

Chapter Eleven Aboriginal Policy at the Turn

Hon Dr Gary Johns

It is very important when policy is at the point of an historic shift, as I believe Aboriginal policy is, to set out clearly the new program, including possible winners and losers. It is important so that those who resist change do not blame old ills on new policy. It is also important to overturn some of the accepted truths upon which old policy was built.

Economic integration

The shift in Aboriginal policy and Aboriginal practice is from self-determination (including land rights and separate administration of public programs) to the economic integration of Aboriginal people. The reason for the policy shift is that self-determination has failed too many Aboriginal people. It is also true that integration has been taking place; after all, no Aborigines live a traditional lifestyle, many Aborigines are fully engaged in the economy and live in cities and towns, and indeed, are intermarried with non-Aborigines.¹

For at least thirty years, however, policy has been sympathetic to the idea that Aborigines would remain in another economy. There were two mutually reinforcing sources for this, from very different sides of politics. The first was the mainly southern intellectuals' romance with the "culture cult" (a cult that holds that primitive culture is not inferior to modern civilization).² The second was the mainly northern settlers practice of "not-in-my-backyard" (Aborigines are best kept away from the city). Each was ignorant and prejudicial to the interests of Aborigines. In hindsight, the period 1970-2006 will be viewed as an interruption to the long-run process of absorption and integration of the Aboriginal people, which commenced at European settlement.

Self-determination harms the prospects of economic integration because it prevents Aborigines from moving to where opportunities exist. These same people are also welfare dependent and therefore are unable to take advantage of the few opportunities that exist where they live. The problems of integration are thus the problems of transition.

The magnitude of the task of integrating Aborigines is best illustrated in demographic and geographic terms. In the State capitals, 87 per cent of couples with an Aboriginal member are intermixed. Outside the State capitals, 60 per cent of all couples with an Aboriginal member are intermixed. Within the Northern Territory (other than Darwin), the great majority of families – 86 per cent – are purely Aboriginal. But these couples amount to just 10 per cent of all "Aboriginal couples" in Australia. What one may regard as an "Aboriginal couple" is a very small minority of all couples with an Aboriginal member. There are fewer than 50,000 Aboriginal couples in the whole of Australia living outside of the capital cities, and many of these couples may be part-Aboriginal.³

There are 1,216 discrete Aboriginal communities with a total population of 108,085. Of these, 889 communities contain fewer than 50 persons and 327 more than 50 persons (of which, 145 reported a usual population of 200 or more).⁴ The settlements over 100 are the mission and government settlements, of which there are 225, and the remainder are the outstations or homelands. The problems of each vary: for example, there are considerable problems of inter-group rivalry in the larger settlements, as is observable at present in Wadeye in the Northern Territory, and there are the abiding problems of drug abuse and what Karl Marx would call the "idiocy of rural life"⁵ in the smaller (if not all) of the settlements.

The purpose of economic integration is not to demand Aborigines leave their land, but rather to be economically independent. In becoming independent, they may remain or they may move. Many, however, are experiencing a range of problems that may not be solvable *in situ*. For example, there may never be sufficient suitable employment, both for adults and for children who, if education policy is successful, will have higher expectations than their parents. Consequently, the transition to an integrated Aboriginal community will have its casualties, particularly among those who cannot learn sufficient skills to survive.

In this category are tens of thousands of Aboriginal men. They live in remote communities, in fringe town camps, and to a lesser extent in urban ghettos. They will find it difficult to cope, for example, with the

removal of remote area exemptions that make receipt of welfare payments conditional on entering training or job search or Community Development Employment Programs (CDEP). The winners will be women, if they can escape the violence of remote settlements and fringe dwellings, and children if they can attend schools regularly, probably away from their communities. The front line troops in the transition will be Centrelink offices and officers, who will be under enormous pressure to let applicants move on to disability or other such pensions. The front line places will be regional centres in the far north and west, including the Alice Springs camps, about which much has been written in recent days.

As an aside, the European Union has designated 2006 as *The Year of Workers' Mobility*. The last thirty years of Aboriginal policy could be designated *The Years of Staying Put and Ignoring Work*.

Resistance

The path to economic integration will not be smooth or unchallenged; indeed, the struggle for intellectual dominance over Aboriginal policy and public opinion continues. Media debate in the last week provides a number of reminders.

The future of Wadeye in the Northern Territory, where gangs of Aboriginal youths have run amok, has the national broadcaster ABC, specifically Tony Jones of *Lateline* and Kerry O'Brien of *The 7.30 Report* as ready as ever to blame government for not doing enough for Aborigines. In his interview with the Northern Territory public prosecutor Nanette Rogers on child sexual abuse, Jones worried that the revelations might be used by "rednecks" to diminish Aboriginal people. By this we may interpret that he meant that no blame could attach to Aborigines as responsible and autonomous people, only that they should be free of white society and its ills! Kerry O'Brien was at pains to convince the Minister for Indigenous Affairs, Mal Brough that cuts to the Aboriginal and Torres Strait Islander Commission (ATSIC) Budget in 1997, especially funding for women's refuges, was a cause of the violence in the Northern Territory in recent times.⁶ The same mind set as Jones.

Jones followed up the Rogers' interview and reports of the strife in Wadeye with an interview with Archbishop Barry Hickey, the chairman of the Catholic Bishops Commission for Aborigines and Torres Strait Islanders. Jones was angling to reintroduce the notion of a government apology to Aborigines, and asked Archbishop Hickey about recent comments made by the Pope "asking for forgiveness and granting forgiveness". Jones seized his chance:

"The issue of an apology – there's no doubt in your mind I take it that the Pope is literally calling on the government to deliver an apology?"

But the Bishop disappointed:

"He [the Pope] is not getting political, he's not buying into the fight as to whether this Prime Minister should say sorry or not. He's just talking about the principles of reconciliation ...".

Jones had stumbled into unfamiliar ground. He asked:

"It's clear there's not going to be that kind of apology, though, isn't it already clear from the Prime Minister's response and also from the Liberal MP Wilson Tuckey today in your own State?"

"Hickey: Oh Wilson, yes, well he thanked the sisters [of Mercy], and I'm very grateful that he did ... The comment about the sisters was a good one.

"Jones: Can I just interrupt you just to point out to those who didn't hear what he said or read what he said, he said, 'If there's any apology, it should be to the Catholic nuns who took in the so-called', as he says, 'so-called stolen generation with utmost compassion ...'. Do you have sympathy with that sort of statement?"

"Hickey: Oh I certainly do. The sisters and the priests and the brothers didn't steal any children. They opened their doors to accept children because they believed that they had nowhere to go. The government made them all wards of the state and they shouldn't have done that, but they did, they're still doing it, and they asked their missions to take the children in, which they did, in a spirit of compassion".⁷

As delicious was the shock expressed by Phillip Adams on *Late Night Live* when he interviewed Dr Sue Gordon, Chair of the National Indigenous Council. Adams worried about accusations of another "Stolen Generations" were children to be taken for their protection. He wondered if the current violence and abuse was "a legacy of a stolen generation". Gordon answered, "Often it's used as an excuse, we can't blame the stolen generations for what's happening now". The atheist Adams also tried to invoke the Pope's remarks as per Jones above, but Gordon was having none of the "Sorry" business, suggesting it was irrelevant. Gordon was able to

call on the *UN Convention on the Rights of the Child*, that the “best interests of the child [are] served by taking them out of home”. Adams was aghast at the affront to Aboriginal mothers, to which Gordon answered, “Half the mothers are so drunk they would not know”.⁸

Patrick Dodson, chairman of the Lingiari Foundation wrote recently:

“The 1997 report *Bringing Them Home* highlighted the infringement of the UN definition of genocide and called for a national apology and compensation to those Aborigines who had suffered under laws that destroyed indigenous societies and sanctioned the biogenetic modification of Australian people”.⁹

The worry with this is that our children at university are being fed this nonsense, and forced to toe the ideologically correct line.

Other pockets of resistance appear in the legal fraternity. A Melbourne-based “public interest” law partner with the firm Arnold Bloch was last week reportedly headed to the community of Wadeye to investigate whether under-funding of basic services is racially discriminatory. He says that if he finds the Territory government has breached the *Racial Discrimination Act*, he will lodge a case with the Human Rights and Equal Opportunity Commission.¹⁰ Tom Calma, the ATSI Social Justice Rights Commissioner was also touting for business, trying to find a discrimination issue to “solve” the problem at Wadeye. Heaven save the Aboriginal people from the human rights lawyers.

And of course, there were the infamous Chief Justice Brian Martin’s sentencing remarks at Yarralin, Northern Territory on Thursday, 11 August, 2005 in *The Queen and GJ*. The case concerned the deprivation of liberty, rape and beating of a 14 year-old girl by her 55 year-old grandfather. The result was a conviction for one month of assault and unlawful sexual intercourse. The Chief Justice had this to say to the guilty man:

“The accused and the child’s grandmother decided that you would take the child to your outstation.

The grandmother told you to take the child and the grandmother told the child that she had to go with you. The child did not want to go with you and told you she did not want to go. The child also asked her grandmother if she could stay. Rather than help the child, the grandmother packed personal belongings for her, including her school bag, and insisted that the child go with you. The child was forced to get into your car, where she sat with your first wife and two other persons. The child was crying and shaking.

“In these circumstances, while I might have misgivings about your state of mind, I do not have before me proof that the objections by the child made you realise that she was not consenting. At the least, it is a reasonable possibility that your fundamental beliefs, based on your traditional laws, prevailed in your thinking and prevented you from realising that the child was not consenting. In these circumstances I have no choice but to sentence you on that basis. I must sentence you for unlawful sexual intercourse. I am not sentencing you for the crime of rape.

“During the evening you took the child by the leg and dragged her into the first bedroom. Your first wife took the children and went to another room. The child kicked and screamed and resisted you. You lay [sic] her on a bed in the room and asked her for sexual intercourse. She told you that she was only 14 years old. You hit her on the back. You then lay next to the child and remained there throughout the night. No act of sexual intercourse occurred.

“The child spent the next day in the company of your first wife. That night you told her to go into the bedroom. She obeyed and you followed her into the bedroom, where you removed all your clothes except your T-shirt. You then pushed the child onto the mattress. The child was lying on her stomach. She told the police that you had a boomerang in your hand and that you were threatening her with it

.....

“While the child was laying [sic] on her stomach you had anal intercourse with her. During intercourse the child was frightened and crying. She was in pain. You injured the child

“Mr GJ, I have a great deal of sympathy for you and the difficulties attached to transition from traditional Aboriginal culture and laws as you understood them to be, to obeying the Northern Territory Law.

“Mr GJ, that means that you must go to gaol for one month and I hope that you will be able to come out of gaol after one month and return to your community and to your family”.¹¹

These views are not isolated to a few in the profession. The recent report of the Western Australian Law Reform Commission is a concern. For example, it recommended that the relevant criteria for an application for an extraordinary driver’s licence as set out in s. 76 of the *Road Traffic Act 1976* (WA) be amended to include:

“That where there are no other feasible transport options, Aboriginal customary law obligations be taken into account when determining the degree of hardship and inconvenience which would otherwise result to the applicant, the applicant’s family or a member of the applicant’s community.

“In making its decision whether to grant an extraordinary driver’s licence the court should be required to consider the cultural obligations under Aboriginal customary law to attend funerals and the need to assist others to travel to and from a court as required by a bail undertaking or other order of the court.

“That the *Fines, Penalties and Infringement Notices Enforcement Act 1994* (WA) be amended to provide that an Aboriginal person may apply to the registrar of the Fines Enforcement Registry for the cancellation of a licence suspension order on the additional grounds that it would deprive the person or a member of his or her Aboriginal community of the means of obtaining urgent medical attention, travelling to a funeral or travelling to court”.¹²

The effect of these recommendations, apparently favourably received by the WA Attorney-General Jim McGinty, would be to cause more deaths through traffic accidents as unlicensed drivers attend funerals associated with deaths from traffic accidents.

The public response to the plight of Aborigines has been overwhelmingly sympathetic and generous. In 1975, the Commonwealth government spent \$200 million on Aboriginal people, rising each year until this year 2006-07, when it will spend more than \$3.3 billion.¹³ The reason why policy is at the turn though is because the public expected a bit more for its money than rape unpunished, declining levels of literacy and numeracy, the wilful destruction of property, and the creation of a generation who will never work, and may have to be cared for until the day they die.

Overturing truths

Added to the overwhelming evidence of the damage done by the self-determination policies of the last thirty years, and to the intellectual denials, is the damage done by some major propaganda exercises of the last decade, the legacy of which may be to prevent the economic integration of Aborigines.

Between 1991 and 2000 three major episodes added weight to the separatist agenda. These were *The Royal Commission into Aboriginal Deaths in Custody Report* (1991), *The Human Rights and Equal Opportunity Commission Report, Bringing Them Home* (1997) (and its court sequel *Cubillo*), and *The Hindmarsh Island Royal Commission* (1997) (and its court sequel *Chapman*). The first two are especially important because they may well constrain the hands of policy-makers and public servants in the new policy era.

The Royal Commission into Aboriginal Deaths in Custody was established in 1987 in response to a growing public concern that Aboriginal deaths in custody were too common, and that public explanations were too evasive, to discount the possibility that foul play was a factor in many of them. Between 1980 and 1989, 99 Aborigines and Torres Strait Islanders died in the custody of prison, police, or juvenile detention institutions. Many members of the Aboriginal community assumed that many of the deaths would have been murder committed by officers of the state.

The Commission produced 110 volumes, totalling over 12,000 pages at a cost of almost \$30 million. At the time, it was the most expensive inquiry in Commonwealth history.¹⁴ For all this, the Commission stated:

“The conclusions reached in this report will not accord with the expectations of those who anticipated that findings of foul play would be inevitable ... Commissioners did not find that the deaths were the product of deliberate violence or brutality by police or prison officers”.¹⁵

It also found that while Aboriginal people were in custody overwhelmingly more frequently than the general community, “Aboriginal people in custody do not die at a greater rate than non-Aboriginal people in custody”.¹⁶ Indeed, the Commission noted that, at least for those Aborigines who had encountered the law, “the death rate of those Aboriginal people on non-custodial orders is approximately twice that of Aboriginal prisoners”;¹⁷ in other words, the risk of death might actually be greater outside custody.

Further analysis of the Commission data and published later reconfirmed the conclusions, although using slightly amended terms:

“Young adult Aboriginal males have almost exactly the same probability of dying when they are in the community as when they are in prison. The risks of death in custody experienced by Aboriginal people and non-Aboriginal people are similar ... The finding that both Aboriginal and non-Aboriginal people have risks of death in police custody that are far higher than they have in the community would not be

surprising to many, but the finding that, in both groups, the risk of prison death is similar to that in the community is perhaps more novel".¹⁸

There are at least three disturbing aspects of the Commission. First, the Commissioner and the Commonwealth government were made aware of the primary conclusion, that Aboriginal people in custody do not die at a greater rate than non-Aboriginal people in custody, *just six weeks into the Inquiry*. My parliamentary colleague Senator Bob Collins of the Northern Territory conveyed this to me some short time after. The fact was confirmed in 1992 by the author of the research, who wrote:

"The hostility towards the work of the Criminology Unit reached a climax only a few months after the work started, when it became clear that the research showed that Aboriginal persons in either police or prison custody were no more likely to die than were non-Aboriginal people. This general finding was interpreted by some significant elements of the staff as undermining the very foundations of the Royal Commission. To even hint that such a conclusion was possible was seen as disloyal, misguided and obviously wrong. At one stage the very existence of the Criminology Unit within the Royal Commission was threatened. It was able to continue its work, however, albeit with a smaller staff".¹⁹

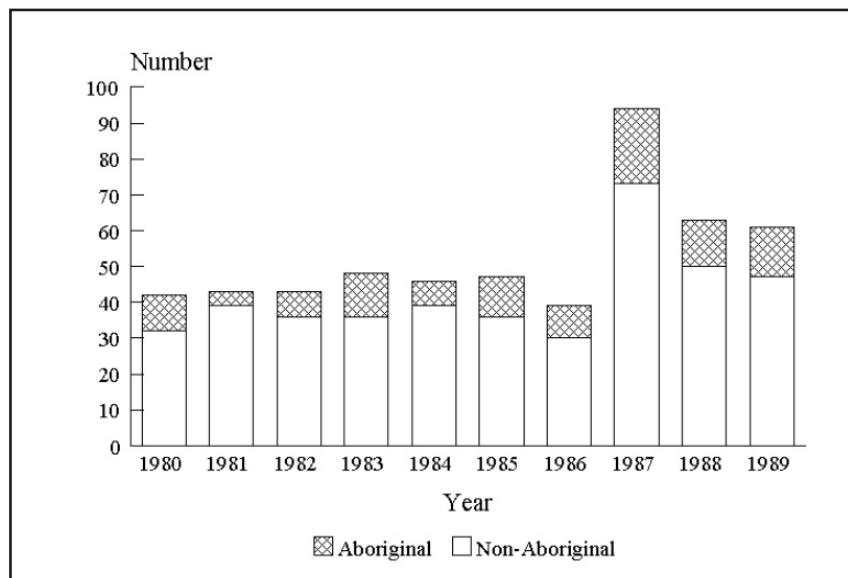
The response by the government was not to reveal this fact, but to set the Commissioner another, altogether different task. The initial task was to inquire into the deaths and into "the conduct of coronial, police and other inquiries". The new task declared "you are authorised to take account of social and cultural and legal factors which, in your judgment, appear to have a bearing on those deaths".

The Commission turned from a "super" coronial inquiry into a grand social science exercise into the causes of Aboriginal disadvantage. Much of this exercise was not at all new to the policy community. For example:

"Of the ninety-nine, eighty-three were unemployed at the date of last detention; they were uneducated ... only two had completed secondary level; forty-three of them experienced childhood separation from their natural families through intervention by the State authorities, missions or other institutions; forty-three had been charged with an offence at or before aged fifteen and seventy-four at or before aged nineteen; forty-three had been taken into last custody directly for reasons related to alcohol, and it can safely be said that overwhelmingly in the remaining cases the reason for last custody was directly alcohol related".²⁰

The Commission started on a narrow inquiry for which it was well qualified. When its terms of reference expanded, it embarked on a study for which it was not well qualified. It simply jumped from evidence of deaths to preventive social policy. In so doing, it took up the policy fashion of self-determination in the hope that this would stem the flow of incarceration and deaths in custody. Moreover, it made great claims of the impact of children's removal from their parents, and this stimulated a second grand inquiry.

Deaths in Custody Australia 1980-1989²¹



The second disturbing aspect was the interpretation of the evidence that led to the Inquiry. The graph above, *Deaths in Custody Australia 1980-1989*, shows two trends. The first is a spike in the number of deaths in custody in 1987; the second is that the spike occurred for non-Aborigines as well as Aborigines. There was no inquiry into non-Aboriginal deaths in custody following the rise in those deaths. Clearly, the government was discriminating based on race. Deaths in custody are a matter of great concern, but on the evidence before the government, there was no basis for an inquiry into Aboriginal deaths in custody alone.

The third disturbing aspect of the Inquiry was its impact on deaths in custody, not in terms of its recommendations, but in terms of the possibility that the massive publicity associated with the Inquiry could have caused deaths in custody. The graph opposite, *Prison Custody Deaths by Indigenous Status 1982-2004* shows a major lift in the rate of *prison* deaths in custody for Aborigines in 1993 to 1995, shortly following the Inquiry. Indeed, apart from a sharp drop in 1992, the trend was increasing for Aborigines, although more stable for non-Aborigines, for the entire period 1989 to 2005. That is, from the commencement of the Inquiry into Aboriginal deaths and a period which was largely filled with public discussion of the Inquiry, its recommendations and the political battles over their implementation, Aboriginal prison deaths alone rose substantially.

What caused the jump in Aboriginal prison deaths in the period 1992-1995? The research indicates that “self-inflicted deaths and deaths due to natural causes have consistently been the two most common manners of death since 1980”.²² These causes were apparent in the spike of 1992-1995. No explanation for the spike has been provided. The figures for the rate of death are likely to be more stable than the crude number of deaths, and the figure for Aboriginal deaths may be more volatile because the numbers of Aboriginal prisoners are fewer, but in the various reports following the Inquiry there is no accounting for the significant lift in the rate of Aboriginal deaths in prison custody, many of which are suicide. Is it possible that the enormous media coverage given to the Commission and the reports of the implementation of its findings could have had a social contagion effect – labelled the Werther effect?²³ (The sociologist David Phillips coined the term “the Werther effect” to describe imitative suicidal behaviour operating as contagion transmitted via the mass media). The copycat explanation never rated a mention in reports by the Australian Institute of Criminology.

Prison Custody Deaths by Indigenous Status 1982-2004



Source: Australian Institute of Criminology, NDICP 1982–2004.²⁴

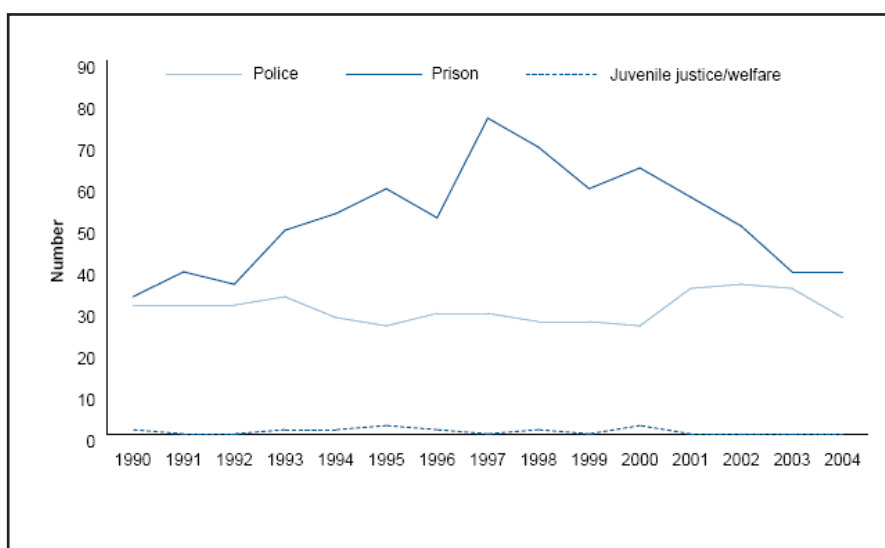
The graph, *Trends in Deaths by Custodial Authority 1990-2004* reinforces the trend in the rise in prison deaths following the Inquiry, and the relative lack of change in deaths in police custody. (Figures were not available by rate). Fortunately, the rate of prison deaths has declined for Aborigines and non-Aborigines, which may have been as a result of the implementation of the recommendations of the Royal Commission. The decline in the rate of deaths in *police custody*, however, has been heralded as a triumph of the Royal Commission and self-determination, but it could not explain the increase in the rate of deaths in prison other than by *absence* of implementation of Commission recommendations. Of course, an absence of change would not cause a rise in deaths in custody.

The National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from Their

Families was conducted by the Human Rights and Equal Opportunity Commission and produced the report called *Bringing Them Home*. It was commonly referred to as “The Stolen Generations” report for reasons that will become clear.

The Inquiry arose from the observation in the Report of the Deaths in Custody Inquiry that a number of the dead were “taken” into care as children. That Report also mentioned that all 99 people who died had very little education, but more of that later. The National Inquiry commenced in 1995 aiming to “trace the past laws, practices and policies which resulted in the separation of Aboriginal and Torres Strait Islander children from their families by compulsion, duress or undue influence, and the effects of those laws, practices and policies”.²⁶ It was a most serious topic, and there was little doubt that many Aborigines had been removed from their families in earlier generations, in some cases with devastating results. Unfortunately, the report was seriously flawed. It was, as a colleague described it, “one of the most intellectually and morally irresponsible reports to be presented to an Australian government in recent years”.²⁷

Trends in Deaths by Custodial Authority 1990–2004



Source: Australian Institute of Criminology, NDICP 1990–2004.²⁵

A crucial fallacy of the report was that it treated all separations as forced, including those that were voluntary or where there was a clear need for the sake of the welfare of the child to be taken. Such all-encompassing definitions enabled the Inquiry to conclude that, “between one in three and one in ten Indigenous children were forcibly removed from their families and communities in the period from approximately 1910 until 1970”.²⁸ This, despite evidence that many removals were in the interests of the child and in many instances, children were fostered with Aboriginal families, thus undermining the charge of assimilation as the purpose of removals.²⁹ It also failed to give the context of removals, for example, the considerable pressure exerted on unmarried mothers, Aboriginal and non-Aboriginal, to give up their children for adoption. Further, the method of the Inquiry was seriously flawed, as it did not test any allegations, but simply accepted all stories as valid.

The most offensive aspect of the Inquiry was its finding that the forcible removal policy constituted “genocide” and “a crime against humanity” in the terms of the *United Nations Convention on Genocide*.³⁰ In the view of the Commission, even assimilation, that is, an attempt to give people a choice to escape poor circumstances, could be genocidal:

“The Commission maintained this view despite the fact that, post WWII, the International Labour Organisation considered bringing indigenous people into the modern world to be ‘desirable and just’. ILO Convention 107 on *The Protection and Integration of Indigenous and other Tribal and Semi-Tribal Populations* suggests that at the end of the period of the so-called stolen generations in Australia, the most ‘enlightened’ international policy was assimilation”.³¹

Take as an example this evidence before the Commission:

“In a letter to the West Australian Commissioner of Native Affairs in November 1943, Inspector Bisley

of Port Hedland wrote, 'I recommend that this child [4 years of age] be removed when she is old enough as she will be probably handed over to some aged blackfellow at an early age'. With respect to the same child, Inspector Neill in Broome wrote to the Commissioner in December 1944, '[t]here may perhaps be an objection to the children being removed from the Hospital without first returning to the Station from which they came as it means breaking faith with the mothers'.³²

Judged by contemporary standards this behaviour was appalling, but there was an interest in saving the child from a then widely known practice among tribal Aborigines of giving young females to older men. Nevertheless, the child was not reported to be in actual danger and the mother's permission for removal was not sought.

Unfortunately, the tendency to replay the past as if later policy had not adjusted to earlier excesses makes the problem of the need to enforce standards of care just as difficult today. The contemporary difficulty is that the state is too reluctant to intervene in Aboriginal families for fear of allegations of racism being levelled. An Aboriginal advocate for Aboriginal children and women recently stated:

"Departments of community services don't want to create another stolen generation so we find a lot of Aboriginal children are left in a dangerous situation because some white or black worker doesn't want to be called racist".³³

The sequel to the Stolen Generations report and its attempt to press a genocidal claim has been severely dented by the Federal Court of Australia. The Aboriginal leadership ran a test case³⁴ on the Stolen Generations, which was comprehensively dismissed. For future cases to succeed there will have to be proof that Commonwealth actions were not in the best interests of the child. The question of judging a concept like "best interest", not by contemporary standards, but in the light of the policy and custom of the day was raised:

"[T]he events that I am being asked to judge and evaluate commenced in 1942 and finished in 1960. Thus in 1999 I am asked to judge that which took place 39 to 57 years ago ... these are events that occurred in a different Australia, a society with different knowledge, and with different moral values and standards".³⁵

The judge noted that the *Bringing Them Home* Report did not inquire into separations that were effected with the consent of a child's family. "Nor did they require a consideration of cases where a neglected, destitute, sick or orphaned child might have been removed without the consent of the child's parents or guardian". HREOC, and the federal Government that set the terms of reference, left out the crucial matter of the context within which children were removed. The judge in this case did not make that mistake; he remarked that alcoholism and violence became larger social problems for part-Aboriginal people after they achieved drinking rights, and that it often had welfare implications for their children.

The two major Inquiries of the last decade in Aboriginal affairs reinforced an ideology that cried out for retribution and compensation, for separate rules for Aborigines and a different contract between an Aboriginal citizen and the state and any other citizen. The damage done to policy by these Inquiries is not just their inaccuracies, but in their blinding policy makers to the root cause of Aboriginal strife – the lack of economy in remote Aboriginal communities and the lack of education among their children.

Mapping the future

The turn of events in recent months is that the Australian Government in particular is beginning to understand that Aboriginal people are not much different from others. They have been behaving badly for good reason. They have responded to perverse economic incentives and an ideology of payback. They learned to gain a living by not working, and by insisting on living on land on which their ancestors may have walked and asking for rent – a not overly intelligent or noble basis for deriving an income.

To help turn the corner I have a research proposal, the object of which is to impress upon all concerned that there is a new direction in Aboriginal policy – Aboriginal people must search for the real economy, it will not come to them. The proposal aims to generate a scenario of Aboriginal society in the next twenty-five years, with particular emphasis on the post-land rights, post-welfare era and the impact on Aboriginal communities.

As remote area exemptions for welfare benefits are being abolished, and CDEP is being wound down or converted to training and job brokering, Australia will witness, as it did until the 1960s, a movement into town. There is ample evidence already that the movement has started and is growing. The scenario will make

the event more concrete, so that when the difficult issues of the abandonment of remote settlements and the growth of town camps arise, policy-makers will be able to remain focused on the principal job, which is adjustment.

Government policy has been biased towards remote settlements. The contention is that the incentive to remain in remote locations will change substantially. The Commonwealth and the States/Northern Territory have provided income and infrastructure support as if permanent settlements could be made on the foundation of government expenditure alone, that is, in the absence of a real economy. Even when there was real economic activity, such as a mine, local Aborigines did not necessarily have the skills to apply, nor could these skills necessarily be acquired *in situ*. In short, there is limited scope for most remote settlements to thrive.

Because of the removal of the bias in policy towards remote communities, there will be enhanced internal migration: greater numbers of Aboriginal people will move into town. Others may not, but their circumstances will change because of family members leaving. In either case, the consequences for policy will be significant. Who will require assistance, and where they will require it, as well as the nature of the assistance, will change.

Adjustment and mobility are, once again, fast becoming the dominant themes in Aboriginal policy. Periods of resistance to adjustment – the protection era and the land rights era – had some positive elements, but ultimately they were destructive and costly for many Aboriginal people. Land rights was always a minor story, and yet it has taken up much of the intellectual energy and too many of the resources. It is expensive because it is artificial. When the props of the artificial economy are kicked away, adjustment will once again become the dominant theme, and the dominant reality.

The Minister should prepare the rhetorical and policy ground for the next 25 years, and a scenario would be one tool in the policy arsenal. The scenario would consist of two sets of data:

- A map of Aboriginal communities, with likely internal migration destinations and magnitudes; and
- A map of places where internal migration is likely to have most impact.

There will be a discussion of the options for places experiencing loss of population and for places experiencing gains in population. The discussion will be based on evidence from regional centres experiencing influx and those experiencing outmigration.

Some work, based on the Census, is available, and suggests some drift.³⁶ The studies, however, reflect flow to cities and regional centers under present incentives. It is likely that flows will be greater under the new incentives. The conclusions, therefore, understate the situation, as the Census reflects movement in an historic period of policy settings that privilege remote locations.

Policies aimed at stabilising communities *in situ* will, all things being equal, lessen the impact of the change drivers, but in the race between economic development on Aboriginal lands and the incentives to search for work and services away from those lands, the latter will win.

Change drivers:

- The artificial labour market will unravel, driven by the removal of Remote Area Exemption on Centrelink programs, and the shift in CDEP to delivery of employment services.
- Education authorities are beginning to re-impose authority to ensure attendance and the teaching of literacy and numeracy.
- Changes to the *Northern Territory Land Rights Act* may encourage some people to sell their land and leave.
- Chronic poor health is driving people to seek long-term medical attention, which is available only in regional centres.
- Women are seeking physical protection, and hostels are more likely to be available in regional centres.
- Economic development is unlikely to be realistic for more than a handful of communities.
- Where economic development has taken place the local population does not necessarily have the skills to take advantage of it. Acquiring the skills is unlikely to take place in the community.

Stabilising programs:

- Alcohol and substance abuse programs – e.g., dry communities.
- Service agreements for utilities – telephone, sewerage.

- Shared Responsibility Agreements – no school, no pool.
- Infrastructure programs – housing.
- New settlements that result from Native Title claims.
- The investment in school facilities and staff.
- Investments by the Indigenous Land Fund and Indigenous Business Australia.
- The investment in law and order.

The 2006 Census will provide some guide to changes, in as much as the changes between 1996 (and earlier Censuses) and 2001 indicate growth and decline of numbers of people. They also indicate changes in vital characteristics such as education levels. The Census will not, however, be useful to demonstrate changes that are beginning to show only very recently as a consequence of government policy on welfare to work, and the failure of land rights to provide a satisfying existence for other than a few in remote communities.

The data most useful and most available will be from sources such as Centrelink client lists, State/Territory housing department lists, itinerant lists, and school records. For example, Aboriginal families are progressively filling the Northern Territory Department of Housing waiting lists in Darwin, and the Northern Territory Department of Harmony notes an increase in the number of itinerants in Darwin. Clearly, the camps at Alice Springs are growing. Experience is a vital teacher in this exercise. There is a string of regional centres in Australia that have experienced Aboriginal influx in previous generations. These will suggest the likely direction of change, the whereabouts, and the problems associated with the change.

The scenario will put some numbers on the changes. It will make estimates of the magnitudes – for example, how many people will move, where they are likely to go, and their educational/age/health profiles. The characteristics of those who leave are often different from those who stay. Depending on the reasons for leaving, the most enterprising are most likely to leave, and the least enterprising or least mobile are likely to stay. This change to the character of communities will have profound implications for both receiving and leaving communities.

This is not to prejudice outcomes, but to realistically assess what is likely when individuals and communities face changed incentives. There will be three sorts of movement: short term “walkabout” movement that is part of peoples’ community activity; “orbiting” in the sense in which Noel Pearson means, children who leave their communities for education, and perhaps to return on graduation; and internal migration.

Internal migration will substantially transform Aboriginal society. More Aborigines will live in regional towns or the cities. How people will adjust and how their needs are to be met will be a challenge, as will the management of the communities they leave behind. If Aborigines are not to become, once again, refugees in their own land, governments and citizens must prepare for the next chapter in the Aboriginal story.

Endnotes:

1. In 2001 intermixed couples made up 69 per cent of couples with an Aboriginal member: Birrell, R and J Hirst, 2002, *Aboriginal Couples at the 2001 Census, People and Place*, 10(3): 27.
2. Sandall, R, 2001, *The Culture Cult: Designer Tribalism and Other Essays*. Boulder: Westview, viii.
3. Birrell, R and J Hirst, *op. cit.*.
4. Australian Bureau of Census and Statistics, 2001, *Housing and Infrastructure in Aboriginal and Torres Strait Islander Communities, Australia*, Catalogue 4710.0.
5. Marxists: Marx & Engels: Library: 1848: *Manifesto of the Communist Party*: Chapter 1 [http://www.marxists.org/archive/marx/works/1848/communist-manifesto/ch01 .htm](http://www.marxists.org/archive/marx/works/1848/communist-manifesto/ch01.htm).
6. O’Brien: “It was cuts of 20 per cent to the ATSIC budget in 1997 by the Howard Government that led to 37 women’s refuges, nine family support and violence centres plus youth and children’s services and other crisis centres around Australia being closed in Aboriginal communities. I guess we’ll never know what violence may have been prevented by those measures?”, The 7.30 Report transcript, May

- 23, 2006. <http://www.abc.net.au/7.30/content/2006/s1645722.htm>.
7. Lateline transcript, May 24, 2006. <http://www.abc.net.au/lateline/content/2006/s1645758.htm>.
 8. May 24, 2006 <http://www.abc.net.au/rn/latenightlive/stories/2006/1646563.htm>.
 9. *The Australian*, May 26, 2006, *Why a Short-term Fix Demeans our Nation*.
 10. As reported May 24, 2006. <http://www.abc.net.au/news/newsitems/200605/s1645846.htm>.
 11. Transcript of proceedings at Yarralin on Thursday, 11 August, 2005: The Supreme Court of The Northern Territory, SCC 20418849, *The Queen and GJ* (Sentence), Martin CJ.
 12. Law Reform Commission of Western Australia, 2005 Discussion Paper, *Aboriginal Customary Laws Publications*, 106.
 13. This does not account for expenditure by State and local governments. http://www.atsia.gov.au/Budget/budget06/PDF/media_release.pdf.
 14. Brunton, R, 1993. *Black Suffering, White Guilt: Aboriginal Disadvantage and the Royal Commission into Deaths in Custody*, Melbourne: Institute of Public Affairs, *Current Issues*.
 15. Royal Commission into Aboriginal Deaths in Custody, 1991. *National Report*, Volume 1.2.2. <http://www.austlii.edu.au/au/other/IndigLRes/rciadic/national/vol1/12.html>.
 16. *Op. cit.*, Volume 1.3.1.
 17. *Op. cit.*, Volume 3, 60.
 18. David Biles and David McDonald, *Overview of the Research Program and Abstracts of Research Papers*, Research Paper No. 22, 631. <http://www.aic.gov.au/publications/other/dic1992/22.pdf>.
 19. David Biles and David McDonald (eds), *Deaths in Custody Australia, 1980-1989: The research papers of the Criminology Unit of the Royal Commission into Aboriginal Deaths in Custody*, Canberra : Australian Institute of Criminology, 1992, Foreword.
 20. *Deaths in Custody, op. cit.*, Volume 1.2.17.
 21. David Biles and David McDonald, *Overview of the Research Program and Abstracts of Research Papers, op. cit.*, 627.
 22. Jacqueline Joudo and Marissa Veld, *Deaths in Custody in Australia: National Deaths in Custody Program Annual Report 2004*, Australian Institute of Criminology, 2005 Technical and Background Paper Series, no. 19. http://www.aic.gov.au/publications/tbp/tbp019/05_prisonCustodyDeaths.html.
 23. In the mid-1770s a peculiar clothing fashion swept across Europe. For no immediately apparent reason, young men started dressing in yellow trousers, blue jackets and open-necked shirts. This mildly eccentric fashion spread from region to region in a manner strangely similar to the epidemics that were continuing to plague the Old Continent. It turned out that these 18th Century fashion victims all had one thing in common; they had all been exposed to the first novel of Johann Wolfgang von Goethe, *The Sorrows of Young Werther*. Goethe's novel recounted the desperate plight of Werther, a young man hopelessly in love with a happily married woman called Charlotte. In this intense and romantic tale, Goethe describes Werther's rather peculiar penchant for wearing a colourful mélange of blue jackets, yellow trousers and open-necked shirts, and for having shot himself. <http://pespmc1.vub.ac.be/Conf/MemePap/Marsden.html>.

24. Joudo and Veld, *op. cit.*, 13.
25. *Ibid.*, 9.
26. Human Rights and Equal Opportunities Commission (HREOC), 1997, *Bringing Them Home, Report of the National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from Their Families*. <http://www.austlii.edu.au/au/other/IndigLRes/stolen/part1.rtf>.
27. Brunton, R, 1998, *Betraying the Victims: The Stolen Generations' Report, IPA Backgrounder*, Melbourne: Institute of Public Affairs, 3.
28. HREOC 1997, Part 2, 10.
29. In a 1994 survey, over 10 per cent of Aboriginal persons aged 25 years and over reported being taken away from their natural family. Of these, 32 per cent were raised by non-Aboriginal or Torres Strait Islander adoptive or foster parents, 31 per cent by missions, and 28 per cent by orphanages or children's homes. *Year Book Australia 2002, Population Special Article – A Profile of Australia's Indigenous People*. Australian Bureau of Statistics. <http://www.abs.gov.au>.
30. HREOC 1997, Part 4.
31. Brunton, 1998, *op. cit.*, 11.
32. HREOC, 1997, Part 1.
33. Pamela Greer, quoted in *The Weekend Australian*, 3-4 May, 2003, 8.
34. *Cubillo v. Commonwealth* [2000] FCA 1084.
35. O'Loughlin J in *Cubillo*, quoting a fellow judge.
36. John Taylor, *Population and Diversity: Policy Implications of Emerging Indigenous Demographic Trends*, A Report to the Ministerial Council on Aboriginal and Torres Strait Islander Affairs, March, 2006; Taylor J and N Biddle, *Indigenous People in the Murray-Darling Basin: A Statistical Profile*. Discussion Paper No. 264/2004, CAEPR, ANU; Sanders W, *Indigenous People in the Alice Springs Town Camps: The 2001 Census Data*, Discussion Paper No. 260/2004, CAEPR, ANU.