘equity’ means, but in terms of how the different interpretations enable (or not) very different directions in educational reform. These different directions (or the lack thereof) can then be viewed, championed, justified, defended or disputed as the expression of Indigenous choices, or as constraints on Indigenous choices. That is, equity presents as a malleable concept that is able to be recruited for different political and educational means and ends; it does not ‘function in a clear and vacant field’ (Coombs 1976, p. 7).

Complexities encountered in the implementation of the equity principles contained within policy appear to emerge not just from the different meanings and interpretations of the concept, but also from the diversity of Indigenous groups, individuals, aspirations, and the diversity of educational contexts and specificities across geography and levels of education. The generalities of the policy statements can be seen, on the one hand, to widen the scope for educational choice and, on the other, to regulate and standardise thought and action about what constitutes equitable education for Indigenous people. For example, the education of Indigenous people in an elite discipline such as Medicine, in an elite Australian university, necessitates ‘the same’ curricula for all students, if they are to be recognised as qualified doctors on the same terms as other doctors. In such circumstances, the deployment of equity might legitimately be expressed in terms of cultural and other educational supports to enable the access, participation and outcomes of those students, as an equal education opportunity. These can be mobilized as a legitimate interpretation of equity, appropriate to the educational context, in the absence of other forms of medical education. Nevertheless, the development of programs for, as an example, Aboriginal health workers in remote community contexts denotes the Indigenous need for an area of specialised knowledge in the intersections between Western and Indigenous health, medicine, and practice, where neither one nor the other on their own

is judged to be currently sufficient for improving the health outcomes of Aboriginal people. In these circumstances, equity in education supports the third interpretation given above, with quite different implications for the implementation of 'effective arrangements'. In this way, complex discursive intersections condition the enabling/disabling of rights and the provision of 'choice' in different contexts for different Indigenous groups and individuals.

The second major theme of the review was reconciliation: 'many submissions emphasise the need for mutual recognition of and respect for the aspirations, knowledge, communities and cultures of all Australians' (Yunupingu 1995, p. 18). In Australia, the decade from 1991-2001 was officially a decade of Reconciliation, in the lead up to the centenary of Australian federation.⁸ A national discourse of reconciliation emerged to acknowledge and redress past injustice and to re-language and reconstruct the relationship between Indigenous and non-Indigenous Australians on the equal terms of mutual understanding and respect. Thus the review of the effectiveness of the Policy is imbued with the changing language and wider discourse emerging in Indigenous affairs at the time. The terminology of social justice emerges 'to be understood in terms which entitle all individuals and groups to the same level of respect' (Yunupingu 1995, p. 18). According to the review, this required

rejecting the notion that equity can be achieved only within existing 'mainstream' ideas about the nature and purpose of education. It requires an acceptance of a broader conception of social justice that can accommodate differences of aspirations, experiences and culture of all Australians. (Yunupingu 1995, p. 18)

Here the concept of social justice is harnessed to support the notion of equity as different forms and outcomes of education and the right to self-determine

⁸ See Reconciliation Australia and the archives of the Council for Aboriginal Reconciliation at <http://www.austlii.edu.au/au/orgs/car/>

choices. Nevertheless, this statement does not rule out other demonstrable measures of equity; rather, it rules out singularity and stresses the need for a range of choices.

Within the submissions there was therefore evidence of the discursive tensions at play in the emergence of different perspectives and positions. Nevertheless, there was some broad agreement and sense of urgency with respect to the goal of achieving the still incomplete equity for Indigenous people and the ‘continuing development of Aboriginal and Torres Strait Islander education, and the continuing development of Aboriginal and Torres Strait Islander Studies for all Australians’ (Yunupingu 1995, p. 19). These were seen as important parts of any future reconciliation.

The review included statistical reporting of Indigenous rates of access, participation and outcomes as a way to make statements about the effectiveness of the AEP as a special strategy in Indigenous education. In relation to higher education, the review reported some improvements in access, participation and outcomes statistics, at the same time highlighting persisting gaps between Indigenous and other Australian higher education students. The statistical data provided by the review (p. 78) showed that for the year 1993, just over half of Indigenous students (370, 54.3%) completed their undergraduate degrees compared to 75,991 (62.7%) of non-Indigenous students; but only 14 (2.1%) completed Bachelor Honours compared to 6,491 (5.4%) for non-Indigenous students; only 7 (1.0%) completed a postgraduate research degree, compared to 1,958 (1.6%) for non-Indigenous; 17 (2.5%) completed a Masters Coursework, compared to 7,454 (6.2%) of non-Indigenous students; 4 Indigenous students (0.6%) completed Masters Research, compared to 1,050 (0.9%) of non-Indigenous students, and finally, only 2 Indigenous students (0.3%) completed a PhD, compared to 1,332 (1.1%) of non-Indigenous students. The big difference between enrolments and completions of Indigenous and non-Indigenous students is the dramatic

expression of the failure of the educational system in the provision of education to the latter.

One important issue identified by the review centred on the gender balance of Indigenous enrolments. The review stated that in 1992-3 the gender ratio between Indigenous women's and men's participation rates at tertiary level were two to one – 63% for females versus 37% for males: 'gender differences for other Australian students are much less' (Yunupingu 1995, p. 76). The much lower male participation in secondary education and after in tertiary education was a significant issue, which needed to be addressed. The suggestion to redress this imbalance lay on the belief that 'the universities themselves have a key part to play in encouraging Aboriginal and Torres Strait Islander men to undertake higher education studies and should be generally promoting and expanding their programs for Indigenous students more vigorously' (Yunupingu 1995, p. 76).

In relation to special-entry provisions and mature-age students' access into higher education, the reviewed reported that the numbers continued to be much higher than for non-Indigenous Australians. According to the review, 'Aboriginal and Torres Strait Islander students are much less likely to have been admitted from final year of secondary education at school: rates have consistently been less than half those of other Australian students' (Yunupingu 1995, p. 77). The statistical evidence above reflects that entry and admissions statistics in the higher education sector reflect to some extent the educational outcomes being achieved in the schooling sector.

Related to the low completion rates of Indigenous students in higher education, the review highlighted a severe shortage of Indigenous leadership in education and a lack of specialist educators. This was more generally indicative of the fact that there are still 'not many Aboriginal and Torres Strait Islander educators who have high status in the western world and those who do have the skills and knowledge are over-used and suffer burnout'

(Yunupingu 1995, p. 77). The need for Indigenous educators is related to the idea that Indigenous education should not just be focused on the attainment of the same educational levels as non-Indigenous students, but also on the need for Indigenous teachers and other support staff with enough training and knowledge about Indigenous history, culture, and trajectories relevant to Indigenous education, and that are also meaningful to Indigenous students. In this regard, the role of universities was emphasised in facilitating the provision of these conditions to increase the chances of Indigenous students completing their higher education successfully, but also to protect their cultural and historical practices and their future Indigenous aspirations. As a way to achieve this, the review thus went on to state:

we regard further graduate study as an appropriate path to increase the numbers as senior administrators and lecturers in higher education and other fields. We see a need for scholarships over and above existing schemes to support such students, as financial limitations are a major impediment to graduate study. Although ATSI students are enrolled in undergraduate, graduate and postgraduate courses, their course completion rates are lower than for other Australians. (Yunupingu 1995, p. 77)

While the review supports equity in the form of different outcomes and measures, it also harnesses comparative statistics as an important discursive tool for positioning its recommendations and statements, so that universities do more to provide effective arrangements towards fulfilling the goals of the policy. This positioning, through the authority of an Indigenous Chair, enables the review to ascribe the continuing low levels of access, participation and outcomes to the shortfalls of universities and the limits of implemented 'schemes' and away from students and Indigenous staff. In this sense the review is a legitimizing device for keeping the pressure on Australian education systems, bureaucracies and institutions to effect changes to their practices. The review is able to utilize the concept of equity with the aim of

redistributing 'fairness' as a positive discrimination action, because these changes relate only to Indigenous students.

For example, Indigenous participation in higher education was positioned in terms of its benefits to Indigenous individuals and communities: those who managed to gain professional qualifications can make contributions to their communities, contributing in turn 'to the process of securing economic independence for all Aboriginal peoples and Torres Strait Islanders. They also serve as important role models for the Aboriginal and Torres Strait Islander students who follow them' (Yunupingu 1995, p. 78). The review also emphasised the need for Indigenous involvement in decision-making and positioned this as an important part of the responsibilities of universities through an appeal: 'we believe that universities have an important role to play in the development of Indigenous people's involvement in public policy and in the encouragement and training of Indigenous leadership' (Yunupingu 1995, p. 78).

The Yunupingu Review made two specific and key recommendations for Indigenous post-school education, which includes higher education:

Recommendation 21: that providers of post-school education for Aboriginal peoples and Torres Strait Islanders:

- more vigorously promote their existing schemes aimed at encouraging Aboriginal and Torres Strait Islander peoples' participation in post-school education; and
- expand the number of existing scholarships, cadetships and postgraduate awards available to Aboriginal peoples and Torres Strait Islanders.
- Recommendation 22: that the Commonwealth provide additional funds for two new schemes to promote Aboriginal and Torres Strait Islander peoples' participation in post-school education:

- a scholarship/wage subsidy scheme to support Aboriginal peoples and Torres Strait Islanders undertaking innovative combinations of work and related postgraduate study, and
- an internship scheme to support the development of Aboriginal and Torres Strait Islander peoples' knowledge of political science and public policy and to further encourage the development of Indigenous leadership. (Yunupingu 1995, p. 79)

In relation to access to education, the review stated that it is a question of 'the availability of a form of education which is regarded as appropriate by students, their communities and the organisations that represents them' (Yunupingu 1995, p. 80). It follows that Indigenous peoples need 'culturally appropriate education services' to increase their participation in education (Yunupingu 1995, p. 80).

In light of these recommendations, the review proposed the establishment of schemes to further participation rates at tertiary level, 'together with schemes designed to increase political, public policy and leadership expertise' (Yunupingu 1995, p. 81). But the review also recognised that in spite of the increased Indigenous participation rates in the previous five years, the gap with non-Indigenous students remained largely the same: 'Selective and highly targeted initiatives are now needed especially to respond to gender differences' (Yunupingu 1995, p. 81).

The review reinforced the proposition that educational outcomes needed to be seen 'not just in narrow terms of achievement in school, TAFE or higher education, but in a broad historical, cultural, economic and political context which necessarily includes the connections and inter-relationships between Indigenous and non-Indigenous Australians' (Yunupingu 1995, p. 16). Here, the community assumes an important role in defining outcomes for Indigenous students, according to their own context-specific goals and needs, though what constitutes community authority or expertise is left open.

The 1995 review of the AEP reiterates the goals of the AEP. It notes some improvements, but also the continuing status quo in relation to Indigenous students' comparative rates of access, participation and outcomes with other Australian students. The review drew attention to the different ways the concept of equity was being utilized and the need to make provisions for forms of education outside of the 'mainstream' offerings. My analysis reveals how the review underwrites the complex conditions which policy attempts to address. I provide evidence of the tensions between the general principles of policy and the specificities engaged in the implementation process at different levels of education and for different purposes. This suggests that discursive contests both enable and constrain the development and implementation of educational opportunities and that evaluation of the effectiveness of the policy would need to explore the assumptions being brought to arguments and advocacy for particular choices and changes to educational programs for Indigenous people, including in the submissions to review.

Ministerial Council of Education, Employment, Training and Youth Affairs (1996)

The findings of the 1995 review were examined by a taskforce of the Ministerial Council of Education, Employment, Training and Youth Affairs (MCEETYA) resulting in the establishment of the National Strategy for the Education of Aboriginal and Torres Strait Islander Peoples 1996-2002. MCEETYA was a mechanism that brought together Education Ministers and key departmental officers from the Commonwealth and all States and Territories to facilitate co-operative planning and strategy across the country. One purpose was to coordinate the delivery of Commonwealth programs and funds and deliver cost-efficiencies. In a broad sense, the goal of this strategy was to confirm and significantly advance the aims of the national policy by the year 2002. The eight priorities identified for the MCEETYA National Strategy were selected from the 21 goals of the NATSIEP/AEP. In this sense, the MCEETYA National Strategy emerged as another example of a

procedural document focused on how to ensure the national effort was a ‘concerted’ one between the Commonwealth, States and Territory governments. The 8 goals selected for action were:

1. to establish effective arrangements for the participation of Aboriginal and Torres Strait Islander peoples in educational decision-making;
2. to increase the number of Aboriginal and Torres Strait Islander peoples employed in education and training;
3. to ensure equitable access for Aboriginal and Torres Strait Islander students to education and training services;
4. to ensure participation of Aboriginal and Torres Strait Islander students in education and training;
5. to ensure equitable and appropriate educational attainment for Aboriginal and Torres Strait Islander students;
6. to promote, maintain and support the teaching of Aboriginal and Torres Strait Islander studies, cultures and languages to all Indigenous and non-Indigenous students;
7. to provide community development training services including proficiency in English literacy and numeracy for Aboriginal and Torres Strait Islander adults; and
8. to improve NATSIEP implementation, evaluation and resourcing arrangements. (MCEETYA 1996, p. 1)

The report included a Collaborative Action Plan that encompassed a range of agreed outcomes established for each priority, including all levels of education: early childhood education, schooling, vocational education and training and higher education. In relation to the outcomes, the report stated:

the outcomes indicated are not intended to be exhaustive of all action to be carried out by education and training providers. They are core actions that need national agreement to advance significantly the aims and goals for the NATSIEP across Australia by the year 2002. (MCEETYA 1996, p. 1)

In relation to higher education, the expected outcomes and strategies were related to goals 1, 3, 5, 6, listed above and included the following priorities and desired outcomes. The first priority proposed

that advisory and management committees that make decisions will have Indigenous members and will make their decision in inclusive ways (outcome 1); Aboriginal and Torres Strait Islander peoples will be involved in and have control over Indigenous research (outcome 2). (MCEETYA 1996, p. 20)

The second priority recognised that despite the increase of Indigenous people working ‘in the ancillary and para-professional areas of education, the numbers of professional people remain limited’ (MCEETYA 1996, p. 3), including Indigenous teachers in secondary schools and higher education, whose numbers also remain low. This priority was related to NATSIEP/AEP goals 2 and 4. The expected outcome was an increase in the number of Aboriginal and Torres Strait Islander staff employed by universities that would at least be proportionate to the Indigenous percentage of the population in any given state or region (MCEETYA 1996, p. 29).

The third priority was related to equality of access, including physical access to educational institutions. Equitable access to education and training services required:

more than merely gaining entry to mainstream programs. Indigenous Australians require an education which enables them to achieve their cultural and academic potential in Indigenous terms as well as in mainstream academic and technological skills. (MCEETYA 1996, p. 4)

This priority responded to AEP goals 2 and 4. The expected outcomes were the development of options for an Australian Indigenous university system (outcome 1) and ‘residential provision for university students will be extended where access is currently limited and where there is demonstrated demand’ (outcome 2). In addition, ‘optimum use is made of open learning technologies to supplement existing forms of higher education delivery’ (outcome 3), and

‘the articulation of learning pathways between secondary schooling, vocational education and training and higher education will be improved’ (outcome 4) (MCEETYA 1996, p. 38).

The fifth priority recognised ‘tensions between what is equitable and what is appropriate educational achievement’ (MCEETYA 1996, p. 5). Both, equitable and appropriate achievement for Aboriginal and Torres Strait Islander students ‘requires more than just succeeding at the same rate as non-Indigenous students on the usual quantitative performance indicators’ (MCEETYA 1996, p. 5). Thus, programs should include ‘culturally inclusive methodologies and provide an education to Indigenous students which develops and strengthens their identity and cultural values’ (MCEETYA 1996, p. 5). The report also highlighted the need for all teachers and lecturers involved with Indigenous education to be suitably trained for working in Indigenous Studies and ‘particularly aware of the education and training needs of Indigenous students’ (MCEETYA 1996, p. 5). This priority is in accordance with AEP goals 13, 14, 15 and 16. The predicted outcome was: ‘An improvement in the achievement levels of Aboriginal and Torres Strait Islander students’ (MCEETYA 1996, p. 59).

Finally, the eighth priority had the same target for all levels of education: ‘to improve NATSIEP implementation, evaluation and resourcing arrangements’ (MCEETYA 1996, p. 80), with the aim to achieve the Policy’s 21 goals by the year 2002 and for that reason was related to all goals of NATSIEP. The expected outcome: ‘Aboriginal and Torres Strait Islander peoples are equal partners in all NATSIEP implementation arrangements’ (MCEETYA 1996, p. 80).

The MCEETYA (1996) National Strategy document emerged seven years after the NATSIEP/AEP statement. In relation to higher education, the priorities and outcomes signal, firstly, the slowness of policy implementations towards the goals of NATSIEP/AEP. Secondly, the priorities and outcomes

set down evidence of an attempt to move the implementation process towards a closer engagement with the goals, in relation to changing educational and educational administration practices. The emphasis given to education and training reflects the areas of related interests between higher education (primarily a Commonwealth responsibility), post-secondary Further Education (primarily a State responsibility), and schooling (a State responsibility) in providing access and programs to meet Indigenous needs. Significantly, the Yunupingu AEP Review's analysis of the limits being placed on concepts of equity is taken up; the idea of an Indigenous university emerges, as does support for focussed Indigenous research.

In the MCEETYA document, Indigenous higher education students are constructed as the subjects of generalised priorities and outcomes. Despite all their individual differences and inter- and intra-group diversity, and in the context of the diversity of educational institutions and programs in which they study, Indigenous students are primarily positioned as cultural subjects in need of a particular sort of education. The lack of provision of alternatives to 'mainstream' programs, appropriate for some Indigenous students, is implicated in the continuing low levels of access, participation and outcomes for all Indigenous students. This weights the attention given to Indigenous students' educational challenges away from their engagements with learning. This assumes that the deeper educational issues – at the level of epistemology and ontology - are easily resolved, when improved programs are in place.

However, as a procedural document to propose strategic changes to reach the AEP goals, the MCEETYA National Strategy document assumes the proposed outcomes will promote the sorts of changes needed to improve Indigenous access, participation and outcomes in higher education as a demonstration of the delivery of more equitable education. As a response to the 1995 Yunupingu AEP review, the MCEETYA strategy evidences how reviews and discussions shape the implementation of policy in particular directions rather than others. Here, the many different ways of implementing

educational changes to produce more equitable educational outcomes engages the tensions between the institutional accommodation of difference and educational engagements with difference.

**Higher education: Indigenous education strategies 1999 – 2001
(DETYA 1999)**

In 1999, the then Department of Education, Training and Youth Affairs (DETYA) released 'Higher education: Indigenous education strategies 1999 – 2001' (DETYA 1999). In this period, DETYA is the Australian government department that is responsible for Indigenous higher education and is accountable to the government of the day for the spending of public money against the outcomes achieved. DETYA therefore requires all Australian universities to report their progress in Indigenous education against the government funding provided to support the implementation of strategies to meet the AEP goals. This document establishes a difference with the previous MCEETYA document because it includes information about the real strategies developed and enacted by each university in Australia, and not just proposed actions.

Similar to other government documents, education is recognised as a basic right and fundamental requirement, applicable to Indigenous and non-Indigenous Australians (DETYA 1999, p. 1). Claims are made about real gains in the participation, success and retention rates of Indigenous Australians in higher education and this success is linked to the numerous programs and the dedicated staff involved in the teaching and in the administration and implementation of the various Indigenous education strategies: 'Indigenous support units and liaison officers have made a tremendous contribution on behalf of their institutions' (DETYA 1999, p 2). The report also recognized: 'The continual growth in the number of Indigenous students graduating with degrees and postgraduate qualifications,

[which] confirms the importance and value of the Indigenous education strategies' (DETYA 1999, p. 2).

The report also refers to a few factors outside the control of universities, which affected Indigenous students: the main one was the ABSTUDY changes of the 1997 budget. However, it is stated that 1997 budget changes

have had no impact on Indigenous participation. In 1998 Indigenous participation in higher education continued to increase, contrary to some of the concerns expressed in some of the strategy documents about changes to ABSTUDY. (DETYA 1999, p. 3)

The report highlights the increase in the demand for ABSTUDY during 1997, 1998 and 1999: 'demand for ABSTUDY by tertiary students have grown by over 5 per cent in 1999, with 16,265 applications to the end of March compared with 15,441 for the same period in 1998' (DETYA 1999, p. 3). While the report appears to reflect a steep increase in student numbers since 1995, the Yunupingu AEP Review noted 5,528 students. However, this increase may reflect, to some degree, the different ways of reporting and compiling statistics or the inclusion of ABSTUDY applications from the schooling and vocational education areas. It may also reflect the fact that other non-statistical factors may influence the growth of Indigenous student numbers *regardless of the increased hardship* due to the changes to ABSTUDY, such as the redoubled efforts to increase promotion and encouragement of Indigenous education in national consciousness. In relation to the ABSTUDY changes announced for the year 2000, the report states: 'these changes do not represent any reduction in the Commonwealth's total financial commitment to Indigenous education. Rather, they are intended to bring about a better targeting of funding to improve educational outcomes' (DETYA 1999, p. 4). However, the same report stated that some Indigenous students might not be receiving as high a level of income support under ABSTUDY from 1 January 2000 as they had received in 1998.

This positioning of changing ABSTUDY arrangements enables the principle of economic efficiency set down in the policy to appear reasonable and fair by prioritising the most needy individual Indigenous students. That is, it can be seen as a further distribution of fairness within the Indigenous student cohort, in the interests of equity. However, this undermines the principles of positive discrimination, as redress for the past negative discrimination, which reduced Indigenous people to the most disadvantaged group in the nation. 'Fairness', as a lynchpin of equity, is not redistributed between Indigenous and other Australians but, instead, is deployed in a way that reduces the rationale of positive discrimination from a group need to an individual one. The need for sufficient conditions for optimal educational success is glossed over as if Indigenous students come to higher education with the same resources as other students. Restrictions on the insufficient financial support provided by government student allowances, is rationalized as if it has no implications in the 'effectiveness' of arrangements for Indigenous students' access, participation and outcomes in higher education. In this way the government ignores its own policy commitments.

The 1999 DETYA report presented the experiences of all universities across Australia in relation to Aboriginal and Torres Strait Islander Education. These are opportunities to consider some of the strategies deployed under the authority of the AEP. In a very broad sense, these were some of the actions reported by Australian universities and highlighted in the government report:

- Edith Cowan University has established a student assignment and assessment tracking base which is used to produce status reports on any student, thereby allowing early intervention to assist those falling behind in their studies;
- Griffith University encourages school students to consider higher education by hosting visits to the university from primary and secondary school students;

- Monash University hosts a Junior University Programme for Years 11 and 12 at its Gippsland Campus;
- University of South Australia provides external delivery of courses to remote communities; in particular its Anangu Tertiary Education Program (AnTEP), enables Anangu people in the far north of South Australia to access higher education within their own communities;
- RMIT University encourages Indigenous Australians enrolled in its vocational level studies to use these as a pathway to higher education;
- University of Sydney encourages the participation of Indigenous Australian elders and other community members in teaching and promotes an Indigenous Australian perspective across the university's curricula. (DETYA 1999, p. 3)

These reveal some of the breadth of strategies, from aspirational programs for school students, to transition pathways into higher education for non-school leavers, specialised remote area programs for Aboriginal people living on traditional lands, and a program to monitor student progress in courses to enable assistance to improve results.

To examine some activities in relation to access, retention, outcomes, two universities' strategies highlighted in the report are analysed in detail.

The Australian National University's aims for Indigenous education were incorporated in the Strategic Plan 1995 – 2004:

1. To increase Aboriginal and Torres Strait Islander student enrolment and access to the University;
2. To increase enrolment in discipline areas in the University in which Indigenous Australian students are under-represented.
3. To develop appropriate links with Indigenous Australian communities in order to encourage and enhance positive attitudes to University study generally and the ANU in particular.

4. To increase appreciation of the Indigenous Australian cultures throughout the University.
5. To encourage and nurture Indigenous Australian scholarship and excellence in scholarship. (DETYA 1999, p. 17)

At the surface level, all these aims support the AEP goals. Further to these aims, the strategies of the ANU are outlined in different categories. For example, in relation to ‘recruitment, selection and admissions’, strategies included the continuation of the ‘ANU Aboriginal and Torres Strait Islander Admissions Scheme, which was initiated in 1990’ (DETYA 1999, p. 17); and the continuing of the Jabal Centre and its ‘successful pre-orientation and orientation programs for new ANU Indigenous Australian students’ (DETYA 1999, p. 17). For the case of ‘academic support and development initiatives’, the strategies included the figure of an academic coordinator at the Jabal Centre, who ‘advises students on an individual basis as to course structure and the skills necessary for each unit’ (DETYA 1999, p. 18). Other strategies were related to the inclusion of more Indigenous content into the compulsory Law courses, and scholarships offered to Aboriginal and Torres Strait Islander students to undertake postgraduate degrees. Other support initiatives were related to the maintenance of the role of the Jabal Centre in relation to the provision of ‘suitable, social administrative and academic support, recognizing the intimate relationship between this kind of support and the academic progress of students’ (DETYA 1999, p. 19). The main areas of study at ANU were in Law, Arts-Humanities, Social Sciences, Economics, Commerce and Science degrees.

The report also included some ANU performance statistics. A perusal of these statistics shows Indigenous students ‘constituted 0.90 per cent, 0.95 per cent, 0.90 per cent and 1.85 per cent of the ANU commencing student population in 1995, 1996, 1997 and 1998 respectively’ (DETYA 1999, p. 20). In relation to participation (enrolments in all years), the total number of Indigenous students as a proportion of the total student population of the

ANU indicated 'reductions from 1.98 in 1995 to 1.80 in 1996 to 1.77 in 1997 and to 1.50 in 1998' (DETYA 1999, p. 20). This reduction in participation rate suggests that the overall non-Indigenous students' enrolments at ANU over these years must have increased at a greater rate in proportion to Indigenous students. Success rates, on the other hand, when measured in comparison with non-Indigenous students, suggest 'the overall progress rate (SPR) for Indigenous Australian students has improved from 0.73 (1994) to 0.75 (1995) to 0.83 (1996) and slowed to 0.80 (1997), showing steady improvement over the reporting period' (DETYA 1999, p. 20). Retention was another indicator measured in the same way against those of non-Indigenous students. The 1998 Indigenous retention ratio was '0.92, as compared with 0.87 for all of the University's student population' (DETYA 1999, p. 20), showing an increase of 0.08 between 1997 and 1998. Generally these measures convey a message of increasing Indigenous numbers at commencement when compared year on year, disproportionate growth in participation rates when compared with the broader student body, but with healthy signs in rates of completion.

As a comparison, the University of Technology Sydney (UTS) established objectives for Aboriginal and Torres Strait Islander Education in accordance with their Faculties and Jumbunna, the UTS Centre for Australian Indigenous Studies. UTS objectives for Indigenous higher education were:

to broaden awareness and acceptance amongst non-Indigenous people of Indigenous Australian cultures, achievements/contributions, and contemporary issues; improve accessibility of tertiary studies to Indigenous Australians; increase retention and graduation rates of Indigenous Australians; involve Indigenous Australians in institutional decision-making and consultative structures and academic policy development and curricula, and strengthen collaboration between educational institutions and advisory groups; broaden economic, social and political opportunities for Indigenous Australians, in particular expanding employment and income

opportunities; and improve accountability methods and mechanisms to identified clients. (DETYA 1999, p. 181)

These objectives were related to the UTS strategic plan 1998-2000, which had focus on research, internationalization, flexible learning, work-based learning, and organisational development.

The success for Aboriginal education of UTS was reported as 'largely due to the refreshing culturally inclusive curricula, participative student consultation practice in place, and available preparatory study courses' (DETYA 1999, p. 182). For the year 1999, UTS was committed through Jumbunna, to provide 'ongoing effective support services to its students within the constraints of ever decreasing financial resources' (DETYA 1999, p. 192), and their key strategies for the period 1999-2001 included:

continued introduction of culturally inclusive curricula throughout all Faculties within the UTS; ongoing participation and involvement of students and community advisers in Jumbunna's operations; ongoing lobbying and networking within and outside of UTS and presentation of papers at national and state conferences; and joint research and exchange projects with national and international education institutions. (DETYA 1999, p. 182)

In relation to UTS statistics, for the year 1997:

230 students were enrolled, and forty-six (20%) of these graduated at the end of the year; in 1998, 245 students are enrolled, generating 150 EFTSU special entry and 54 EFTSU other entry; student load of 159 EFTSU was achieved in 1998; students commencing in 1998 constitute 45% (eighty-nine) of all 1998 students enrolments; and 51% (101) students are currently enrolled in the Faculty of Education. (DETYA 1990, p. 182)

These indicative examples of Indigenous higher education initiatives at the Australian National University and the University of Technology Sydney highlight the development of strategies to redress Indigenous disadvantage in

higher education. However, these examples incorporate the established process of institutional self-reporting to DETYA as part of government accountability processes. In Australia, universities report to the Commonwealth Government on an annual basis for the purposes of accountability, statistics gathering, and acquittal of funds.⁹ Indigenous Education Centres within universities also report annually for the same purposes. The DETYA report then represents an editing of all the university reports, to present a narrative of progress and areas still requiring attention. Revealed are the different forms of statistical reporting given by the two universities, as well as the positioning of these in relation to the aims, objectives and strategies to achieve them.

At a surface level, the effect is to demonstrate how much good work is going on, to demonstrate that some improvements are being made or claimed, and that universities are accountable in their practices to implement long-term AEP goals. The results can show incremental progress or fluctuating progress to indicate that there is still some way to go and still some need for these special measures for Indigenous students. That is, the positioning of statistics alongside aims and strategies logically links them in a causal relationship. These ‘arrangements’ are then be able to read as ‘effective’ ones that represent the ‘concerted effort’ between universities and governments to assist Indigenous people to realise their goals and purposes in higher education, as per the goals of the national policy

Below the surface of these statements, however, and placed beyond scrutiny, is the absence of any close evaluation of the relations between strategies and statistics. How, for example, do culturally-inclusive curricula impact on the different areas of access, participation and outcomes and in different degree programs, as compared to the impact of preparation courses, or student

⁹ See for example, <https://www.education.gov.au/higher-education-statistics>

consultative practices? What would evaluation of these separate strategies reveal about their impact on outcomes or where strategies could be improved to be more effective? While this report gives more substantive educational detail as evidence of AEP implementation, it provides no evaluation of the relation between these strategies and outcomes.

Here a major limit of the policy is its focus on 'effective arrangements' and how that enables claims to be made that the arrangements are effective because incremental statistical progress is being made against long-term goals. Investigation of what changes or improvements could be made to strategies remains outside the limits of policy concerns. That is, the arrangements for Indigenous higher education can appear effective, without any empirical evaluation of whether the strategies deployed are related to incremental improvements or whether they could be more effective than they claim to be or actually are.

Summary

In the decade between the inception of the NATSIEP/AEP in 1989 until 1999, there emerged a cycle of movement from the establishment of the policy, to a major review, to a follow-up strategic cooperative action plan, and government reporting of progress. My analytical unfolding of these key stakeholder documents reveals the extent to which these reviews, plans, and reports are primarily concerned with procedure. Recommendations and action plans develop a very familiar and repetitive series of lists. Statistical reporting positions incremental changes as improvement, as well as to emphasize the work still to be done and what has not been achieved. That is, these documents repeatedly reiterate what requires attention in order to proceed forward.

In this process, the actual practices that purport to indicate the implementation of such strategies and the detail and assumptions of the strategies themselves continue to be causally linked without proper evaluation

of causation factors or degree of impact. This constrains any sustained evaluation of the effectiveness of different forms of practice in all these areas and where and on what basis these might be changed and then further tested for efficacy against outcomes.

My analysis reveals, as well, how this patterned form of review, action, and reporting, emerges as a technology for governing Indigenous higher education. This governance of the policy area escapes being implicated in the ongoing slow progress being made in all the priority areas relating to Indigenous higher education. The AEP is seen to be being implemented, some progress can be reported, and the work still to be done is identified and listed. This implicitly positions Indigenous higher education students within the tensions between two deficit framings. One frames Indigenous students' capacities as deficient, given the educational opportunities and preferential treatments they have been given and the limited progress that they have made. The other frames universities and governments as inadequate and deficient providers. However, in this contest, it is Indigenous higher education students who are the continual losers, not the universities.

Moving forward, in the following decade till the present, a number of developments occurred in Indigenous higher education, contextualised by developments in the wider context of the Australian higher education sector. I turn to these to reveal how the AEP recedes as a positive discrimination measure and how Indigenous higher education students are recruited to a larger discourse of equity and social inclusion associated with the wider participation in higher education of all under-represented groups. At the same time, developments in Indigenous higher education policy become more focused on the specificities of the higher education context. While the AEP continues to stand as the primary policy document for Indigenous education as whole, the ongoing policy work in the higher education sector begins to signal the need for a more specialized focus to achieve policy goals in Indigenous higher education.

Chapter Eight

THE ONWARD DEVELOPMENT AND IMPLEMENTATION OF THE NATIONAL POLICY MEASURES 2005-2014

In the last decade and a half, a number of developments have occurred in Australian higher education and these provide the wider context for policy development and implementation in Indigenous higher education. In 2005, the then, Howard Liberal Coalition government facilitated the establishment of the Indigenous Higher Education Advisory Council (IHEAC, now ATSIHEAC). In 2008, the Rudd Labor government commissioned a Review of Australian higher education, which came to be known as the Bradley Review (Bradley, Noonan, Nugent & Scales 2008). As an outcome of that review, the Gillard Labor government then commissioned a review of Indigenous higher education in 2011 and, following the final report of that review (Behrendt, Larkin, Griew & Kelly 2012), funding was allocated for projects to address some of the recommendations. Within these processes, Universities Australia, the peak body of Australian Vice-Chancellors, produced a number of reports that made specific mention of the unique situation of Indigenous students (Universities Australia 2006, 2008a, 2008b, 2011, 2012, 2014).

In this Chapter, my analysis unfolds the ongoing developments in Indigenous higher education policy implementation via close examination of some of these key documents. These documents reveal the developing Indigenous higher education policy agenda as a more specialized area of action, which is sometimes kept separate and sometimes subsumed within the priorities of the wider social inclusion agenda in Australian higher education. However, it also reveals how progress toward the AEP (commonly used abbreviation for NATSIEP) goals is firmly positioned within the wider context of the pressures and challenges Australian higher education faces at home and

abroad. My analysis reveals how Indigenous people actively and strategically have to manoeuvre a complex policy agenda to shape Indigenous goals, programs and strategies, within the constraints of the national higher education system. The rationales and strategies for improving Indigenous access, participation and outcomes are constituted and reconstituted in response to the changing discursive terrain.

The establishment of the Indigenous Higher Education Advisory Council

In 2005, a full decade after the Yunupingu AEP Review report, the Indigenous Higher Education Advisory Council (hereafter IHEAC) was constituted as a policy advice mechanism for the responsible Minister, then the Minister for Education Science and Training (DEST). Its membership consisted of Indigenous representatives from the universities as the primary source of that advice. This advice was to be aimed at

producing successful outcomes for Indigenous students and staff in relation to their participation, progression, and retention in both study and employment in higher education. This advice could extend to identifying enabling strategies such as Indigenous staff and student engagement in university decision-making and with Indigenous communities and stakeholders. (IHEAC 2006, Appendix 1, p. 26)

The Minister identified seven areas of policy advice required by IHEAC:

1. Identifying and developing strategies to improve student outcome...
2. Developing an Indigenous research culture for Indigenous academic staff and post graduates...
3. Strengthening the institutional responsibility for improving Indigenous students' outcomes and the role of Indigenous Support/Education Units...
4. Strategies for increasing the employment opportunities and career paths for Indigenous higher education staff...

5. Identifying and promoting best practice in the education of Indigenous students...
6. Encouraging Indigenous content in courses to ensure that all graduates understand Indigenous cultures...
7. The promotion and protection of Indigenous intellectual property within higher education. (IHEAC 2006, Appendix 1, pp. 26-27)

These areas do not directly reflect the AEP goals but nevertheless do accord with its intents. Significantly, the language of these indicates not just procedure and process, but of implementation and of action: identifying, developing, strengthening, strategies, promoting, encouraging, protecting, for example. IHEAC, then, can be seen as not just a policy advice mechanism but as something that functions to assert the Indigenous position and implement Indigenous goals. However, it also denotes a government-defined relation between Indigenous academics with experience of higher education and government attempts to fulfil commitments to Indigenous Australia, as reparation for the past. It is a legitimizing device for government to both enact and regulate the reform space.

To promote discussions across the Indigenous higher education sector, the Minister required IHEAC to convene annual conferences to discuss issues, achievements and best practice measures, as well as award scholarships (IHEAC 2006, Appendix 1).

The inaugural 2005 conference was entitled *Education Led Recovery of Indigenous Capacity: reshaping the policy agenda* (IHEAC 2006, p. 2). The conference report presented a positive vision, a familiar list of concerns, and sought a renewed commitment from the government and universities. The positive vision was summarized as follows:

The vision of the IHEAC is for a higher education system in which Indigenous Australians share equally in the life and career

opportunities that a university education can provide. This means creating a higher education system in which:

- Indigenous people and their culture and knowledge are visible and valued on campus;
- Indigenous research is high quality and high status;
- Indigenous studies are a prominent and vibrant part of the curriculum;
- Indigenous knowledge and culture are developed and preserved;
- Indigenous leaders are trained; and
- Indigenous people are active in university governance, leadership and management. (IHEAC 2006, p. 2)

The list of concerns included ‘the continuing under-representation of Indigenous people in higher education and the low rates of success, retention and completion for Indigenous students’ (2006, p. 2).

As a strategic plan to advance Indigenous participation in higher education, IHEAC had established 7 priority areas:

Priority 1: Encourage universities to work with schools and TAFE colleges and other registered training organisations to build pathways and raise levels of aspiration and confidence of Indigenous students.

Priority 2: Develop a concerted strategy to improve the level of Indigenous undergraduate enrolment.

Priority 3: Improve the level of Indigenous postgraduate enrolment, enhance Indigenous research and increase the number of Indigenous researchers.

Priority 4: Improve the rates of success, retention and completion for Indigenous students.

Priority 5: Enhance the prominence and status of Indigenous culture, knowledge and studies on campus.

Priority 6: Increase the number of Indigenous people working in Australian universities.

Priority 7: Improve the participation of Indigenous people in university governance and management. (IHEAC 2006, p. 3)

IHEAC's concerns did remain rooted in the precepts and priority goals of the AEP as an instrument of positive discrimination. For example, the value of higher education as a benefit for the Indigenous collective good was emphasized by the belief 'that policy for Indigenous higher education must be underpinned by the goal of the social, cultural and economic development of the whole Indigenous community' (2006, p. 5). That is, the benefits are not just for the individual participants, but should extend across the Indigenous community. Another example of the synergy with the AEP was a reiteration of the importance of integrated policies across all educational sectors. For example, it was noted 'that universities acting alone cannot address the root causes of Indigenous educational disadvantage – this requires action by all educational sectors' (2006, p. 5). However, IHEAC emphasized another level of integration within universities. This was the inter-relation of recruitment and support for students, the recruitment and support of staff, and the development of Indigenous Studies and Indigenous Research capacities in universities. These were argued to require equal attention to increase participation and successful outcomes for Indigenous Australians in higher education.

However, what distinguishes IHEAC policy development from other documents discussed so far is its emphasis on action rather than simply procedural issues, though both are in evidence in the 2006 conference report. This enables IHEAC to engage more substantively with Indigenous

educational issues and institutional impediments to progress. For example, IHEAC linked advancement of policy and programs to empirical evidence:

At the same time, solid evidence of what works (and what does not) must provide the basis for strengthening policies and programs. Progress will be made if there are authentic monitoring, reporting mechanisms and accountability, to help avoid the possibility of ‘counterfeiting’ success. (2006, p. 6)

In a similar way, IHEAC stressed the importance of cooperation between faculties and the Indigenous Units and Centres in universities:

As with all central units and activities in large universities, there are ongoing issues surrounding how best to integrate and connect with the work with faculties, which...are the academic heartland for teaching and learning.... It is important that such centres do not dilute or compromise their distinctive [Indigenous/cultural] missions. At the same time, such centres must examine new and more diverse directions that might be beneficial. (2006, p. 6)

Significantly, IHEAC emphasized the importance of financial support to Indigenous students’ access, participation and outcome. In this, financial support as a positive discrimination measure was supported:

There is an undeniable argument that Indigenous students require direct and indirect support at levels that may not be necessary for other students due to the former’s backgrounds, the pathways through which they have entered university and the context in which they are studying. (2006, p. 6)

IHEAC’s position was supported by the utilization of government statistics provided by DEST. These were for the 2001-2004 period. Once again, these statistics are used to evidence incremental improvements and the progress still to be made. IHEAC’s representation of the DEST statistics makes this quite transparent in their discussion; for example: ‘These data...provide, at best, a picture of a plateau in Indigenous higher education participation, or more pessimistically a decline in enrolments and commencements, despite growth

in award completions' (Appendix 2, p. 28). The presentation of statistics also appeared to be more transparent in relation to emphasizing what reaching parity with other students would require. For example, its leading introductory statement noted that:

Over the period 2001-2004, total Indigenous higher education student numbers increased slightly from 8,861 to 8,895 (3%), with course completions growing from 1,045 to 1,191 (14%), while numbers of Indigenous students commencing higher education courses declined from 4,128-3,865 (6%). (IHEAC 2006, Appendix 2, p. 28)

However, DEST then went on to table what parity numbers would look like in relation to participation rates and completion rates in the year 2003. For Indigenous higher education student numbers to reach parity with those of other Australian students in 2003, there would have to be 17,221 Indigenous students enrolled, whereas there were only 8,988. That is, a 92% increase in numbers is indicated for that year if equivalent rates of participation were to be achieved. In relation to completion, the task ahead was even more starkly delineated:

If Indigenous enrolments had been at the parity estimate of 17,221 in 2003 rather than the actual 8,988, one could have expected completions of around 2,750 (or 230% of the actual 1,191 completions) at the current Indigenous completion rates. Applying the higher (parity) rates of effective completion by non-Indigenous students, one could have expected Indigenous completions of 3,750 in 2003, an increase of more than 300% on current completion rates. (Appendix 2, p. 31)

Presented in this way, the small incremental statistical gains utilized as evidence of progress are revealed to be masking the failure to develop adequate strategies or study/learning conditions to implement policy goals.

The IHEAC conference report provides an example of a bridge between policy and its implementation in practice. As a broad and comprehensive national policy to produce a concerted effort across all sectors, the AEP sets

the parameters and standardizes the goals. However, the 2006 IHEAC report demonstrates the level of interpretation required to implement the policy into effective practice for the higher education sector. This is revealed in more detailed explanations of the challenges facing the Indigenous higher education sector and the more specific rationales for change within universities and by government to implement more effective strategies. Nevertheless, as an advisory body for the whole sector, IHEAC is also guided by generalities and statistics that do not disaggregate the specificities that may be critical to making progress in different universities, different disciplines, or for a diverse body of Indigenous students, some of whom require or seek different programs from other Australian students.

The role of Universities of Australia

The IHEAC report was subsequently taken up by Universities Australia. Universities Australia is the re-named Australian Vice-Chancellors Committee, and as such is the peak body that represents universities' interests to government and in the Australian public domain. Australian universities compete in a global market in relation to the recruitment of students and academics, the production of research, the innovation of knowledge, and the production of globally competitive graduates. As the peak body, Universities Australia negotiates government proposals for changes in the higher education sector and conducts its own surveys and research to support its interests. Also, as the peak body, Universities Australia's responses to Indigenous issues provide a significant level of national and cross-university support for Indigenous goals and priorities in higher education.

Universities Australia's support for IHEAC's seven priorities occurred in the context of a range of other policy advice given to the government. Most relevant are the Student Finance Surveys conducted by Universities Australia every six years, for example, in 2000, 2006 and, more recently, in 2012. These surveys are conducted 'to inform policy discussion at the federal level' and

represent the financial situation of all higher education students (Universities Australia 2007, p. iv). The report of the 2006 survey, suggested a 'possible deterioration' of financial conditions for all students since the 2000 survey (2007, p. 4). On the basis of the 2006 survey findings, Universities Australia reported 'the difficult financial circumstances of many Australian university students and the significant impact of financial pressures on students' capacity to study effectively' (2007, p.1).

Although Indigenous and other students were understood to share similar financial pressures, in 2006 Universities Australia disaggregated the findings from Indigenous students' surveys for the first time and discussed them in a separate chapter of the report,

in recognition of the often distinctive family and financial situations under which Indigenous students are studying and in the need to develop policies and programmes to raise higher education access, participation and completions rates. The study reveals marked differences in the financial circumstances of Indigenous students compared with non-Indigenous students. (Universities Australia 2007, p. 1)

Here, it was possible for Universities Australia to demonstrate not just the relative disadvantage of Indigenous students but also the distinct features of this disadvantage in relation to financial indicators. This supports an ongoing case for conceptualizing distinct and separate Indigenous financial assistance as a form of affirmative action. For example, 25.4% of Indigenous students went without food or other necessities compared to 12.8% of other students (2007, p. 2). They worked on average three hours per week more than other students and missed more classes as a consequence. More Indigenous students had loans, more of them could not rely on others for cash and non-cash supplementary assistance, and more were reliant on subsidized services, health care and counselling (p. 3).

Following the 2006 survey of students' finances, in 2007 Universities Australia went on to commission a scoping study on equity and participation of lower

social-economic status students (Universities Australia, 2008a). The aim was to consider whether the then identification of lower socio-economic status students by their home postcodes was sufficiently representative. Once again, the report included a special chapter which analyses the context of Indigenous students,

because of the often distinctive family and other personal circumstances under which Indigenous students live and study and their significantly different patterns of participation and outcomes across all education sectors compared with non-Indigenous people. (Universities Australia 2008a, p. 43)

In relation to access and participation in higher education, this document reconfirmed the statistical reality that 'Indigenous people are significantly under-represented in Australian higher education' (Universities Australia 2008a, p. 43). Representation is measured on a population parity basis, where Indigenous Australians constitute approximately 2.4% of the population. Indigenous students 'comprised only 1.25 per cent of the commencing domestic student population in 2006' (Universities Australia 2008a, p. 43). The underrepresentation of Indigenous students in higher education has thus persisted since the early years, when it emerged as an issue to be addressed by Australian government. According to the data provided by the report, the participation of Indigenous students remained at a consistent level between 2001 and 2006 due to three principal factors: including a reported increase in overall Indigenous population vis-à-vis the national population (from 2.1 per cent to 2.4 per cent); higher rates of Indigenous participation in secondary education (from 3.5 to 4.2 per cent); and a higher percentage of young Indigenous in the Indigenous population compared to the proportion in the non-Indigenous population (Universities Australia 2008a, p. 44).

As in other documents, access is a key topic in relation to how to redress Indigenous disadvantage in education. The report recognised several factors that affected access to higher education for Indigenous students and the consequent underrepresentation at this level. The first factor was the non-

completion of secondary school: 'the rate of school retention from Year 10 to Year 12 is significantly lower for Indigenous students than for non-Indigenous students' (Universities Australia 2008a, p. 46). For example, there is a 7.5 percentage point difference in the retention rates of Indigenous students compared to non-Indigenous students; but 'by Year 12 this gap has widened to a 35.8 percent point difference with far fewer Indigenous (40.1 per cent) than non-Indigenous students (75.9 per cent)' (Universities Australia 2008a, p. 46). Year 11 is the first non-compulsory year of secondary school. Nevertheless, overall the retention of Indigenous students compared with non-Indigenous students improved between 2001 and 2005:

the gap in retention rates between Indigenous and non-Indigenous students fell by 10.4 percentage points. This improvement was in contrast with the more modest change in relative retention rates to Year 12 during the same period, which narrowed by only three percentage points. (Universities Australia 2008a, p. 46)

The second factor in explaining the under-representation of Indigenous students in higher education was the entry into non-higher education pathways: 'of the 30 per cent of Indigenous students who achieve a Year 12 certificate, only around one sixth of these commence a higher education course by age 18 years' (Universities Australia 2008a, p. 47). In contrast, 'closer to half of all Australians who complete a Year 12 certificate commence a higher education course by age 18 years' (Universities Australia 2008a, p. 47). The decision to choose a non-higher education pathway may be influenced, according to the report, by 'low academic achievement, lower aspirations for higher education and lack of information about higher education opportunities' (Universities Australia 2008a, p. 47). Or it may be influenced by the perception on the part of Indigenous students that a practical educational outcome via a vocational education course may be more suitable.

Low academic achievement was the third factor that affected access of Indigenous students to higher education. Here, the gap between Indigenous and non-Indigenous students in literacy and numeracy has consistently been reported in the OECD Programme for International Student Assessment (PISA) [2000, 2003, and 2006]. In PISA 2006, 'Indigenous students, on average, scored 86 points lower than non-Indigenous students, a gap of approximately two and a half years of formal schooling' (Universities Australia 2008a, p. 48). These statistics relate the position of Indigenous students to other Australian students and position those other Australian students' achievements as indicators of adequate higher education preparation. The positive discrimination measure of 'special' admissions processes for Indigenous students enables entry without these standard measures. Universities Australia can be seen to be wielding statistics for the purposes of the case they were making.

The fourth factor was related to lower aspirations for higher education. Again, 'in comparison with non-Indigenous students, Indigenous students are less likely to aspire to higher education, seeking instead employment options that require minimal post-school training and education' (Craven et al. 2005, cited in Universities Australia 2008a, p. 48). Finally, the fifth factor considered in Indigenous disadvantage refers to limited knowledge of career pathways. According to the report:

Indigenous students often do not have sufficient information about pathways to higher education due to the nature of the career counselling they receive at school, the inability of their families to provide advice if no member of the family has previously attended university and the absence of Indigenous role models who have been to university (Craven et al. 2005; Lamb et al. 2004; James & Devlin 2006, cited in Universities Australia 2008a, p. 49).

In relation to retention, success and completion in higher education, low completion rates of Indigenous students for the period 2001-2006 were

reported: 'around 4000 Indigenous students commenced higher education studies, but only 1000-1200 completed a higher education course each year in the same time period' (2008a, p. 49). Attrition was described as one of factors that affected the completion rate of Indigenous students, with a higher rate of attrition in early years: 'across 2000-2003, first year attrition rates for Indigenous higher education students were typically around 35-39 per cent, with the comparable figures for domestic [Australian] higher education students overall being 22-23 per cent' (James & Devlin 2006, cited in Universities Australia 2008a, p. 49). In relation to the statistical information, the retention ratio for 2001 was 0.77 and in 2005 was 0.81 (2008a, p.50). These are very incremental changes, but in this context presented to support the case that Universities Australia was making.

The success rate – the measure of the proportion of units that students pass in a year compared with total units in which the students were enrolled – was also lower for Indigenous students: 'where a success ratio of 1.0 would indicate equity for Indigenous students with non-Indigenous students, in 2005 the success ratio was 0.79' (2008a, p. 50). In a broad sense, the report recognised the convergence of different factors that have contributed to low levels of Indigenous retention and completion in higher education: demographic characteristics, rural and regional disadvantage, financial disadvantage, and lower levels of educational attainment at entry and cultural isolation and prejudice. Indigenous students are more likely to commence higher education studies at an older age than non-Indigenous Australians, that is to say, an average of 29 years old compared with 22 years old for non-Indigenous students (2008a, p. 51). In addition, the rural context:

operates to exacerbate both the financial pressures of Indigenous students and feelings of cultural isolation. In 2006, only 31 per cent of Indigenous Australians lived in major cities while the rest of the Indigenous population was distributed across inner regional (22 per cent), outer regional (23 per cent)

and remote/very remote areas of Australia (24 per cent)
(Universities Australia 2008a, p. 52).

Indigenous students coming from rural areas have to move to main cities to have access to higher education, with the consequent negative impact on their finances and the emotional aspects of separation from Indigenous community and family.

Finally, according to the information provided '[a] number of reports have linked the low levels of Indigenous people's participation in higher education with fears of cultural isolation and experiences of racism on campus' (Universities Australia 2008a, p. 52). These experiences require the intervention of the universities at all levels, as part of their responsibilities towards Indigenous students, and the establishment of actions to promote respect and the promotion of diversity across universities.

The attention given to the unique circumstances of Indigenous students and the continuing disparities between Indigenous and non-Indigenous students in terms of access, participation and outcomes by Universities Australia lends authority to the ongoing need for positive actions as redress for educational disadvantage. Here, Universities Australia positions its authority as a source of policy advice for the government to support Indigenous goals in higher education, as a specialized area for action.

To this end, and as an outcome of this review, Universities Australia (2008b) produced an Equity and Participation Action Plan, with 9 Actions, of which Action 7 related specifically to Indigenous higher education. Action 7 was focussed on improving the access and retention of Indigenous students and Universities Australia's commitment was that 'Universities Australia, IHEAC and the Commonwealth Government cooperate together to review progress in pursuing and implementing the IHEAC priorities' (p. 5). Universities Australia recommended these be cooperatively supported across the university sector. Within or across the seven IHEAC priorities, Universities

Australia identified four key areas. These included increasing levels of academic preparedness before entry, alternative pathways, academic and personal support, and improved financial support.

IHEAC's identification of seven priority areas, the Universities Australia review of the equity and participation of disadvantaged students, and the follow-up Universities Australia Action Plan emerge as part of a now familiar pattern, albeit more invested in educational issues than the previous series of procedural documents in the previous chapter. Universities Australia's role provides significant support for the policy advice provided by IHEAC. However, the equity and participation review and action plan occurred in the context of a much wider review of Australian higher education. This was what has come to be known as the Bradley Review (Bradley, Noonan, Nugent & Scales 2008). Here I refer to it briefly as a way to situate ongoing developments in Indigenous higher education policy and strategies in the wider context of Australian higher education.

Indigenous higher education in the context of the Bradley Review of Australian Higher Education

The Australian higher education review was commissioned by the, then, Minister Gillard soon after the Rudd Labor government came to power in 2007. It reported in 2008, almost two decades after the launch of NATSIEP/AEP in 1989. The review was asked 'to report on the future direction of the higher education sector, its fitness for purpose in meeting the needs of the Australian community and economy and the options for the future' (Bradley et al 2008, p. ix). However, the review was also about the position of Australia's higher education sector in the rapidly changing global economy:

We must create an outstanding, internationally competitive tertiary education system to meet Australia's future needs and we must act now if we are to remain competitive with those

countries that have already undertaken significant reform and investment. (2008, p. xi)

This instrumental rationale of a 'fit for the purpose' Australian higher education system supported a case to increase the proportion of the Australian population with higher education qualifications. The review stressed that increased participation of under-represented social groups was required to meet the 'need [for] more qualified people if [Australia] is to anticipate and meet the demands of a rapidly moving global economy' (p. xi). In Australia, disadvantaged social groups are commonly referred to as equity groups. Equity groups include those of lower socio-economic status, the disabled, regional and remote students, students from non-English speaking backgrounds, and Indigenous people.

The Bradley review set out 20 findings, all of which were dealt with in more detail in the subsequent chapters of the report. Two findings were explicitly concerned with Indigenous higher education issues. Under the heading of 'Indigenous Knowledge' the report found that:

Higher Education providers should ensure that the institutional culture, the cultural competence of staff and the nature of the curriculum recognises and supports the participation of Indigenous students....Indigenous knowledge should be embedded into the curriculum to ensure that all students have an understanding of Indigenous culture. (2008, p. xxvi)

Another finding was explicitly concerned with Indigenous scholarships and noted they should be kept separate from other Australian government scholarships.

Some other findings were inclusive of Indigenous students, even where Indigenous students were not mentioned explicitly. For example, the report found a need for more research on the reasons students fail to complete university programs and called for trials of alternative admissions processes, suggesting broader criteria to 'recognise structural disadvantage' (p. xxvi).

Another findings, Indigenous students were mentioned explicitly when under-represented groups were discussed, for example, in relation to access, success, retention, and completion targets.

Chapter 3 of the review reported in more detail about Indigenous students. A declining Indigenous access rate over the previous six years was noted. It was also noted that in 2006 Indigenous pass rates were 23% below those of other Australian students and that retention rates in the previous six years had hovered between 19% - 26% below the rates of other Australian students. The review noted that in addition to concerns about low access rates, 'an equally important issue is their academic success and their retention once enrolled' (2008, p. 32). In view of this the reported stated quite strongly:

Addressing access, success and retention problems for Indigenous students is a matter of the highest priority. Indigenous Australians suffer high levels of social exclusion.... higher education providers must not only address their learning needs but also recognise and act on issues such as the culture of the institution, the cultural competence of all staff – academic and professional – and the nature of the curriculum. (2008, p. 36)

Here the Bradley Review seems to embrace a more 'substantive' notion of equal educational opportunity as one demonstrated through educational outcomes. Rather than being primarily an issue of providing opportunities to access higher education, the test for equal educational opportunity is shifted to a consideration of the benefits that derive from 'equal access' positive discrimination measures.

However, at the same time, a framework of social inclusion is implied to be able to achieve this. While this is logical and appears to be a matter of common-sense, the discourse of social inclusion masks the displacement of the discourse of Indigenous self-determination as a framework for 'equitable' forms of higher education provision, as the 1995 Yunupingu AEP review had stressed. The discourse of social inclusion emerges as a default position or a

substitute for Indigenous self-determination in higher education. That is, in response to Indigenous people's efforts to voice and determine their own needs and goals, the discourse and actions of social inclusion represent the university sector's commitment to change to accommodate the presence of Indigenous people, knowledge, and/or goals. The idea of an Indigenous university raised by MCEETYA in 1996 disappears as an Indigenous choice to achieve equitable forms of Indigenous higher education.

Apart from its statements about Indigenous knowledge, Indigenous scholarships, and setting targets for access, success, retention and completions, the review did not recommend any changes to the government's Indigenous student support initiatives. At the time, the report listed these initiatives as relating to: grants to higher education providers to provide or administer support measures; free supplementary tuition; assistance for students who studied in block mode programs and who had to leave home to attend intensive class sessions; assistance for youth to relocate from remote and regional areas to study; and a number of different scholarship programs, which were designed to supplement rather than cover costs. A 4% loading for outreach activities to increase access was contained within the 'widening participation' agenda for all equity groups.

Instead of recommending changes to these programs, the Bradley review made one recommendation in relation to Indigenous higher education. This was 'that the Australian government regularly review the effectiveness of measures to improve higher education access and outcomes for Indigenous people in consultation with the Indigenous Higher Education Advisory Council' (Recommendation 30, p. 159).

The emergence of cultural competency discourse and as a framework for best practice in Australian higher education

As cited above, in its final report, the Bradley Review had made reference to the 'cultural competence' of all staff (2008, p. 36). In 2009, Universities

Australia, in collaboration with the IHEAC, obtained funding from the Department of Education, Employment and Workplace Relations (DEEWR) to develop a two-year project on Indigenous Cultural Competency in Australian universities. The project commenced before the Australian government responded to the Bradley review's call for an Indigenous Higher education review. It reported in 2011, the same year that a review of Indigenous higher education access and outcomes was commissioned, as a result of the Bradley Review's Recommendation 30. The project's aim was to provide:

a best practice framework to Australian universities to embed cultural competency at the institutional level, to provide encouraging and supportive environments for Indigenous students and staff, whilst producing well-rounded non-Indigenous graduates with the knowledge and skills necessary for providing genuinely competent services to the Australian Indigenous community (Universities Australia 2011a, p. 27).

Two outcomes were produced by the Cultural Competency project: the primary project report, National Best Practice Framework for Indigenous Cultural Competency (Universities Australia 2011a) and an accompanying document to assist implementation, *Guiding Principles for Developing Indigenous Cultural Competency* (Universities Australia 2011b).

The emergence of the concept of cultural competency is an example of the changing discursive conditions which give shape to arguments and strategic directions in Indigenous higher education. In 2009, when the project got underway, the concept of cultural competency was not widely used in Australia. According to the report, the concept emerged in the United States in the decade of 1980's as a response to the existent evidence about 'the nature of service provision provided to Native Americans and other cultural minority groups, particularly in the fields of health, human services and education'(Universities Australia 2011a, p. 37). At the same time in New Zealand, Māori nurses were developing the concept of cultural safety for the

health sector (Ramsden 1993). The concept of cultural safety was then adopted by the Indigenous higher education sector (Bin-Sallik 2003) to supplement a longer emphasis that had been given to developing the cultural awareness of other Australians in relation to Indigenous people. However, the concept of cultural awareness has been criticised for ‘its failure to effect change in behaviour and therefore service delivery’ (Universities Australia 2011a, p. 38).

Thus in higher education in Australia, cultural competency was an attempt to combine or encompass and extend these two related concepts: cultural safety and cultural awareness. Cultural safety was defined as:

an environment which is safe for people; where there is no assault, challenge or denial of their identity, or who they are and what they need. It is about shared respect, shared meaning, shared knowledge and experience, of learning together with dignity and truly listening. (Eckerman et al. 1992, cited in Universities Australia 2011a, p. 37)

Cultural awareness was considered similar to the concept of cultural safety and ‘based upon the premise that through the provision of knowledge of Indigenous cultures and histories sufficient understanding and insight will be gained to improve service delivery and outcomes’ (2011a, p. 37). Cultural awareness was directed towards other Australians and cultural safety was directed towards the provisions for Indigenous people in universities.

However, the concept of cultural competency goes beyond cultural awareness and cultural safety and includes ‘critical reflexivity of self and profession, capacity building of skills and decolonisation of organisational paradigms, policies and procedures’ (Nolan 2008, cited in Universities Australia 2011a, p. 38). It focuses on the improvement of outcomes through the integration of culture into the delivery of services. Many of the definitions presented in the report shared common elements, such as ‘valuing diversity, having the capacity for cultural self-assessment, being conscious of the dynamics

inherent in cross-cultural interactions, institutionalising the importance of cultural knowledge and making adaptations to service delivery that reflect cultural understanding' (Goode 1995, cited in 2011a, p. 38). Research conducted by the project identified different notions of cultural competency: professional cultural competence; institutional cultural competence; and Indigenous cultural competence. The IHEAC defined cultural competence as:

The awareness, knowledge, understanding and sensitivity to other cultures combined with a proficiency to interact appropriately with people from those cultures in a way that is congruent with the behaviour and expectations that members of a distinctive culture recognise as appropriate among themselves. (2011a, p. 48)

While the concept of cultural competency was relatively new at the time and not easily defined, the Universities Australia Best Practice Framework report offered a final working definition:

Student and staff knowledge and understanding of Indigenous Australian cultures, histories and contemporary realities and awareness of Indigenous protocols, combined with the proficiency to engage and work effectively in Indigenous contexts congruent to the expectations of Indigenous Australian peoples. (Universities Australia 2011a, p. 6)

Further to this, the report issued a strong statement to the entire higher education sector, emphasizing that a 'culturally competent higher education sector will embrace these values thoroughly: throughout the organisational fabric of institutions and extending to every staff member and student' (2011a, p. 7).

From the research undertaken by the project, five groups of issues emerged, which according to the report, demonstrated the need and provided the rationale for all Australian undergraduate students to gain knowledge and understanding of Indigenous Australians:

There continues to exist a significant lack of awareness amongst professionals of Indigenous Australian clients, cultures and contexts; an absence of specific skills and strategies for working in Indigenous contexts; the culturally specific nature of the assumptions and practices of professions and agencies; the failure of professions to engage in broader issues of justice and human rights, including advocacy and the development of strategies to challenge prejudice, ethnocentrism and racism; and the need for individuals to be aware of their own values, assumptions and expectations and how these impact on their interaction with Indigenous clients and communities. (Universities Australia 2011a, p. 58)

The report recognised the role that universities have in shaping the culture, paradigms and practices of several professions across a range of disciplines. The premise of cultural competency in the higher education of students was that through the understanding of their own professional contexts, professionals would be able to develop an ‘understanding of the social and political contexts of Indigenous people’s lives and communities and the roles of the professions in shaping those contexts to become agents of change’ (2011a, p. 52). In addition, the report argued that the closing of the socio-economic and political gap between Indigenous and non-Indigenous peoples requires graduates to be well equipped with the skills and cultural understandings necessary for ‘effective engagement and service delivery, and to counter the high rate of turnover of professional staff working in Indigenous communities due to lack of adequate cultural knowledge and training’ (2011a, p. 52).

Based on the project’s research and consultations, the report set out some guiding principles for Indigenous cultural competency. According to the report, these guiding principles were supported by recommended best practices, which emerged during the course of the project as common indicators of success:

- Indigenous people should be actively involved in university governance and management.
- All graduates of Australian universities should be culturally competent.
- University research should be conducted in a culturally competent way that empowers Indigenous participants and encourages collaborations with Indigenous communities.
- Indigenous staffing will be increased at all appointment levels and, for academic staff, across a wider variety of academic fields.
- Universities will operate in partnership with their Indigenous communities and will help disseminate culturally competent practices to the wider community. (2011a, p. 8)

The report also urged Australian universities to ‘adopt the principles and seek ways to implement them attuned to their own particular circumstance and method of operation’ (2011a, p. 8).

Some of the topics included in the National Best Practice Framework are:

- Training and development of university academic and professional staff in cultural competency, including, for academic staff, appropriate pedagogy for Indigenous students.
- Engagement with local Indigenous communities to give these communities a visible place in campus life and an effective voice in university affairs.
- Establishment of more robust frameworks for the regular reporting of Indigenous staff and student outcomes and/or inclusion of Indigenous staff and students in university planning and the development of corporate documents.

- Deepening connections between university Indigenous centres and other organisational units, including faculties, research centres, graduate schools, student services, chancelleries.
- Development of ethical models for Indigenous research, including mechanisms for ensuring that research on Indigenous subjects is culturally safe and appropriate.
- Programs targeted at moving Indigenous staff towards population parity across all levels of university employment. (Universities Australia 2011a, p. 34)

The Best Practice Framework makes it clear that cultural competence requires an organisational culture committed to social justice, human rights and the process of reconciliation through the value and support of Indigenous cultures, knowledge and peoples. It also requires effective and inclusive policies along with enough resources to foster these competencies at all institutional levels. Universities Australia (2011a, p. 8) also stressed that the Best Practice Framework aligned with IHEAC's (2006) vision and seven key priorities, the Bradley Review (2008), including its vision for 2020, and the vision and goals of the World Indigenous Nations Higher Education Consortium (2007).

Cultural Competency has emerged as a primary discourse and pedagogy in Australian and Indigenous higher education. It is still in the process of being operationalised across universities and it remains to be seen whether it will achieve what other policies and frameworks for action have not been able to achieve so far. It supports the NATSIEP/AEP goals 20 and 21 and as a strategic and practical framework provides the possibility of a much more integrated set of practices to re-frame Indigenous higher education within the main Australian higher education system. These integrated practices across the organizational and governance fabric of institutions, across teaching and learning, and across curriculum and research may be more effective than the

two rather superficial and disconnected concepts of cultural awareness and cultural safety. The framework also appears to place the onus for the accommodation of cultural difference onto non-Indigenous students, staff and systems that now have to acquire cultural competencies. The focus on inclusive and integrated practices, however, sits in tension with Indigenous people's calls for forms of education appropriate to meet different Indigenous community needs. While the possibilities for these remain open, the integrative focus takes the locus of control away from Indigenous people unless the strategy is fully embraced and resourced beyond teaching and curriculum issues. This includes support for Indigenous research, relationships with Indigenous communities and the inclusion of Indigenous academics in senior positions and university governance mechanisms.

In this, the framework constitutes a technology of social inclusion rather than supporting the development of Indigenous social institutions in contemporary spaces, as the Yunupingu AEP review (1995) highlighted. Nevertheless, the cultural competency framework for action maintains some continuity with the Indigenous positions that have been expressed in the series of reviews and reports I have analysed. One is that to be truly inclusive, institutions and curricula should reflect the presence and value of Indigenous knowledge, histories and cultures as essential elements in the higher education of all Australians. Another is the understanding that the disciplines that prepare professionals for practice in key areas are part of the problem of inadequate and inappropriate services for Indigenous people and are therefore complicit in the perpetuation of Indigenous disadvantage. A third is that achieving equitable outcomes requires departures from the notion that Indigenous people seek the same forms of education as others.

All the proposed actions for establishing cultural competence are sought by Indigenous people and are developed in accordance with the commitment to social justice, human rights and the process of reconciliation that Australian society values as an attempt to overcome the legacies of past injustice.

However, a question is again raised: what is the relation between the cultural competency framework for institutional best practice and the performance/success of Indigenous students in universities?

In sum, my analysis of IHEAC and Universities Australia activities, as well as the Bradley Review reveals that policy implementation discussions are shifting towards the substantive educational issues confronted by Indigenous higher education students. Discussions appear to have a closer focus on strategies to ameliorate the less than adequate study/learning conditions of Indigenous students and the circumstances in which they come to higher education. Strategies for action appear to be more focussed on institutional changes. Further, the strategies and best practice actions set out in these documents all closely align with and reinforce each other. However, once again, at each step of the way through these reviews, action plans, reports, research and more action plans, my analysis reveals the continuing narrative of incremental progress in terms of access, participation and outcome statistics. In a now rather familiar pattern, in response to the Bradley Review Recommendation 30, the Australian government commissioned a review of higher education access and outcomes for Aboriginal and Torres Strait Islander people in 2011. While not directly a review of NATSIEP/AEP, the effectiveness of policy and its focus on effective arrangements was implied. I turn to examine this review in the context of other national initiatives occurring before and after it.

The Review of Higher Education Access and Outcomes for Aboriginal and Torres Strait Islander People

The Indigenous higher education review was comprehensive in its reach and chaired by an Indigenous academic. The review panel commissioned 15 research papers on a range of topics (Behrendt, Larkin, Griew & Kelly 2012, Appendix V). The panel took 76 written submissions from universities, other organisations, and individuals (2012, Appendix III). It undertook hundreds of

face to face consultations or interviews with students, universities, and organisations, and conducted a roundtable and a forum (2012, Appendix IV).

Twenty-two years after the launch of NATSIEP/AEP in 1989, the review panel was asked:

- to provide advice and make recommendations in relation to:
- achieving parity for Aboriginal and Torres Strait Islander students, researchers, and academic and non-academic staff
- best practice and opportunities for change inside universities and other higher education providers (spanning both Indigenous-specific units and whole-of-university culture, policies, activities and programs)
- the effectiveness of Commonwealth Government programs that aim to encourage better outcomes for Indigenous Australians in higher education
- the recognition and equivalence of Indigenous knowledge in the higher education sector. (2012, p. x)

The panel took parity to mean that student and staff numbers ‘should be based on the proportion of the total population aged between 15-64 who are Aboriginal and Torres Strait Islander people’ (2012, p. x). In Australia this was reported as 2.2% on 2006 statistics. However, the review panel asked that this proportion be updated in line with future Census statistics, as these were collected. For retention and completion rates, parity was to mean the same rates as other Australia students.

However, the review also linked Indigenous success in higher education to larger narratives. One was to ‘contribute to closing the gap’ (p. x) between Indigenous and non-Indigenous Australians. This positions the parity goal in Indigenous higher education within the tensions of the broader national narrative of social justice for Indigenous Australians and Indigenous goals to

build the capacities of its people to develop contemporary social institutions that meet the needs of those communities. The second narrative for success in Indigenous education was as a contribution to 'Australia's broader well-being and economic prosperity' (p. x). This positions Indigenous higher education in the broader equity and 'widening participation' agenda, which the Bradley review linked to the need for more qualified university graduates, so that Australia can be more globally competitive and maintain its living standards. These narratives maintain both the moral and instrumental dimensions of positive discrimination rationales (Moses 2010).

Like all other reviews and reports, the Indigenous higher education review set out a list of comparative statistics. Schooling statistics emphasize the lower educational starting point of Indigenous higher education students. For example, 'in 2008, 45.4 % of Aboriginal and Torres Strait Islander 20- to 24 year olds reported completing Year 12 or equivalent, compared to 88.1% of non-Indigenous 20- to 24 year olds' (2012, p. 5). In relation to university entrance scores, in 2008, 'around 10% of Aboriginal and Torres Strait Islander students who completed Year 12 gained a university entrance score, compared to around 46% of non-Indigenous students (2012, p. 5).

In relation to access and participation in higher education, Indigenous students constituted 1.4% of the total student population in universities in 2010, but were 2.2% of the Australian population. They were more likely to be female, mature age, and enrolled in an external mode of attendance (that is not attending full-time study on campus). In 2010, retention rates were reported to be 63.4% for Indigenous students compared to 79.8% for non-Indigenous students. Indigenous completion rates over the period 2005-2010 were reported to be 40.8% compared to 68.6% for non-Indigenous students (2012, pp. 6-7).

The review engaged issues around parity, university outreach to schools, other pathways and enabling programs into higher education, student support once

enrolled, professional pathways for Indigenous workers to respond to Indigenous community needs, Indigenous knowledge and research, support for Indigenous staff in universities, provisions for support of students and staff, and attention to university culture and sector governance. It then provided a way forward. It provided 35 recommendations in these areas.

The recommendations reveal the different stakeholders and the positioning of them by the review panel to promote and develop a network of relations between them. For example: out of the 35 recommendations, thirteen are directed towards the Australian government alone. Many of these are related to its funding role or its need to work with or facilitate more integration of strategies with other education sectors or relevant bodies. Ten recommendations are directed to universities alone and another three to both universities and governments to work together on issues. A further seven recommendations are directed to multiple organisations and bodies or are recommendations directed singularly to some of these organisations. Some of these bodies are other educational sectors involved in access and pathways into universities or professional bodies. Others include the Australian Research Council, The Australian Bureau of Statistics and the Australian Institute of Aboriginal and Torres Strait Islander Studies, which is a national institute and repository for Indigenous knowledge and research. Two recommendations related to IHEAC's advisory role alone.

These recommendations reveal the breadth of significant stakeholders beyond universities that are considered to have a contribution to make to overcoming Indigenous people's disadvantage in higher education. The review panel emphasized the connections and links between schooling and prior education levels, success in higher education, higher education to serve the development of the Indigenous population as a whole, the role of Indigenous knowledge, research, the development of Indigenous academics, researchers, and professional staff in universities, the importance of other external bodies, the importance of funding and monitoring progress, the need for culturally

competent non-Indigenous staff within universities and Indigenous leadership in university governance structures.

This breadth appears to confirm that the achievement of substantive equality in higher educational outcomes requires a ‘concerted effort’ and ‘effective arrangements’ as outlined in the NATSIEP/AEP twenty-two years prior. So despite the ineffectiveness of arrangements over the past two decades, evidenced through fluctuating and incremental progress towards statistical parity, the consensus on this approach appears to stand.

However, it is now the repetitiveness of these calls that emerges to cast doubt on the effectiveness of the NATSIEP/AEP as a positive discrimination measure and the effectiveness of approaches and strategies to achieve those goals in higher education. While the AEP set long-term goals, the persistence of relative educational disadvantage suggests a failure in the implementation of policy into practice. Further, while the review recommendations support the IHEAC’s seven priority areas, the two recommendations relating to IHEAC simply directed the Council to provide leadership and policy advice on the development and implementation of a higher education strategy and evaluation framework and to work with other sectors involved in pathways and enabling programs into universities.

While acknowledging the breadth of issues covered by the review, I turn to more closely examine two sections of the review in more detail. The first concerns the success of students once they are enrolled. The second concerns access and enabling pathways as preparation for and access to higher education. These are provided as examples of the review’s attempt to engage more substantively with educational issues.

One of the background research papers commissioned by the review (Pechenkina & Anderson 2011), discussed trends, initiatives and policy implications in Indigenous higher education. The paper provided an analysis of Indigenous higher education statistics, rather than just a re-presentation of

them, as in most reviews and reports. The analysis drew attention to research on the differences between universities and to the differences in access and outcomes that emerged as a result:

Based on the analysis of Indigenous student data in higher education, Indigenous institutional outcomes can be categorised crudely (with a couple of exceptions) into two categories: those with high enrolment and low completions and those with low enrolments and high completions. (Pechenkina & Anderson 2011, p. 1)

The research drew attention to the way the former was more characteristic of regional universities and the latter of the elite top group of eight (Go8) and metropolitan universities. This was related, however, not just to the differences in the types of universities but also to the recruitment and admissions practices in the different types of universities. The more elite universities were understood to use different selection standards that increased Indigenous students' chances of success. The technical and regional universities were understood to provide more educational opportunities for Indigenous students to enrol via alternate pathways (Pechenkina & Anderson 2011).

However, it was also recognised that 'whilst institutional characteristics may be in part responsible for this pattern of outcomes, the impact of common system-wide drivers should not be ignored' (Pechenkina & Anderson 2011, p. 1). It was noted that once enrolled, non-Indigenous students 'from low socioeconomic backgrounds perform nearly as well as students from other socioeconomic groups (with the exception of those from remote and regional areas)' (p. 1). However, Indigenous students did not perform nearly as well as other socioeconomic groups once enrolled. This led to a conclusion that:

Better alignment of the policy and funding environment would need to support all universities to improve outcomes, although the emphasis would need to differ taking into account the institutional patterns that are described.

All universities need to do better in terms of completions rates since even the best outcomes currently are relatively poor compared to those of non-Indigenous students.

Underpinning possible differences in the institutional characteristics there is a common fundamental driver – the relative under-representation of Indigenous Australians in higher education. (Pechenkina & Anderson 2011, p. 1)

As a solution for moving forward, the authors recommended a ‘sharper focus on the development of institutional strategies to support the development of partnerships, pathways, productivity and Indigenous leadership’ (p. 2).

The focus on partnerships and leadership were the bookends for a central focus on pathways and productivity, which were related to producing better student outcomes. Productivity, for example, related to ‘the development of “pipeline” programs, which increase the pool of tertiary ready Indigenous students and transition programs which provide academic development... in order to ensure their successful outcomes’ (Pechenkina & Anderson 2011, p. 15). This also included attention to selection processes. Productivity related to improving the quality of student outcomes, ‘with a focus on getting better integration of Indigenous students (sic) programs with academic and organisational strategies’ (p. 15).

These suggestions were taken up by the review and can be evidenced in the review’s final report recommendations in relation to student success and transition pathways (Behrendt et al 2012). The review recommendations in relation to student success are:

Recommendation 10: That universities adopt a whole-of university approach to Aboriginal and Torres Strait Islander student success so that faculties and mainstream support services have primary responsibility for supporting Aboriginal and Torres Strait Islander students, backed up by Indigenous Education Units.

Recommendation 11: That universities:

- continue to support Indigenous Education Units to provide a culturally safe environment for Aboriginal and Torres Strait Islander students
- review whether their Indigenous Education Units have appropriate objectives, funding, structures and accountability measures to ensure quality student outcomes with a focus on:
 - outreach work with schools and other sectors
 - improvements in retention and completion rates
 - access to quality tutoring services
 - collaborate with each other and government to provide an evidence base and share good practice. (Behrendt et al. 2012, p. xvii)

While the review report recommended that faculties share responsibility for the support of Indigenous student success with the Indigenous Education Units, it was emphasized that ‘[t]here is no single best practice model for the units. Support must be tailored to best suit the student profile of the institution and be designed in close collaboration with the faculties’ (2012, p. 51)

The review recommendations in relation to transition pathways are embedded within six recommendations related to a broader discussion. This discussion included emphasis on the need for universities ‘to build strong relationships with schools and work closely with them to encourage...retention, academic achievement, Year 12 completion and transition to university’ (Behrendt et al. 2012, p. 22). This involved improving university outreach to schools and beginning it as early as possible, building aspirations, providing support in Years 10 to 12 to ‘focus on supporting a successful transition to university’ (p. 24), building school students’ key skills and peer networks, and providing better information for families and students. To do this, university partnerships with other stakeholders were encouraged. Other pathways into university were also discussed, from work and employment, from the

Vocational Education and Training (VET) sector, and through enabling entry programs, which provide academic preparation opportunities to students without the necessary prior educational attainments.

These examples evidence recognition of the complex factors that impede the provision of equal opportunity in higher education for students. Other areas of the review evidence recognition of: the role of the university culture plays in impeding progress; its willingness (or not) to include Indigenous knowledge and Indigenous Studies perspectives in programs for all students; its commitment to developing a flourishing Indigenous research culture via the provision of opportunities for Indigenous Higher Degree Research students and academic staff; the importance of a professionalized Indigenous workforce in universities; and so on.

However, despite closer attention to engagement with the substantive issues associated with educational participation and success, the recommendations are nevertheless very familiar. For example, they include: the reiteration of parity rates; the setting of targets in relation to parity rates; increasing accountability of senior management for parity rates within each university; developing partnerships and integrated strategies with other sectors and stakeholders; encouraging Indigenous people's aspirations to higher education study; providing additional scholarships; improving cultural awareness and cultural competency training for all university staff; and increasing the number of Indigenous people at higher decision-making levels (Behrendt et al. 2012).

In relation to one aspect of the review brief, which was to make recommendations with regard to best practice within universities, the review appeared to rely on self-reported evidence from the sector, in much the same way that previous reports had (e.g. DETYA 1999). That is, via submissions and consultations, a selective use of examples of practice in universities was presented and comes to be represented as best practice. These examples may be good, effective and even best practice. However, without evidence of what

these examples of practice achieve in comparison to other practices or in terms of the review's own parity measures of success, it is not at all certain whether they are or whether they are implicated in the incremental progress being made.

As well and similar to other reviews and action plans, the review once again makes recommendations to 'develop strategies' in a number of areas. For example, the development of strategies (sometimes sector-wide, sometimes university-specific) is recommended in relation to: achieving parity rates (Recommendation 3); regional and remote students (Recommendation 15); an Aboriginal and Torres Strait Islander teaching and learning strategy (Recommendation 19); Aboriginal and Torres Strait Islander research strategies (Recommendation 23); the recruitment, support and retention of Aboriginal and Torres Strait Islander staff (Recommendation 29); the improvement of cultural understanding, awareness, competence (Recommendation 32); increasing the number of Aboriginal and Torres Strait Islander people in senior management positions and in the highest-level governance structures (Recommendation 32). However, encapsulating all these parts, the final recommended 'way forward' was seen to require 'an Aboriginal and Torres Strait Islander higher education strategy and evaluation framework' (Recommendation 33). These areas that are marked for the development of strategies to address them bear a similarity to areas of remedy that the original 1988 Aboriginal Education Policy Taskforce identified (see previous Chapter).

The review was comprehensive and highlighted the need to attend to a wide range of impacting issues. While it attempted to engage more substantively with educational issues, it called again for the development of more strategies, reiterated the need for collaborative partnerships between governments, education sectors and other stakeholders and organisations, and recommended only minor reforms in a range of already established government programs.

In light of the repetitive nature of its findings and recommendations 22 years after the launch of the NATSIEP/AEP in 1989, the review calls into question whether its recommendations will lead to practices that achieve better progress or continue on the same road of incremental progress that has been consistently reported over the decades. This incremental progress has persisted over the years, despite the concerted efforts of Australian government and universities. For example, my analysis of policy in this and the previous chapter reveals that in 1988, the Aboriginal Education Policy Taskforce called for parity by the year 2000. In 1996, MCEETYA extended that date out to 2002. And still in 2012, the Indigenous higher education review recommended that the government ‘use this parity rate to set national targets for Aboriginal and Torres Strait Islander student and staff enrolments’ and that universities ‘use the population parity target identified by the Australian Government to set their own targets and time frames’ for enrolment, retention and completion rates (2012, p. 11). Can the NATSIEP/AEP be an effective positive discrimination measure if numerous reviews, reports and action plans reiterate the same impediments to progress and similar calls to action? To what extent do the approaches taken to implement the AEP goals in higher education practice rest on an adequate understanding of Indigenous issues and trajectories in education? Before drawing conclusions, I turn to examine some of the early responses to the review

The shifting discursive context and responses to the Review of higher education access and outcomes for Aboriginal and Torres Strait Islander people

Here in the final section of this chapter, I examine three examples of responses following the Review: the funding of projects by the Higher Education Participation and Partnerships Program; a major report on Indigenous student transition into higher education, which includes a framework for leading practice in this area (University of Notre Dame 2014);

and the 2015 Priorities of ATSIHEAC (Aboriginal and Torres Strait Islander Higher Education Advisory Council, formerly IHEAC). My aim in this section is to investigate how strategic directions in Indigenous higher education policy and practice are shaped in a complex matrix of wider circulatory but forward moving discourses. Another aim is to draw attention to continuities and discontinuities in the discourse around policy directions within Indigenous higher education and approaches to implementation into practice over the last twenty five years since the inception of the NATSIEP/AEP (1989). In this way, I hope to reveal how shifting discursive grounds position and reposition Indigenous students as the subject and object of positive discrimination measures, while repeatedly overlooking the evaluation of the efficacy of the strategies deployed and the assumptions that underpin them.

Indigenous students as the subject/object of equity discourse

The Australian governments' major response to the review was in the form of identified funds within the broader equity-focussed Higher Education Participation and Partnerships Program (HEPPP). In 2013, the government allocated \$18.1 million of funds 'to nine priority projects of national significance'. These projects were distributed across five universities and all involved partnerships and cooperation: between different universities; between schools and universities; or between organisations, schools and universities. Three of the nine projects related to general academic enrichment or aspiration programs for school students. Two projects were to encourage entry for more specific prospective student cohorts – prospective engineering students in secondary schools and employed family breadwinners, for whom higher education study was professionally desirable but financially impossible. The other four projects were aimed at the development of strategies recommended by the review. One was funding for a National Centre for Cultural Competency and another project was funded to develop an equity and Aboriginal and Torres Strait Islander performance framework for higher

education. Two others related to information dissemination – one for the development of an Aboriginal and Torres Strait Islander outreach social marketing strategy and the other to develop an Indigenous higher education web portal for prospective Indigenous students, families, communities and other interested partners.

At the time of writing, reporting of these projects was difficult to find as all were in the development or implementation phase. However, the National Centre for Student Equity in Higher Education at Curtin University has released a draft *Framework for Measuring Equity Performance in Australian Higher Education* (Pitman & Koshy 2014). ATSIHEAC (formerly IHEAC) indicated in 2015 (ATSIHEAC 2015) that they were working with the Centre to address mapping specific performance measures related to Indigenous students. The framework sets out detail on what might be tracked across the tiers or levels of education, as well as through the domains or stages of student progression prior to university, at entry, and through higher education to completion. This is a national framework that seeks to keep better track of student performance at the system-wide level. It is important to note this does not appear to be a framework to assist faculties and student support centres in each university to keep track of individual Indigenous students' performance in courses and programs, as a way of improving retention and completion rates. Rather, it is a way to track the need for and effectiveness of equity measures.

The delivery of the bulk of post-review government funding to HEPP projects can be considered a strategic manoeuvre on the part of the Review Panel, because it enabled an identified allocation of funds for Indigenous projects from a general allocation for programs to lift the entry and participation of lower socio-economic status students. The HEPPP initiative is itself an equal opportunity measure for students from lower socio-economic backgrounds, and is an outcome of the Bradley Review (2008). In Australia, Indigenous students constitute an equity group on the basis of

Indigenous status. However, many Indigenous students are also from lower socio-economic backgrounds. This overlap represents a tension (Nakata 2007) between the special positive discrimination measures that apply only to Indigenous people and those available to others. The latter recognises the structural factors that prevent individuals of lower socio-economic backgrounds taking advantage of educational opportunities. Indigenous special measures began in recognition of the role that past negative discrimination has played in producing current levels of disadvantage in the Indigenous community. However, as my analysis of Abstudy/ABSTUDY reveals, preferential measures can be seen to conflict with egalitarian principles and are easily subjected to tests of fairness on the basis of individual circumstances.

It is useful then to understand the focus of HEPPP initiatives more broadly to understand the positioning effects for Indigenous students in higher education. In 2013, researchers at the Centre of the Study of Higher Education at the University of Melbourne produced a commissioned report and a 'critical intervention framework for advancing equity in Australian higher education' (Naylor, Baik & James 2013). The report was quite comprehensive. It focussed on equity activities since the Bradley Review (2008) and highlighted research relevant to the efficacy of such initiatives. The framework was designed 'to assist in identifying characteristics and foci of initiatives and strategies that are most effective and to contribute to a better understanding of how activities and resources can best be targeted to generate positive outcomes' (2013, p. 5).

The Bradley Review set a participation target of 20% for lower socio-economic status students (hereafter lower-SES students) to be reached by 2020 (Bradley et al, 2008, p. xiv). HEPPP projects were a government funding response to assist reaching these goals. The report noted an increase of students participating in higher education from all socio-economic levels since the Bradley Review. In relative terms, however, for lower-SES students the

report suggested that ‘on current trends the 20% target will be elusive by 2020’ and that for ‘Indigenous people in particular, parity in the share of higher education places seems a long way off’ (Naylor et al 2013, p. 6). The report noted that since 2007 (prior to the Bradley Review) and compared to a 16.4% increase in ‘total onshore domestic student numbers, the number of Indigenous students has increased 27.0%’ (p. 6).

However, the report highlights the continuing need to distinguish Indigenous students as a separate group from the lower-SES student cohort. It identified two major reasons for doing so. Firstly, ‘the participation ratio for lower-SES students is 0.62, with 1.0 indicating parity, whereas that of Indigenous students is 0.55, and students from remote backgrounds, 0.39 (2013, p. 6). A proportion of Indigenous students also come from geographically remote backgrounds. Secondly, the report concluded that the overall disparities between students from educationally disadvantaged backgrounds and other domestic students related to *access* to higher education and *not to disparities in retention and completion rates*. That is, once they are enrolled the outcomes of these students did not differ significantly from all other domestic students.

However, the report stated that:

Indigenous students and students from remote backgrounds are an exception to these conclusions. Students from these groups display notably lower retention and success rates than students from other groups.... In these cases, targeted efforts to increase academic, financial and personal support, and therefore academic success, are particularly warranted. (2013, p. 7)

This difference holds implications for interpreting the findings of the report in relation to its evaluation of the effectiveness of various equity initiatives and whether these findings are also indicated for Indigenous students. For example, according to Naylor et al (2013), the Bradley Review (2008) identified the major barriers to participation of lower-SES students as ‘educational attainment, lower awareness of the long term benefits of higher

education, less aspiration to participate, and the potential need for extra financial, academic or personal support once enrolled' (p. 13). Access initiatives focus on addressing pre-entry awareness, aspiration and educational attainment initiatives and are understood to be more important for lower-SES than post-entry support measures once they are enrolled. If these equity strategies are evaluated for effectiveness on that basis, then this enables the strengthening of this emphasis in the general discourse about how to increase equity in higher education.

To ground the development of a Critical Interventions Framework to advance equity in Australia higher education, researchers reviewed available literature and examined different equity initiatives. From this, five periods were identified where equity initiatives 'can make a difference' 2013, p. 15). The first is the pre-entry stage, prior to a student seeking access to university, where the focus of equity initiatives is on reducing known barriers to access. The second is the selection and admissions point where initiatives such as alternative criteria for admissions and needs-based financial assistance or scholarships can facilitate access. The third is the transition phase, which in the literature is usually the first year when students are most at risk of withdrawal. Initiatives can be both orientation to the life of the university and orientation to the academic workings of courses and conventions. It was reported that transition activities were mostly directed and available to all students rather than being delineated for particular equity groups. However, it was also reported that 'there is plentiful evidence supporting the value of orientation and transition initiatives' and that these programs 'often overlap with other initiatives targeting more general retention and success' (p. 15). The fourth phase was the student's period of program study, where the Bradley Review (2008) noted that students from equity groups may require more support during their study. Here the literature represented appeared to be scant in terms of what studies were available and in terms of what was viewed as support. It included ongoing financial support to address student

hardship, support for personal wellbeing, services such as childcare or online options for mature age or working students, and academic support as an extension of teaching and learning. The report also noted that ‘there is little evidence to suggest that universities with more extensive student support services have better retention rates for any group of students’ (p. 23). However in assessing the need for academic support there was ‘an argument for providing adequate support for students to develop the generic and discipline-specific needed to succeed in their studies’ (p. 24). The fifth stage related to the post-completion stage and employment.

To provide a framework for critical equity interventions, the report set out in table form: different equity initiatives in each phase; their purpose; their theoretical strengths in terms of potential; the evidence of effectiveness from research and evaluation; and then an ascribed priority indicator on the basis of this collated information. Of the 14 initiatives prioritized, only marketing was given a lower priority; all the others were medium or high priority.

Nevertheless, the report highlighted the limited evidence for evaluating the effectiveness of equity measures in each of these periods:

A major finding of this project is the relative dearth of publicly available, peer-reviewed research or evaluation, conducted with rigorous methodologies, on the effect of equity initiatives.... it may be difficult, if not impossible, to assess the efficacy of equity initiatives and programs with any reliability. Program design in these circumstances is an act of faith, though often highly well-judged and highly credible. A stronger platform for research and evaluation needs to be developed and utilised and the results of program evaluation should be published more widely. (Naylor et al 2013, p. 7)

It is important to keep in mind that this evaluation related to the lower-SES category of students but that the report often used the more general term, educationally disadvantaged students. While it made reference to Indigenous students, it utilized only two reports specifically concerned with Indigenous

students (Behrendt et al. 2012; James & Devlin 2006), though it did utilize statistics to highlight distinctions (or similarities) between groups. This leaves unaddressed the evidence that Indigenous students are distinguished from other equity groups of students, including lower-SES students, on the basis of their much lower retention and completion rates. Although Indigenous students are at risk of withdrawal in their first year, this risk continues on through subsequent years as well (Naylor et al. 2013). Indigenous student characteristics would seem to indicate a higher priority for equity initiatives to support improvements in student support beyond the normal transition phases or at the least a wider appraisal of the Indigenous higher education literature in this area. While the Indigenous Education Units in universities provide ongoing support, the efficacy of strategies was questioned by the Behrendt Review (2012), leading to the call for faculties to share the responsibility.

The discourse of equity in Australian higher education can be seen to respond to, accommodate, and also to shape the discourse around achieving or advancing equity in Indigenous education. In its inclusionary tendencies, the risk to Indigenous higher education is the submergence of the distinct circumstances and characteristics of Indigenous students. This is revealed in my analysis of this report. The distinct circumstances and characteristics of Indigenous higher education students are identified in the preliminary discussions that inform the construction of the framework. However, in phase four - the period of program study - of the critical intervention framework itself, Indigenous students' specific needs for ongoing support are not identified and thereby rendered not significantly different at all. This phase is given a medium priority as a result. Yet, phase four would seem to be a critical phase for improving Indigenous students' retention, success and completion rates. In this framework an opportunity to emphasize this is overlooked. The evidence that, once enrolled, the differences in the retention and completion rates of students from other equity groups and the general

domestic student population are not significant, positions Indigenous students in deficit terms, when they fail to progress through their programs as other beneficiaries of equity initiatives do.

It is significant that none of the HEPPP funding following the Indigenous higher education review went to this phase of the higher education cycle, even though the review report implied that practices in this area were not as effective as they should be. However, the allocation of HEPPP funding bears more relation to the broader equity discourse, which has its basis in social inclusion frameworks, than to the Critical Intervention Framework report discussed in this section, which reflects it. As set out in the Bradley review, the inclusion and targeting of equity groups proceeds from an instrumental rationale rooted in Australia's nation interests. While Indigenous people strategically manoeuvre within these constraints, the basis of positive discrimination measures as redress for past negative discrimination is accordingly regulated within another set of discourses, more acceptable to the wider society's goals.

Indigenous higher education students as the subject/object of higher education transition discourse

Initiatives that focus on the pre-entry phase of higher education are only one focus of attention following the Indigenous higher education review. I turn now to examine a project which focussed on the transition of Indigenous students into higher education, with a focus on providing a framework to guide changes within universities (University of Notre Dame Australia, hereafter UNDA 2014). This project 'was instigated by the Indigenous Higher Education Advisory Committee (IHEAC) in 2011 to support the work of the Indigenous Higher Education Review' (UNDA 2014, p.18). However, the report also states that it builds on that review, 'guided by appropriate recommendations of the IHER (2012) that related to transitions to higher education and examined current and new models being employed to

successfully transition Aboriginal and Torres Strait Islander students into higher education' (UNDA 2014, p. 21). The report investigates 'the findings of previous reviews and turns them into plans for action' (p. 8) by identifying:

the best practice action and policies for tertiary education institutions to embrace Indigenous students onto their campuses so that they graduate with formal qualifications that has (sic) the potential to immeasurably improve their lives and the lives of their families and communities. (UNDA 2014, p. 8)

The proposed strategy includes fourteen elements of leading practice to be used as a framework to support change in universities, in order 'to transform the old paradigm of assumed Indigenous deficit in need of support to enhancing Indigenous excellence and opportunity by working with people's assets and strengths' (UNDA 2014, p. 8).

Like many reviews and reports before it, this report is comprehensive in that it re-explores 'the processes, the data, the key issues, the pathways, the enablers, the constraints and the opportunities regarding the transition of Aboriginal and Torres Strait Islander students into higher education' (UNDA 2014, p. 9) in order to understand what constitutes successful transition to higher education. The report also included a focus on intra-group diversity within the Indigenous student population. Six specific groups within the Aboriginal and Torres Strait Islander population were identified as being under-represented in relation to higher education: 'women as primary carers, young men, young people not transitioning from VET (Vocational Education & Training), people in the prison system, remote Aboriginal and Torres Strait Islander students and people with disabilities' (UNDA 2014, p. 9). Also like other reviews and reports, the report includes interviews with key stakeholders and self-reporting of practices in the sector.

The report widened the conceptualization of what constituted a 'successful transition' into higher education: 'success exists on a spectrum defined by individual (personal) and collective (community) terms, as well as a range of

measures utilised by universities and government departments' (UNDA 2014, p. 10). Thus, 'individual family and community relationships are vital determinants of successful transitioning for Aboriginal and Torres Strait Islanders into higher education' (UNDA 2014, p. 10). In addition, 'targeted pathway programs that rely on family and community support, while mutually enhancing wider community relationships through breaking down myths and barriers and achieving outcomes, are increasingly effective' (UNDA 2014, p. 10). However, for the respondents, success was more related to 'the ripple effect of many small successes and a diversity of effective support mechanisms and pathways' (UNDA 2014, p. 10) than the measures of transition, retention and completions of students in higher education. This position assumes a distance from the traditional way to measure success, based on statistics of Indigenous performances in relation/comparison with non-Indigenous students. However, the meaning of success was also a matter of individual meaning. For example, one the report's respondents emphasized that:

Completion is essential. There should be no exception other than people's choices for personal reasons, to perhaps do something else. It should not be because of barriers or failure of support. If students have an aptitude to learn, even if they have not achieved a suitable ATAR [Australian Tertiary Admission Ranking], they can still complete university studies with proper support that is currently available. (UNDA 2014, p. 52)

However, for other respondents, success can also include formal failure, and does not 'necessarily mean passing all units in the first year and can be about "sticking with it" even when a student initially fails units of work' (UNDA 2014, p. 52).

This reveals how the discursive contests that shape the ways that Indigenous higher education goals and priorities are envisioned, discussed and translated into strategy and action relate to not just the contests between Indigenous and wider social meanings. These contests also relate to the different meanings

that Indigenous individuals ascribe to their individual educational rationales, choices and actions. In the Foucauldian sense, what is given representation in reports such as these and how these representations are given order and priority in the narrative of the report shapes the responses, conclusions and actions that are possible. These possibilities are rendered coherent and logical. What is ruled in or out, what is elevated in the ordering of statements, signals the limits of the discourse. In these ways the diversity of Indigenous student subjects is both revealed and contained in a contested narrative about what constitutes success and therefore what should constitute appropriate practices in the sector.

In the way that the report set out the constraints and enablers of Indigenous transitions into higher education, it re-circulates what is already well known and well reported from previous reviews, reports, and other literature. I set them out here in list form to reveal how these reflect the issues highlighted in the higher education review (Behrendt et al. 2012) and the HEPPP projects that were funded as a result.

- Financial constraints: accommodation; the direct costs of studying; child care; public transport; running a car; financial debts.
- A siloing, or separation, of IEUs [Indigenous Education Units] from input into mainstream university governance.
- IEUs identified as the go to places for all things Indigenous leading to over burden of responsibilities and other sectors not taking appropriate responsibility for Indigenous student support.
- Sidelineing of Indigenous Knowledges by mainstream university practices leading to an underutilisation of Indigenous knowledge assets.
- Absence of monitoring and evaluation systems for student progress: often too little too late.

- Too many expectations on Indigenous students: Students feeling that they are expected to know and represent all things Indigenous.
- Combinations of personal factors: interplays of various things in a student's life (crisis in families; homesickness; poverty in communities; ill-health; deaths in extended families), often resulting in students getting 'sucked out' of university.
- Lack of cultural competency amongst university staff members: Students experiencing a deficit model of low expectations or alienation from the overall university culture.
- Particular experiences of students living in remote areas in engagement in courses and course resources.
- School to university transitions: Low Australian tertiary admission ranks (ATARs); low expectations; absence of family experience of university participation.
- A tick-a-box culture: Issue of self-identification, definition and follow-through.
- Difficulties associated with the Indigenous Tutorial Assistance Scheme (ITAS): An important scheme hindered by inflexibility. (UNDA 2013, p. 12)

The positioning of successful initiatives for successful transitions was enabled by the capture of current activities that were occurring as a result of HEPP projects or recommended by the IHER review, in a similar way to the DETYA (1999) report and the Indigenous Higher education review (Behrendt et al. 2012). For example,

- A new focus on relationship building, and on mentoring for success and for targeted support: For example the Australian Indigenous Mentoring Experience (AIME); the Aurora Project.
- Cultural competency: For professional and academic staff members as university-wide programs.

- Life-cycle approaches: The offer of financially supported pathways into higher education—cadetships and other partnership initiatives. Creative and synergistic pathways programs to higher education via VET and Technical and Further Education (TAFE).
- Monitoring of student performance: Targeted strategies based in evidence.
- University—school—community engagement: Outreach programs; community involvement; Elders in Residence programs.
- Tertiary preparation and pre-orientation courses: helping to alleviate anxieties around transitioning into the unknown world of university.
- New approaches and perspectives on the operation of the ITAS scheme.
- Driving change across university cultures: for example the valuing of Indigenous Knowledges; integrated governance; whole of university approaches. (UNDA 2014, pp. 12 - 13)

These constraints and enablers reveal the logic of both their production and regulation within the current available discourses for talking about Indigenous higher education transitions. This includes a literature which the Naylor et al (2013) report identifies as being very short on the rigorous evaluation of such initiatives. These constraints and enablers reveal continuity with all the reviews, recommendations, action plans, and reports that have gone before, despite the repetitive narrative conveyed by the much lower rates of access, retention and completion. The enablers do, however, express a renewal of intents and purposes in achieving policy goals and closer attention to the substantive contextual factors. The substantive educational issues are relegated to sit within the assumptions of such things as: cultural competency strategies, preparation and orientation activities, integrated governance, whole of university approaches, the valuing of Indigenous knowledge and so on.

However, the report went on to examine and describe all the current models supporting Aboriginal and Torres Strait Islander student transition into higher education. In Australia there are 38 Indigenous Education Units, which are the result of the engagement of the Indigenous policy with the Commonwealth, states and territories with goal of increasing Aboriginal and Torres Strait Islander student transition into higher education (UNDA 2014, p. 94). The aim was to seek out best practice models or frameworks to improve the transition of Indigenous students into higher education. This reflected the Indigenous higher education review's findings that:

The role of the centres in delivering academic programs and undertaking research is more complex. Some centres do this well and can lead across the university. Some struggle to deliver programs and engage in research. Others leave those activities to the faculties and concentrate solely on student support. During visits to universities, it became clear...that each university needs to determine its own approach to supporting Aboriginal and Torres Strait Islander students. (Behrendt et al 2012, p. 50)

To help identify principles for effective transition practices, the report identified five models of Indigenous student transition in use across Australia's universities:

1. The Standard Model
2. The School Model
3. The Governance Driven Model
4. The Indigenous Knowledge Centre Model
5. Mainstream Enabling Support Model. (UNDA 2014, p. 95)

According to the report, all these models share similar practices, 'but differ in priorities, access to resources, scale of implementation, ability to fulfil targets and the ability to address different contexts of their student populations' (UNDA 2014, p. 95).

In brief, the Standard Model is the original model for student support and Indigenous program delivery and generally involves a stand-alone approach to student support, delivered by a team of Indigenous staff members. According to the report, this model continues to provide targeted, dedicated and culturally specific support to Indigenous students in a culturally safe environment. However, this model has been criticised by some ‘of working against its stated goal of enabling students to participate in university life’ (UNDA 2014, p. 97) and instead, for promoting ‘silo-ism’ among Indigenous students and acting as a barrier for Indigenous students to be involved in university’ mainstream activities. Other issues affecting centres under this model include the struggle to achieve recognition of Indigenous knowledge and community links.

The School Model enables greater engagement of Indigenous academics in ‘mainstream academic processes, committees, and governance structures, and becomes engaged in transforming pedagogical approaches in regard to teaching Indigenous elements of mainstream programs in history, politics, gender studies, law, health sciences and so on’ (UNDA 2014, p. 98).

The Governance Driven Model emerged as a result of the acknowledgement of weaknesses of the School Model and also ‘attempted to respond to specific realities facing Indigenous students in a changing educational environment’ (UNDA 2014, p. 100). Developed within the University of Sydney, it seeks ‘to share the workloads and resources by increasing the responsibility for Indigenous student engagement and success within a whole of university approach’ (UNDA 2014, p. 102). The focus is on the implementation of separate strategies and the development of local implementation plans for each faculty or school, as part of the overall strategy ‘to achieve agreed targets for Indigenous employment, student success and completion’ (UNDA 2014, p. 103).

The Indigenous Knowledge Centre Model is a combination of all previous models that ‘seeks to engage Indigenous and non-Indigenous staff members within the centre’s teaching, activities, research and wider engagement with the university’ (UNDA 2014, p. 105). This model looks for a whole university approach, based on the generation of solid relationships with all faculties within the university. It promotes an investment in Indigenous knowledge, research, teaching, and relationships ‘to gradually build mutual understanding and value from respectful engagement across the disciplines’ (UNDA 2014, p. 106). This model positions Indigenous students and Indigenous Knowledge at the centre of university culture and is currently being trialled at Charles Darwin University.

Finally, the Mainstream Enabling Support Model exists in only two Australian universities, with small numbers of Indigenous students. According to the report, universities that operate under this model are doing it ‘from an ethos that all students are equally able to, and actively encouraged to, seek support through mainstream enabling programs’ (UNDA 2014, p. 108). Here the resources provided to all students, without any kind of distinction, are established according to their specific skill needs. Indigenous students of these institutions have enrolled via supporting programs such as foundation programs ‘that provide extra tuition, specified skills development and case management of low achieving students’ (UNDA 2014, p. 108).

In sum, it is possible to identify that all models deliver student support services, with different emphasis and focus; and that all have particular historical, political educational and cultural contexts in their construction and output that will shape the way they engage with Indigenous and non-Indigenous students.

From this investigation of how different Indigenous Education Centres operated, the report identified ‘a framework for leading practice’ (UNDA 2014, p. 94) for student transition through the identification of common

practices implemented across Australian universities to support Indigenous students' transition into higher education. These 14 principles are listed here and have much in common with Naylor et al.'s (2013) Critical Intervention Framework and also reflect recommendations within the Indigenous higher education review (Behrendt et al. 2012). In all cases, this reflects the fact that they capture current or proposed practice:

1. Early Indigenous student engagement: through initiatives to increase the number of Indigenous teachers in schools and one approach to Indigenous student participation.
2. Outreach and aspirational programs: including early testing and positive experiences of university through summer and winter schools; and the change of community perceptions to assist the likelihood of university participation.
3. Targeted student and community outreach programs: including the engagement with Aboriginal and Torres Strait Islander communities to create transition pathways; the adoption of a holistic approach to community engagement; and the creation of high profile centres to support Indigenous students and community engagement.
4. Preparedness pathways and enabling programs: aspirational programs linked to community and student outreach; Indigenous youth based mentoring programs (e.g. AIME); and merit-based programs that support and enhance the skills sets of talented students (Aurora).
5. Targeted student case management and skills development: dedicated skills assessment, programs of support and skills development and monitoring of progress; employment of a dedicated student case management team; and early intervention and development of an academic skills base.
6. Mentors and tutorial assistance: including development of a dedicated student enabling and support unit within IEUs; continued engagement with programs such as AIME and The Aspiration

- Initiative; and involving elders and community leaders to foster community and family support, among others.
7. Blended delivery for remote student access: development of dual sector outreach; programs that identify knowledge strengths for regional and remote students; and assisted travel and accommodation, among others.
 8. Finances and employment pathways: including targeted philanthropic and non-government scholarships that enable Indigenous women who are primary carers appropriate resources that enable flexible solutions to parenting responsibilities; and targeted student support for relocating Indigenous students either through mainstream commercial accommodation and other services or through dedicated community college places.
 9. Life cycle approach: development of student pathways to employment through cadetships and commercial partnerships.
 10. Policy contexts and strategies: evidence based programs that engage Indigenous Knowledges; and implementation of regularly reviewed Indigenous Education Strategies.
 11. Governance – Whole of University approach: including development of dedicated Indigenous Education Strategies; development of integrated governance; and targeted Key Performance Indicators.
 12. Indigenous Education Unit foundations: building on the foundations of IEUs to develop strategies; and transforming governance to include senior Indigenous representation in governance.
 13. The value and role of Indigenous Knowledge Centres: development of IEUs into Indigenous Knowledge Centres; and development of business models for the transition of IEUs.
 14. Cross cultural competency: develop targeted programs of cultural competency; and provide opportunities for continued cultural competency. (UNDA 2014, p. 14)

One of the report's suggestions is that universities have to identify the most accurate or useful model by considering their own characteristics and contexts, using 'the elements of leading practice as a guide to enhancing student transition' (UNDA 2014, p. 122). This reflects the caution in the Indigenous higher education review that '[t]here is no single best practice model for the units. Support must be tailored to best suit the student profile of the institution and be designed in close collaboration with the faculties' (Behrendt et al. 2012, p. 51).

In this report (UNDA 2014), the discourse of Indigenous student transition emerges in close alignment with the equity discourse. However, the report does highlight, in more detail, the educational implications for students of the different models for transition that it describes. It does this by drawing out some of the ongoing contests about success and the different needs of Indigenous students depending on their individual characteristics and their goals, as well as the circumstances and universities in which they study. However, in the process, the focus returns to the larger concerns about systems and organizational matters within the university systems and cooperation and collaboration with other stakeholders outside of universities. In the absence of evaluation of the 'typical' initiatives that constitute both equity and transition initiatives, the positioning of Indigenous students remains within the limits of these activities, as they operate currently in practice.

Significantly, once again, the needs of students once they are enrolled emerge as a minor and small part of the overall transition journey. For universities, however, the indication is that attention to this area is deeply implicated in Indigenous students' retention and completions rates and why these continue to be lower than those of other students, including lower than those in other equity groups. Considered in tandem with the Critical Interventions Framework (Naylor et al. 2013), support for enrolled students does not seem to have gained much traction in the priorities within the transition process,

even though support for enrolled students has been placed within the transition models and best practice principles, as part of the education cycle. It remains to be seen whether student outcomes are enabled in the systems-driven approach being advocated. In the focus on system-wide drivers, more effective evaluation would seem to be indicated.

Indigenous higher education students as the subject/object of Indigenous higher education advocacy discourse

ATSIHEAC remains the main mechanism for Indigenous policy advice to governments. In its 2015 Strategic Policy Initiative, ATSIHEAC set out five priorities:

1. Broadening access across the disciplines
2. Whole of university strategy
3. Academic workforce
4. Sustainable funding
5. System level performance management. (ATSIHEAC 2015)

ATSIHEAC (2015) reported an increase in total Indigenous enrolments for the decade 2003-2013, from 8,964 to 13,720, which represents an increase of 52%, but still well short of the 17,221 that IHEAC (2006) estimated as the parity level for 2003.

In its vision for Indigenous Higher Education in 2020, ATSIHEAC broadened the conceptualization of success to be more than parity statistics:

Success is more than a headline parity measure. As envisaged in the *Review of Higher Education Access and Participation (sic) for Aboriginal and Torres Strait Islander People*, it means more students succeeding in a wider range of disciplines, more academics, more graduates and more Indigenous professionals.

Indigenous knowledges are valued and represented across the academic agenda.

Research is strategically engaged with Indigenous researchers, communities and issues, documenting the value of Indigenous peoples to the human story.

Universities are not only culturally safe they celebrate and connect students and staff to the rich cultural history of Indigenous peoples. (ATSIHEAC 2015, n.p.)

ATSIHEAC considered that its strategies to implement this vision require and represent:

A shift away from a deficit model and towards institutional change:

- embracing Indigenous perspectives and knowledges
- creating a culturally competent and safe environment
- supporting excellence as well as targeting need. (IHEAC 2015, n.p.)

In sum my unfolding analysis in this chapter highlights ongoing Indigenous education policy development that is more specifically targeted at the higher education sector. While the pattern of reviews, reports, and strategic action plans continues, in the last decade there is evidence that these have been more substantively engaged with Indigenous educational issues. However, this engagement has focussed largely on system-drivers that apply across the national sector. This means that larger issues emerge to shape the discourse around how to improve Indigenous student outcomes in higher education.

However, this focus has enabled a major shift in discourse that is more focussed on the shortfalls of institutions and the role that universities' organizational cultures and practices play in Indigenous students' lower access, participation and completion rates. In higher education, the Indigenous advocacy discourse since 2006 has advocated that universities must change their practices on a broad front across all areas of the university to reduce the impediments to Indigenous student success. This shift has been enabled in part by the Australian higher education sector's acceptance of the

concepts of social inclusion and equity, and social justice and reconciliation, as instrumental and moral frameworks to guide widening participation agendas in higher education. The emergence of equity-based social inclusion frameworks accords with the need for Australian higher education to facilitate Australia's global competitiveness. Social justice and reconciliation frameworks are broadly supported by non-Indigenous Australians as a way to make amends for the original injustice of dispossession and the colonial legacies of Indigenous disadvantage. However, Indigenous self-determination frameworks are now domesticated and contained within these and are channelled via the advocacy mechanisms of ATSIHEAC and the emphasis given to connections into Aboriginal and Torres Strait Islander communities in the transition strategies, teaching and learning areas, especially in relation to Indigenous knowledge and cultures, and in research and governance areas. These discursive frameworks enable Indigenous people to re-position Indigenous knowledge, histories and cultures as essential elements of higher education for all students, not just Indigenous Australians, and as essential to research and curriculum design. These discursive frames also enable a shift from separate Indigenous programs and practice to an emphasis on integrating the efforts and programs of all the key players in universities as well as integrating Indigenous students into the full life of the university. The cultural competency discourse re-positions the place of Indigenous knowledge, histories and cultures as a central feature of higher education and enables continuities between the Yunupingu AEP review (1995), which stressed that equitable education was not necessarily the same as that offered in the Australian education systems, and the rationale behind the direction towards more integrated strategies across the whole university.

Nevertheless, while these shifts enable a wider set of possibilities, the framework of social inclusion and equity and even social justice also constrain the possibilities. Considered from the standpoint of Cultural Interface theory (Nakata 2007), for example, the shift to more integrated strategies and

practices requires Indigenous people to negotiate the terms of their social inclusion, the conceptualization of equity that is deployed (see Yunupingu 1995), and the meaning and extent of social justice. This is required on a much broader range of fronts and down through more micro-levels of policy, strategy, and practice and reporting. While the benefits of this Indigenous strategy are positioned in terms of the potential for institutional change, the contested field of negotiation is positioned well within the limits of current inclusionary discourses. Thus the strategic manoeuvrings of Indigenous people are always contained within an institution's interest in being inclusive and appearing to be social just, rather than an institution's or a government's interest in supporting Indigenous peoples rights to self-determination to develop their own social institutions or take control of their own educational programs and processes.

However, most notable in my analysis of this period of policy development are the continuing incremental rates of progress being reported in Indigenous higher education in terms of student outcomes. The repetitive nature of all the reviews, reports, strategies, plans for action belies the effectiveness of the arrangements for implementing policy into practice. Recommendations appear to support existing programs and approaches or only minor changes to them. The tendency to prescribe best practice from institutional self-reporting of their own current practices, without proper evaluation of their effectiveness, supports an assumption that these practices are effective. While this enables continuity with the goals of the NATSIEP/AEP (1989), it does not rupture the discursive limits of discourses which shape the approaches to implementing strategies to reach those goals and which are implicated in the production and continuance of any ineffective strategies and practice. These points will be explored more in my discussion of the effectiveness of Australia's positive discrimination measures in Indigenous higher education and the lessons it holds for the development of policy in Chile, in the concluding chapter of this thesis.

Concluding Remarks

LESSONS FOR CHILE

This thesis emerged as a way to reflect critically about the effectiveness of positive discrimination measures for Indigenous students in higher education. The central analysis in this thesis explored the formation, trajectories and performance of two Australian examples. The first was a government financial assistance program for Indigenous students, which has been in operation for 46 years, almost half a century. The second was Australia's national policy statement for Indigenous education, which has been in operation for the last 26 years. This policy statement has been the primary framework for governments, Indigenous people, and other key stakeholders to work together to improve Indigenous people's chances of benefiting from educational opportunities. The aim of my analysis was to understand how these positive discrimination measures function to operationalize the concept of equal educational opportunity as a way to redress the legacies of past negative discrimination. The NATSIEP (1989) is an overarching framework to guide the implementation of Indigenous education priorities and goals; Abstudy/ABSTUDY is an example of a special scheme or program to provide equal opportunity through financial assistance. However, I also had another aim, which was to understand what lessons could be learnt from the Australian experience to inform the way ahead for Chilean Indigenous higher education. To do this I explored the different contexts in which Chilean and Australian Indigenous higher education were situated and which contextualize the possible ways to support Indigenous people's goals in pursuing higher education. To understand the rationales of positive discrimination that underpin both Australia's and Chile's attempts to provide redress for the legacies of colonial injustice, I explored the emergence of this concept and its applications in different national contexts and in higher education.

The analysis in this thesis was conducted from the standpoint of Foucauldian discourse analysis, which enabled me to reveal some of the discursive conditions that have shaped both the development and the implementation of the Australian positive discrimination measures. Unfolding how these discursive conditions shifted and changed over time, in response to changes in the wider global higher education and national political contexts, enabled me to reveal how broadly-accepted positive discrimination measures are nevertheless always subject to constraint and re-positioning within an array of competing and changing discourses. The Foucauldian aspects of my analysis were backgrounded by Nakata's notion of the Cultural Interface. This assisted me to hold Indigenous positions and students' positioning at the centre of my analysis, as I traversed quite complex discursive terrains and an array of stakeholder interests.

This analytical approach has enabled me to focus on the emergence, specifications, and conditions of positive discrimination measures, as constituted from within complex discursive contests. Through the research process I have been able to recognize that, as a researcher committed to improving the possibilities for Chilean Indigenous groups, I am not neutrally-positioned in relation to ideological debates in Indigenous higher education. At times it has been difficult for me not to enter these contests and debates on behalf of Indigenous people and against the governments that fail to deliver due justice. However, by looking below the literal and surface level of statements and actions it is possible to understand how and why the seemingly good intentions of governments and others continually re-position the interests and priorities of Indigenous people to align with their own interests and produce shifts away from protecting or enabling Indigenous peoples' rights. This understanding reveals the wider contexts and concerns which constrain and limit the possibilities for Indigenous people within the much wider national and education contexts of competing priorities. This understanding of how the much wider discursive apparatus limits and

constrains the possibilities for Indigenous people in higher education also illuminates some of the spaces in which more productive discussions directed towards overcoming these constraints and limits can occur. Thus this thesis has been a major learning experience for me as a researcher with an active interest in the forward direction of Indigenous higher education in Chile.

As with every thesis, this thesis is necessarily limited in scope and in what can be extrapolated or claimed from its findings. Within the two Australian positive discrimination measures that I explored, my analysis examined a limited number of documents. This enabled me to conduct a close and fine-grained analysis of them while also covering a long timeframe. Nevertheless, it has to be kept in mind that these two examples are not the full extent of positive actions designed to assist Indigenous Australians to benefit from higher education opportunities. There are for example, other financial assistance schemes and many other privately funded schemes to assist the support of Indigenous students to succeed in higher education study. My approach was to explore the changing conditions of positive discrimination measures and the implications for implementing effective changes. Absent from my analysis, as well, was an exploration of the Indigenous higher education scholarly literature and the related higher education scholarship, in which the Indigenous scholarship is contextualised and through which it is differentiated. This literature is vast and beyond the scope of this thesis. The documents I examined are very much contextualized by the various theoretical premises that underpin Indigenous and educational arguments for particular priorities, strategies and practices. However, rather than positioning the absence of this literature as a limit of this thesis, I suggest this provides a further significant area for discursive analysis to explicate the mutual constitution of Indigenous activism and goal, educational reasoning, and the strategic directions expressed in Indigenous higher education policy and programs.

Today positive discrimination, also called affirmative action or positive action, is an internationally endorsed human rights-based concept. It is a legalised framework that permits beneficial discriminatory actions as a means to overcome the effects of past systemic negative discrimination against certain social groups. This legal framework permits exemptions from anti-discrimination legislation for actions that meet the test of equal opportunity provisions. This means that in liberal democracies committed to egalitarian principles that treat all citizens as equal before the law, positive discrimination measures can be challenged at Law. As instruments that aim to bring about societal change, positive discrimination measures are also the subject of popular and partisan politics. This is because at the surface level positive discrimination appears firstly to contradict the notion of individual equality and to confer unearned benefits on all members of a group, without assessment of their individual need. Secondly, at the surface level it appears to confer a benefit at the expense of other individuals who have similar needs or those who feel their achievements were hard fought through their own efforts, without any assistance. This reasoning positions positive discrimination as a preferential treatment and allows the most disadvantaged groups in society to be positioned by opponents as privileged, and non-beneficiaries to argue they are the subjects of a reverse discrimination. Advocates of positive discrimination, on the other hand, see positive discrimination's conceptual limits in terms of its focus on access to opportunity rather than the outcomes of opportunity or what has been called substantive equality. Legally and societally, positive discrimination is therefore a matter of contest and always at risk of challenge or of being limited in its reach. Thus the notion of positive discrimination as an effective instrument of change is caught within these fundamental tensions about what it implies and what it can achieve. These tensions emerge in the various contexts in which it is deployed, as I have been able to reveal in this thesis.

My analysis has been able to reveal how two positive discrimination measures in Australian Indigenous higher education have been rendered vulnerable to erosion and re-positioning within wider political and societal concerns and pressures. I have been able to reveal two major discursive entanglements that have both enabled and constrained the functions and operations of positive discrimination. The first is positive discrimination's entanglement with the discourse of fairness and the second is its entanglement with discourses of equity. The first is a long-established everyday common-sense concept built into the national Australian ethos. This ethos demands just rewards for hard work at every level of society and temporary support from the government/taxpayer for those in difficult circumstances that are no fault of their own. The second is a relatively recent formal concept associated with the redistribution of fairness across disadvantaged groups, who face particular or additional challenges in accessing opportunities in Australia's social institutions, of which education is but one. Both of these discourses are further supported in Australian higher education by discourses of social justice, reconciliation, and social inclusion.

However, what has been most illuminating for me, as a Chilean researcher and as an outsider, is to understand the tensions that arise in these discursive entanglements and the positioning of Indigenous goals, priorities and students that occurs as a result. One example revealed through my analysis is the introduction of income-testing to Abstudy. Abstudy was originally a financial assistance program designed to fund Indigenous people to study, in order to improve their knowledge and skills for Indigenous community self-management. In time it was brought into alignment with income assistance regimes for other Australian students. Income-testing is one way that Australia's welfare system ensures that only the neediest receive government assistance. It is an accepted mechanism for re-distributing national (and taxpayer) wealth fairly. In the case of Abstudy, income-testing not only affected Indigenous enrolments, it eroded a different and special regime of

financial assistance as a positive discrimination measure. It did this by positioning Indigenous students as the same as other Australian domestic students in relation to resources and funds to access the educational opportunities that higher education offers. In doing so, the government, to all intents and purposes, abrogated its own commitments to provide redress for past negative discrimination against Indigenous Australians. By assessing Indigenous students' income on the same grounds as other Australian students, the government acted from a convenient but questionable premise that all other impacts on income and on education were also equal. In the process, the legacy of past discrimination as the source of current Indigenous educational and social disadvantage is glossed over, if not denied. In addition to Indigenous income and education costs issues, the ongoing failures in the Indigenous schooling sector and the particular circumstances and educational challenges of Indigenous higher education students are ignored as factors that demonstrate the unfairness and systemic inequities that condition Indigenous Australians' capacity to benefit from educational opportunities. Achieving fairness, or being fair to Indigenous students, was positioned as not as important as being seen to be fair to other Australian students and to taxpayers. This is despite surveys and research indicating allowances for non-Indigenous students are also quite inadequate and that the impositions of paid employment to support study, affects these other students' outcomes as well. This would seem to indicate that, to succeed, Indigenous students would require higher levels of income assistance than other Australian students so they could work less and spend more time on study, given their lower educational starting points. Although ABSTUDY is still kept as a separate program, through which the Australian government can position its small additional supplementary allowances as demonstrations of extra-special measures, it fails to adequately acknowledge how financial instability and work commitments add to the educational difficulties of Indigenous students. While ABSTUDY can be considered an extra special measure that positively discriminates in favour of Indigenous students in the rationales of

government decision-making, in effect, in its current form, it is complicit in compromising Indigenous students' opportunities to access higher education and to achieve success and completion at the same rate as other Australians. This complicity occurs in spite of the continuing low access, participation, success and completion rates that government's own statistics document year after year and despite surveys, reviews and reports that note finance and accommodation as major factors in Indigenous students' ability to participate and succeed in higher education study. In Australia, it has been the corporate sector that has begun to fill the gaps in Indigenous student finances through the provision of scholarships, but this brings its own risks of ad hoc implementation and sudden withdrawal if businesses suffer downturn in profitability (as we witnessed after the Global Financial Crises).

Another example of entanglement is the blurring between discourses of Indigenous self-determination and social justice with social inclusion and equity and diversity discourses. Social justice is associated with moral and, in some cases, legal rights. Social inclusion is an institutional framework that attempts to respond. Within this frame, the focus on equity through social inclusion works towards a sameness proposition in higher education and away from a social justice proposition. The international right for Indigenous people to self-determine the terms of their participation in the wider societies in which they now reside and to develop their own social institutions to continue their own traditions, as an expression of social justice, is upheld but nevertheless displaced. My analysis of the national policy, over time, reveals how frameworks of social inclusion and equity have come to domesticate Indigenous frameworks of self-determination and work to exclude the contemporary development of Indigenous institutions based on traditional trajectories. Under the social inclusion framework, equitable education becomes 'doing as well as other Australians on their terms'. Alternative forms of Indigenous higher education signal the limits of social inclusionary and equity discourses in the Australian context. Instead, through social inclusion

discourse, and at the surface level, universities can appear open to change to accommodate Indigenous cultural difference. For example, Indigenous knowledges come to be articulated and rendered visible as principles to inform academic teaching and research frameworks, even though, in this process, it is de-contextualised to fit within the disciplinary frameworks. Indigenous academics' inclusion in university governance and directional areas substitutes for Indigenous decision-making on self-determination principles (Nakata 2013). The cultural competency framework emerges as an Indigenous regulatory mechanism to guide and ensure academic and organizational changes are being implemented. These examples illuminate how Indigenous goals and priorities are continually re-constituted and by wider discursive arrays and how Indigenous people are kept busy re-aligning their advocacy, advisory and practical responses.

My analysis also reveals, however, that over time Indigenous Australian stakeholders in higher education have been active agents of higher educational change and have manoeuvred strategically within the various constraints and enablers that position and impede the pursuit of their higher education priorities and goals. In the Australian higher education sector, this has enabled the national policy goals, which serve all levels of education from early childhood to higher education, to be more closely interpreted into Indigenous higher education strategies. However, Indigenous strategizing is open to re-alignment within wider higher education discourses of social inclusion and equity. For example, the disconnections between schooling outcomes and higher education entry requirements come to be expressed less and less in terms of the failures of educational approaches and systems at the Indigenous schooling level. Instead these have come to be re-constituted through the equity and social inclusion discourses and normalized in terms of transition and equity interventions. The point is not to discount these interventions as necessary, productive, or effective, from the Indigenous standpoint, but to highlight how transition activities become naturalized as

part of the logical order of universities' activities. University resources are given over to programs and strategies in schools, as early as primary school in some cases, to redress the explicit failures of schools and the implied failures of families to prepare students for higher education opportunities. Indigenous transition activities in universities come to be aligned with the general higher education equity practice in this area, despite the identified and reported differences in the outcomes of Indigenous and remote students once they are enrolled and move through levels of higher education study. The recent calls to integrate Indigenous student support with those provided by universities for all students would appear to require close attention and evaluation. However more broadly, these examples of discursive entanglements reveal how easily the subtle and not so subtle shifts in discourse effect Indigenous containment within normative discourses and away from the social justice basis on which the justifications of positive discrimination measures rest.

The negotiated interpretation of policy into strategies that occurs between Indigenous Australians, universities and governments has seen an increased focus on strategies to effect changes to the organizational and educational fabric of universities, rather than the pursuit of separate Indigenous programs. This has also highlighted the differences between individual Australian universities, as well as the diversity of Indigenous students' educational, social and geographical backgrounds and the individual goals and purposes that attract them to different universities and programs of study. The recent Indigenous higher education review, the UNDA report on Indigenous higher education student transitions and the 2015 ATSIHEAC priorities all evidence the tensions between national priorities and goals and the dispersed and varied specific interpretations of this into practice in different places across the country. These specificities are important for strategizing in local sites, but difficult to re-present in any ordering of national priorities. This both reflects and signals the challenges of implementing a broad policy into effective practice that is meaningful in different sites of educational practice.

Another finding of my analysis is how the positioning of Indigenous students is effected in these contested discursive tensions. Discourses can be recruited in different ways at different times for different purposes. Indigenous students, en masse, are rendered the subject and object of these discourses and contained within their tensions. So, for example, Indigenous students can be understood as members of the most disadvantaged group in the nation, but also the beneficiaries of preferential treatment, who have it easy. Indigenous students can be positioned in deficit terms on account of their inadequate academic preparation and lack of assumed knowledge and skills for their studies. This positioning is possible and appears reasonable and logical, even though the current failures of schooling and past educational exclusion are well known reasons for not ascribing educational deficits to students themselves and for prescribing positive discrimination measures. Indigenous students can be assumed as students with cultural assets and strengths and the repositories of all Indigenous knowledge, even as universities do not value these assets and strengths or do not know how to utilize them in teaching and learning processes. Indigenous students can be undifferentiated as a cohort and at the same time be unrecognized as members of the Indigenous community, or if they do not look 'typically' Indigenous, or when they participate and succeed on the same terms as other students. Indigenous students can be positioned as in need of particular forms of education and education for particular purposes (such as working for their community) rather than the individual agents of their own lives and educational aspirations.

Two other significant and related issues were revealed in my analysis. One was the importance of statistics to measure and evaluate the effectiveness of policy, programs and strategies to redress Indigenous educational disadvantage. However, various reviews and reports often qualified the reliability of statistics and the difficulties of comparing their meanings over time. My analysis revealed how statistics could be wielded to demonstrate

progress and at the same time demonstrate a lack of progress. In addition to this, tensions emerged around the use of normative comparisons with other students as the primary measure of success in Indigenous higher education. Another significant and related issue that my examination of reviews, reports, and action plans highlighted was the reliance on self-reporting by universities and program providers as to the effectiveness of their activities. In the absence of evaluation via rigorous methodologies, the only real measures of effectiveness become statistics and anecdotal reports. In the case of reviews and reports, these measures were often selective and indicative in their representations.

This general summation of my main findings highlights that it is important also to acknowledge that this shifting discursive matrix has made possible all the improvements and successes that have been achieved for Indigenous Australians in higher education since the reform process began. Both moral and instrumental rationales have enabled the wide acceptance of the need for much more than the examples of the two positive discrimination measures that I have analysed. A changing discursive matrix has enabled ongoing attention to Indigenous higher education by governments and universities and widened the scope of activities considered important to improving access and outcomes in Indigenous higher education in Australia. It has over time enabled a degree of institutional change in Australian higher education in an effort to accommodate Indigenous difference and needs. However, my analysis also reveals how discursive contests constituted within this matrix also constrain and limit the very positive discrimination measures that are morally justified and practically necessary, to support and achieve Indigenous people's educational goals. Further, these limits and constraints can be rationalised logically and appear quite fair and reasonable, despite numerous reviews and reports that continue to outline why particular measures are not sufficient to address the Indigenous legacy of educational disadvantage.

In my reflections on what my analysis says about the effectiveness of the Australian approach and what this might mean for Chile, a number of points stand out. Here I discuss them, in no particular order of importance, as all are significant for Chile's deliberations about the way forward. Firstly, the national context bears down on the way positive discrimination measures in Indigenous higher education are envisioned, able to be supported in the wider society, and able to be resourced and implemented. Australia is a prosperous first-world country where the Indigenous population is only approximately 2.4% of the total population. The wider society and all governments are broadly-supportive of reconciliation with Indigenous people and the eradication of Indigenous disadvantage as an urgent matter of social justice. So what stands out, for me as a Chilean, is the slowness of change after close to half a century of tertiary educational reform initiatives. Here, in the prosperous conditions of a stable democracy like Australia, and in the case of the tiny population minority that has an internationally-enshrined right to assistance, positive discrimination measures have been eroded and limited and have persistently failed to reach set goals and targets. A lesson for Chile is to approach the vision and management of Indigenous higher education in cognisance of some of the challenges revealed in the Australian context and what these might imply in terms of Chilean conditions.

Secondly, the improvements in Indigenous Australians' access, participation, success, and completion numbers in higher education are undeniable. In this sense the positive discrimination measures I examined can be claimed to be effective measures. However, when considered in comparison with other domestic Australian students, Indigenous rates of access, participation, success and completion have made slow progress, suggesting Indigenous students are still very much educationally disadvantaged *vis-à-vis* other Australians. There is no way of knowing where to place the credit or criticism for these results as there has been very little rigorous evaluation of Indigenous higher education strategies and programs. Many strategies and programs

appear to make a difference, but the relative efficacy of each of these appears to rest on theoretical premises that have not been rigorously assessed, according to Naylor et al. (2013). In my examination of a chronology of documents, there was a noted reliance on the self-reporting of Indigenous Education Centres and Universities about the efficacy of strategies. This reporting occurs in the context of acquitting and receiving annual funding and so is self-interested to a degree.

Another issue that came through in my chronological unfolding of documents is the discernible weighting of attention given to Indigenous access and entry issues into university. While these are critical issues, the more substantive educational issues associated with the support of Indigenous students once they are enrolled seems to have received little detailed attention in reports and reviews over time. Such detail is usually not included at the policy level, but is implied in the design of strategies to achieve policy goals. It could be the case that universities and Indigenous Education Units are assumed to be doing what is required to support Indigenous students effectively, but the statistics would seem to indicate otherwise. For this reason the recent Indigenous higher education review recommended shifting the responsibilities for academic support away from Indigenous Education Units to the faculties who teach them. However, in the Western tradition, faculties are not practised in providing the level of learning support that would seem to be indicated as necessary for Indigenous students to succeed. While the Indigenous higher education scholarship and literature may discuss these issues in more detail, my analysis reveals that substantive education outcomes are an important issue to be addressed at the policy level and that these should be based on or subjected to regular evaluation for their efficacy.

Most striking in my unfolding of the cycle of reviews, reports, and action plans in Indigenous Australian higher education is the repetitive nature of findings and recommendations. The same inhibitors to access, participation and completion were given over and over again; the same small and

fluctuating comparative rates of progress were presented; and many recommendations continued to work from the same foundations with only minor improvements to existing programs. The conditions of financial assistance were able to be tightened despite various reports indicating this was one of the most significant barriers for Indigenous people. Despite all this recycling of problems and explanations, the pathway to improvement appears to be ever contingent on, and in convergence with, the wider shifting and discursive framings that are shaping the wider higher education system. For example, the equity discourse addresses the greater social diversity in the student cohorts of Australian universities and brings more attention to a wider range of transition and enabling activities and a greater range of pedagogies for teaching and learning. Is it a coincidence or a convergence of interests that Indigenous learning support is now being shifted to faculties? Do all faculties have sufficient understanding of Indigenous students' backgrounds, challenges and needs to support them effectively so they grow into independent learners? It is also difficult to discern, as an outsider and from within the limits of my thesis, whether some initiatives or directions gain acceptance because they lend themselves more easily to implementation than others, for example cultural competency professional development programs for university staff, as opposed to supporting the development of Indigenous students' capacities to navigate and negotiate the university social and learning environments. These sorts of tensions are a site for further investigation in relation to the Chile's proposals for moving the agenda forward.

Statistical and other measures and indicators of progress, and the interests they serve, are also an important consideration for Chile. While Australian Indigenous statistics in higher education are well-developed, they appear primarily to be gathered for the purpose of cross-sector planning and the distribution of funds. However, utilizing statistics to evaluate the effectiveness of educational initiatives appears to be problematic and more difficult. Chile has opportunities to think about what information should be collected and

how best to do this, in the more constrained circumstances of the national context.

In addition to this, in the documents I examined, the Australians appear to have worked in the past from national aggregates and only more recently to have considered the implications of understanding Indigenous access and outcomes in the specific contexts of different universities and the diversity of educational, geographical, and social backgrounds within the Indigenous students cohort. This may indicate opportunities for Chile to consider how to meet the needs and monitor the outcomes of different Indigenous groups, in different sorts of institutions, through different measures and indicators more appropriate to each context.

My thesis has revealed how Australia has enacted positive discrimination measures in Indigenous higher education even though Indigenous people are not recognized in the Australian Constitution. Both moral and instrumental justifications have been accepted in the wider polity and in the partisan party political arena that have enabled a national policy statement to be produced. However, the Australian experience also reveals that a unitary approach to the interpretation and implementation of policy into programs and strategies for action may not be the most effective way to meet all Indigenous education needs and realities. In their administration and implementation, positive discrimination measures have been revealed as fragile and able to be eroded and limited. As well, in Australia, the tensions between the need for a coherent national representation of the issues amongst Indigenous stakeholders and the range of differentiated practices required to meet different needs and contexts appear to be still finding a way towards resolution. These would appear to be areas where Chilean Indigenous groups have opportunities to build frameworks that allow them to work together and separately to build efficiencies and customized strategies more quickly than has been the cases in Australia. The following is a list of tentative issues for

consideration and discussion in the forward direction of Indigenous higher education in Chile.

1. The national context:

- The limitations of the Chilean national economy and education system for the provision of adequate resources for Chilean Indigenous higher education;
- the competing priorities for improved Indigenous schooling and Indigenous higher education and how to distribute priorities;
- the proportional population differences and group/language differences in the Chilean Indigenous population and how to meet different needs;
- the competing priorities of increasing higher education access for all Chileans as well as Indigenous Chileans; and
- awareness of the way shifting national priorities and the way Indigenous higher education issues come to be discussed shift and re-constitute Indigenous priorities.

2. Policy and policy measures:

- the importance of Indigenous control over educational choices and the importance of consultation with respect to the diverse needs of Indigenous groups, communities and individuals;
- the importance of Indigenous involvement in decision-making at the institutional level;
- the need for a long term vision and much more attention from the beginning for setting incremental goals through priority setting and localized strategies to achieve them;
- the importance of balancing Indigenous national and cross-sector cohesion against the need for specific localized strategies to meet a range of needs and circumstances of students and universities;

- the importance of ensuring that policy includes attention to substantive educational outcomes and not just access to educational opportunity;
- the importance of defining the indicators and measures for progress and collecting adequate statistics to measure progress towards goals;
- the importance of building an evaluation framework from the beginning; and
- the importance of the full commitment of the university sector and other key stakeholders such as NGOs from the beginning.

3. Educational access and success:

- recognition of the importance of adequate and stable finance and accommodation conditions to successful study and ways to fund this given the national budgetary constraints;
- awareness of phases in the educational cycle and how to design educational strategies so Indigenous students can progress through them;
- the importance of educational choice for Indigenous students and avoidance of stereotyping or typifying Indigenous students or the programs in which they can potentially study;
- the need for well-designed and executed personal and learning support for all Indigenous students to occur early before failures or withdrawal occurs and funding for this;
- the importance of evaluating the effectiveness of strategies;
- the importance of a research agenda in Indigenous higher education; and
- the importance of developing Indigenous professional pathways in academia.

4. Positive discrimination:

- the vulnerability of positive discrimination measures to challenge and erosion and the need for political commitment at the highest levels of policy and funding; and
- recognition of the differences between moral and instrumental rationales and national and Indigenous priorities.

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