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President's Report

Funding

Since August I have been in Cambridge, Massachusetts, following in the footsteps of a number of Fellows who have held the Chair of Australian Studies at Harvard. The circumstances for teaching are remarkable: the students are highly engaged, the class sizes intimate, the facilities superb. The libraries hold just about any Australian publication I look for among their seventeen million volumes.

Harvard, of course, is very rich. It has the largest endowment of any university - one that reached US$34.9 billion dollars at the end of the 2006-07 financial year - but Yale and Stanford are not far behind. The aggregate value of the top 20 university endowments in the United States is US$164 billion dollars.

At the same time the cost of a university education continues to increase at a much faster rate than average earnings. Tuition fees average US$24,000 a year at a private college (US$33,709 at Harvard), more than US$6000 a year for an in-state student at a public college. There is considerable talk in the Congress that since the universities enjoy tax privileges, they should use their endowments to reduce fees. Some of them do, though their spending from investment funds remains around 5 per cent while for the past few years the return has been well above 10 per cent.

Congress also pays attention to the American equivalent of HECS, the public loan scheme, as well as the practises of private loan companies. A few universities have been embarrassed by details of their cosy arrangements with private lenders. For that matter, I have been struck by the press attention given to allegations of kickbacks to universities from Study Abroad agencies.

The chief argument over education here concerns No Child Left Behind, a euphemism for the Bush Administration's compulsory testing and reporting of student outcomes from Kindergarten to Year 12. Workers in education have drawn attention to the fragility of the test instrument, school principals to the dire consequences of adverse outcomes. Congressional Democrats seem always on the brink of challenging the Gradgrind assumptions of No Child Left Behind.

The Administration, meanwhile, insists that measuring outcomes is the only way to force improvement. Furthermore, it suggests the same principles should apply to universities. Again, the argument is that education providers need to demonstrate their efficacy by providing objective outcome measurements of generic skills (the word 'content' has acquired an oddly pejorative connotation of obsolescence).

Thus the Secretary for Education, Margaret Spellings, has proposed that all colleges 'should measure and report meaningful student learning outcomes', and that this should be a condition of accreditation. Her proposal proved to be a test too far. Both the universities and the accreditation agencies protested against the attack on their autonomy, and the Administration backed off. While the new President of Harvard gave an appropriate rebuff to this incursion in the course of her inaugural address, it is

some way removed from the concerns of my colleagues in the Faculty of Arts and Sciences. They experience the pressures on higher education differently.

Contrary to widespread assumption, the endowment funds of Harvard and other wealthy universities are not a common fund: most of them are tied to particular purposes. The higher fees, meanwhile, drive many students towards professional careers with high returns. Hence the social sciences, the sciences and humanities, feel themselves the country cousins. The University of Texas at Austin is a wealthy institution, so it came as a shock to read an associate professor of women's studies there quoted in a recent *Chronicle of Higher Education* article about the Social Sciences Research Network's online clearing house: 'Most of us... have so little money to travel to conferences these days. We just don't have the kind of ongoing interaction in our academic work that is available to our colleagues in the law school, the business school, etc.'

I try to explain to my colleagues that indigence and neglect are relative conditions, though I'm not sure if that brightens their mood. Certainly, my efforts to explain the provisions for research in Australia surprise them.

Yet there is a striking similarity between higher education and research in Australia and the United States. In both countries there is a deafening political silence. The contenders for the Democratic nomination have all sorts of concerns about the way the country is going, but universities are not one of them. And from what I read online of the federal campaign in Australia, it is the same on both sides of the Pacific.

The American universities are less concerned to catch the politicians' interest. They are used to greater autonomy, and as various state legislatures began to impose new demands on them, they sought increased autonomy by reducing their dependence on public funding. In Australia, on the other hand, the interference in universities has increased as the proportion of public funding has diminished.

That leaves unresolved issues of public access and public interest. Reconciling public access and private provision is a vital task, but so too is sustaining the social science disciplines that contribute to public policy and inform public life. I look forward to exploring further how that is done here.

Stuart Macintyre
President

Financial Futures. A Touch of Inequity?

Economic Inequality, Insecurity and Financial Futures

Kirrily Jordan and Frank Stilwell

Introduction

In the months leading up to the 2007 federal election, Australians were regularly reminded that the Australian economy had never been more prosperous. According to [then] Prime Minister John Howard, the deregulation of finance and trade, the privatisation of government enterprises and the changes to the systems of taxation and industrial relations had helped to produce the 'best of times', with Australians 'enjoying the longest unbroken economic expansion in our history'.[1]

Indeed, the aggregate economic statistics look impressive. In the decade to 2006, the average annual growth in GDP was 3.6 per cent.[2] In the 15 years to 2004, Australia's growth in GDP *per capita* put it at equal ninth position among the 30 members of the OECD, ahead of the Scandinavian nations and the much larger economies of Germany, Japan, the United States and the United Kingdom.[3]

The growth in GDP, and particularly in GDP *per capita*, might seem to suggest that the financial futures of Australians are secure. Economic forecasts are always hazardous, however, and depend on broader conditions in the global economy and the possibility of recurrent recession. Recent economic policy developments add to the uncertainty. Tax rates have been cut – with electoral promises of much bigger cuts to come – which tends to boost private sector consumption and investment spending. Meanwhile, the Reserve Bank has raised the official interest rate – six times since 2004 – which tends to depress consumption and investment. It is like driving a vehicle with strong pressure on both accelerator and brake: the future momentum is uncertain.

Equally important, aggregate statistics such as GDP can only tell a small part of the story about economic wellbeing. A more complex picture emerges when considering the distribution of the fruits of economic growth. Some Australians have been doing particularly well. These include the corporate executives whose annual remuneration packages now sometimes exceed $30 million.[4] Many Australians have also accumulated vast wealth: the assets of the richest two hundred individual wealth holders currently range from $180 million to $7.25 billion.[5]

Meanwhile, others are facing tangible economic hardships and insecurity. Many households are struggling to meet their expenditure commitments, particularly because housing costs have risen rapidly in the last two decades. Industrial relations policies have increased the downward pressure on the wages of the less well-organised sections of the workforce. Those who are reliant on social security payments as the principal source of their income have also been subjected to particular stresses, as governments embracing neoliberal ideology have implemented policies to reduce what they refer to as welfare dependency.

This article concentrates on the implications of economic inequality for the financial security of Australian households. It outlines the principal dimensions of economic

inequality in Australia, analysing the evidence of inequalities in the distributions of income and wealth. It examines the experience of different groups within Australian society, including those living in poverty and those facing particular barriers such as gender, ethnicity and geographic location. The article then considers the situation of 'middle Australia' and the experience of debt and economic insecurity, before concluding with a reflection on future prospects.

Income inequality

Analysis of income distribution can usefully begin with study of the relative size of different income streams. A primary indicator, using data from the Australian Bureau of Statistics (ABS), is the relative shares of income received as wages or profits. This shows that in Australia since the mid 1970s there has been a long-term redistribution of income away from labour and towards capital. There has been a downward trend in the wage share since the mid 1970s, following the rapid rise in the 1960s and early 1970s. In 1975-76 it was 62 per cent, but by 2005-06 it was almost down to 53 per cent. There has been a corresponding growth in the gross operating surplus, comprising incomes from non-labour sources, such as income from the ownership of property. Within this gross operating surplus, the largest single component is company profits. The share of profit in the national income has risen fairly steadily since 1975–76, interrupted only for short periods such as the economic recession in 1990–91. The 26.9 per cent profit share in 2005–06 was its highest recorded level since 1959–60.[6]

Table 1 :Total weekly earnings by occupation, per cent of employees, May 2006[7]

Occupation	$1–399	$400–799	$800–1199	$1200–1599	$1600–1999	$2000+	Total
Managers	4.2	16.7	25.0	22.2	12.8	19.1	100
Professionals	9.3	19.7	32.2	24.7	7.2	7.1	100
Technicians and trades workers	10.4	33.8	31.8	14.3	5.8	3.9	100
Community and personal service workers	37.3	39.9	16.0	5.3	1.1	0.5	100
Clerical and administrative workers	17.6	42.9	31.0	5.9	1.6	0.7	100
Sales workers	46.2	39.5	11.3	1.7	0.7	0.5	100
Machinery operators and drivers	7.8	36.4	31.7	15.1	5.6	3.3	100
Labourers	34.6	39.7	18.5	4.9	1.4	0.8	100
All occupations	20.8	33.5	25.4	11.9	4.3	4.1	100

In broad terms, these shares of wages and profits indicate how the fruits of economic activity are shared between those who derive their income principally from wage labour and those who derive their income from owning capital assets. The shift in income shares from wages to profits substantially influences the financial futures of both groups.

Among those receiving their income from wage labour there is also significant inequality across occupations. Table 1 shows data for eight broad occupational categories, looking at the distribution of earnings between those on the lowest incomes (under $400 per week) and those on the highest incomes (over $2000 per week). A remarkable 19.1 per cent of managers are in the top income bracket. Professionals, such as teachers, doctors and lawyers, are quite a long way behind, with only 7.1 per cent in the top income group. At the other extreme, sales workers cluster in the low-pay ranges, with over 46 per cent receiving less than $400 per week.[8]

Another way of examining the current income distribution is by dividing the whole Australian population into five groups, or quintiles, ranked according to how much of the total household after-tax income they receive.[9] Table 2 expresses this information. It shows that the poorest 20 per cent of households received only 7.9 per cent of the national income in 2005–06, while the richest 20 per cent received 38.5 per cent of the total.[10] In other words, the richest 20 per cent of households, on average, receive over four and a half times as much as the poorest 20 per cent of households.

Table 2: Income shares of the Australian population, 2003–04[11]

Income group	Income share (%)
Richest 20%	38.5
Second quintile	23.2
Third quintile	17.6
Fourth quintile	12.9
Poorest 20%	7.9

Table 3 summarises the evidence on how income distribution has changed since the 1970s, using the common measure of inequality known as the Gini coefficient. This coefficient varies from 0 (when income is equally distributed) to 1 (when one household has all the income). The second column of the table shows the Gini coefficient when calculated according to gross household income (GHI). This is the measure used by the ABS until 1999–2000. It shows a long-term trend towards increasing income inequality, with the coefficient rising from 0.390 in 1978–09 to 0.448 in 1999–2000.

Discerning the trend since the turn of the millennium is harder. The gross household income data are no longer published in a comparable form by the ABS. So we have to rely on the alternative measure of equivalised disposable household income (EDI). The third column shows the Gini coefficient when calculated according to this measure. It indicates a peak in income inequality between 1999–2000 and 2002–03, with the Gini coefficient falling in 2003–04 but climbing again in the latest year.[12]

Wealth inequality

Even more striking than the disparities in income are the inequalities in wealth – the financial and physical assets, such as cash, shares and real estate, that households own. In 2005-06, the wealthiest fifth of households accounted for 61 per cent of total

Table 3: Income Inequality in Australia, as shown by Gini coefficient, 1978–79 to 2005-06 [13]

Year	Gini coefficient (GHI)	Gini coefficient (EDI)
1978–9	0.390	
1981–2	0.400	
1986*	0.410	
1990*	0.420	
1994–5	0.443	0.302
1995–6	0.444	0.296
1996–7	0.437	0.292
1997–8	0.446	0.303
1999–2000	0.448	0.310
2000–1		0.311
2002–3		0.309
2003–4		0.297
2005-6		0.307

*Data calculated for calendar years.
Note: Empty boxes result from the change in the way in which the ABS calculates the Gini coefficient.

household net worth (with an average wealth of $1.7 million) while the bottom fifth accounted for only 1 per cent of total wealth (with an average of $27 thousand).[14] So the wealthiest fifth of Australian households are over 60 times wealthier than the least wealthy fifth.

Importantly, wealthier households are much more likely to hold their wealth in income-generating forms. This has a significant effect on the financial futures of different households. For example, the 2002 *Household, Income and Labour Dynamics (HILDA) Survey* showed that 97 per cent of all households were holding some financial assets in the form of bank deposits at the time of the survey (as shown in Table 4). While the median balance of these financial assets increases rapidly with the total wealth of households, their relative importance as a proportion of total wealth declines as wealth increases.[15] In other words, wealthy people have more assets held in bank deposits but these comprise a smaller proportion of their total assets than is, typically, the case for poorer people.

Table 4 also shows that the wealthier groups hold a much greater proportion of their wealth in equity investments and trusts, including shares and managed funds. These assets replace bank deposits in importance as the wealth of households increases. While the least wealthy quintile held only 6 per cent of financial assets in equity investments and trusts, the wealthiest quintile held an average of 31 per cent of their financial assets in this form.[16]

This concentration of share ownership reflects two factors. First, the number of households in each quintile holding these assets increases dramatically with wealth – from 9 per cent in the least wealthy quintile to 78 per cent in the wealthiest. Second, the median value of these assets held by each household also increases rapidly with

wealth – from $3,000 for the least wealthy group to $50,000 for the wealthiest.[17] The wealthiest 10 per cent of households owns 61 per cent of the total worth in these financial assets.[18]

Table 4: **Wealth held in bank deposits, equity investments and superannuation, 2002**[19]

Percentile of net worth	Bank deposits		Equity investments		Superannuation	
	Per cent of h/holds holding asset	Median value holdings ($'000)	Per cent of h/holds holding asset	Median value holdings ($'000)	Per cent of h/holds holding asset	Median value holdings ($'000)
Less than 20	93	1	9	3	61	5
20-39.9	97	3	27	6	77	22
40-59.9	97	5	40	6	73	35
60-79.9	98	9	54	13	83	69
80-100	99	21	78	50	89	199
All h/holds	97	5	41	15	76	35

Superannuation has commonly been considered to be an equalising element in the distribution of wealth. Indeed, federal government policies that have made compulsory superannuation the norm for the Australian workforce over the last two decades have meant that most workers are now covered. However, Table 4 shows that the resulting distribution of superannuation assets is highly unequal. While 76 per cent of households hold some assets in superannuation, the median value of these assets for households in the wealthiest quintile is forty times greater than for those households in the bottom quintile.[20] The tax-favoured treatment of superannuation is important in this context, especially following [former] Federal Treasurer Peter Costello's 2006 decision to exempt superannuation payments from income tax. The effect is that inequality in the holdings of superannuation assets further intensifies economic inequalities over the lifecycle.

Wealth inequality is also clearly apparent in the unequal ownership of real estate. The common image of Australia as a property owning democracy is not without foundation. However, the evidence does indicate substantial disparities. Overall, about 68 per cent of Australian households own their own home (or are in the process of buying it with mortgage finance). But, as the HILDA survey reveals, only 5 per cent of households in the least wealthy quintile are homeowners, compared with 95 per cent of households in the wealthiest quintile.

These dramatic inequalities in housing wealth are illustrated in Table 5. The average value of owner-occupied homes is five times higher in the top quintile than in the bottom quintile of households. Only 2 per cent of the households in the bottom group own additional or investment properties, compared to 42 per cent of the households in the wealthiest quintile.[21] Overall, the wealthiest 10 per cent of households own 38 per cent of the wealth held in real estate.[22]

Table 5: Wealth held in housing, 2002[23]

Percentile of net worth	Primary residence		Other residential property	
	Percent of households holding asset	Median value of holdings ($'000)	Percent of households holding asset	Median value of holdings ($'000)
Less than 20	5	80	2	120
20-39.9	56	120	7	98
40-59.9	89	200	13	125
60-79.9	94	300	20	160
80-100	95	400	42	300
All households	68	250	17	200

Research undertaken at the National Centre for Social and Economic Modelling (NATSEM) has estimated the impacts of property price inflation on individual wealth. It found that, over the last decade, households in the top fifth of the wealth distribution increased their wealth by an average of around $250,000 in the ten years to 2004 (two-thirds of which resulted from gains in the real estate market), whereas the least wealthy fifth increased their wealth by only about $3,000, half of which derived from their small superannuation entitlements.[24] Evidently, who gets what depends significantly on who owns what.

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Wealth inequalities also affect the financial prospects of future generations. For example, while a wealth margin between age groups is to be expected, that margin has grown over time. A 2006 *Sydney Morning Herald* report suggests that this gap has reached unprecedented levels, noting that the half of Australia's adult population aged over 45 owns over three-quarters of the nation's household wealth – up from 70 per cent in 1986.[25] The primary cause of the growing gap has been the rapid inflation in property prices during the recent housing boom. New entrants to the housing market are heavily disadvantaged in these circumstances, unless they are substantially aided by financial support from wealthy parents or inherit their property.

Poverty

'Poverty' can be measured in a variety of ways. Much conventional economic thinking has rested on the optimistic expectation that continued economic growth would eventually eradicate poverty. But some groups in Australian society have missed out on the fruits of the recent decades of economic growth. Poverty may be considered in absolute terms – not having enough food to eat or basic housing to inhabit – and malnutrition and homelessness are its most obvious manifestations. By international standards, these problems are of relatively modest significance in Australia. Yet they are not absent. The material circumstances of Indigenous Australians, particularly those living in remote communities, are an obvious case in point. Their health and

living conditions are often similar to those prevailing among poor people in developing countries. Among non-Indigenous people there are also significant pockets of absolute poverty. One ABS study estimated the number of homeless people (on the whole, less likely to be Indigenous, for cultural reasons – see Melinda Hinkson's comments elsewhere in this volume) in Australia to be around 100,000 nationally.[26]

What of those people whose material living conditions are above this standard but who are still unable to afford the things that most Australians regard as necessary for a decent standard of living? Peter Saunders of the Social Policy Research Centre argues that, in addition to measures of absolute poverty, poverty must be determined in relation to the prevailing social standards. Relative poverty exists where various forms of hardship are experienced relative to the cultural norm.[27] Setting the poverty line at half the median income (equivalised for household size), NATSEM found that the 'before housing' poverty rate among all Australians was 11 per cent in 2001, meaning that over 2 million people (almost one in every nine Australians) were living in poverty by that measure.[28]

Those most vulnerable to poverty in Australia include the unemployed, single people, sole parents, people with disabilities and migrants and refugees from non-English speaking backgrounds.[29] As noted above, the situation of Indigenous Australians is particularly alarming. Indeed, the nature and extent of Indigenous disadvantage has led Boyd Hunter from the Centre for Aboriginal Economic Policy Research to argue that Australia is divided into three distinct nations: 'the rich, the poor non-indigenous Australians, and indigenous Australians'.[30]

The financial futures of those in poverty are particularly insecure since poverty tends to be multidimensional. That is, non-economic measures also come into play, including housing, health and security.[31] These indicators are not discrete: each impacts upon the others, so that analysis of any factor in isolation will give an incomplete picture of a person's social and economic situation. Concepts of poverty can also include a broader consideration of deprivation and social exclusion. Deprivation may include a lack of access to services such as adequate public transport, while social exclusion includes causes (such as unemployment and low incomes) as well as 'outcomes' (such as poor health, high crime and family breakdown). These may become evident as an 'accumulated response' over time.[32]

Gender

Despite changing social attitudes and public policies over the last four decades, gender also remains a significant determinant of economic opportunities. At the highest levels in business and within the most prestigious professions, men continue to dominate. A report showing the highest-paid executive officers in the top 150 Australian corporations, for example, with 'power salaries' ranging between $200,000 and $28.6 million per year, had just three women on the list, the highest paid of whom earned an annual $1.5 million.[33] While women make up 44.8 per cent of the workforce, they make up only 3 per cent of CEOs and 8.7 per cent of the directors of Australia's top 200 listed companies.[34] Of the 200 wealthiest Australians in 2006, only 11 (or 5.5 per cent) were women.[35]

A similar pattern is mirrored outside the corporate world, although less strikingly. In Federal Parliament only 64 of the 226 members are women.[36] Similarly, although many women enter prestigious and highly paid professions such as medicine and law, they tend to occupy the lower ranks within them. Male judges in the Federal Court of Australia court outnumber female judges by a ratio of six to one.[37] In medicine, most

women doctors are in general practice, while the upper echelons of specialists and surgeons remain male-dominated. In 2002 women made up 31 per cent of the total medical workforce, accounting for 36 per cent of general practitioners, but only 20 per cent of specialists and 6 per cent of surgeons.[38] In higher education women are better represented in lower levels of university teaching and research, but comprise only 21 per cent of the vice-chancellors at Australian universities.[39]

Gender disparities are also clearly evident in the wages gap between men and women. The average weekly pay for all female employees is just over 65 per cent of that received by males. When casual workers are excluded and only full-time workers are compared, women, on average, are still paid only 81 per cent of the wages paid to men.[40] These statistics are indicative of broader gender differentials in access to positions of economic and political power and a systemic inequality in the distribution of economic rewards. Moreover, aggregate statistics ignore the differences between women, glossing over the experiences of those women who are worst off, most notably Indigenous women and women from non-English speaking backgrounds.

Location

There is also a distinctive geographical dimension to economic inequality, impacting on people's financial prospects according to where they live. Social and economic conditions vary significantly between the metropolitan and non-metropolitan areas. Within the metropolitan areas, social differences based on class, age, gender, sexuality, religion, culture and health are etched into spatial structures. Economic inequalities, based on industry and occupation, employment and unemployment, produce a complex mosaic of relative wealth and disadvantage.

Space acts as a medium through which those with the most wealth and income express their preferences – for business locations, housing, recreation and transport, among others – while those with fewer economic resources take what is left. As the geographer David Harvey put it, 'Low income populations, usually lacking the means to overcome and hence command space, find themselves for the most part trapped in space'.[41] Space then becomes more than a medium through which inequalities are expressed: it becomes a mechanism by which those inequalities are reproduced and reinforced. For example, the revenue-raising potential of local governments is most restricted in areas where property prices are low and the residents have generally low incomes. So the capacity to provide adequate services in those areas is circumscribed. The interacting effects of the labour market, the housing market and service provision tend to accentuate the inequalities between places over time.

The spatial dimension of inequality is particularly striking in Australia because a highly urbanised pattern of population coexists with vast tracts of what has come to be known as 'regional and rural Australia'. Non-metropolitan areas experience distinctive social and economic problems, particularly in inland rather than coastal regions. Not all are economically stagnant by any means, but the dominant picture is of a significant dualism between their prosperity and that of the metropolitan areas. A recent report by prominent social researcher Tony Vinson found that almost 80 per cent of the most disadvantaged areas, defined according to postcodes in New South Wales and Victoria, are in non-urban regions. Similar patterns exist in other Australian states and territories.[42]

For example, a NATSEM study into regional inequality found that, in 2001, the average household income in Australia's capital cities was $56,975. The average incomes of households in regional and rural towns were particularly low, at $42,503 and $38,769

respectively. The figure for rural towns was almost 50 per cent below the average household income in the major capital cities.[43] Of course, in at least some areas, economic disadvantage is ameliorated to an extent by lower housing costs. According to evidence compiled by the Productivity Commission, the land and housing property boom of 2000–03 was much more dramatic in the capital cities and some of the larger regional centres (including Newcastle in New South Wales and Alice Springs in the Northern Territory) than in smaller regional areas.[44]

'Middle Australia'

While the evidence on poverty indicates that some Australians are certainly 'doing it tough', the situation of 'middle Australia' is somewhat more ambiguous. In his book *The Experience of Middle Australia*, sociologist Michael Pusey has suggested that ordinary Australians have become increasingly insecure and anxious about their economic circumstances over recent decades. In surveys and interviews with 400 middle income earners, he found a common belief that the adoption of neoliberal policies has benefited big business and people on high incomes at the expense of small business owners, ordinary wage earners and people receiving low incomes or social security benefits. Respondents believed that those latter groups – broadly reflecting the 'middle Australia' of which they themselves were a part – have borne the brunt of privatisation and deregulation, with employment prospects and opportunities for engaging in leisure and family time compromised by financial pressures, labour market 'flexibility' and the incursion of the market further and further into the private sphere.[45]

Pusey examined several factors that may have contributed to a sense of financial insecurity among middle Australians, focusing in particular on income and housing costs. He argued that the incomes of the broad middle class had been 'hollowed out' during the 1980s and '90s, with the equivalised household incomes of the middle deciles falling relative to both the lowest and highest deciles. Of his survey sample of middle Australians, 13 per cent said that they felt poor 'often' or 'almost all of the time'. Thirty-eight per cent reported that they had difficulties in meeting housing costs, whether mortgages or rents.[46]

Recent research at The Australia Institute has questioned whether the reported hardship of 'middle Australia' is imagined or real. For example, drawing on the results of a 2002 Newspoll survey – summarised below in Table 6 – Clive Hamilton has argued that even the most affluent Australians think they need higher incomes, a phenomenon he has called the 'suffering rich'. More than a quarter of the wealthiest households surveyed (those with incomes over $70,000 a year) said that they spent 'nearly all of their money on the basic necessities of life'. Around 49 per cent of respondents with annual incomes of $50,000–69,000 shared this belief. Meanwhile, over 20 per cent of survey respondents in the lowest-income group (with incomes below $20,000 a year) reported that they had no difficulties in affording everything they really needed. As Hamilton argues, these data suggest that 'above some fairly low threshold, feelings of deprivation are conditioned by expectations and attitudes rather than real material circumstances'.[47]

According to the researchers at The Australia Institute, the general material circumstances of middle Australia are particularly problematic. In their most recent study, Hamilton, Downey and Lu examine the incomes and housing expenditures of 'typical' Australian families. These households have an average disposable income of almost $77,000, well above the national average of $56,000. This income, the authors

argue, affords a standard of living that is 'comfortable by any measure and conflicts with the widespread view of struggling families'. Similarly, the study suggests that few middle class households are experiencing mortgage stress. Nearly two thirds have no mortgages at all, and only 8 per cent have mortgages over $200,000.[48]

Table 6: Attitudes to needs, by income quintile: Responses to the statement 'You cannot afford to buy everything you really need'. [49]

	Total	Household income quintile				
		Q1 (lowest)	Q2	Q3	Q4	Q5 (highest)
Agree	62.2	83.7	70.4	62.0	49.2	46.3
Disagree	37.1	16.3	29.6	38.0	50.8	53.7

Note: The study surveyed 1200 individuals. The results were equivalised for household size. Of all respondents, 0.7% refused to answer or said 'don't know'.

The differences in Hamilton and Pusey's perspectives may be partly definitional. For Hamilton *et al* the 'typical family' comprises a couple – including someone of prime working age – and at least one dependent child. The 'middle class' refers to households with disposable incomes between the 30th and 80th percentiles.[50] The middle Australians in Pusey's study are those living in urban Census Collection Districts where the average household income is above the bottom income quintile but below the top decile.[51] But the more important difference is that Hamilton *et al* focus on measures of middle Australia's material economic position while Pusey examines their perceptions and experience.

These two positions are not incompatible. Indeed, where economic inequality exists, people with considerable economic resources may believe those to be inadequate simply because there are others who are financially better off. Several studies support this view, indicating that people's aspirations, and therefore their satisfaction with their current circumstances, are strongly determined by the reference group with which they compare themselves. For example, a study of graduate students in the USA asked whether they would prefer (a) $50,000 a year while others received half of that or (b) $100,000 a year while others received double that. A majority chose option (a). They evidently thought they would be happy with less than the maximum attainable as long as they were better off than others.[52] This observation has become known as the 'relative income hypothesis'.[53] It suggests that increases in income or wealth, beyond a certain point, will generate no necessary increase in satisfaction if the unequal distribution of income and wealth persists.

In this scenario, the positive picture of material affluence in middle Australia that Hamilton paints can coexist with the anxieties and insecurities documented in Pusey's study. This is particularly the case where average workers have to contend not only with a sense of relative material hardship but also with added stresses such as employment insecurity, the increasing complexity of financial planning and difficulty in accessing public services in an era of budgetary constraint. Moreover, whether the

economic hardship of middle Australia is real or imagined, Pusey's study indicates that the current single-dimensional focus on economic growth and ever increasing incomes is not providing the widespread contentment and social wellbeing that had been predicted and expected. If the purpose of the economy is to serve the needs of society, rather than *vice versa*, something has evidently gone wrong.

Insecurity, debt and financial futures

The experience of middle Australia suggests that despite positive aggregate economic statistics, a sense of insecurity prevails. The changing nature of employment is significant in this context. During the long boom from the late 1940s to the early 1970s, most working Australians experienced not only sustained economic growth but also long term, relatively stable careers. The changing industrial structure of the economy and the dramatic casualisation of employment mean that such long term career trajectories are no longer the norm. Where households are relying on casual incomes and short term employment contracts, financial planning involves an additional level of uncertainty. The 2002 HILDA survey showed that in most households, the value of non-financial assets was much greater than the value of financial assets. Such households have relatively little cash or liquid assets to draw on if their normal access to income is interrupted. As a result, many would have little economic buffer against the effect of a sudden drop in income and may have no alternative to reliance on social security payments.[54]

In addition, having a job is no longer sufficient to escape the risk of sliding into poverty. Low-paid jobs, especially when less than full time, can leave employed people with disposable income below the poverty line.[55] According to a NATSEM study, full-time and part-time workers, combined, made up 27 per cent of all Australians living in poverty, when analysed according to workforce status.[56] A comparison with earlier poverty studies suggests that whereas employment in the early 1970s was regarded as 'a virtual guarantee against poverty',[57] the incidence of working poverty has grown over the last thirty years.

Recent changes to the industrial relations system have placed further pressure on the wages and employment conditions of some workers, particularly those employed in casual jobs. The *Workplace Relations Act 2005* (Cth) – the *WorkChoices* legislation – reduced the range of safeguards provided by those awards, undermined the collective power of organised labour and provided for a major extension of the use of individual contracts (Australian Workplace Agreements).[58] It made it possible for employers effectively to offer contracts to individual workers on a take it or leave it basis. Further redistribution of income from labour to capital and further widening of wage disparities are predictable consequences. The neoliberal drive to create a large low-wage sector in Australia under the banner of a flexible labour market can be expected to further entrench poverty and inequality.

The experience of economic insecurity is also influenced by levels of household debt. Insecure employment can be better tolerated if there is no debt to be repaid. But, along with increases in wealth over the last few decades has been a parallel rise in the incidence and extent of household debt. This is particularly related to loans for the purchase of land and housing. The HILDA survey shows that 50 per cent of home owners have outstanding loans on their primary residences, with the median value of these loans being $90,000. Around 80 per cent of the total value of home loans is held in first mortgages, with 18 per cent in home equity loans or second mortgages and 2 per cent in loans from family and friends.[59]

In a recent *Sydney Morning Herald* report, Matt Wade notes that the total number of Australian households with a mortgage has reached 2.5 million. Using data from a Citibank survey on mortgage trends, he further notes that 44 per cent of these households expect to still be repaying their mortgages in retirement. This, he suggests, is an indication that 'the mortgage has been embraced as [a] lifelong financial tool', with the home mortgage 'fast becoming a debt for life'.[60]

This increased reliance on mortgages has often been cited as a cause for social concern, with fears that many households may be caught in a debt trap as interest rates rise. The burden of this risk varies greatly according to wealth. As Hamilton *et al* have noted, most 'middle class' households are not experiencing mortgage stress.[61] And the HILDA data show that while the median value of property loans generally increases with wealth, the gearing ratio for property debt declines rapidly, that is, the ratio of debt to asset values falls from an average of 98 per cent in the least wealthy quintile of households to an average of 12 per cent in the wealthiest.[62] This indicates that the debt held by the wealthier households is more than offset by the greater value of their assets. Not surprisingly, it is the mortgage holders in the less wealthy quintiles who are in the most precarious position.

It is also pertinent to note that the proportion of households using loans to purchase investment properties increases significantly with wealth. For these households, the costs of financing their investments can be partially offset by claiming tax deductions for their interest expenses. These negative gearing advantages are not available to households just seeking to put a roof over their own heads. So the taxation arrangements relating to housing debt accentuate the relative disadvantage of those with the lower levels of wealth.

According to the HILDA survey, housing debt as a proportion of total debt was highest for the second and third quintiles in the distribution of household wealth. For these households, home loans amounted to about three-quarters of their total debt. Below them, in the lowest quintile, were the households with the lowest average share of home loans in total household debt. Few of these can do more than dream of home ownership. For these poorest households, personal debt, including credit cards and personal loans, typically, accounts for over half of their debt.[63] Some of these households are in a debt trap, borrowing more to cope with previous debt accumulations and the interest payments thereon.

This is indeed the dark side of the inequalities of wealth and debt.

Conclusion

Australia has become a wealthier society but, in significant respects financial insecurity has become relatively more problematic. The inequality in the distribution of the fruits of economic growth, coupled with rising expectations of material living standards, creates distinctive stresses. These impact on particular disadvantaged groups, as described in this paper (and more fully in our recent book on economic inequality[64]).

The normal functioning of a capitalist economy generates economic inequality as 'capital makes capital' and poverty is reproduced. However, capitalist countries vary considerably in the extent of inequality.[65] In Australia, labour organisations and reformist governments have historically had ameliorating effects. But over the last two decades, declining union membership and the ascendancy of neoliberalism in public policy have put these principal institutional impediments to growing economic inequality on the back foot. In tax policies, a markedly regressive distributional tendency has been a consistent theme. Industrial relations policy changes have shifted

the relative shares of capital and labour in the national income and impacted the degree of income dispersion among those who derive their incomes only from wage labour. It is because the fundamental drivers of economic inequalities persist and the ameliorating tendencies have been weakened that differences in financial futures within Australian society remain so deeply problematic.

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1 Howard, J (2007). Speech to the Australia-Israel Chamber of Commerce, April, *Australian Jewish News*, accessed 19 October 2007@ http://www.ajn.com.au/news/news.asp?pgID=3072.

2 Australian Bureau of Statistics (2006). *Australian System of National Accounts, 2005-06 (5204.0)*, accessed 19 October 2007 @ http://www.abs.gov.au/AUSSTATS/abs@.nsf/ProductsbyCatalogue/110953FFA28D4E52CA2572110002FF03?OpenDocument.

3 Norway was equal ninth. United Nations (2006). *Human Development Report*, accessed 19 October 2007 @ http://hdr.undp.org/hdr2006/report.cfm: 331.

4 The chief executive of Macquarie Bank, Allan Moss, received a total remuneration package of almost $33.5 million in 2007. He was closely followed by the bank's investment banking chief, Nicholas Moore, who received total remuneration of $32.9 million. C Kruger (2007). 'Trough-fest at millionaires' factory', *Sydney Morning Herald*, 15 May, accessed 26 October 2007 @ http://www.smh.com.au/news/business/troughfest-at-millionaires-factory/2007/05/15/1178995118351.html.

5 *Business Review Weekly* (2007). 'BRW Rich 200', *Business Review Weekly*, 31 May.

6 Australian Bureau of Statistics (2006) *op cit*.

7 *Ibid*.

[8] Australian Bureau of Statistics (2007a). *Employee Earnings and Hours, Australia, May 2006 (6306.0),* accessed 24 October 2007 @ http://www.ausstats.abs.gov.au/ausstats/subscriber.nsf/0/284EA51F2E7BD8F9CA25728F000D10AC/$File/63060_May%202006.pdf, p.17.

[9] The ABS derives such estimates by deducting estimates of personal income tax and the Medicare levy from gross household incomes. It also adjusts for differences in household composition.

[10] Australian Bureau of Statistics (2007b). *Household Income and Income Distribution, Australia, 2005–06 (6523.0)*, accessed 24 October 2007 @ http://www.ausstats.abs.gov.au/ausstats/subscriber.nsf/0/447BC40F0713F454CA25732A00258F43/$File/65230_2005-06.pdf: 13.

[11] *Ibid*.

[12] *Ibid* .

[13] Australian Bureau of Statistics, 6523.0, various years.

[14] Australian Bureau of Statistics (2007b) *op cit:* 5.

[15] Kohler, M, Connolly, E and Smith, K (2004). *The Composition and Distribution of Household Assets and Liabilities: Evidence from the 2002 HILDA survey*, Reserve Bank of Australia Bulletin, accessed 24 October 2007 @ http://www.rba.gov.au/PublicationsAndResearch/Bulletin/bu_apr04/bu_0404_1.pdf

[16] *Ibid:* 3.

[17] *Ibid*: 9.

[18] Headey, B, Marks, G and Wooden, M (2005). 'The Structure and Distribution of Household Wealth in Australia', *Australian Economic Review*, 38, 2: 165.

[19] *Ibid*.

[20] Kohler *et al* (2004) *op cit*: 9.

[21] *Ibid*.

[22] Headey *et al* (2005) *op cit*.

[23] Kohler *et al*. (2004) *op cit.*

[24] Button, J and Stevenson, A (2004). 'Property boom splits nation', *Age*, accessed 24 October 2007 @ http://www.theage.com.au/articles/2004/07/09/1089000352014.html, 10 July.

[25] Wade, M and Cubby, B (2006). 'Money Pit', *Sydney Morning Herald*, Weekend Edition, 1–2 April: 25 and 33.

[26] Australian Bureau of Statistics (2003). *Australian Census Analytic Program: Counting the Homeless, 2001*(2050.0), accessed 24 October 2007 @ http://www.ausstats.abs.gov.au/ausstats/free.nsf/0/5AD852F13620FFDCCA256DE2007D81FE/$File/20500_2001.pdf: 2.

[27] Saunders, P (2002). *The Ends and Means of Welfare: Coping with economic and social change in Australia*, Cambridge University Press, Cambridge: 147.

[28] Lloyd, R, Harding, A and Payne, A (2004). 'Australians in poverty in the 21st century', paper prepared by NATSEM for the 33rd Conference of Economists, 27–30 September, accessed 24 October 2007 @ http://www.canberra.edu.au/centres/natsem/publications.

[29] *Ibid*; Senate Community Affairs References Committee (2004). *A hand up not a hand out: Renewing the fight against poverty. Report on poverty and financial hardship*, Commonwealth of Australia, Canberra, accessed 24 October 2007 @ http://www.aph.gov.au/SENATE/committee/clac_ctte/completed_inquiries/2002-04/poverty/report/index.htm, 11 March.

[30] Hunter, B (1999). 'Three nations, not one: Indigenous and other Australian poverty', CAEPR working paper 1, accessed 24 October 2007 @ http://dspace.anu.edu.au/bitstream/1885/40532/1/CAEPRWP1.pdf, p.v.

[31] *Ibid*.

[32] Saunders, P (2005). *The Poverty Wars*, UNSW Press, Sydney.

[33] *Sydney Morning Herald* (2003). 'Power Salaries: A Money Special Report', 5 November 2003.

[34] Equal Opportunity for Women in the Workplace Agency (2006). *2006 EOWA Australian Census of Women in Leadership*, Equal Opportunity for Women in the Workplace Agency, Sydney: 5.
[35] *Business Review Weekly* (2006). 'BRW Rich 200', *Business Review Weekly*, 18 May–21 June.
[36] Commonwealth of Australia (2006). *Parliament of Australia*, accessed 26 October 2007 @ http://www.aph.gov.au/index.htm, 11 August.
[37] Federal Court of Australia (2007). List by appointment date of current judges, accessed 26 October 2007 @ http://www.fedcourt.gov.au/aboutct/jj_seniority.html, 22 October.
[38] Australian Institute of Health and Welfare (2004). *Medical Labour Force 2002*, National Health Labour Force Series, 30, accessed 26 October 2007 @ http://www.aihw.gov.au/publications/hwl/mlf02/mlf02.pdf : 4.
[39] Equal Opportunity for Women in the Workplace Agency (2006) *op cit*.
[40] Australian Bureau of Statistics (2007c). *Average Weekly Earnings, Australia, May 2007 (6302.0)*, accessed 26 October 2007 @ http://www.ausstats.abs.gov.au/ausstats/subscriber.nsf/0/CB0C38D38DECE212CA2573380019EA6D/$File/63020_may%202007.pdf : 6.
[41] Harvey, DM (1989). *The Urban Experience*, Basil Blackwell, Oxford: 265.
[42] Vinson, T (2004). *Community Adversity and Resilience: The distribution of social disadvantage in Victoria and New South Wales and the mediating role of social cohesion*, Jesuit Social Services, Melbourne.
[43] Lloyd, R, Yap, M and Harding, A (2004). 'A spatial divide? Trends in the incomes and socioeconomic characteristics of regions between 1996 and 2001', paper presented to the 28th Australian and New Zealand Regional Science Association International Annual Conference, Wollongong, 28 September–1 October, accessed 26 October 2007 @ http://www.canberra.edu.au/centres/natsem/publications : 3.
[44] Productivity Commission (2004). *First Home Ownership*, Report 28, Commonwealth of Australia, Melbourne, accessed 26 October 2007 @ http://www.pc.gov.au/__data/assets/pdf_file/0016/56302/housing.pdf.
[45] Pusey, M (2003). *The Experience of Middle Australia: The Dark Side of Economic Reform*, Cambridge University Press, Cambridge.
[46] *Ibid*: 27.
[47] Hamilton, C (2003). 'The Politics of Affluence', *Arena Magazine*, 64, April–May: 43-6.
[48] Hamilton, C, Downey, C and Lu, Y (2007). *The State of the Australian Middle Class*, Discussion Paper 98, The Australia Institute.
[49] Newspoll, published in Hamilton, C (2003). 'Real and Imagined Hardship in Australia', *Journal of Australian Political Economy*, 52, December: 44.
[50] *Ibid*.
[51] Pusey (2003) *op cit*.
[52] Layard, R (2003). 'Income and happiness: rethinking economic policy', in *Happiness: Has social science a clue?* Lecture 2, Lionel Robbins Memorial Lectures 2002/03, London School of Economics and Political Science, London, 4 March.
[53] Hirata, J (2001). *Happiness and Economics: Enriching economic theory with empirical psychology*, Masters thesis, Maastricht University, accessed 26 October 2007 @ http://johannes-hirata.de/research_master.htm.
[54] Headey, B, Marks, G and Wooden, M (2005). 'The Structure and Distribution of Household Wealth in Australia', *Australian Economic Review*, 38, 2: 159–75.
[55] Eardley, T (2000). 'Working But Poor? Low pay and poverty in Australia', *Economic and Labour Relations Review*, 11, 2: 308–38.
[56] Lloyd *et al* (2004) *op cit:* 15.
[57] King, A, in Watson, I and Buchanan, J (2001). 'Beyond impoverished visions of the labour market', in R Fincher and P Saunders (eds). *Creating Unequal Futures? Rethinking poverty, inequality and disadvantage*, Allen & Unwin, Sydney: 208.

[58] A more thorough analysis of the WorkChoices legislation is provided in special issues of the *Journal of Australian Political Economy* (56, December 2005) and *The Economic and Labour Relations Review* (16, 2, May 2006) devoted to the topic.
[59] Kohler *et al* (2004) *op cit*.
[60] Wade, M (2006). 'Mortgages now a lifelong debt', *Sydney Morning Herald*, Weekend Edition, 8–9 April: 3.
[61] Hamilton *et al* (2007) *op cit*.
[62] Kohler *et a*. (2004) *op cit*.
[63] *Ibid*.
[64] Stilwell, F and Jordan, K (2007). *Who Gets What? Analysing Economic Inequality in Australia*, Cambridge University Press, Cambridge.
[65] United Nations statistics show the ratio of the income of the top 10 per cent of households to the poorest 10 per cent of households within each country. Limiting the comparison to the thirty members of the OECD, Australia is the sixth most unequal society (a position shared with New Zealand). Its ratio of nearly 13:1 puts it only behind Mexico (25:1), Turkey (17:1) the USA (16:1), Portugal (15.1), and the UK (14:1). United Nations (2006) *Human Development Report 2006*, accessed 26 October 2007 @ http://hdr.undp.org/hdr2006/ : 335-6.

Increasing Household Financial Risk – An Increasing Social Risk?

Kevin Davis

Introduction

When in their twenties, today's now elderly baby boomers virtually had to beg a bank manager to grant them a housing loan. They (like their parents before them) had to demonstrate loyalty to their bank by saving a sufficient deposit to bridge the substantial (thirty per cent plus) gap between any loan granted and the cost of house purchase. Interest rates were subject to government-imposed ceilings.

Few had a credit card, until the introduction of BankCard in 1974 and later, the arrival of Visa and Mastercard. Credit limits granted were conservative, and consumer credit by way of overdraft or personal loan was quite limited. Consequently household indebtedness, reflected in a debt/assets ratio of below 7 per cent in the early 1970s compared to over 17 per cent currently, was very low.[1] While individuals could borrow from other sources such as finance companies using hire-purchase (borrowing on the 'never-never') or invest in shares or other risky financial products (such as finance company debentures), such options were relatively limited, relatively simple, and relatively little used.

As a broad generalisation, the young boomers were financially conservative, both in aggregate borrowings and in use of complex financial products. They had to be, because a regulated, non-competitive and non-innovative financial system gave them little option. They could also look forward to governments largely financing their lifetime education, health and retirement income needs.

Now, Generations X and Y and the boomers themselves, at a different stage of their life cycle, face a markedly different financial world. Government policies (both here and internationally[2]) have tended to increasingly shift responsibility for bearing and managing financial risk onto households. A deregulated innovative financial world has expanded the range of financial products and strategies available to households, providing scope for better financial risk management but also allowing (and encouraging via advertising) greater financial risk taking.

But while financial deregulation has brought substantial and widespread economic benefits, it has also highlighted a growing problem. Many individuals do not properly understand or appreciate the risks, costs, or rewards associated with the range of financial products available and marketed to them. The tip of this iceberg is reflected most clearly in situations such as the recent failures of property development financiers (Westpoint, Fincorp and ACR) where many individuals suffered substantial losses on investments inappropriate for their circumstances.

More generally the persistently high profit rates of financial institutions and incomes of financial advisers raise the question of whether, despite competition in financial markets, many consumers pay too much for the financial products they need (or feel they need) to purchase. Consumers face a wide range of alternative, heterogeneous, complex and constantly changing financial products. Many are ill-equipped to assess risk and value for money. It is not obvious that, in these circumstances, competition will lead to the economist's nirvana of efficient (or even 'fair') pricing. Indeed, in a recent Presidential address to the American Finance Association, John Campbell speculated on the possibility 'that the existence of naive households permits an equilibrium … in which confusing financial products generate a cross-subsidy from

naive to sophisticated households, and in which no market participant has an incentive to eliminate this cross-subsidy'.[3]

These developments are the focus of this paper, which advances three main arguments. First, it is argued that government policies are causing or providing incentives for individuals to take on increased financial risk (independent of any generational changes in attitudes to financial risk-taking). Second, the expanding range of complex financial products and services confronting individuals increasingly responsible for managing their personal financial risk creates two problems. One is that financially unsophisticated individuals are using unsuitable financial products. This creates the dual policy problems of how to best prevent such situations and how to deal appropriately with the consequences when bad outcomes arise. The other is the risk that practices in modern competitive financial markets can, if unchecked, lead to wide-scale sale of unsuitable financial products to retail customers involving significant social and economic costs.

The third argument is that the gap between the financial knowledge required, and that possessed, by many households for effective involvement in the modern financial system has created substantial unresolved challenges for policy makers who to date have relied upon a tripartite strategy of improving disclosure, education, and advice. Resolving these challenges without excessive regulatory responses which undermine the benefits of competitive financial markets is a key challenge facing Australian (and international) financial regulators.

In the following section, some evidence of the increase in financial risk being borne by households is presented. This is followed in section 2 by an analysis of some of the incentives for this trend. Then, in section 3, several examples are given of how competition and inappropriate incentive structures can lead to unsuitable financial products being widely adopted with undesirable social consequences. Some potential problems in the Australian context are also considered. Finally, implications for policy are considered and conclusions drawn.

1. Increasing household financial risk

Ultimately, individuals in aggregate bear the total risk of fluctuations in national output (income) and the value of real assets (wealth) of the economy. It may be in a role as direct investors in real assets (eg housing) or financial assets (equities, bonds) with uncertain future returns. This risk also arises via investments in superannuation and unit trusts, while risks taken on by financial institutions (such as banks) are also ultimately borne by individuals in their capacities as depositors or shareholders. Risk bearing also occurs through raising funds (borrowings) to be repaid from future uncertain income. Finally, risk bearing may be indirect (and largely hidden) in a role as taxpayers, through government policies involving transfer of particular risks away from those directly affected, to the broader community.

Three trends in household risk bearing appear evident in this regard, both in Australia and elsewhere. First, there has been an increase in the aggregate level of direct financial risk taking by individuals. Second, Governments have, arguably, reduced the extent of risk transfer from individuals to taxpayers at large, and introduced policies which indirectly give incentives for increased household risk taking. Third, individuals are increasingly buying, or being sold, higher risk financial products, which if properly understood and used can generate substantial benefits, but otherwise create significant risks.

One commonly used measure of financial risk is the degree of leverage (debt/assets). The substantial increase in household sector leverage over the past three decades is shown in Table 1 using a variety of indicators. For example, the ratio of household debt/assets has doubled over the past two decades and the ratio of household interest payments/disposable income is now much higher than at its prior peak in the late 1980s when mortgage interest rates reached 17 per cent.

Table 1: Household Leverage Trends: 1977 – 2007[a]

Month	Debt/ Assets	Housing Debt/ Housing Assets	Debt/ Income	Total Assets/ Income	Financial Assets/ Income	Interest Payments/ Income	Housing Interest payments/ Income
Jun-1977	7.2	8.9	35.1	403.7	118.9	5.6	3.9
Jun-1987	8.7	11.9	44.6	436.4	174.6	7.8	5.4
Jun-1997	11.9	18.8	74.6	545.4	219.9	6.1	4.5
Jun-2007	17.2	26.3	161.2	826.1	328.8	11.9	9.5

[a] Income is defined as Disposable Income
Source: RBA Bulletin Table B21.

It is worth noting that this increased leverage is not apparently due to households borrowing to finance excessive consumption, as might be suggested by the declining and, since mid 2002, generally negative household savings rate recorded in the National Accounts. Once unrealised increases in asset values (capital gains on shares, houses, superannuation funds) are incorporated into measures of income and saving, the household savings rate has remained relatively stable, positive, and comparable to those of overseas countries.[4]

Much of the increase in household debt has accompanied an increased value of holdings of financial or real (housing) assets. As Table 1 illustrates, the ratios of assets/income (both financial and total) have increased substantially over the past two decades, and significantly more than debt/income, emphasising the increased importance of household financial risk management.

Several interpretations of this data are possible. One is the relatively benign view that financial deregulation has enabled households to adopt more suitable balance sheet structures consistent with life-cycle financing needs than the regulated system allowed prior to the 1980s. An alternative view is that households have taken on excessive risks, borrowing to engage in speculative asset purchases. A third is that economic conditions have changed (lower inflation and real interest rates, low unemployment and economic stability) in ways that make higher leverage an optimal strategy. A fourth is that demographic change is relevant. Most likely, all play some role, but there is little consensus on their relative importance. A recent analysis (incorporating international data) by Reserve Bank of Australia economists[5] suggests that changed economic conditions have played an important role, but that each of the other factors has some relevance. There is also little consensus on whether households, in aggregate, are too highly leveraged.

Another feature of household risk bearing is the composition of asset holdings. Most households have a significant proportion of their net wealth in housing.[6] For owner-occupiers with relatively small loans, and investing for long term accommodation reasons rather than as a speculative asset purchases, the resulting risks are relatively small. But investors and owner-occupiers who are highly levered can face substantial

risks arising from interest rate and housing price movements, and the effect of changes in income on loan repayment capacity.

Within financial asset holdings, the share of 'low risk' assets such as bank deposits has fallen from 27 per cent in 1992 to 19 per cent in 2007. In contrast, the share of superannuation (and life insurance) assets has increased from around 30 per cent to 49 per cent. The resulting increased exposure to volatility in asset prices from this change is magnified by the gradual shift from defined benefit to defined contribution (accumulation) superannuation accounts.

Using primarily US data, John Campbell[7] argues that there is evidence of a tendency for poorer and less educated households to make three types of serious financial mistakes: lack of participation in particular asset markets; inadequate diversification; and suboptimal decisions regarding refinancing of mortgages. These mistakes limit the ability of households to accumulate wealth without taking undue risk over the working phase of their lifecycle, an outcome which is compounded by inadequate voluntary savings in preparation for retirement.

These aggregate figures disguise many aspects of increased household risk taking, including the fact that a wide and growing range of sophisticated financial products is being increasingly marketed to unsophisticated retail investors. The boom in household stock market involvement associated with major privatisations such as CBA and Telstra, growing household financial wealth, and proliferation of self managed superannuation has widened awareness (if not understanding) of the range of financial products available. Instalment warrants (initially associated with the privatisations), contracts for difference (CFDs), margin lending, and capital investment protected products are just a few of the types of products readily available. Even for products structured in ways which limit risk to retail investors, it is questionable whether most investors really understand the worth of the risk mitigation provided by the product providers (or potential 'hidden' costs). Two poignant (overseas) case studies of widespread sales of unsuitable financial products to households, with important social and economic consequences, are outlined in a later section.

One further salient statistic which is relevant as a potential indicator of the outcome of increased financial risk taking by households is personal bankruptcies (although the consequences of small business failures also contribute to these numbers). Personal bankruptcies have trebled since the late 1980s from around 8,000 pa to around 24,000 pa currently, a figure equivalent to approximately one in every three hundred households. Whether this is too high, or consistent with an appropriate level of informed financial risk taking by households, is an open to debate, but is suggestive of significant social problems.

2. Government policy and financial risk taking

Various commentators have argued that government policies have had the effect of gradually increasing the self-responsibility of households for financial planning and risk management.[8] At a general level, this is reflected in reductions in government supplied and taxpayer financed services, including education and health, and particularly in the area of retirement income provision. While often the result of the adoption of user pays criteria, these changes also involve transfer of responsibility for managing risk to the individual. Policies designed to enhance labour market flexibility tend to shift risks from employers to employees. As one commentator recently noted, '[w]hether it's saving for

retirement, meeting health costs, structuring employment or funding a child's education, people today bear far more financial risk than their parents ever did'.[9]

The trend seems likely to continue with advances in technology and communications enabling product and service producers to adopt different delivery and pricing arrangements for households. Coming down the track, for example, are such things as smart meters for electricity involving time-of-day pricing related to production cost fluctuations which, while aimed at inducing more efficient consumption, pass price risk onto consumers.

More direct influences occur via explicit policies. Taxation gives incentives for financial risk taking which financial deregulation has enabled individuals to exploit. The main factor is the concessional tax treatment of capital gains income accompanied by the allowance of negative gearing. Superannuation policy is also contributing to increased risk taking in subtle ways.

Capital gains and negative gearing

Assets which generate returns in the form of capital gains involve risk, since the magnitude of returns is uncertain and may involve capital losses. Typical examples include shares and investment properties.

Under tax policy changes introduced in the late 1990s, only half of realised long term capital gains (on assets held for more than twelve months) are included in assessable income. However, all of the interest on borrowings to finance purchase of such assets is tax deductible. That tax deduction can be claimed each year against other (unrelated) income (such as wages) even though capital gains will not be taxed until realised (when the asset is sold) at some future date. This practice, known as 'negative gearing' (when annual tax deductible borrowing costs exceed taxable income such as dividends or rent from the asset) increases what is already a tax driven incentive for individual investors to enter into leveraged transactions.

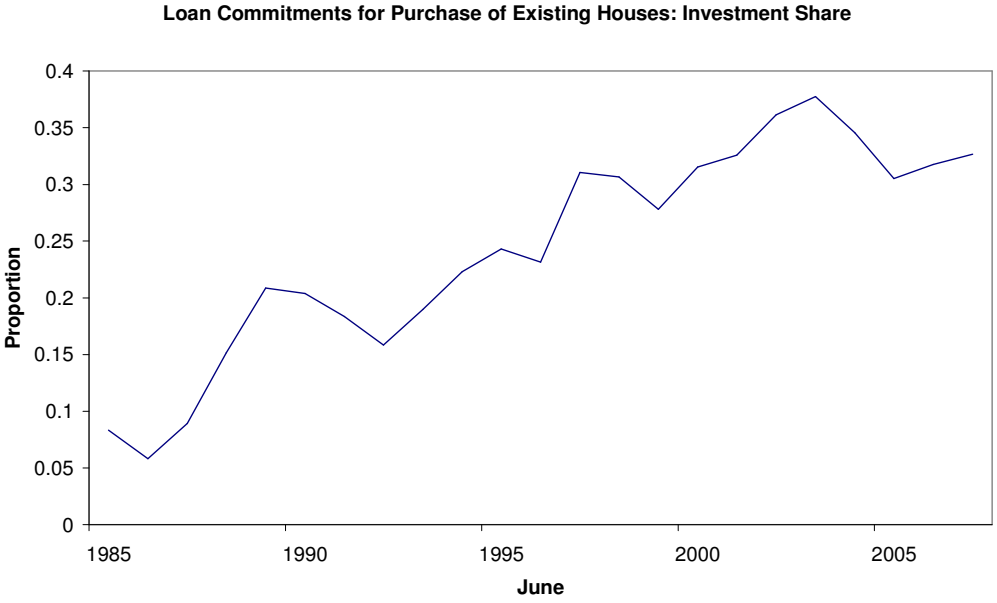
Consider a very simplified example of an individual, on a 30 per cent tax rate with no accumulated wealth, who is able to borrow $100 at an interest rate of *8* per cent pa to invest in an asset such as shares which are assumed to also have an expected return in the form of capital gains of *8* per cent pa.[10] Suppose the shares are to be sold after one year and the borrowing repaid. Because only 50 per cent of the expected capital gain will be taxed while the entire interest expense will be tax deductible, the expected net return after tax is *$1.20*.[11] There is, of course a risk with this strategy. The price of the asset purchased may fall, or have a low return such that the actual return after tax is negative.

Three important points follow from this simple example. First, there is an incentive to increase the scale of this strategy (particularly if the risks are not fully appreciated). Borrowing and investing $1 million (still no net cash outlay by the investor) has, in this example, an expected net return after tax of $12,000 pa. Second, both the expected after tax return and size of risk increases in magnitude with the scale of the strategy. Third, there is no net social benefit (and possibly a cost) associated with the individual pursuing the strategy in this example – the asset being purchased offers only the same pre tax expected return as the borrowing cost, even though it is riskier. In this example, expected gains of the investor are at the expense of other taxpayers.

Implementing such strategies requires the cooperation of lenders. They must be willing to provide finance for such risk-taking activities. And, in the deregulated financial environment, they are and have. Margin lending for investment in shares has

increased from around $6.5 billion in mid 2000 (with under 85,000 clients) to $36 billion with 186,000 clients in mid 2007. Lending for residential investment properties relative

Figure 1



Source: RBA Bulletin Table D06.

to owner occupation has also increased markedly, as indicated in Figure 1, which illustrates that loan commitments for investment in existing properties has increased substantially relative to those for owner-occupiers.[12] Over 4000 warrant type products (many of which involve implicit leverage provided to the investor by the investment bank issuer) were listed on the ASX and available to retail investors at the end of October 2007.

Superannuation policy and individual risk-taking

In principle, superannuation policy is aimed at reducing the risk that individuals will have insufficient accumulated wealth to finance an acceptable life-style in retirement. In practice, it has some subtle effects on household risk-taking.

First, it has been one of the major factors in the change in composition of household portfolios away from low-risk assets. As Chris Ryan and Chris Thompson note,[13] the ratio of household financial assets to income has increased from 170 per cent in 1990 to 315 per cent in 2007, but holdings of cash and deposits have stayed relatively constant at around 50 per cent. The increase reflects superannuation accumulation style investments (contributing an increase of 100 per cent) and direct investments in equities or unit trusts, where the investor is exposed to price risk.

Second, the forced, or tax-induced, increase in financial wealth tied up in illiquid superannuation savings, should affect household portfolio decisions outside of superannuation. One consequence is lessened ability to accumulate wealth for investment in assets such as owner-occupied housing (which has significant tax advantages as well as its emotional appeal). Allied with apparently more relaxed

attitudes to debt of younger generations, and a competitive housing loan market, there appear to have been substantial increases in average loan to valuation ratios for housing lending.[14] In aggregate, the ratio of housing debt / housing assets has more than doubled in the last two decades, and the ratio of housing interest payments / disposable income in 2007 of 12 per cent far exceeds the 9 per cent peak at the start of the 1990s when housing mortgage interest rates reached 17 per cent.

Within those aggregates there is substantial variation at the individual level with some 67 per cent of households in 2003-04 having little or no debt (defined as a debt-servicing ratio to disposable income of less than 4 per cent).[15] At the same time, a significant number of households had substantial debt. For example, ABS figures for 2005-06[16] indicate that around 25 per cent (almost three quarters of a million) of owner-occupiers with a mortgage faced repayments in excess of 30 per cent of gross income – a situation referred to by many commentators as mortgage stress.

The risks faced by these highly levered individuals are significant, although of the low probability, high impact variety. Interest rate increases accompanied by a housing market downturn, can create substantial repayment problems and an inability to liquidate the underlying asset.

Third, while explicit borrowing for leverage of superannuation funds is not permitted, inconsistencies in the tax law provide opportunities for indirect leverage and exploitation of the tax gains from leverage as outlined earlier. Financially engineered products such as instalment (and other) warrants effectively enable investors to purchase shares for an initial outlay of perhaps half of the current share price, with a final instalment to be paid at some later date. The remainder of the initial cost of the share purchase is met by the investment bank which issues the warrant, which involves an implicit loan packaged up in the warrant product and repaid with interest via the final instalment. In September 2007, Parliament passed changes to the tax laws permitting superannuation funds to apply this indirect method of leverage to a wider category of assets through arrangements involving non-recourse borrowing.[17] This further increases the opportunity for individuals with self managed superannuation funds to take on increased risk in seeking to exploit tax advantages provided by superannuation.

3. Calamities in retail financial innovation

To date, Australia has not experienced wide-spread social and economic problems from herd-like shifts of households into innovative financial products which involve substantial risks. But it can happen, as recent experiences of the UK and USA illustrate. In both cases, inappropriate incentive structures for product sellers, and ability of mortgage originators to transfer resulting risks to others, played important roles.

The UK endowment mortgage fiasco

In the UK, a major problem emerged in the late 1990s due to many households having been encouraged by lenders over the preceding decade to enter into *endowment mortgages.* This type of product which accounted for over 80 per cent of mortgages written in 1988[18] converted an otherwise standard housing mortgage into a levered stock market investment. Regular mortgage loan repayments normally involve both an interest component and a repayment of principal which gradually reduces the amount outstanding. However, in the case of endowment mortgages, the principal component was allocated instead as payments to an endowment style insurance policy and used to build up an equity portfolio. A smaller principal component payment than in a

standard mortgage was allowed for, because the endowment policy would be generating returns from the equity investments. The 'logic' was that the expected return on the equity market is greater than the mortgage interest rate, and there were tax benefits associated with these arrangements. Thus over a longish term the accumulated sum in the endowment policy would be sufficient to repay the loan principal outstanding, and total payments by the borrower (principal plus interest) would be less than otherwise.

With hindsight, the risks are obvious. There can be substantial periods when the stock market return fails to exceed market interest rates, or can be negative. And so it turned out to be. Even after substantial restructurings and policy interventions, in 2005, there were 2.2 million households facing a shortfall (expected endowment policy value relative to principal owed) of GBP 7,200 on their endowment mortgage policies.[19]

The US sub-prime mortgage fiasco

More recently in mid 2007, the US (and the rest of the world through securitisation) has experienced financial turmoil as a result of the proliferation of sub-prime residential mortgage lending and competition for business, leading to high risk structures and inadequate credit risk margins on the terms of such loans. Such sub-prime loans were to borrowers who had poor credit ratings and often for high loan to valuation ratios. A common structure involved an introductory (relatively low for the credit risk involved) interest rate fixed for two years and then adjusting to variable market rate levels, and with substantial prepayment penalties. There were over 3 million sub-prime mortgages written each year between 2004 and 2006 of which around 45 per cent were adjustable rate mortgages, 10 per cent allowed for negative amortisation, and 20 per cent were interest only.[20]

Many low income borrowers took out such mortgages, hoping to refinance their loan after the initial two year period when increased house prices and possibly improved income would enhance their credit rating They often did not fully appreciate the risks such as stagnant or declining house prices and costs involved in early refinancing, with these factors coming home to roost in the high levels of delinquencies which provoked the 'sub-prime crisis' of 2007. As well as the ramifications for international financial markets due to the transfer of the default risks via securitisation, US policy makers have been searching for ways of preventing a tide of mortgage foreclosures creating a major social problem.

The US and UK experience: common factors

In both of these cases, households entered into financial products involving substantial risk, which were clearly unsuitable for their circumstances. In the UK case, agents received front end loaded commissions for selling the endowment mortgage product, in which households took on equity market risk. In the US case, loan assessment was outsourced to mortgage originators who received fees for writing mortgages, the default risk of which was transferred to capital markets via securitisation. Agents involved in the process had incentives not aligned to the best interests of the home-buyers they were dealing with, and those home-buyers arguably were unable to fully appreciate or understand the risks involved. That such wide ranging fiascos could emerge in recent years in retail financial markets of two of the most sophisticated financial systems in the world is suggestive of major underlying problems in the compatibility of unfettered competition in retail financial markets and consumer safety.

Some potential Australian concerns

Although there have been numerous isolated instances of unsuitable financial products and practices being sold to Australian households over recent decades, there have been no instances of the systemic problems outlined above. (Even the Westpoint, ACR and Fincorp failures which have received significant media coverage involved only some 20,000 investors). But that does not mean that there are not a number of potential flashpoints, where large numbers of households could face common problems arising from emerging financial strategies of the different generations.

For the boomers, three potential problems warrant mention. First, government tax policy and superannuation are encouraging the growth of self managed superannuation funds, of which there are around 360,000 (and growing) as at mid 2007. As Owen Covick points out,[21] little attention has been paid to the public policy issues associated with the costs and management of these funds once they move into the pension phase. The trustee with the implicit primary responsibility for managing the fund may die or become incapable. As the fund balance declines through payment of a pension, the administration costs become relatively large compared to the balances under management. Policies need to be designed to enable easy wind-up of such inefficient or non-working structures and transfer of those affected to more suitable retirement income solutions.

Second, favourable tax treatment of retirement income streams has been gradually broadened over time to include products such as allocated pensions and lump sum withdrawals. Use of these retirement income options creates the possibility of 'longevity risk', whereby accumulated savings are exhausted before death (because of excessive consumption, poor investment returns, or unexpected longevity). Widespread use by retirees, many of whom may experience poor investments or underestimate their lifespan, poses a potential future problem for social and economic policy.

The third problem relates to retirement accommodation needs. Retirees face a range of options which involve both financial and lifestyle considerations including uncertainty over future health and support arrangements. While some may wish to preserve capital for their heirs, many will want or need to run down the capital tied up in their real estate. Options include remaining in the family home and using a (newly popular) reverse mortgage to drawdown capital for living expenses, 'downsizing' to a smaller home and releasing capital, selling and entering some form of (usually complex) contract with a retirement accommodation provider. Not only are the choices financially complex with future costs and risks hard to assess, some of the options are largely irreversible. The potential looms large of poor product design, poor advice, and lack of knowledge leading to significant numbers of cases of poor financial decisions and hardship.

For Generations X and Y, the principal current problem is the risk taken on through highly levered housing purchases (currently compounded by high house prices and low affordability). In principle, given the required working-life contributions to, and consequent accumulation of wealth in superannuation funds, increased housing debt leverage may seem perfectly rational. Funds which would otherwise have been saved and used for a house purchase are invested instead in superannuation and replaced by increased borrowing. But doing so, and aiming for the same value of housing purchase as in the absence of superannuation savings, requires either an increase in

overall leverage, or an increase in total savings (rather than just a transfer between housing deposit savings and superannuation). The latter does not appear to have occurred since younger generations appear to have a culture not conducive to high savings and a greater willingness to utilise credit. And the former can be a potentially risky strategy, since the earnings on superannuation assets (and that wealth) are quarantined until retirement. They are thus not accessible should the repayments associated with housing leverage prove excessive due to increased interest rates or loss of wage income.

4. Policy responses

With increasing responsibility for managing their own financial risk throughout the life-cycle, there is growing concern about the gap between the financial acumen required and that possessed by individual households. Identifying and understanding the significance of various risks and how they are interrelated, determining an optimal risk position, and choosing between a plethora of complex financial products and strategies to effect financial transactions to achieve a desired risk position are not simple and straightforward tasks. Individuals can also be sold financial products on the basis of incorrect or misleading information, raising the question of what are the appropriate mechanisms (such as official action or private [class action] legal proceedings) for seeking redress.

For those with relatively comfortable net worth positions, the option exists of paying for specialised advice from financial advisers – an industry whose growth reflects both the transfer of financial risk management responsibility to households and the increasing complexity of the financial system and associated tax and regulatory rules. Unfortunately, this involves an agency problem of substantial magnitude. Financial advisers are increasingly interlinked with the major financial institutions which provide the advisers with technology, information, transactions services and financial products (such as unit trusts) for their clients. In many cases, such as in those of debt securities issued by now failed property development companies Westpoint, Fincorp and ACR, advisers received substantial commission rates from those companies for funds raised from the investors they were advising. Whether 'independent' or 'best practice' advice can be expected in those circumstances, let alone whether it represents good 'value for money' is problematic.

But it is the situation of those with relatively low net worth positions where the problems are greatest. The cost of professional financial advice for such households is sufficiently high as to make it unaffordable. Since there is likely to be a positive correlation between financial expertise and net worth for any age cohort (due to educational and/or skill factors) it is these households most in need of such advice. Such groups may, perversely, because of budget constraints tend to bear higher risks due to under-insurance for health, assets, and death.

Financial literacy campaigns, while laudable and a policy priority (also taken up by financial institutions under their social responsibility charters), seem unlikely to make substantial inroads in resolving identified problems. Finance may not be as difficult as medicine, but self diagnosis and self prescription for financial health may be not much better than for medical health. Probably the best that can be hoped for is by analogy with health awareness campaigns, providing help in identifying between healthy and unhealthy lifestyles. But just as those campaigns are undermined by massive advertising campaigns by purveyors of junk food etc, so also are households

continually tempted with financial products (loans, speculative investments) unhealthy for them.

Compulsory disclosure requirements for sales of financial services or products to retail customers are also an imperfect solution. They are often ignored or not understood by consumers. Rarely do they provide stark warnings of the form 'this product is hazardous to your wealth' similar to requirements for some other consumer products.

To date, policy towards dealing with the consumer knowledge gap surrounding financial services has focused on the triumvirate of approaches - education, advice and disclosure - discussed above. But given their limitations, complementary strategies warrant examination, including the following.

At one extreme (and anathema to free market ideologues) would be the imposition of restrictions on the range of allowable financial products and services which can be marketed to retail customers. To some extent, this occurs already, with regulatory distinctions between 'wholesale' and 'retail' products, with the former products having lesser disclosure requirements and available only to wholesale (sophisticated) investors. But perhaps there are grounds for wider application. For example, Australia is relatively unique in allowing organisational structures which provide opportunities for retail investors to easily invest in such sophisticated, potentially high risk, financial products as hedge funds, private equity, and collateralised debt obligations. Proceeding too far down this route would, however, be a risky strategy, since the ability of bureaucrats to readily identify financial products which are generally unsuitable for a heterogeneous group of households is undoubtedly limited.

A second possibility, suggested by Campbell[22] involves government specification of the 'default option' for particular financial products where there is a range of possible characteristics. For example, the default option specified for a retirement income stream could be specified to be a lifetime annuity, with retirees having to explicitly choose to shift to some other product such as an allocated pension. Behavioural finance suggests that individuals will be more likely to remain with the default option than shifting to an alternative product. Individuals may also associate the specification of the default option as conveying valuable information to them about products with suitable risk characteristics for their situation. Specifying default options most suitable for the case of poorly informed retail customers would thus appear to have merit, and not prevent financial institutions from also marketing other products.

A third strategy involves use of tax and subsidy arrangements. Where particular financial products or strategies are believed be generally unsuitable for household use (and where social costs may flow from inappropriate financial risk management) there may be merit in using the tax system to influence decision making. This is, of course, already done in the form of tax concessions for superannuation, without occasioning significant dissent amongst economic commentators. Extending the scope of such interference with the price mechanisms to specific products may generate concerns, but warrants examination. Unfortunately, at the moment, some such interferences take forms (such as concessional capital gains tax as discussed earlier) which tend to increase household financial risk taking.

A fourth strategy involves building upon the education, advice, disclosure triumvirate currently applied. One possible approach involves encouraging greater availability of independent third party appraisal of financial product risk. This has been one component of the regulatory response to the recent failures of property finance developers, which has recommended that third party ratings be required for unlisted

debentures. However, as noted by the Australia-New Zealand Shadow Financial Regulatory Committee[23] there are concerns about the independence and value provided by ratings agencies.

Another possible initiative in this vein, would be for governments to improve the information available to households when making the largest and most significant decisions in their financial life-cycle. Housing purchases are typically made with very imperfect information about current house values and their recent trends. The required registration of transfers of ownership (for land titles and stamp duty purposes) generates a readily available data base of sale price and house characteristics; information which, with modern technology, could easily be made widely available to households, at low or zero cost, to facilitate their investment and financial decision making. Undoubtedly there are vested interests, who would see this as an undesirable development.

Additional approaches could involve supporting the development of markets for currently unlisted financial products which would increase information available to consumers (about others' valuations of the products) and enhance 'exit' mechanisms for those wanting to reduce their holding. And while there are websites and other information sources which provide 'independent' comparative assessments of some characteristics of some types of financial products, there does not appear to be the same depth or breadth of offerings as for many consumer goods and services (restaurants, hotels, consumer durables etc). That may be because the suitability of any financial product for a particular individual depends crucially on that individual's personal circumstances, making generic assessments of less value. Nevertheless, there would appear to be merit in examining whether there are impediments (such as excessive exposure to legal liability) which inhibit development of such third-party rating services.

5. Conclusion

A deregulated competitive and innovative financial services sector generates significant economic benefits, but can create economic and social problems through the sale of unsuitable financial products to poorly-informed households, which lead them to bearing unwarranted risks or incurring excessive costs. Adopting policies to reduce information deficiencies and applying a '*caveat emptor*' approach is unlikely to be sufficient to prevent the emergence of substantial problems which governments will feel compelled to resolve through budgetary or other measures. Other forms of policy intervention, such as discussed above, would seem to warrant consideration and rigorous cost-benefit analysis to determine their merit in balancing the benefits of competition and innovation in financial services with consumer protection.

Unfortunately in examining policy options in the retail finance area, there is a dearth of publicly available, high quality data, which is a problem also identified for the US by Campbell.[24] Rectifying that gap, and developing improved statistical tools 'to capture the distribution of risks across population subgroups, especially age and income cohorts'[25] are key steps in moving forward.

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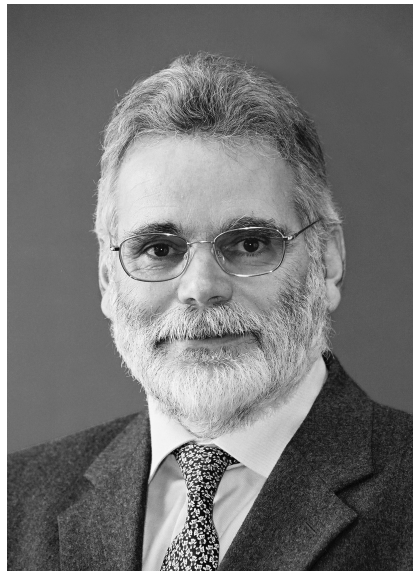

[1] See Battellino, Ric (2007). 'Some Observations on Financial Trends', *Finsia-Melbourne Centre for Financial Studies 12th Banking and Finance Conference* Melbourne 25 September. http://www.rba.gov.au/Speeches/2007/sp_dg_250907.html

[2] IMF (2005). *Global Financial Stability Report*, (Chapter 3, Household Balance Sheets) IMF. http://www.imf.org/External/Pubs/FT/GFSR/2005/01/pdf/chp3.pdf

[3] Campbell, John (2006). 'Household finance', *The Journal of Finance*, LXI, 4, August: 1553-1604.

[4] RBA (2006) 'Box D: Capital gains and measures of household saving' *Statement on Monetary Policy*, May http://www.rba.gov.au/PublicationsAndResearch/StatementsOnMonetaryPolicy/May2006/box_d.html

[5] Kent, Christopher, Ossolinski, Crystal and Willard, Luke (2007). 'Household indebtedness – sustainability and risk', The Structure and Resilience of the Financial System, Reserve Bank of Australia Conference – Sydney, 20 - 21 August. http://www.rba.gov.au/PublicationsAndResearch/Conferences/2007/kent_ossolinski_willard.pdf

[6] The aggregate ratio of housing assets/financial assets for the household sector has hovered in the region of 1.3 – 1.5 for the past two decades.

[7] Campbell (2006) *op cit.*

[8] See, for example, Kell, Peter (2006). 'Consumers, risk and regulation', National Consumer Congress 17 March. http://www.consumer.vic.gov.au/legalchannel/DOJFileLib.nsf/431208904c216a074a2567c1000caf66/b309b02ab6edb9bdca25713a001c8db7/$FILE/PKellSpeech_approved.doc

[9] Smith, Mark (2007). 'Taking up the burden', *Money Management*, 1 November. http://www.moneymanagement.com.au/Articles/Taking-up-the-burden_0c05087c.html

[10] Apart from assuming equal pre tax borrowing cost and expected investment return, this example is simplified in several other ways which mean the expected gains from leverage may be understated. Because capital gains are only taxed when realised, a longer investment horizon means that these tax liabilities may be deferred relative to the tax deductions available from borrowing and which can be offset against other current income. Full tax deductibility of capital losses against subsequent capital gains can also create a bias towards assets, promising returns by way of capital gains rather than as interest or dividends, even in the absence of leverage for some taxpayers.

[11] If *r* represents the borrowing cost and expected investment return, and *t* is the tax rate, the after tax return from borrowing and investing $100 is given by Y_{at} = $100[r(1-0.5t) – r(1-t)] =$100(0.5)rt. If t = 30 per cent and r = 8 per cent pa, the expected return after tax is Y_{at} = $1.20.

[12] The share of lending commitments for construction of new dwellings for investment purposes has been more volatile than that for purchases of existing dwellings, but with no obvious trend.

[13] Ryan, Chris and Thompson, Chris (2007) 'Risk and the transformation of the Australian financial system' The Structure and Resilience of the Financial System, Reserve Bank of Australia Conference – Sydney, 20 - 21 August. http://www.rba.gov.au/PublicationsAndResearch/Conferences/2007/ryan_thompson.pdf

[14] Unfortunately there is no readily available time series data on average loan/valuation ratios to directly substantiate this widely held impression.

[15] Braddick, Paul (2006). 'Is credit growth sustainable', *Economic Papers*, Special Edition, December: 71-79.

[16] ABS (2007). *Housing Occupancy and Costs, 2005-6*, Australian Bureau of Statistics, Cat. No. 4130.0.55.001 (Table 5A).

[17] Tax Laws Amendment (2007 Measures No. 4) Act 2007 No. 143, 2007 'Superannuation Industry (Supervision) Act 1993 subsection 67(4)'. http://www.austlii.edu.au/au/legis/cth/num_act/tla2007mn4a2007314/

[18] ABI (2005). *Mortgage Endowments: A Factsheet*, Association of British Insurers, July. http://www.abi.org.uk/BookShop/ResearchReports/FINAL%20Mortgage%20Endowments%20Factsheet%20(July%202005).pdf

[19] *ibid.*

[20] Demyanyk, Yuliya and Gopalan, Yadav (2007). 'Subprime ARMs: Popular loans, poor performance', *Bridges*, Spring, Federal Reserve Bank of St. Louis http://stlouisfed.org/publications/br/2007/a/pages/2-article.html

[21] Covick, Owen (2007). 'Self managed allocated pensions: Public policy issues', *The Finsia Journal of Applied Finance,* 1, 4, December: 32-35.

[22] Campbell (2006) *op cit*.

[23] ANZSFRC (2007). 'Responding to failures in retail investment markets', Statement No. 3 Australia-New Zealand Shadow Financial Regulatory Committee, Melbourne, 25 September. http://www.melbournecentre.com.au/ANZSFRC/ANZSFRC_Statement_No3.pdf

[24] Campbell (2006) *op cit.*

[25] Groome, W Todd, Blancher, Nicolas and Ramlogan, Parmeshwar (2006). 'Aging and financial markets', *Finance and Development*, September, 43, 3. http://www.imf.org/external/pubs/ft/fandd/2006/09/groome.htm

Superannuation Taxation: Less Equitable, Less Functional

Gordon Mackenzie

Introduction

The changes made to taxation of superannuation, which commenced on 1 July 2007, are a boon to those over 60 years old, but unless one's marginal tax rate is greater than 15 per cent they do not make superannuation any more attractive as a savings vehicle.

In addition, the changes have less obvious effects:

- First, the changes diverge from the basic design principle underlying taxation of superannuation, which is that tax concessions are given for saving for retirement on the basis that the funds are only available at retirement and are used to replace work income during retirement. The changes break the connection between tax concessions for saving and use of those savings for income during retirement.
- Second, the rules that prevented individuals from overusing the favourable taxation of superannuation have been removed and replaced by limits on amounts that can be contributed to a superannuation fund. It is arguable that the contribution limits will provide the same equity function of the rules that they are replacing. Also, removal of those rules will leave individuals potentially exposed to two financial risks, that is, investment and longevity.
- Finally, employer sourced termination payments are now taxed separately from taxation of superannuation payments. While it is reasonable that they should be taxed separately, the tax is harsh and alternatives have been suggested.

The changes, in brief[1]

Taxation of superannuation is one of the most complex areas of taxation law largely because the Australian system has had three points at which tax was payable. These were when contributions were made to a superannuation fund, on the income of the fund itself and, finally, when a benefit was paid.[2]

Contributions were taxed at 15 per cent, the fund income at 15 per cent and lump sum benefit payments at either 0 per cent up to $140,000 or 15 per cent up to $600,000 and at the highest marginal tax rate for amounts above that. As a benefit from a superannuation fund is the total of the contributions made to the fund plus earnings on the fund on those contributions and each of these is already taxed at 15 per cent, the additional tax on benefits of 0 per cent and 15 per cent meant that the *aggregate* tax on a lump sum was 15 per cent or 30 per cent, depending on the amount. A benefit paid as a pension was taxed at the individual's marginal tax rate but with a rebate of tax at 15 per cent to compensate for the 15 per cent paid on the contributions and income of the fund. In other words, the net tax on a pension was the individual's marginal tax rate.

Within that context, the most significant change made to superannuation taxation is the abolition of tax on benefit payments for individuals from age 60.[3] For that cohort, this reduces the aggregate rate of tax on their lump sum benefit to a flat 15 per cent, from the previous nominal rates of 15 per cent and 30 per cent, depending on the amount.[4] For pension recipients from age 60, the aggregate tax rate is now 15 per cent, which is the tax paid on contributions and earnings in the fund, as there is no further tax paid on a pension benefit.[5] The taxation of benefits, both lump sum and pensions, for individuals below age 60 has been simplified but largely remains

unchanged.[6] [7]

In terms of contributions, the maximum deductible contribution that can be made to a superannuation fund is now limited to $50,000 per annum (indexed in $5000 increments) regardless of the age of the individual or their work status (employee or self-employed); amounts in excess of that are taxed at the highest marginal tax rate. Post tax contributions (that is, non-deducted) made to a superannuation fund are now limited to $150,000 per annum or three times that amount over any three year period if under age 65.[8]

The rules that limited the amount that could be taken from a superannuation fund before penalty tax applied (called the Reasonable Benefit Limits [RBL] rules) have been removed.[9] These rules performed several functions in superannuation taxation and one of those was to prevent excess funding in the low tax environment of superannuation funds. Broadly, these rules have been replaced by the limits on contributions previously mentioned above.

The requirement that superannuation funds pay benefits at a certain age and based on work status have been removed such that accumulations can now be retained in a superannuation fund until death.

Another significant change is that payments from an employer are taxed separately to payments made from a superannuation fund. Employer sourced termination payments are now taxed at 15 per cent up to $140,000 if received from age 55 and 30 per cent if received below that age. Payments in excess of these amounts are taxed at the top marginal tax rate per employment termination. Exemptions apply for payments related to disablement or that can be traced to before 1 July 1983.

Making superannuation equitable

Within the context of those complex rules, the actual tax benefits of superannuation as a saving vehicle are opaque and difficult to appreciate for the casual observer.

However, under the system immediately before the changes and, indeed, for anyone taking a benefit below age 60 after the changes, one tax benefit is the reduced tax rates on lump sums (15 per cent and 30 per cent). For a pension, the tax benefit of a reduced rate is less certain as pensions are taxed at the individual's marginal tax rate with a rebate of the taxes paid on contributions and on the earnings of the fund. In this case the tax benefit is based on the expectation that the individual's marginal tax rate will be less when being paid as a pension, than it was when contributed.

A second tax benefit is deferral of some of the tax until the benefit is paid. Until the late 1980s taxes on superannuation were only paid on benefits. That is, there were no taxes when contributing, nor on the earnings of the fund, thus maximising the deferral benefit. That changed when some of the tax that otherwise was paid on a benefit was brought forward and paid on contributions and earnings. Of course, advancing part of the tax on benefits reduced the benefit of deferral, but there is still deferral of some of the taxes.

In any case the aggregate tax on both lump sum and pension benefits for those aged 60 and over is now 15 per cent.

Clearly, under this system if the individual's marginal tax rate is around 15 per cent then they get no advantage from the changes at all. This is even more so if one takes into account the cost of locking away the funds until at least age 55. On the other

hand, individuals who pay tax at the highest marginal tax rate now get the benefit of saving at a net tax rate of 15 per cent.

There is an ongoing debate about whether, if at all, tax concessions increase savings or just cause money to be moved from other forms of saving to those that are taxed concessionally. As part of that debate, it is argued that giving tax concessions to encourage saving is inequitable, as only those individuals with disposable income to save will use the tax concessions. Therefore, the cost of those tax concessions is borne by everyone through reduced government revenue, whereas the benefits go only to the wealthy with funds to spare.

One solution to the inequity in the new system for those with marginal tax rates around 15 per cent is to exempt them from the 15 per cent tax on contributions. However, that would be difficult to administer simply because superannuation funds do not know the marginal tax rates of contributors. It is also doubtful that individuals on marginal tax rates around 15 per cent would have more disposable income with which to contribute to a superannuation fund.

A better suggestion could be for the government to increase the rate of co-contribution for low-income earners by the amount of revenue that it would otherwise have foregone had it removed the 15 per cent tax on contributions for those whose marginal tax rate is around 15 per cent. Briefly, the co-contribution is where the government contributes 150 per cent of contributions that individuals make to their superannuation. There are maximum income levels with tapering and, also, a maximum amount of contributions. This system, which has been in place for several years, has been very well received. It replaced a tax rebate for low income earners contributing to superannuation and has been better at increasing superannuation than that rebate system, where the savings from the rebate could be used for consumption and did not have to be contributed to superannuation. Indeed, part of the original debate on introduction of the co-contribution system was that the individuals to whom it was targeted simply would not have had the disposable income with which to contribute in order to get the government's co-contribution. That appears not to have been proven correct, given the uptake of this system.

Savings used for retirement?

One reason for tax concessions for retirement saving is that they will be used to replace work income during retirement, thereby relieving government from some of the social security costs associated with an ageing population. Yet, one of the effects of these changes is that there is now no connection between the tax concessions for saving in a superannuation fund and the use of those savings during retirement. Australia had been unique among countries with similar retirement schemes in continuing to allow individuals to take all their superannuation fund accumulations in the form of a lump sum rather than as a pension. Lump sum payments can be exhausted shortly after retirement leaving individuals to revert to social security. Also, pensions offer better integration of the tax concessions for saving with the social security system and ensuring that accumulations are used to fund retirement.

There had been several initiatives to have individuals take their superannuation fund accumulation as a pension rather than as a lump sum benefit, the most important of which was the RBL rules.[10] These rules had three effects.

Bias favouring pensions

First, the RBL rules inserted a bias in favour of pensions over lump sum in the form of tax incentives. They did not go so far as to prohibit payment of lump sums. Instead

they offered greater tax benefits if the accumulation was paid as a pension, being the ability to accumulate twice the amount in a superannuation fund at preferential rates if at least half the amount was used to acquire a pension.

To get that tax benefit the accumulation at retirement must have been converted into a specific type of income stream contractually payable over either expected life during retirement or until death.[11] The expectation in these rules was that the accumulation at retirement would be exhausted over a period from when the individual retired until they died, thus linking the tax concessions for saving with use of the funds during their retirement. By removing this bias favouring pension benefits, the previous attempt at directing individuals from taking lump sums and into pensions through tax incentives has been abandoned.[12]

Removal of the tax bias together with removal of the compulsory payment rules, whereby superannuation funds were required to pay benefits after a certain age depending on work status, also means that the accumulation can remain in the superannuation fund until death, potentially defeating the reason for the tax concessions given for saving in the first place.[13]

Abandoning the tax preferences favouring pensions over lump sum payments and allowing retention until death must be seen as retrograde steps in terms of moving the Australian system to the more functional payment of pensions, rather than lump sum.

Capping maximum tax concessions

Secondly, as mentioned, the RBL rules capped the maximum amount that could be paid to an individual from a tax preferred superannuation fund to an amount considered adequate to provide a reasonable income in retirement. Amounts in excess of that were taxed at the highest marginal tax rate. The maximum amount that could be paid under the RBL rules was tied to multiples of AWOTE,[14] which meant that there was equity between the wealthy and less wealthy by linking the aggregate tax preferred amount that could be taken from a superannuation fund to a common index. In that regard, the rules performed an equity function by limiting the tax concessions from superannuation measured against a standard index.

That function of the RBL rules has now been replaced by limits on the amount of contributions that can be made to a superannuation fund. However, will those contribution limits fulfil the same equity function that the RBL rules did? Probably not, simply because they are not tied to any income index and, also, they are a fixed limit, regardless of the age of the individual.

Investment and longevity risks

Finally, the RBL rules favouring pension benefits payable until death had a secondary effect of protecting individuals against two financial risks: selecting inappropriate investments in the superannuation fund (the investment risk); and, the risk of outliving the accumulation in the fund (the longevity risk).

The investment risk is reasonably well understood. Yet, with increasing life expectancy, the historically accepted investment paradigm, of conservative investments just before and during retirement because of the inability to cover losses, is losing relevance. Life expectancy at age sixty-five is now between eighteen to twenty two years, and selecting investments based on that time horizon is completely different from selecting those appropriate to a life expectancy at retirement of less than ten years.

However, the longevity risk, which is the risk of outliving the funds, is yet to be fully appreciated by most retirees, even more so in the context of that increasing life expectancy. A better understanding of how retirement accumulations are used during retirement is now emerging, and shows that the largest expenditure during retirement is usually in the last stage of life, when medical and accommodation (nursing home) expenses are greatest. Putting the increasing life expectancy together with the better understanding of the pattern of use of the accumulations during retirement makes the choice of investments to manage that risk even more difficult for inexperienced investors.

The previous bias for pensions protected against these risks, as the tax benefit favoured the type of pension that was payable for a period related to the person's actual or expected lifetime. These types of pensions were usually sold by prudentially regulated financial institutions, such as life companies.[15] Of course, the estate received nothing when the pensioner died. Indeed, that aspect made these pensions unattractive to those who wanted to leave something for the next generation. But they protected people against the investment and longevity risks because of the ability of the financial institution to pool those risks.[16] Individuals approaching retirement will now need to quickly develop an appreciation of these risks, and the ability to manage them.

Employer termination payments taxed more severely

Employer sourced termination payments are now taxed differently from payments from a superannuation fund. This is quite a break from tradition in that payments from both these sources had, until now, always been taxed equivalently, including the rates and thresholds. Employer sourced termination payments, which are generally defined as lump sum payments paid directly by an employer on termination of employment, are taxed more severely than they were and, indeed, more severely than payments from a taxed superannuation fund. The taxable part of these payments, which is the balance of the payment after excluding certain exempt amounts, is taxed at 15 per cent for amounts up to $140,000 (indexed) for recipients aged 55 and over and at 30 per cent for recipients aged under 55. Amounts in excess of $140,000 are taxed at the top marginal rate.[17]

The severity of these changes is best understood by a comparison with past practice. If an employer sourced termination payment is made after age 55 but before age 60 the rate of tax on the amount up to $140,000 would be equivalent to that had it been paid from a superannuation fund. However, the excess above that amount is taxed at the highest marginal tax rate rather than at 30 per cent, which would have been the rate had these payments continued to be taxed comparably with payments from a superannuation fund. Where the payment is made after age 60, the extent of the increase in tax is more obvious when compared with equivalent amounts paid from a taxed superannuation fund, as the excess over $140,000 is taxed at the highest marginal tax rate. Had it been paid from a taxed superannuation fund the whole amount would have been tax free.

These payments don't fund retirement

The reason given for these particular changes is the removal of the RBL rules, as those rules also applied to employer sourced termination payments. Indeed, there is some validity to this, because RBLs prevented excess funding in superannuation and excess payments from employers; now that function is fulfilled by the contribution limit, which is an effective mechanism in a pre funded superannuation environment, but not

for employer sourced termination payments.[18]

The practice of employers paying lump sums to long serving employees is disappearing in any case, as the majority of working individuals are entitled to superannuation benefits. But is that the only reason for the tax changes being made? The detailed explanation of the changes gives a hint about what is possibly the real reason for this dramatic change, when it identifies the types of payments as, essentially, deferred remuneration.[19]

Certainly there is no requirement that any of these types of payments be used to replace income during retirement and, indeed, they are not quarantined until a certain age of the individual, as is the case for contributions to superannuation funds. So arguably, it is correct that these types of payment are best described as either deferred remuneration or a reward for long service. On that view, they should also not be entitled to the same taxation treatment as payments from superannuation fund because they simply do not serve the same purpose as accumulations in a superannuation fund, which is to provide income in retirement.

Age 55 not relevant to these payments

Nevertheless, it is not clear why these payments have a different tax rate, based on the age at receipt by the individual, whether before or from age fifty-five. That age is relevant to retirement income funding, as it is the age after which accumulations in a superannuation fund can be released. Now that there is no integration of the taxation of payments made from a superannuation fund and those from an employer on termination, the relevance of this age based rate change is questionable.

In any case, the rates of tax that are to apply to the excess over $140,000 are regressive, because they are fixed at the top marginal tax rate. To use an example, say a person is paid $165,000 as an employer sourced lump sum termination payment. In that case she/he would have to pay the highest marginal tax rate on the excess above $140,000 even if they have no other income in that year. Had they received the excess of $25,000 as employment income, the tax applying would likely have been minimal and unlikely to be at the highest marginal tax rate.[20]

It would be fairer if any excess above $140,000 was simply assessed as normal income. Indeed, that would be a more consistent treatment with the apparent view being taken in the government announcements, that the majority of these types of payments are just deferred remuneration.

Alternative tax basis

Assuming that employer sourced payments are not being taxed more severely just because they are deferred remuneration, arguably parity in taxation between employer sourced termination payments and payments from a superannuation fund could be achieved in number of alternative ways, even though RBLs are removed. For instance, taxation of employer sourced payments could have mirrored that for payments made to an individual between age 55 to age 59, which is taxed at 15 per cent on the first $140,000 and 30 per cent thereafter. Or it could have been achieved through equivalence with the taxation of payments made from a taxed superannuation fund to a taxpayer under age 55, which is a flat 30 per cent.

Nevertheless, there is a minor advantage in the lack of integration between employer sourced and taxed superannuation fund payments, in that a taxpayer is entitled to two low rate thresholds if receiving a lump sum amount under age 60 from both these sources. Otherwise there is little to support this aspect of the changes.

Conclusion

In summary:

- The changes made to the taxation of superannuation from 1 July 2007 is of benefit mostly to individuals over age 60 who are able to take superannuation payments tax free. For individuals below age 60 the changes have less significant effect, but there is some simplification of the previous rules.
- Employer sourced termination payments are to be taxed more severely than at present and are not now integrated with taxation of payments from superannuation funds.
- Removal of RBLs and the compulsory payment rules will mean that funds can be retained until death.
- The complexity of the taxation rules makes it difficult to see the actual tax benefits of superannuation, but to the informed person they are a low rate of tax; and, deferral of some of the tax until payment.
- Under the previous system tax was payable at three points: on contribution, on earnings of the fund and when the benefit was paid. Now benefit taxes have been abolished from age 60, the net tax for that cohort is 15 per cent, being only on contributions and on earnings of the fund.
- This means that superannuation is not an effective savings vehicle for anyone whose marginal tax rate is around 15 per cent. It could be made more equitable by increasing the amount of government co-contribution with an amount equivalent to the tax on contributions, instead of foregoing the tax of 15 per cent on contributions for individuals with that marginal tax rate.
- The role fulfilled by RBLs in limiting the over funding of superannuation is now replicated by the limitations placed on contributions. But to the extent that the RBL rules favoured pension benefits over lump sums, and that pensions are a better form of payment for ensuring that the accumulation in a superannuation fund at retirement is used to replace income during retirement, the connection between tax concessions for saving for use during retirement is reduced by abolition of RBLs.
- To the extent that the RBL rules introduced equity between wealthy and less wealthy individuals by capping the maximum tax preferred payments by reference to an income index, this will not be replicated in the limitation of contribution rules, which are replacing the RBLs.
- In that the RBL rules biased pensions over lump sums, those pensions protected individuals from investment and longevity risk, which were borne by the financial institutions that assumed those risks. Individuals will now need to understand and manage those risks themselves.
- The increased and separate taxation of employer sourced termination benefits are explained as a result of abolition of RBLs and, indeed, that is a plausible explanation. The Detailed Outline describes these types of payments in terms of deferred remuneration, which is probably correct. (Employers generally no longer reward long service; they use these payments as a form of deferred remuneration). From that perspective, they should not be taxed similarly to superannuation. However, the taxation of these types of payments in the future does appear harsh, in that it is fixed at the highest marginal tax rate. A fairer basis would be to include the excess over the low rate threshold as normal assessable income. That would

be consistent with the way that these types of payments have been defined and also introduce progressivity into the rates.

Overall then, these changes make superannuation, as a means of saving for retirement, more attractive to high marginal tax rate payers over age 60; individuals whose marginal tax rate is around 15 per cent are indifferent. In that regard, they are simply less equitable.

In terms of the underlying reason for giving tax concessions for superannuation, which is that the accumulated funds will be used for retirement, these changes simply make superannuation less functional.

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He is looking forward to celebrating his thirtieth year in superannuation, next year.

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1 Commonwealth of Australia (2006). Detailed Outline. May 2006 and Final Decisions (referred to as *Outcomes of Consultation*). http://simplersuper.treasury.gov.au/documents/.

2 This discussion is restricted to taxed superannuation funds, which make up ninety per cent of superannuation funds in Australia. The remaining ten per cent are called 'untaxed' funds; largely government superannuation funds.

3 *Outcomes of Consultation op cit*: 12.

4 *Ibid.*

5 *Ibid.*

6 *Ibid*: 13.

7 *Ibid*.

8 Post tax contributions are contributions in respect of which no tax deduction has been claimed. See Detailed Outline in *Outcomes of Consultation op cit*: 30, Para 4.5. Indeed that terminology is a misnomer as, for example, the proceeds of the disposal of a residence that is tax free can be contributed.

9 *Outcomes of Consultation op cit*: 12.

10 Previously, maximum superannuation benefits had been formula based, related to the Highest Average Salary of the individual.

11 Regs 1.05 and 1.06 SIS Regulations.

12 The only incentive now for individuals to take a pension during retirement is that the superannuation fund is zero taxed if the minimum pension payments are made. However, the benefit payments that must be made from superannuation fund for it to be treated as paying a pension and, consequently, entitled to zero tax on its earnings, are minimal. For example, a superannuation fund need only pay four percent of the individual's accumulation

between ages sixty five and seventy for it to get zero tax on its earnings and even then, there is no restriction on the fund paying a lump sum benefit at any time.

[13] 'These changes would mean that a person would be able to keep their benefits in their superannuation fund indefinitely…' See Detailed Outline: 20.

[14] Average Weekly Ordinary Time Earnings.

[15] Of course, the superannuation fund could fund the pension itself without buying one from a life company, but that would only be the case if it were sufficiently large.

[16] As a result of the removal of this bias in the tax rules, the market for these types of pensions has collapsed. There are only four providers remaining in Australia.
On the positive side though, some financial institutions are starting to offer deferred type pensions that only commence payment much later in life, which can be used to mitigate these two risks.

[17] *Outcomes of Consultation op cit*: 17. These arrangements will apply per termination and any payment must be made within one year of termination.

[18] Perhaps too, the increase of taxation on these amounts is being driven by the excessive payments made by large corporates.

[19] That defined these payments in terms of unused rostered days off, amounts in lieu of notice, a gratuity or 'golden handshake', an employee's invalidity, *bona fide* redundancy or approved early retirement schemes in excess of the tax free amounts and certain payments on death of an employee.

[20] Having no reportable income in a year means that this is a likely scenario as payments from a superannuation fund after age 60 are not reportable.

Financing our Futures – How Privatising Retirement Discriminates Against Women

Eva Cox

Shifting frameworks

The major policy shift of late last century was the domination of policy frameworks by what is inaccurately referred to as 'economic rationalism', more accurately as neoliberalism, or, more critically, as economic fundamentalism. It is a collection of economic theories based on faith in the market that has no particular rational base, but despite this, was adopted by a range of political parties. Its primary effect was providing excuses for demolishing the collective structures of the state, claiming that governments should let the market run most programs and services. By the beginning of this century, many governments had retreated into more interventionist models but we have been left with unfortunate residues which have led governments across the political spectrum to undermine most of the equity functions of the welfare state.

The 20th century had seen the incremental growth in state provisions for many services and payments given a strong boost after the Depression and World War II, as most democratic governments wanted to encourage social cohesion and equity, post Nazism and communist takeovers. Australia had a long, proud record as innovator in many of the areas; supporting aged pensions, child endowment and widows' payments, as well as public schooling, health and centralised wage fixing. The mix was seen as evidence of a social compact for an egalitarian future and a form of insurance against the inequalities and misery that led to extremist totalitarianism.

The collective provisions implied a mutual responsibility for our fellow citizens, with Australia starting its contribution at Federation by introducing an aged pension. Unlike most similar countries, Australia developed a fairly unique system of pay-as-you-go welfare, rather than an insurance-based contributory system. Together with a relatively generous basic wage intended to cover supporting a spouse and children in frugal comfort, this made the totality a 'working man's welfare state'.[1] Women were paid less but it was assumed they were covered by a benign, if discriminatory system which supported their primary domestic role through the male (family) wage. By the 1970s some of these differences were being addressed, particularly overt discrimination and equal pay, but we did not know further indirect discrimination would appear in the changing economic drivers of the 1980s.

The ideology of private market provisions as the best mode of distribution took over policy parameters in the 1980s. By privatising many services and payments, this model has both undermined much of our collective public culture, and sometimes created more gender inequalities than the old female wage system. Then, at least, women were deemed to be worth two thirds of a man. But under the redesigned privatised retirement income systems they may get less than a third of the 'norm' in retirement benefits. I want to use retirement income policies to explore the way that public policy and public subsidies have managed to exacerbate the continuing gender biases in income and wealth. In shifting public money from an aged pension system that was, in the 1970s, moving towards a universal payment to a massive, heavily subsidised individuated system of savings, we have created more gender inequalities, at public expense, than we had before.

Superannuation was something that was available mainly to public servants (mainly men and very few women) and was paid as reward for long term public service, often at lower pay than the private sector offered. It was paid as a proportion of their final salary; not huge, but safe and comfortable. The alternatives were personal savings, some limited defined benefit super schemes for mainly higher income earners and the aged pension for the rest. This last payment was means tested but in the 70s under the Whitlam Government, it was briefly paid to all of those aged over 70 years as a universal entitlement. There were inequalities as the rich had more money to retire on than the poorer people on the aged pension, maybe plus some savings. The pension was seen popularly as the reward for all those years of tax paying and making babies for the future. However, the policy shifts were on and any universal payment was seen as offensive, including child endowment (but that is another story).

Spreading superannuation (thinly)

Things then changed under the Hawke government. The unions proposed that all workers should be entitled to some form of superannuation, thereby creating worker controlled pension funds. Inspired by Scandinavian models of substantial union controlled investments in industry and presumably influencing the economy, this was an attractive proposition to a Labor government. Various superannuation initiatives were started under the Accord, but the neoliberal influence meant that there was no attempt to set up forms of national insurance that could have covered other payments, such as parental leave. Instead, the payments went to a range of private super funds, unlike many of the European models on which the scheme was supposedly based.

Therefore there were no pooled funds and risks, as the local model drew on the neo-liberal principles of privatising the public sphere. Instead of establishing a public or, at least, not for profit fund managers, it was left to the market under some regulation but with limited control and no guarantees against failure or mishandling. Like banks, people's compulsory contributions went straight into their own accumulation accounts, together with any extra that employers put in, plus voluntary contributions, and fund earnings on the balances. The process was sold to the finance industry and public by offering a range of very substantial tax concessions that were very generous to higher income earners. As the contributions are compulsory, it is puzzling that such a high concession bribe was introduced on these employer contributions. The only reason seems to be to placate recipients for taking away some of their possible income until retirement.

This movement culminated in the almost[2] universal Superannuation Guarantee Levy, to be paid by employers, and rising to 9 per cent, which was introduced in 1992. It was marketed as a benefit to workers, increasing their retirement incomes and reducing the pressure on future tax payers to support an ageing population. How could anybody see this proposal as anything but good for all? It was, however, a very inequitable system which has become more so.

An inequitable system

I objected strongly at the time of its introduction, for two reasons. One objection was that the design of the program privatised retirement and benefited higher income earners; the other was that few women would benefit, both because their total time in paid work was mostly much lower than men's, and they received lower pay rates when they did paid work. The way the system was designed made it attractive to men at higher pay levels and redistributed public resources to those who had more than enough to start with. I was angry then and 15 years later have been proven correct.

The main justification at the time was that few women were covered by any forms of superannuation, because they were less likely than men to qualify for the main type of defined benefits that depended on years of continuous service for the same employer. The arguments for the differences in the possible superannuation outcomes were that the superannuation system is based on contributions people make through paid work which generate the payments system. Those whose contributions were inadequate would be covered by the welfare system's safety net. The other part of the argument was that with an ageing population, the public purse could not afford to pay future aged pensions so had to encourage saving. However, this claim ignores the levels of public subsidy, which are discussed below, given through tax concessions. These have recently been increased and probably, by now, exceed the costs of aged pensions in income foregone.

These arguments appeared in a publication in August 1994 by the then Economic Planning Advisory Committee (EPAC) and the Office of the Status of Women, titled *Women and Superannuation,*[3] which sums up the debate at the time. Ross Clare, then from EPAC, stated on the first page of the first chapter 'it could be claimed that the big winners from changes in superannuation over the last five years have been women. Superannuation cover for women working full time has jumped from 47% to 87% and those part time from 19% to 65%.'

There is no doubt that coverage has increased substantially because of the new system. My question is whether the value of increased coverage is in itself of such merit that is has been enough to counter the escalating differences in financial outcomes for men and women. The evidence, some 13 years later, is that women are still likely to miss out on public support through superannuation subsidies because they are low paid, part time and/or casual and take more time out of the workforce than men, because of unpaid family work and responsibilities. The Association of Superannuation Funds of Australia (ASFA) reported in 2001 that men are in paid work for an average of 38 years compared with women doing the equivalent of 20 years' full-time work. Women's incomes are lower and increase for shorter periods, probably because women take time out and lose out on promotions, so their income peaks before 40, not 50.

This continuing difference is considerably exacerbated by a tax system on super which inequitably advantages higher income contributors over those with lower incomes through very generous tax concessions, a de facto public subsidy. This is one of the major problems with the original and continuing tax regime on super. Tax on compulsory and pre tax contributions to super is 15 per cent regardless of the contributors' marginal tax rate. This means low income contributors are often taxed more than they would pay in income tax as there is no tax free threshold, and this rate is very close to the bottom rate, which may shortly be cut to match it. There is therefore no advantage, and even a disadvantage, for low income contributors, in stark contrast to the considerable advantage to those paying the top rate of tax. These have, through time, enjoyed a considerable advantage by using superannuation to pay both the low contribution tax and the low tax on the income earned by the fund, rather than their much higher marginal tax rate.

At one stage there was some belated redress to the public purse as smallish lump sums were tax exempt and an exit tax (15 per cent) was imposed over a certain level and a further higher tax was imposed if reasonable benefit limits were exceeded.

These imposts on higher lump sum recipients were abolished in recent changes that also exempt all superannuation payments to those aged over 60 years from being taxed. This contrasts with the fact that the aged pension is still taxable. While various offsets mean that those who are on full pensions, with little other income, are unlikely to have to pay income tax, the part pensioner whose additional resources came from non superannuation sources, for instance a legacy or property settlement, may find they are paying taxes.

The current tax treatment of superannuants is extremely generous, with many, like me, being able to legally avoid tax by salary sacrificing and making extra contributions before retirement. Many high income earners who are still in paid work are encouraged to draw down super from aged 60 to allow themselves to salary sacrifice most of their pay and avoid higher tax rates.

These very substantial public contributions to the retirement income of higher income earners cost the rest of the community a lot of foregone income tax. As few of those at the higher levels of wealth would have been eligible for the aged pension, it seems like a waste of public money, and contradicts the rhetoric that superannuation saves paying out from the public purse. While many in the middle income group may have managed to save more money through the super concessions and the compulsion to contribute, more will now be able to draw on the pension because the current government has introduced new tapers into the means test. This means quite high income earners now qualify for some level of aged pension and all those lovely concessions that go with it. Single home owners can have over $500,000 and couples around $800,000 before they lose their pension entitlement.

Therefore the public purse is contributing substantially to the income of very comfortably off retired people through both very generous tax concessions and some pension funding. Just in case the so called self funded retiree feels left out, there are further generous concessions to many of these, as well. There are women who will get a considerable advantage from the above concessions and entitlements. However few of these will be advantaged because of their own earnings. Most will be spouses of high income men, and a few will have money from other family sources, such as inheritance, which they could funnel through super and provide some additional savings and income. Few women will have worked long enough and at a sufficiently high level to have saved enough on their own account to gain the high levels of government support for their retirement. The great majority of women will be left with little in savings and super and either be dependent on a husband or remain dependent on the aged pension.

The second chapter of the 1994 publication previously mentioned was mine, and explored the then predicted effects of super for unwaged and low waged women. I finished the chapter summary then, by saying that superannuation could not remedy the long term social and economic disadvantage that reduce women's earning capacities. However, I asked that it not exacerbate the effects of discrimination. It should be at least neutral, but preferably be designed to include compensatory measures to alleviate the consequences of workplace inequalities. Women, I claimed then, should not subsidise the tax advantages of mainly male high income earners. Now, I want to add that we need to acknowledge that it is women who are continuing to provide massively more necessary unpaid and low paid care work, which needs to be recognised financially.

The gendered difference

These gendered differences are now very evident, as shown in two reports on the issue in 2001 and 2007, produced by the same Ross Clare, now with the Association of Superannuation Funds of Australia (ASFA). Annette Sampson, using Clare's figures, in 2001 wrote in her newspaper column *In the Money*[4] that she was not pleased with what was happening then.

> Despite all the rhetoric, female workers keep waiting for a fairer deal on superannuation ….(which) has come a long way since the days when it was handed out with the obligatory gold watch as a benefit to loyal and long-serving middle managers, the vast majority blokes. But the concept of super as a benefit for the main breadwinner – who may just happen to share it with the little woman at home – is still alive and well.

She then quoted figures from ASFA which showed 'that while a lot of hot air has been generated over the nineties about how super can be made better for women, they were still a long way from achieving parity'. She commented that only when men adopted more female work patterns - taking parental leave, working part-time, and foregoing promotions to be with their families - would the system become an issue. Clare's report that Treasury's earlier estimates - that women would hold 33 per cent of super assets by 2019 - appeared to be overstated. Women were then working 35.8 per cent of total paid hours, but only earning, on average, 89 per cent of male hourly rates, so Clare suggested then that women will hold less than 30 per cent of super assets in 2019.

Sampson blamed the super policy for being based on 'traditionally male perceptions of an employee's working life', that is, full time paid work for 40 years with increasing pay levels through promotions. She commented that this not only fails to cover most women, but also increasing numbers of men. She summed up: 'In a nutshell, women on average are paid less, work fewer total hours than men, and tend to have more restricted access to the super system. It's hardly surprising then, that their benefits are lower'.

Six years later, in 2007, another report is produced by Ross Clare, who is still with ASFA. This report claims to be 'the first comprehensive report on super balances …(and) gives for the first time a tangible and comprehensive picture of the level and diversity of superannuation account balances in Australia - and it's clear some sectors of the population, particularly women, are way behind.'

Using newly available unit records from the Australian Bureau of Statistics 2003-04 Survey of Income and Housing, Clare's report - *Are Retirement Savings on Track?* - explores Australians' super balances. 'The picture that emerges is of considerable progress in spreading super to a larger proportion of the population and in growing super balances,' he said. 'However, average balances are still relatively low, and there are a number of groups - such as women - *who need further assistance and encouragement to save* (my italics) if they are to achieve even a modest standard of living in retirement.'

This claim (see italics) is very irritating as it ignores the structural biases both in the tax system and in the workforce that disadvantage women. As the superannuation industry benefits from the concessions, it won't acknowledge the design as flawed, so the report wording claims the problems lies with women who are not saving enough and need encouragement. Blaming the victim shows how neither Government nor

industry are prepared to take responsibility for the original problems or devising a non-discriminatory system.

The report shows average balances achieved in 2004 were $56,400 for men and $23,900 for women with the average retirement payouts in 2004 being $110,000 for men, and $37,000 for women. ASFA estimates that the average retirement payouts in 2006 are likely to have been $130,000 for men and $45,000 for women. Women are sitting at around a third on average, but as few women will have quite high payouts and others very little, averages are not a good indicator of the numbers in trouble.

There have been some changes that have benefited women. In particular the introduction of a co-contribution pleases ASFA, as it brings in extra money to the Funds. The report describes how the payment 'delivers considerable potential benefits for the lower paid. Further strategies such as extending the super co-contribution are needed to help a greater proportion of people achieve a more adequate retirement income.' Under this scheme, introduced in 2003, the government matches up to $1000 personal superannuation contributions, initially dollar for dollar, then raised to $1.50. In 2003–04, 63 per cent of beneficiaries of the government superannuation co-contribution scheme were female, with an average payment to their superannuation funds of $570.[5] In the 2007 Federal Budget, the government offered a one-off bonus by doubling the super co-contribution for those who had contributed the previous year but no promises of future changes. This set of payments means more public subsidies but these are targeted to those lower income earners who can, at least, afford to save.

Clare claimed if the co-contribution 'was doubled permanently, an average earning woman would receive a retirement payout of $186,000, which is far closer to achieving adequacy.' His calculations showed that if the low income woman managed to save $1000 a year, the $3000 co-contributed by government would not surprisingly considerably improve their retirement income. This seems a very clumsy way of assisting some low income women and does little for those whose very low incomes cannot stretch to saving the initial contribution, or those out of the workforce. This latter group is reflected in another finding of the ASFA survey, showing that 24 per cent had no super at all, including some casual workers as well as those not in the paid workforce.

Their other findings showed the inequities of the system as 10 per cent of individuals with super hold 60 per cent of its assets and 70 per cent of men and 90 per cent of women currently have balances of less than $100,000. These figures clearly illustrate the ways in which the main public concessions benefit those who have little or no need for them. These figures make the changes introduced on 1 July 2007 nonsense, as removing the exit tax and the tax on superannuation income after age 60, will massively increase the retirement incomes of those who have already benefited substantially from other public concessions. At the other end of the scale are the women identified and described in the parliamentary briefing note in 2006.[6]

> Due to their generally interrupted working careers, and high concentration in both the casual and low-paid sectors of the workforce, women are at a significant disadvantage in accumulating sufficient superannuation balances. Analysis of the membership and account balances of four major industry superannuation funds, covering about 2.6 million employees, indicates that female account balances, and pensions paid upon retirement, are both significantly below that of male superannuation-fund members. This trend is

> particularly pronounced for female sole parents. Sole parents are likely to be a significant group within the retired community, given the generally high rates of separation and divorce currently experienced in Australian society.

All the material above clearly shows that the present retirement income system is flawed when it deals with women who won't have had 35 years or more of full time paid work at male average weekly ordinary time earnings. As that is around 80 per cent of women, the figures demonstrate how this heavily publicly subsidised system ($9 billion in new tax cuts over the next three years) is deeply unfair and gendered. The following statistics show that those dependent on the full aged pension with little or no other income do not fare very well.

Many more women than men live solely on the single Age Pension. The level of this pension is inadequate to cover the costs of living alone and compensate for the lack of the economies of scale available to couples. At 30 March 2002, the latest comprehensive statistics I could find, there were 1,806,722 age pensioners. 39.2 per cent were male and 60.8 per cent were female. In addition 328,661 people (over age pension age) received a similar means tested income support payment from the Department of Veterans' Affairs. At March 2002, 67 per cent of age pensioners received the maximum rate of pension, and 33 per cent received a reduced pension, because their income or assets exceeded the exempt area. But that could be changing. Amongst those age pensioners who have been in receipt of age pensions for less than one year, 51.8 per cent received a full rate and 48.2 per cent received a reduced pension.

Maybe these figures do suggest that future aged pensioners will be less dependent on the full pension, but they may also imply that many people still will be. The recent changes to eligibility mean even more people will in the future get part pensions at considerable public expense.

There has, however, been little extra support offered to those who have little or no super and their payments are linked to 25 per cent of male average weekly earnings, so will remain at a low level. A recent estimate quoted in the parliamentary briefing paper has suggested that

> by 2050 no more than 75 per cent of people aged 65 or over will receive the age pension (or service-pension equivalent). Around two thirds of these pensioners are projected to receive a reduced pension because either their incomes, or assets, are large enough to result in reduced age-pension payments. (This leaves 25 per cent of aged pensioners on the full payment; often with little else to support them.) Under current arrangements the age pension will continue to be a significant component of retirees' income. No government, and no party of any political persuasion, has supported the abolition of the age pension. Rather, the place of the age pension as a major component of Australia's retirement-income system has been reaffirmed.[7]

Will things change for future generations?

One argument that could be put is the material above reflects the past, so the future generations will not be as deeply affected by gender differences. This is not confirmed by a recent study by the AMP and NATSEM on Generation Y[8] (aged 16-29), which shows continuing gender inequalities in terms of earnings, superannuation and general wealth accumulation at stages when differences should be limited, were things changing dramatically. The women are spending more time in paid work, but

many more are not in the labour force, even in the 16-29 age group (24 per cent in 2004, down from 28 per cent in 1989).

There are already financial gender differences as their media release shows:

> The AMP.NATSEM Report shows that Gen Y women are better qualified then Gen Y men – with 46 per cent having post-school qualifications compared to 42 per cent of male Gen Ys. However, the gender wage gap is still a concern for Gen Y. The report shows that Gen Y women, who are working the same hours and in the same broad occupational group as their male counterparts, are earning between $34 and $135 per week less than Gen Y men.

The report itself tellingly states

> despite this new found girl power, single Gen Y women are still holding on average around $25,000 less in assets then single Gen Y men. Of course much of this is probably due to Gen Y women continuing on with higher education and ceasing work to have children, but it still appears that Gen Y women will always be on the back foot trying to catch up with the Gen Y men as they juggle career, baby and diploma.

The report continues

> It is possible that Gen Y women might choose to have children and to stay at home with them on a full or part-time basis for considerable slices of time, or that it will become easier to combine motherhood with paid work – or even that Gen Y men will be encouraged through societal shifts and more flexible workplaces to become more involved in child rearing. Whatever the eventual outcome, there is no doubt that extended periods out of the work force to have and rear children dramatically reduces a woman's earnings and asset building potential.

Equitable access to payments for target or special interest groups should be based on level of need and broader social consideration. The Family, Community Services and Indigenous Affairs (FaCSIA) figures show women comprise the greater proportion of people receiving Age Pension (58.4 per cent in June 2006). While this is partly because women live longer, it also reflects their lower coverage and higher needs. The government also acknowledges that women receiving the Age Pension are less likely than men to have accumulated income and assets to provide for retirement and consequently have to spread their wealth over a longer retirement period. The statistics confirm these differences: 63.1 per cent of women receiving Age Pension receive the full rate compared with 59.5 per cent of men. Single pensioners are more likely to be female and more singles receive a full rate pension than partnered pensioners (68.1 per cent compared with 56.6 per cent). These figures are further indications that needs in retirement are not reflected in means.

Conclusions

The above material shows clearly the disadvantages that women face in the design of the current retirement income system. The privatisation of the system and its biases against low income earners are particular problems, as many people are very anxious about their future financial status, particularly in retirement. The plethora of changes recently has made a discriminatory system worse and reduced even further the idea of the state as a source of equitable redistribution. There have been increased inequalities and anxieties amongst those who, because of involvement in low paid and unpaid work, reduce their capacities to fund their own retirement. The opprobrium that

should be directed at bad policy and inequitable squandering of public monies is avoided because few understand their own superannuation, let alone the policy. A recent Sensis[9] survey report showed that extra time for managing one's finances was high on the priorities of respondents, indicating that people prioritise money matters and probably worry about them.

Creating a more equitable system of retirement income would require removing the absurdly generous tax concessions, that cost the public purse billions, and redirecting some of the money to those whose contribution to society has been low paid or unpaid. Offering a guaranteed minimum income to all retirees, higher than the current maximum pension, could fund a dignified lifestyle. Better funding for the services older people need also should be considered - good health care, home based care, transport and other services – and if these need to be bought by older people, then they must be affordable.

We need to revisit the equity aspects of the welfare state, reminding ourselves what constitutes a civil society. Losing the idea of pooling resources and making them available on the basis of need seems likely to encourage us to become more greedy and self interested. Anxiety about being able to afford the care we need, of being able to maintain our independence, if possible, can undermine our generosity and concern for others, as we fight for self interest. Yet most of us do not want that, and would prefer to share what is needed, knowing there is enough to go round.

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1 Castles, Francis G (1985). *The Working Class and Welfare: Reflections on the Political Development of the Welfare State in Australia and New Zealand, 1890-1980*, Wellington: Allen & Unwin: 103.

2 Those earning under $450 per month were excluded.

3 Clare, Ross (ed) (1994). *Women and Superannuation. Background Paper* 41. AGPS, Canberra. http://www.aph.gov.au/library/pubs/rb/2005-06/06rb12.htm

4 (2001). 'Super still not so duper for women', *Sydney Morning Herald*, July 21-22..

5 *Nielson, Leslie (2005-06).* An adequate superannuation-based retirement income? *Research Brief 12. Australian Parliamentary Library.*

6 *Ibid.*

7 *Ibid.*

8 Cassels, R and Hardin, A (2007). *AMP-NATSEM Income and Wealth Report 17 - Generation whY?* examines the social, spending and saving habits of Generation Y: 14-15.

9 The Sensis® *Consumer Report* - September 2007 http://www.about.sensis.com.au/resources/scr.php [PDF, 269KB].

The Northern Territory 'Intervention'

Crisis Exploitation: Reflections on the 'National Emergency' in Australia's Northern Territory

Paul 't Hart

> *Any government that prides itself on its ability to manage crises is sure to find crises to manage.* (Murray Edelman[1])

The NT intervention puzzle

There is no doubt that the Howard government's emergency intervention into Indigenous communities in the Northern Territory will go down in history as one of its most remarkable and controversial actions. Whether it will also come to be noted as one of its main achievements is doubtful.

In this paper, I will not join the debate between critics and defenders of the intervention's content and the intentions behind it. Being relatively unfamiliar with Indigenous affairs in this country, I can be agnostic about these matters. The puzzle that occupies me here is a different one. How come a highly experienced government, led by an agile prime minister, willingly exposes itself to such considerable risks of failure - particularly in an area where it has little political capital and where the accumulated wisdom of decades of policy experimentation is that quick fixes do not exist, despite the best of intentions.

There are many possible answers to this question. They range from the very benign ('an act of great leadership') to the cynical ('blatant, short-sighted electoral posturing'). The very timing of the initiative – just months before an election – and its follow up just days before the election was called (Howard's constitutional referendum pledge on reconciliation) do little to belie the cynics' interpretation. Yet on the other hand, the Howard government did not control the timing of the trigger to this entire intervention, the *Little Children Are Sacred* (hereafter: LCS) report. Its stark facts, vivid imagery and impassioned plea struck a chord in the press, the public, and most importantly, among key Indigenous community leaders. Doing nothing in the face of a widespread moral outrage was hardly an option.

In my view, a more persuasive answer to the puzzle is that the government both purposefully used, and at the same time now finds itself trapped in, the rhetoric of emergency it chose to adopt in framing its interpretation of the report. This is not a unique phenomenon. In what follows, I shall draw on the findings of the interdisciplinary social science field of crisis research to uncover some of the general mechanisms that may be at play here, as in many other cases of drastic government initiatives in response to social or international crises. First, I shall reflect on the notion of emergency, its political ramifications, and the political leadership challenges that arise when a sense of crisis becomes widespread in the community. I will then examine how key players within and outside the Howard government dealt with these challenges. Since the inside story of the policy making process will most likely remain unwritten for some time to come I rely here on media reports and the interpretations of the numerous authors of the quick-response volume of essays about the intervention, entitled *Coercive Reconciliation: Stabilise, Normalise, Exit Aboriginal Australia*.[2]

From social emergency to political opportunity: crisis leadership

Emergencies of various kinds – past and future ones, local and far away ones, natural, technological and antagonistic ones – have risen to unprecedented prominence on public and political agendas in recent years. Many of them cast long shadows on the polities in which they occur. The sense of threat, violation, uncertainty and urgency that terms such as emergency and crisis convey, shatters people's understanding of the world around them. Emergencies are associated with social trauma, but their potential impact transcends the community level. Increasingly, emergencies have become theatres of high politics. After all, labelling a particular disaster or a certain state of affairs in society as a 'national emergency' has potentially large practical, but also political, consequences. It may open the floodgates of resources flowing in, but at the same time it may also herald major contention. To declare something to be an emergency (or a crisis, terms that are used interchangeably) boils down to saying the following: something is seriously wrong; urgent and drastic action needs to be taken to cope with the consequences and prevent further escalation; somebody needs to be blamed for this unacceptable turn of events.

When governments use the label 'emergency' to denote a particular set of physical events and/or social conditions, they set up themselves, as well as other political stakeholders, for some serious leadership challenges. In many cases, governments will be on the back foot when a major disaster happens or when advocacy groups succeed in getting public support for their designation of certain problems as emergencies. In those cases, governmental crisis management is a form of 'defensive containment', aimed at curbing impact, controlling damage and moving back to 'normal' as soon as possible. Yet in political science it has long been observed that actors bent on getting things done may need to frame 'problems' in order to promote their own pre-existing political authority claims or policy preferences as 'solutions.'[3] Governments can thus be tempted to take the initiative in moving an issue from 'business as usual' to the domain of 'emergency.' Doing so opens up semantic and political space to radically redefine existing problems, propose new policies, foster public reflection, gain popularity and strike at opponents.

Emergencies raise the stakes of this ongoing effort. Political actors seek to 'exploit' the disruption of 'governance as usual' that emergencies entail. They manufacture and exploit dramatic labels such as emergency and crisis to defend and strengthen their positions and authority, attract or deflect public attention, get rid of old policies or sow the seeds of new ones. Disasters and social disruptions can thus be understood politically as 'contests' between frames and counter-frames concerning the nature and severity of the problems at hand, their causes, the responsibility for their occurrence or escalation, and their implications for the future. The challenge is to get one's preferred frame accepted as the dominant narrative.

So what really 'is' an emergency? From a political perspective it is first and foremost a mobilising device. If public opinion can be persuaded that something terrible is occurring that undermines core social values and/or structures and that there is no time to lose to respond to it, avenues for action open up that would otherwise remain closed. Invoking a state of emergency enables office-holders to:

- centralise authority in order to pave the way for the decisive, swift, coordinated action that is allegedly needed to curb the threat;

- muster people and resources widely within and across levels of government as well as within the private and community sectors;
- rally popular support for the executive, silence opposition and in some cases formally suspend politics as usual for the duration of the emergency; and
- discredit disliked or oppositional individuals, groups and/or states by asserting they bear responsibility for the occurrence of the emergency.

As stated, the government and its leaders are not the only set of actors seeking to play the emergency card. Oppositional counter frames may effectively neutralise or trump government emergency rhetoric, making the government look dishonest, disorganised, out of touch or even outright culpable. The dynamics and outcomes of these crisis exploitation efforts are unpredictable. The public passions that physical and/or socially constructed disruptions arouse can be volatile, and the persuasiveness of particular ways of framing emergencies can change abruptly, triggering political reversals of fortunes for key players, policies and institutions.

When the Madrid bombings occurred just days before the 2004 national elections in Spain, the incumbent government of Prime Minister Aznar and the opposition led by social-democrat Zapatero sponsored radically different interpretations of the disaster. Aznar maintained it was an attack by his old nemesis, Basque separatist group[4] ETA; the opposition accused him of a cover up, claiming the real culprit must have been al-Qaeda delivering its bloody form of 'payback' for the government's participation in the war in Iraq. Within the space of 48 hours, a frenetic framing contest ensued. The government's position gradually lost credibility as more details of the police investigation became public. The opposition deftly used internet and SMS to stage 'flash mob' rallies at the governing party's offices around the country, giving the impression that the population at large was up in arms against the alleged cover up. Zapatero won the election on a last minute swing against the government.[5]

The Madrid example is unusually clear cut. Many other instances are not, and we do not as yet possess systematic knowledge of how and why some crises claim political scalps, create political heroes, and generate winning coalitions in favour of certain 'lessons' and 'reforms', while others do not. What we do know is that behind all the rhetoric of crisis, the calls for investigation, the mobilisation of emergency funds, the rushing through of emergency legislation, and the efforts to assign and deflect blame lies an impetus that few political actors can afford to ignore. This is the temptation to treat signs of major physical or social disruption as not just operational but as political challenges. Both governments and their critics will to some extent engage in *crisis exploitation*, which I define as *the purposeful utilisation of crisis-type rhetoric to significantly alter public perceptions, public policies and public careers*.

Crisis exploitation is a high-stakes game, and is problematic on various fronts. First, when are things 'bad enough' to be described in terms of emergency, disaster or crisis? Physical indicators of misery are hardly a reliable guide. Hundreds of people killed in a flood in Bangladesh are considered a routine disturbance there, whereas in Australia this would be a national tragedy which would cast a very long political shadow indeed. Emergency is a label, not a fact. The applicability of the label is contingent upon indeterminate combinations of a whole range of factors, such as: types of triggers; nature, scope and extent of physical disturbance; relative (in)visibility of human consequences; public credibility of the source(s) of the emergency claim; timing of the labelling exercise relative to other significant issues in the public domain; and so on.

Secondly, it is one thing to evoke a public sense of emergency. It is quite another to control its abatement. When does a particular problem cease to be an emergency? Who, if anyone, gets to make that call, other than in the formal-legal sense of rescinding disaster declarations and the like? Thirdly, how much suspension of politics as usual can and should a democracy be prepared to bear, and for how long?

Finally, the long-term implications of 'emergencies' are not only significant but quite often widely perceived as undesirable. Because they serve to release the constraining impact of procedural niceties, checks and balances, and existing path dependencies, episodes of emergency government often entail sweeping initiatives and big reforms – but also big mistakes. These prove exceedingly hard to undo, if only because policy makers have made a highly public commitment to their crisis response policies. They almost literally have 'too much invested to quit', as, for example, in Bush's road from 9/11 to the Iraq fiasco.[6]

From inquiry to intervention: a contested emergency

As an act of crisis exploitation, the Northern Territory (NT) intervention so far has been only partially successful for the government. From the government perspective, there were some clear positives. It engaged in an intensive 'meaning-making' exercise, drawing on powerful (if sometimes inappropriate) historical analogies such as hurricane Katrina to drive home the seriousness of the situation.[7] It did manage to capitalise on the LCS report to instil a sense of urgency around the issue. It also managed to suspend politics as usual, for instance by pushing an unprecedented package of legislation and measures through Parliament in record time. And it did get a federal operation on the ground in a matter of weeks, thus sidestepping the usual delays and dilutions of policy implementation in normal times.

But the government's framing effort did not go uncontested. This began with its insistence, backed by the LCS report, that child sexual abuse in certain Indigenous communities was rampant and constituted a real, present, urgent and above all utterly unacceptable violation of key social values. Although this way of framing the emergency was widely accepted as such, various critics argued that this problem had been named in various investigations long preceding the LCS report. They sought to reframe the crisis as a product of prior government negligence, questioned the government's timing, and therefore, its motives. Why declare this an emergency now, that is, just months before an election? Was the government trying to create a 'wedge issue' for federal Labor? Was it part of its ongoing pre-election campaign to blame the Labor-led states and territories for some of the country's most troubling public policy conundrums (eg, water management, hospital care)? As a result the 'rally around the flag' effect aimed for by the government did not last.

There was also intense criticism of the discrepancy between the scope of the original LCS diagnosis, which provided the key rationale for the intervention, and the sweeping breadth and depth of the government's response. The government claimed its approach was designed to address not just the symptoms (child abuse) but to eradicate the root causes of the problem (the vicious cycle of low incentives to study and work, joblessness, poverty, despair, alcohol and substance abuse, and dysfunctional behaviour). This could only be accomplished by a broad-based campaign effectively entailing a federal take-over of local communities. Its critics argued that the government was abusing the LCS report to create momentum for what it sold as a straightforward 'rescue operation' but what in fact amounted to an all-out assault on the prevailing policy paradigm in Indigenous affairs. They pointed out that

along with the nurses, doctors, policemen, inspectors and above all truck loads of money would come renewed dispossession of land, the end of self-government, and relentless pressure to abandon identity-based Indigenous ways of life. In their hands, the government's stated aim to 'normalise' the situation became a much bigger threat to Indigenous communities than the original child abuse crisis ever was.

Thirdly, there was a strand of essentially pragmatic criticism saying the government's plans simply would not work. Critics in this vein hit a familiar, but evidence-based note: Canberra's great hopes and best laid plans will be dashed when implemented in Milingimbi, Milikapati, Mutitjulu and all those other complex, remote communities. That's how it has been in the past in Indigenous affairs. It is also what more than three decades of implementation research, worldwide, suggests.[8] Policies devised and decided on the run tend throw up a host of debilitating execution problems: disagreement, delays, ducking, disorganisation and distortion. The result: cost explosions, loss of bureaucratic momentum and political support, and a host of unintentional negative effects on target populations that come to rival if not overshadow those anticipated.

Finally, there was concern about the open-ended nature of the federal intervention. Although there was talk of 'normalisation and exit', it remained unclear when exactly the situation would be seen to be sufficiently 'stabilised' to warrant a federal retreat and, presumably, a return to more decentralised forms of governance.

Whereas one might argue that the first two strands of criticism are rooted in ideological differences, the latter two are not. Although the supporters of the intervention are likely to dismiss the prediction of implementation failure as a 'rhetoric of reaction', it has a lot of social science research and practitioner wisdom on its side. Certainly the findings of comparative crisis research echo those of the general implementation literature: the bigger a crisis-induced policy reform and the more it is imposed from the top, the more problem-ridden its implementation and the more likely its eventual futility or jeopardy.[9] Many of the officials and agencies currently engaged in this intervention are well aware of the enormous risks the government is running. One might expect that for that very reason some of them have, or would have, urged for more caution and consultation in the process. Clearly, those voices did not carry the day. In the months and years to come we will find out if the NT intervention fits the pattern of emergency-induced reforms turning into reform-induced fiascos, or whether it proves to be one of the rare exceptions to that rule. The same goes for the lack of a clearly circumscribed exit scenario: like the 'war on terror', the 'NT emergency' is open-ended, metaphorical, and therefore potentially endemic and enduring.

How did the intervention happen?

Political leaders sometimes have to 'gamble with history', as one observer of the early, radical years of Ronald Reagan's presidency characterised that leader's political style.[10] But boldness alone does not make for great leadership: most successful reformers make sure they have support from the key actors inside and outside government whose cooperation is essential to make things work on the ground.[11] This was clearly not the case here. This takes us back to the puzzle of this discussion: how come?

Was the intervention nothing more than a classic 'knee-jerk' reform of a government swept along by the 'swirling cyclone of emotion' generated by the LCS report?[12] Howard's own account gives some room for this interpretation. He commented that it was Noel Pearson's trembling voice when he conjured up the image of the tiny child

cowering in the corner that prompted him into action. Altman may have found this surprising for a government normally wedded to 'economic rationalist approaches', but he shouldn't have been.[13] Research suggests that the power of emotion in these cases cannot easily be understated: when children get hurt, emotions run high, and even experienced politicians can be caught in the maelstrom of calls for action fuelled by moral indignation that sometimes far exceeds the real proportions of the problem, or ignores the pervasive uncertainties about its causes.[14]

The Howard haters probably prefer the 'ideological zeal' explanation, pointing to what they perceive to be his and his government's long-standing opposition to Indigenous land rights, autonomy and identity politics. This explanation may perhaps explain the substantive thrust of the intervention, but cannot plausibly account for its timing. In the past 11 years there have been many reports and other indicators that the government could have chosen to interpret as the 'smoking gun' for the alleged failure of the policies, that have produced what Rowse has called the 'Aboriginal jurisdictions', to legitimise a drastic federal intervention - but it never bit that bullet. Others would say it did in fact try, but failed.[15] Some would argue that LCS was simply the straw that broke the camel's back, depicting the intervention as 'the culmination of eleven years of chipping away at Aboriginal and Torres Strait Islander representative institutions'.[16] I am not convinced. In my view, it is quite unlike Howard to leave such an apparently long-harboured ambition simmering until so late in his long reign.

A combination of situational and ideational factors bring us somewhat closer to a plausible explanation. The focal point then becomes the, perhaps, tacit but unmistakeable nexus between Howard, his latest activist Indigenous affairs minister and former soldier Mal Brough, and Noel Pearson, in his role as a 'moral entrepreneur' in this crisis. In effect, the Howard government had an ideological disposition but lacked the moral capital in the Indigenous policy arena to act on it; Pearson possessed precisely such capital, and over the years had begun to advocate policy change which shared at least some of Howard's desire for a new, individualistic, mainstreaming-oriented departure in Indigenous economic and social governance. When Pearson then played up the LCS report's findings, Howard seized the momentum, borrowing from Pearson's work yet improvising a package that went well beyond Pearson's own comfort zone.[17]

In my view, this situational-ideological account needs to be complemented by an institutional one. In essence, such an explanation says: the government acted because it could, and because it had used the same strategy with political success in the past. As Walter and Strangio point out in an intriguing new book, Howard's frequent invocation of alleged 'threats' and 'crises' to unilaterally impose policies may be partly the product of his psychological fit with the 'strong leader' profile. This profile (as outlined by the Melbourne political psychologist Graham Little[18]), projects leadership as combating perceived adversities and opponents by a 'no-nonsense', hard-working, centrally orchestrated approach to governing.[19] But the very viability of this style, which Howard shares with his latter-day nemesis Malcolm Fraser, has been greatly facilitated by the gradual accrual of institutional possibilities to rule from the top.

Walter and Strangio argue that Australian politics since Whitlam has seen a steady accumulation of power resources in the office and person of the prime minister, made possible by an erosion of potential sources of countervailing power (the party, the bureaucracy, parliament). Howard's particular leadership style is greatly facilitated by this potential for centralisation, after 2004 benefiting furthermore from the relatively

rare opportunity of Senate control to push through otherwise politically infeasible initiatives such as WorkChoices. In case of the intervention, the federal government's ability to directly intervene in a Territory's affairs, something it cannot do to the same extent in the States, was another institutional facilitator.

Within the Indigenous affairs policy subsystem, a similar form of 'hollowing out' (or outright abolition, eg, ATSIC) of potential countervailing forces has occurred in the last decade. Hence it should come as no surprise that the federal government can intervene bluntly in what many thought was destined to become an ever more self-governing, and partly state-run policy arena.

Perhaps the most disturbing lesson of the entire episode is that it can easily happen again. From time to time, all prime ministers since Whitlam have fallen for the temptations open to them of turning emergency into a political style. That may have made for 'good politics' from their point of view, but more often than not it makes for 'bad policy' from the point of view of balanced and democratic public policymaking.

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1 Edelman, Murray (1977). *Political Language: Words That Succeed and Policies That Fail*, New York: Academic Press: 47.

2 Altman, Jon and Hinkson, Melinda (eds) (2007). *Coercive Reconciliation. Stabilise, Normalise, Exit Aboriginal Australia*. North Carlton: Arena Publications Association.

3 Kingdon, JW (1995). *Agendas, Alternatives and Public Policies.* New York: Harper Collins.

4 That is, Euskadi ta Askatasuna; Basque Nation and Liberty.

5 Based on Olmeda, J (2008). 'A reversal of fortune: blame games and framing contests after the 3/11 terrorist attacks in Madrid', in Boin, A, 't Hart, P and McConnell, A (eds) *Governing After Crisis.* Cambridge: Cambridge University Press (in press).

6 Teger, A (1980). *Too Much Invested to Quit*. New York: Pergamon.

7 True to the spirit of emergencies as 'framing contests', the government's critics used equally strong counter-analogies (the Nazis, the *Bringing Them Home* report, the Trojan Horse, and, but in a different sense again, 'Katrina') in their efforts to discredit the government's position. See for example Dodson, P (2007). 'Whatever happened to reconciliation?' in Altman and Hinkson *op cit*: 25. On the use of historical analogies in crisis management, see Brändström, A, Bynander, F and 't Hart, P (2004). 'Governing by looking back: historical analogies and crisis management', *Public Administration*, 81, 1: 191-210.

[8] An allusion to the classic implementation study, Pressman, J and Wildavsky, A (1984 3rd ed). *Implementation: How Great Hopes in Washington are Dashed in Oakland (etc)*. Berkeley: University of California Press. An example of this type of critique of the NT intervention is Anderson, I (2007). 'Health policy for a crisis or a crisis in policy?' in Altman and Hinkson *op cit*: 133-40.

[9] See Boin, A and 't Hart, P (2003). 'Public leadership in times of crisis', *Public Administration Review*, 63, 5: 544-553; Dekker, S and Hansén, D (2004). 'Learning under pressure: The effects of politicisation on organisational learning', *Journal of Public Administration Research and Theory*, 14, 2: 211-230; Boin *et al* (2008), *op cit*. The terminology adopted here comes from Hirschman, A (1991). *The Rhetoric of Reaction: Perversity, Futility, Jeopardy*. Cambridge: Belknap Harvard.

[10] Barrett, Laurence I (1983). *Gambling with history: Reagan in the White House.* New York, London: Doubleday.

[11] Boin and 't Hart (2003) *op cit*; Goldfinch, S and 't Hart, P (2003). 'Leadership and institutional reform: Engineering macroeconomic policy change in Australia. *Governance: An International Journal of Policy, Administration and Institutions*, 16, 2, April: 235-270; 't Hart, P and Gustavsson, J (2002). **'**Foreign economic crisis, reformist leadership and policy change: Lessons from Australia and Sweden', in *Administrative Theory and Praxis*, 24, 1: 145-174.

[12] On 'knee-jerk' responses to emergency, see Lodge, Martin and Hood, C (2002). 'Pavlovian policy responses to media feeding frenzies? Dangerous dogs regulation in comparative perspective', *Journal of Contingencies and Crisis Management* 10, 1: 1-13. The second quote is from Rundle, G (2007). 'Military humanitarianism in Australia's North' in Altman and Hinkson *op cit*: 37.

[13] Altman (2007) *op. cit*: 318.

[14] Lodge and Hood (2002) *op cit*. See also Goode, E and Ben Yehuda, N (1994). *Moral Panics: The Social Construction of Deviance*, New York: Wiley.

[15] See, for example Tilmouth, W (2007). 'Saying no to $60 million', in Altman and Hinkson *op cit*: 232.

[16] Hinkson, M (2007). 'Introduction: In the name of the child', in Altman and Hinkson *op cit*: 7.

[17] See Altman (2007) *op cit*: 309-10.

[18] Little, G (1988), *Strong Leadership*, Melbourne: Oxford University Press.

[19] Walter, J and Strangio, P (2007). *No, Prime Minister: Reclaiming Politics From Leaders*, Sydney: UNSW Press. For an elaboration of the argument in view of the NT intervention. see also Walter, J (2007). 'Post-democracy? The command culture and policy fiasco'. Paper presented at the Public Leadership in Australia and Beyond Workshop, ANU, 29-30 November..

Alcohol Regulation and the Emergency Intervention: Not Exactly Best Practice

Maggie Brady

In 1963 a deputation of Aboriginal activists, including Faith Bandler and Kath Walker (later known as Oodgeroo Noonuccal), met with then Prime Minister Menzies. They were representatives of the Federal Council of Aboriginal Advancement, lobbying on civil rights issues and the Referendum, and it was at a time when in most States Aboriginal people could still not legally consume alcohol. Menzies seems to have been unaware of this, for after the tension of the meeting, he offered drinks all round. Kath Walker had to remind him that if he'd offered her a whisky in Queensland he would have been breaking the law, and could have been gaoled. He muttered in reply that as he was the boss round here, he'd give her a drink anyway. He then asked her whether alcohol was affecting Aboriginal people 'injuriously'. 'We must learn to *live with alcohol'*, she replied, 'the white man's poison'.

This incident epitomises a key issue that has dogged the debate about alcohol ever since: the collision between prohibition on the one hand, and 'living with alcohol' on the other. This debate has been intensified because it mirrors, in policy terms, the crude distribution of Indigenous alcohol consumption patterns. Overall these show a pattern of use polarised between heavy, explosive drinking on the one hand, and abstinence on the other. For the Indigenous population, there is relatively little moderate consumption between these two extremes. The incident between Kath Walker and Menzies also reveals that then, like now, the Prime Minister was not, perhaps, as well informed about alcohol issues and Indigenous Australians as he could have been.

No one would argue against the proposition that more needs to be done to tackle the massive harms inflicted by alcohol abuse. At present we have a situation where alcohol kills Indigenous men and women at the average age of 35.[1] It is one of the major causes of the well known gap of around 17 years in life expectancy between Indigenous and non-Indigenous Australians. *Per capita* consumption and wholesale sales of alcohol have increased dramatically across the whole Northern Territory (NT) population since 2000, with a concomitant increase in acute and chronic alcohol-related hospital separations admissions?.

Because of this, and because the Northern Territory figures are way above those anywhere else in Australia, alcohol control is probably the *least controversial* issue to be dealt with by the government's Emergency Intervention in the Northern Territory.

But have they found the right balance? Unhappily, I think not. Good alcohol policy should be multifaceted, with broad targets. It should take notice of alcohol-related problems *and* alcohol dependence, deal with small and common problems as well as major ones, and be concerned with the impact of drinking on the family as well as the drinker. And there are two kinds of alcohol abuse, are there not? There is the abusive *supply* of alcohol as well as the abusive consumption of alcohol.

Alcohol is not an ordinary or an easy commodity, but in recent years, the world's alcohol policies have been enhanced by a broad international base of practical experience. There is an extensive and increasingly sophisticated research output. However, both practical experience and sophisticated research findings seem to have passed by our Federal Government. I say this because, as with other aspects of the Emergency Intervention, the alcohol measures smack of policy on the run. They

- have, for example, had to be fine-tuned as they emerged;

- bear no relationship to world's best practice;
- confuse and disregard the Northern Territory's independent interventions into alcohol consumption and supply, as well as Aboriginal views and experiences; and
- they do not conform to the alcohol recommendations in the *Little Children are Sacred* Report.

I'd like to illustrate these points, examining them against the template of international best practice. Research commissioned by the World Health Organisation (WHO), from wide ranging international evidence, has distilled six policies that show measurable impact in decreasing alcohol-related harm. They also comprise the basic elements of a comprehensive approach for countries round the world to implement. This WHO work has been published in two separate volumes, in 1995[2] and 2003[3], which have become the guiding texts for all those concerned about good public policy. The six WHO endorsed policies are:

- Regulating the physical availability of alcohol - such as having a minimum age, restrictions on hours and days of sale, outlet density restrictions;
- Dealing with taxation and pricing - price is the single most important determinant of *per capita* consumption;
- Drinking and driving counter measures;
- Treatment and early intervention - brief interventions for hazardous drinkers;
- Education and persuasion - community mobilisation around abuse; and
- Altering the drinking context - serving practices, training, enforcement.

I would venture to suggest that the Emergency Intervention has not addressed any of these. I will discuss the first at some length, and the others briefly.

Physical availability of alcohol

While the Intervention has tinkered with this issue, which is one of the most effective policies, somehow, it seems to have missed the point.

The government has made all Aboriginal land, living areas and town camps into what are now called 'prescribed areas', and declared alcohol bans in all of them. It has imposed greater penalties for possession and supply in these areas, and introduced a process of quizzing those who buy large amounts. A fair amount of grandstanding accompanied Minister Mal Brough's announcement of the bans on alcohol on Aboriginal land, as if to suggest that all were thoroughly soaked in grog, or that they allowed easy access to alcohol. This is a little strange considering that most Aboriginal land in the Territory was already dry. There were already 107 general restricted areas, all on Aboriginal land, and all in non urban areas (except for one town camp in Alice Springs). Only 15 of these 107 allow for liquor in any shape or form. Some of the 15 have permits allowing consumption at home, or for sale away from the premises; some have clubs or canteens with on-premises sales only, while others have both on- and off-premises sales. Of the 'new' bans imposed by the Minister, the only genuinely new regulation is that which imposes an alcohol free status on the 'town camps' (living areas within town boundaries such as Alice Springs and Tennant Creek); there has been resistance to this from the relevant representative bodies.

Communities with permit systems have managed individual access to alcohol through Permit Assessment Committees, which have wide representation within the community, including police, school and council. Their decisions are grounded in the

principle that access to alcohol is a privilege and not a right, so that access to alcohol comes with conditions attached. Committees have the power (which is frequently enacted), to recommend to the NT Licensing Commission that a person's permit be cancelled immediately if he/she causes drinking trouble.[4] Arrangements such as these have come about after years of trial and error, consultation and experiment, and are an attempt to balance the rights of drinkers and non-drinkers alike. In a sense, they constitute a work-in-progress around the dilemma of trying to 'live with alcohol' in circumstances where people's consumption is often heavy and explosive.

Brough's original plan for prohibition across Aboriginal lands would have swept all these permits and licences away. After representations from his own department and the NT Government, he has had to refine the plan to allow for the eight existing licensed clubs and the permits to continue. The NT Licensing Commission has since reviewed all existing licences and permits on Aboriginal-owned land and recommended that they stay in place. The Minister apparently has still not formally decided whether to accept these recommendations, and the NT has had to go ahead anyway and renew all existing permits, as time was running out for their renewal. The Minister has the power to override all these renewals - but so far has chosen not to do so.

Changes have also had to be made to the original tough stance banning drinking on rivers in or adjoining Aboriginal land. After lobbying of the NT government by tourist bodies and the Amateur Fishermens Assocation, Brough responded to pressure from the NT Chief Minister and Licensing Minister and has subsequently exempted rivers (and the sea) being used for recreational fishing. This requires people who wish to drink, to take their unopened alcohol containers onto a boat in a river or the sea, while preventing them from drinking on dry land. It is an extraordinary exemption to make, in view of the existing 2001 National Health and Medical Research Council *Australian Alcohol Guidelines.* These explicitly state that alcohol should *not be consumed* before or during activities involving a degree of skill or risk, such as flying, water sports, using machinery and driving.[5]

The second major strand of the Federal alcohol measures is an attempt to curb bulk purchases that could end up being consumed in prescribed areas. Again, the plan has had to be fine tuned. Licensees were originally asked to see IDs and note the names and addresses of anyone making takeaway purchases of drinks *with a content of more than 1,350 millilitres of pure alcohol*. Despite the promise of a 'ready reckoner' to help harried supermarket and bottle shop proprietors to solve this complex equation, Woolworths made (what was referred to as) a 'plaintive submission' pleading for more guidance as to how to put this into practice and avoid the corporate fine of $37,000 for each offence. This highly unworkable plan had to be massaged and amendments were made in Parliament. The legislation was hurriedly changed so that when the posters and pamphlets appeared for the public, the wording about the restriction on takeaway purchases had been changed: before ID was necessary, the purchase had to be for $100 or more worth of alcohol, or more than 5 litres of cask or flagon wine,. The idea is to follow the 'trail' of grog runners, and police have been charged with the task of going through records at bottle shops to check on who has been buying large amounts of alcohol. I suspect this will be a burdensome and labour intensive process for the police. In Alice Springs there is already talk of $99 packs being available at liquor outlets in order to avoid the $100 cut-off.

But where in all this is the true regulation of the physical availability of alcohol that is articulated in the research evidence? Attention needs to be focused on alcohol supply

problems in the supermarkets, hotels and bottle shops in the towns. Alice Springs, for example, now has 85 licensed outlets (as at June 2006): hardly a 'dry town', despite some existing restrictions. Aboriginal groups have fought battles over restricting takeaways and opening hours for decades. They have objected to new licences and to the expansion of old ones. Most people, Aboriginal and non-Aboriginal, would support any Federal intervention to toughen up on takeaway or 'off-premises' sales, even if the hotel industry objects to them.

However, there are no new plans to close down the outlets associated with most alcohol-related harm in Territory towns, or to thin out the density of outlets; no plans to ban sales for, say, one day a week; to limit hours of opening for takeaway sales, or to rein in sales of cut-price casks of cheap moselle. While towns such as Alice Springs have implemented some restrictions of this kind, others have not. Using the ID system to document who buys what and where it is going could indeed help to curb bulk supplies - it could even provide some useful intelligence on which outlets are more problematic – but it does not actually stop people from buying more than $100 of alcohol and leaves liquor outlets free to continue their sales. As mentioned, the hard research evidence on how to cut down on alcohol-related harms universally supports strategies such as restricting hours and days of sale, off-premises sales, and regulating the types of alcohol and containers sold.

Other measures endorsed by the WHO as good public policy

Pricing and taxation: Among the other five international evidence-based alcohol policies, the WHO has shown that pricing and taxation have a gold star for effectiveness. On this the Federal Government continues to equivocate. The idea is that taxes should be levied according to the actual alcohol content of drinks: the stronger they are, the higher the tax. There has been some Australian reform in alcohol taxation, but wine taxes are still not based on alcohol content so that cask wine (known to be associated with measurable harms) is cheaper than low strength beer. The latest figures on alcohol-related deaths among Indigenous men and women now include alcoholic liver cirrhosis as a major cause - and as the leading Australian alcohol expert Robin Room has observed, although cirrhosis was once a disease of the relatively well off, it is now within reach of the poor because of the low cost of alcoholic beverages relative to spending power.[6] The AMA, the Royal Australasian College of Physicians, alcohol policy experts and Indigenous organisations have all called for alcohol taxation reform. The wine industry, naturally enough, resists it. Like previous Federal governments, the Howard government has collected around $6 billion a year in alcohol revenue. Yet a national Foundation on Alcohol Education and Rehabilitation (AER), originally established with $115 million from excess alcohol revenue from the GST, is running out of money. The AER Foundation has asked the government for $20 million a year to keep funding its dozens of projects, many of them community instigated. So far, they have had no response.

Drinking and driving countermeasures are another evaluated policy endorsed by the WHO. These are already in place in Australia, where we have spearheaded policies such as random breath testing.

The other best practice recommendations deal with *treatment, education, and improving the drinking context*. In terms of the drinking context, the Emergency Intervention has devoted no attention to serving practices, grog promotions, happy hours, or cut price sales in the Northern Territory.

The Intervention unfortunately does not bring with it more funds or extra personnel for treatment (either short term detoxification or longer term rehabilitation) or for brief alcohol interventions in primary health care. One way of disseminating the widespread use of primary care-based alcohol interventions for example, would be to train all Territory GPs and medical personnel serving communities, in brief alcohol interventions.[7] The federally-funded Divisions of General Practice are in a position to undertake this process.

There is further evidence that the Federal alcohol regulations were somewhat hurried, in that they both cut across and complicate existing and planned Northern Territory alcohol strategies. The Territory, for example, already has some of the most progressive and innovative liquor control initiatives in Australia, and its new Act, now being drafted, promises more. The present Liquor Act has extremely flexible provisions for restricted areas allowing for local community inputs and amendments - inputs that now frequently take a much tougher stance on alcohol-related antisocial behaviour than has been the case in previous years.

One example of added confusion is the Federally-imposed ID system for takeaway purchases of more than $100 dollars worth of alcohol. The Territory had *already instigated* an electronic ID system to record a buyer's alcohol purchases of any amount of alcohol, and whether that person had any existing court orders. To my knowledge, these are in place in Katherine, Groote Eylandt and Nhulunbuy so far, and have widespread support. These Territory ID systems were to prevent sales to those who had abused their right to drink. How the two different ID systems are going to dovetail it is impossible to say.

In terms of the so called 'dry towns' and the bans on public drinking, the NT already had the '2 Km Law' banning public drinking within 2 kms of a liquor outlet. This however only enabled police to tip out alcohol and move people on, or place them in protective custody (ie, to a Sobering up Shelter) if intoxicated. A new law banning drinking in public places in Alice Springs from 1 August 2007 replaces the 2 Km Law and puts penalties in place. It means on the spot fines and greater penalties for repeat offenders. The NT also has plans for an alcohol court with special powers that will deal with repeat offenders.

Unlike the Federal Emergency Intervention plans, the alcohol recommendations of the *Little Children are Sacred* report (that supposedly prompted the Intervention) are designed to work with and enhance the NT's existing legislative structure rather than cut across it. The Wilde and Anderson report makes a series of suggestions that would broaden and add powers to the new NT Liquor Act, in particular stressing the need for social and child impact statements when new liquor licences are under consideration.[8] Their recommendations begin, commendably, by urging a continued focus on *reducing overall consumption* levels and intoxication, rather than just targeting risky and visible drinking. By not confronting the real issue of availability, that is the hours and days of sale, or pricing, the Federal Intervention ignores this focus.

The Intervention has also failed to take account of some existing Indigenous initiatives and well-established positions. As already mentioned, it only just averted sweeping away the long debated community initiatives such as the Permit Assessment Committees. Canteens are another case in point.

The NT Liquor Commission has informed me that they are *not* receiving any requests from Aboriginal people for more clubs or 'wet canteens' to be established on their land. At present there are eight establishments in NT communities licensed for on-premises

drinking, only two more than was the case nineteen years ago. There is a usually strong and vociferous resistance to the idea of licensed clubs in Aboriginal communities, especially from Aboriginal women, and at times there have been angry demonstrations about those already in existence. In November 1988, at breaking point from drunken violence, one hundred mostly female non-drinkers physically destroyed the licensed club at Wadeye (then called Port Keats). In 1989 women members of the Bathurst Island Mother's Club demanded the licensed club there be closed, following several violent altercations.

Despite these incidents, and the well-known objections to community canteens in Central Australia, when he was visiting Santa Teresa in early July 2007, Minister Brough responded *positively* to a suggestion (from one Aboriginal man) for a club there, and implied that more canteens might be allowed. It is perhaps not surprising that Brough responded in this way, for licensed canteens or clubs are frequently raised (usually by a new police sergeant or inexperienced community employee) as the magic bullet that will solve sly grogging, motor vehicle accidents and binge drinking. The available evidence does not support these idealistic goals, but instead suggests that community liquor outlets lead to an entrenched heavy drinking culture, and more alcohol-related violence.[9] This is despite the existence of a guide to running safer drinking clubs, which was produced by the Territory's *Living with Alcohol* Program in 1996.[10]

As well as these disadvantages to licensed community clubs, the income generated by sales presents Aboriginal councils with a moral hazard: good sales mean greater profits but generate more alcohol-related harm for which others largely bear the social and monetary costs. Licensed clubs in relatively remote communities tend to be 'out of sight, out of mind' and receive less regulatory attention from licensing inspectors than do licensed outlets in town areas.

Conclusion

On the positive side, sections of the Aboriginal community seem to have welcomed the new Federal attention to alcohol restrictions and tougher penalties for breaches and possession. Aboriginal communities have, on the whole, taken up major and minor forms of prohibition on their land, confounding those concerned outsiders (and some urban Aboriginal groups) who still have problems with the notion of 'prohibition'. A not insignificant number of Aboriginal households (in Alice Springs and Tennant Creek towns) have even formally declared their houses and yards alcohol free.[11] But the difference here is that prohibitions such as dry areas have been workable only where there has been strong community support for them. Any form of *imposed* prohibition (such as declaring the town camps dry against majority opinion) could well become - as it was in the past - a rights issue and a racial issue.

Unhappily, a further Federal policy decision will have unwanted and apparently unforeseen outcomes affecting the management of alcohol-related troubles. The abolition of the Community Development Economic Program (CDEP) across the country will eat into the management of alcohol-related problems in the NT and elsewhere. Already, sobering up shelters - humane alternatives to the police cells for the publicly intoxicated - are being forced to seek funding from elsewhere for their workers who were partly on CDEP wages. Night patrols, whose members work in concert with the sobering up shelters in numerous locations, are also under threat.

The Federal Coalition Government has, I believe, failed to use its powers to implement the kind of broad-scale alcohol reforms that are within its reach. These include applying a consistent taxation and pricing policy related to the strength of alcohol. It could amend the ruling that abolished the ability of the States and Territories to use alcohol licensing fees to raise revenue. Between 1992 and 1997 the Territory used millions of dollars of revenue from a small levy on alcohol to fund outreach workers, community interventions and treatment programs. It benefited everyone in the NT, not just Aboriginal people, and saved the Territory an estimated $123 million in public health and safety benefits.[12]

The Federal Government could also stop capitulating to liquor industry lobbying, by abolishing self regulation in alcohol advertising, and imposing an independent advertising watchdog, together with a mandatory code of conduct. These are policy areas where a national government can really make a difference.

Maggie Brady *holds an ARC QEII Fellowship at the Centre for Aboriginal Economic Policy Research at the Australian National University. She has published for both academic and community-based audiences, most recently:* Indigenous Australia and Alcohol Policy: Meeting Difference with Indifference *(UNSW Press 2004), and a revised second edition of* The Grog Book. Strengthening Indigenous Community Action on Alcohol *(Department of Health and Ageing 2005).*

This is an edited version of a paper presented at a College of the Arts and Social Sciences (ANU) Forum on 9 October 2007]

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1 National Drug Research Institute (2007). 'Trends in alcohol-attributable deaths among Indigenous Australians, 1998-2004'. *National Alcohol Indicators Bulletin* 11, January.

2 Edwards, G, Anderson, TF, Babor T (and 14 other authors) (1995). *Alcohol Policy and the Public Good.* WHO Europe, Oxford, Oxford University Press.

3 Babor, T, Caetano, R, Casswell, S (and 12 other authors) (2003). *Alcohol: No Ordinary Commodity. Research and Public Policy.* Oxford, Oxford University Press.

4 Brady, M (2005). *The Grog Book. Strengthening Indigenous Community Action on Alcohol.* Canberra, Department of Health and Ageing: 148.

5 NHMRC (2001). *Australian Alcohol Guidelines. Health Risks and Benefits*. Canberra, Commonwealth of Australia: 7. New alcohol guidelines have just been announced (October 2007) and are about to be distributed.

6 Room, R (2005). 'Stigma, social inequality and alcohol and drug use', *Drug and Alcohol Review*, 24, March: 151; Brady, M (2007). 'Out from the shadow of prohibition', in J Altman and M Hinkson (eds) *Coercive Reconciliation. Stabilise, Normalise, Exit Aboriginal Australia.* Melbourne, Arena Publications Association: 185-194.

7 Brady, M (2004). *Indigenous Australia and Alcohol Policy. Meeting Difference with Indifference.* Sydney, University of New South Wales Press: 104-128.

[8] Wilde, R and Anderson, P (2007). *Ampe Akelyernemane Meke Mekarle 'Little Children are Sacred'. Report of the Northern Territory Board of Inquiry into the Protection of Aboriginal Children from Sexual Abuse,* Darwin: 28-29.

[9] d'Abbs, PHN (1998). 'Out of sight, out of mind? Licensed clubs in remote Aboriginal communities', *Australian and New Zealand Journal of Public Health*, 22, 8: 679-684; Gladman, D *et al* (1997). *Study of Injury in Five Cape York Communities.* Canberra, AIHW Injury Surveillance Unit, Catalogue INJ12.

[10] Hunter, W and Clarence, C (1996). *Ideas for Sports and Social Clubs. Creating Safer Drinking Environments.* Darwin, Territory Health Services.

[11] See Brady (2005): 144.

[12] National Drug Research Institute and Lewin-Fordham Group (1999). *The public health, safety and economic benefits of the Northern Territory's Living with Alcohol program 1992/3 to 1995/6*. Perth, National Drug Research Institute, Curtin University of Technology.

Coercive Reconciliation. Stabilise, Normalise, Exit Aboriginal Australia

Edited by Jon Altman and Melinda Hinkson.

This book was commissioned by Arena Publications in the weeks immediately after the Federal Government declared a 'national emergency' in relation to the abuse of children in Indigenous communities (21 June) in the Northern Territory, and began an 'Emergency Intervention'.

The book was launched in Melbourne and Canberra in early October. At the Canberra launch the editors and two Indigenous contributors spoke about their reactions to the Intervention, and their comments are published below. The book is then reviewed by Bill Jonas, former Aboriginal and Torres Strait Islander Social Justice Commissioner at the Human Rights and Equal Opportunity Commission (1999-2004).

Melinda Hinkson, Australian National University

I want to say something about the motivation behind this book.

The day before PM John Howard and Minister for Indigenous Affairs Mal Brough declared their 'national emergency', Jon Altman and I drove into Darwin after two weeks of research in the Maningrida region of Arnhem Land. We had a particularly rich experience in Maningrida, where Jon has worked for nearly three decades. Beyond the usual dynamic activity that occurs in this town, football finals were underway and an initiation ceremony was in the process of being completed. But like many other remote communities in the Northern Territory (NT), not all was well in Maningrida. Residents were reeling from a particularly shocking series of events involving allegations of child sexual abuse. A number of young men faced charges that were before the courts. A community response was in the process of being developed, very visibly, by a group of senior men and women. The glare of the night patrol vehicle's headlights swept across

the township in the early hours of each morning … Maningrida struck us as a place that was working hard to respond to its problems.

On the back of this experience John Howard's announcement of a national emergency caught us by surprise.

There seemed to be a double paradox in the government's announcement that urgent action would be taken. First, for many years Aboriginal people have been appealing to governments to help turn around the escalating social crisis experienced in many communities. The symptoms of this crisis are familiar to us - substance abuse, poor health conditions, dilapidated and overcrowded housing, domestic violence, high levels of unemployment, social malaise. It is a crisis that many observe has been compounded during the Howard government's 11 years in office. But rather than respond to Aboriginal people's calls for help, the government chose to take action unilaterally, without consultation, in a campaign led by military personnel. It was a response that denied the hard work that Aboriginal people themselves were undertaking.

The second aspect of the paradox is perhaps a little less obvious. The communities in question are organised around broad extended family networks. In these places, children grow up being cared for intensively by siblings, cousins, grandmothers, aunts and uncles as they move frequently between households and indeed townships, in and out of the care of various relatives in a way that can be bewildering to observers from nuclear family backgrounds. The government's application of punitive measures to *all* Aboriginal people - including controlling the way people spend their welfare payments to ensure children are looked after - ignores the fact that for most Aboriginal people in this region *care of family* is the defining principle of their lives. Rather than acknowledge this set of values as the norm and see the crisis gripping such places in terms of a disruption to that norm, the government's 'emergency' typecasts all remote living Aboriginal people as irresponsible and incapable of looking after their children.

Painting a picture of dysfunction and pathology as the norm in remote Aboriginal Australia is a strategically important move for the government - it not only legitimises the actions of the emergency intervention, but also the government's wider aims in Indigenous affairs. It was clear very soon after the emergency was announced that this intervention was about much more than child sexual abuse. Three months on, not one arrest has been made, not one referral for investigation across the 73 prescribed communities. Clearly something else is going on here.

While the emergency response was hastily conceived, and needed broad ranging and complex legislation to back it up, the government's intentions were stated at the outset: in the words of the Minister this was an intervention to 'stabilise, normalise and exit' remote NT communities. We have taken these terms as the subtitle for our book, because we feel that they indicate a radical shift in Indigenous affairs. Any doubt that this was the case was dispelled in statements made by John Howard at the end of August, when he told residents of Hermannsburg that 'whilst respecting the special place of indigenous people in the history and life of this country, their future can only be as part of the mainstream of the Australian community' (*The Australian* 29 August).

If the circumstances of remote communities are viewed as pathological or dysfunctional, then the PM's singular vision of Aborigines entering the mainstream appears perfectly reasonable. If Aboriginal people's cultural difference is to blame for the circumstances they find themselves in - and we have heard much in the mainstream media to suggest this is the case - then ending support for culturally

different practices and values is clearly necessary. Mal Brough tells us that a large part of the problem is that Aboriginal people have been 'locked into communal land ownership'. He has directed the courts not to take customary law or cultural practices into account in sentencing procedures. The quarantining of welfare payments will control not only how people spend their money but also *where* they spend it - posing a challenge to that high mobility I described earlier that characterises daily life as people move continually to attend to kin, country and custom.

In this sense, the NT intervention is aimed at nothing short of the production of a newly oriented 'normalised' Aboriginal population - one whose concerns with custom, kin and land will give way to the individualistic aspirations of private home ownership, career, self-improvement. This is what 'normalisation' means. In this perspective bringing to an end wider Australia's recognition of customary law and communal land ownership, support for outstations and programs such as bilingual education is simply part of a process of helping Aboriginal people along the road to 'normalisation'.

There are many things that are overlooked in this vision - not least the diverse aspirations of Aboriginal people themselves. Some of you will have seen reported in *The Australian* newspaper (8 October) a page of extracts from interviews with Warlpiri people at Yuendumu — all made it clear that any vision for the future must retain the foundations of their cultural identity at its core. As Valerie Napaljarri Martin put it: 'without our cultural side; the country, the ceremony, the sacred sites that we are connected to, the land - absolutely we are nothing. Our dignity is going to be taken away and our rights. We are nothing then.' The government's vision also ignores the fact that Aboriginal people in the NT have been responding to the circumstances of post-colonial life for decades. It has been a slow and at times painful process, and by no means always successful. Yet history suggests that cultural redevelopment will only ever be successful where the people in question are centrally involved in determining the manner and pace of change.

Over the past thirty years the transformations in remote communities have been profound. Much dynamic activity has occurred around the development of community-based enterprise - in the arts, media production, youth programs, tourism, natural resource management, some of which is described in our book. A number of these programs have grown as a direct response to problems of substance abuse and disaffected youth. Rather than locking people into some form of separatist way of life, as some commentators suggest, these enterprises have opened up the interface between Aboriginal communities, the wider Australian society and, increasingly, a global arena. It is in such activity that people develop a new sense of self-worth and begin to imagine positive futures for themselves and their families. This is cultural redevelopment at work. It is how hope is fostered. Many have observed that the implementation of the Federal Government's vision will ensure the demolition of some highly innovative enterprise, and bring to an end the only employment prospects for several thousand Aboriginal people. It will also kill hope.

Is there anything positive to be found in the intervention? Yes, we think so. The circumstances of Aboriginal people living in the NT have become visible in the mainstream media in a way that is unprecedented. This provides a unique opportunity to regenerate debate and bring fresh thinking to bear on Indigenous policy. The destruction promised by the current course of action also raises the question of what kind of Australia we want to bestow on future generations. Will it be one where 'normalised' individuals pursue the questionable 'equality' of neo-liberalism - the only

choice as this Government sees it - or one in which Aboriginal people are given the space and support to pursue their diverse aspirations and to sustain the fundamentally different values that anchor who they are?

***Larissa Behrendt**, FASSA*, University of Technology Sydney

It was the 'national emergency' that was sitting neglected for over thirty years. In the wake of decades of reports, each with in-depth analysis of the issues and complex blueprints on how to address the immediate and the underlying issues, the Federal Government announced that it was finally going to prioritise the endemic violence in some Aboriginal communities. It said it relied on the recently commissioned report by Pat Anderson and Rex Wilde.

For a Federal Government that has been much quicker to blame the Northern Territory government for their neglect of law and order issues or to blame Aboriginal culture, the change in priorities was a profound turn around. So profound, indeed, that initial reactions from many Aboriginal people were cautious support of the intention to finally do something, along with healthy cynicism about the timing, and the proposed means of dealing with the issue.

When originally announced, the Federal Government intervention, unveiled by Aboriginal Affairs Minister Mal Brough on 21 June 2007, included the following measures: widespread alcohol restrictions, quarantining welfare payments and linking them to school attendance, compulsory health checks to identify health problems and signs of abuse, forced acquisition of townships through compulsory leases with just compensation, increased policing, introduction of market based rents and normal tenancy arrangements, banning of pornography and auditing publicly funded computers, scrapping the permit system, and appointing managers to all prescribed communities.

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

As the details of the intervention plan emerged, one of the first things that became apparent was that the intervention strategy had no reference to the Anderson-Wilde report on which it purported to rely, following *none* of its recommendations. The Anderson-Wilde report noted - specifically - that a crucial part of the response to child sexual abuse was to work in conjunction with the community, especially on measures such as establishing dry areas and dealing with substance abuse. In approaching these matters, experience and research indicated that success could only be assured with the full and integral involvement of the communities.

Heavy-handed, top-down interventions such as enforced prohibition have never proven effective, whether in the black or the white community. The research clearly shows that the most effective way to develop policies and implement programs in Indigenous communities is to ensure those communities are fully involved in them. It's not just a matter of good manners; it is a matter of effective practice and policy. The paternalistic imposition of half-baked policy is a recipe for failure.

Beyond the practicalities of purely interventionist approaches are some larger questions about the strategies employed in the Federal government intervention. *Why*

are issues related to Indigenous control of their land being tied to the issue of child sexual abuse? Why too, has the permit system been changed? Even the Northern Territory Police Association stated that the repeal of the permit system would actually make it harder to monitor the movements of people into Aboriginal communities and therefore make it harder to stop drugs, alcohol and paedophiles from entering vulnerable Aboriginal communities. This change seems to be much more focused on opening up Aboriginal land to non-Aboriginal interests, a philosophical approach that accords with Howard government policy in relation to Aboriginal communal land holdings generally. And what on earth has legislation to compulsorily acquire Aboriginal land to do with child abuse?

The other crucial issue raised in the Anderson-Wilde report and overlooked completely by the Federal Government response was the failure for any of the measures to deal with underlying issues, specifically the under-funding of basic Indigenous health services and housing needs. In the lead up to the last election, Access Economics estimated that basic Indigenous health needs were under-funded by $450 million. Aboriginal housing needs in the Northern Territory were estimated to be under-funded by approximately $2 billion. Yet nothing in the intervention package seeks to address these underlying issues of disadvantage. This is a profound flaw in the intervention package because it means that the whole approach is predicated on dealing with the symptoms, rather than the causes, of dysfunctional Aboriginal communities. Research and reports on the high instance of violence and abuse in some Aboriginal communities consistently point to the fact that cyclical poverty, including poor health and poor environmental health, contribute to the breakdown of the social fabric in communities and when that happens communities become dysfunctional.

Another issue raised by the Anderson-Wilde report, but overlooked by the raft of changes proposed in the intervention, was that the report found that a large number of perpetrators of abuse of Aboriginal children were non-Aboriginal. Nothing in the intervention has attempted to deal with these non-Aboriginal perpetrators; instead it assumed that the problem was primarily one within Aboriginal communities.

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

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

Community leaders and representatives, particularly the Coalition of Aboriginal Organisations, worked tirelessly on developing an alternative policy response and lobbying parliamentarians to amend the harshest aspects of the legislation, but it was passed without amendment and with only one day allocated to a Senate hearing to

enable public submissions. With little time to analyse the 500-plus pages of legislation, Indigenous people from the Northern Territory – and their supporters around the country – raised more concerns when it became apparent that the legislation specifically sought to take away the protection of the Racial Discrimination Act and to subvert the rule of law by trying to prescribe that the actions in the Northern Territory were 'special measures' for the purposes of the Act.

Only the Greens and Democrats, with some Labor parliamentarians from the Northern Territory, gave adequate scrutiny to the Bill. But because the ALP had quickly given its 'in principle' assent to the intervention when it was first announced, to what extent it could subsequently raise objections was very limited. As an Opposition party, they did not question *any* of the aspects of the plan; one that is patently flawed to anyone who knows anything about Indigenous affairs. Their quick agreement with Howard, without consideration of the details, highlights how little they know about the Aboriginal affairs portfolio and how little change we might expect if we find ourselves living under a Rudd government as opposed to a Howard one.

Some observers commented, with justification, that the legislation contained plenty that should have provoked the ALP, especially the proposed changes to the permit system, the changes to the Northern Territory Land Rights Act and the attempt to subvert and override the Racial Discrimination Act. But Kevin Rudd and his fellow parliamentarians didn't blink, not being drawn into making an Indigenous issue a wedge. Some may admire his political astuteness in outsmarting Howard's usual pre-election tactics, but the Aboriginal people in the Northern Territory are paying a high price for this politicking.

***Jon Altman**, FASSA*, Australian National University

When I was informed on 21 June 2007 about the Northern Territory National Emergency Response Intervention, I knew immediately that it was wrong-headed and destined to fail: it was hastily conceived, poorly planned, lacked any evidence base, was imposed from the top down and was race based. As someone who had undertaken research on Indigenous policy for 30 years, I had a scholar's evidence base that it was inappropriate on historical, theoretical and national and international comparative grounds.

As a social sciences academic, what does one do? There are only two options: to speak out, and to write. Arena Publications in Melbourne threw Melinda Hinkson and me a challenge - inviting us to edit a volume on the intervention - and we grabbed it. Initially, we thought that getting contributors to respond in a timely manner would be difficult, as we were determined to get something out for the election campaign. But we were pleasantly surprised to be flooded by a willing deluge of contributors, black and white, many with enormous experience in the Indigenous community sector. We gave writers no specific instructions except a broad topic, word length and strict deadline.

There are 30 essays in this volume, comprising an impressive critique of the unacceptable approach to dealing with the most intractable social policy issues facing us all as a nation: Indigenous reconciliation and Indigenous disadvantage.

No-one questions the need to do something; our book just asks, and seeks to explain, how after over 11 years in power the Howard government could get it all so wrong. Implicit racism, resulting in relative neglect, and intergovernmental bickering has been largely responsible for the current mess; but blatant racism and more

intergovernmental bickering between the Commonwealth and Northern Territory governments will not provide the pathway out of it.

As the 'phoney' election campaign (to 14 October) unfolded, we have seen changes in the stated reasons for the intervention, from the protection of children, to recognising and addressing the underlying causes of community dysfunction - so clearly outlined by the Royal Commission into Aboriginal Deaths in Custody some 16 years ago - to a view articulated by the Prime Minister in Hermannsburg that Indigenous people will only have a future as a part of the mainstream. All these changes indicate lazy, *ad hoc* and ideologically-driven policy making.

If the issues of reconciliation and Indigenous marginalisation are to progress, the state will need to invest in Indigenous Australians on an equitable needs basis, with citizenship entitlements recognised as an immutable base. If Indigenous needs and aspirations are different from those of the mainstream, then the state will need to invest differently. The nature of this investment will need to be negotiated on a community-by-community, region-by-region basis, recognising Indigenous heterogeneity and difference as positives, not to be demeaned; and acknowledging the many successes where they occur, often in the most difficult of circumstances, as something to be celebrated.

It is not going to be easy to implement such an approach after the Northern Territory Emergency Response fiasco has failed, but it is essential that we do something that will prove effective. At least we – the Australian community as a whole - now have greater awareness of the depth of the problems, owing to more media coverage. The nation clearly has the financial capacity to make the requisite investments; and there will be greater public scrutiny, one hopes, to hold a government of whatever persuasion accountable for its performance.

Nicole Watson, University of Technology Sydney

On 26 June, one of our most eloquent and insightful leaders, Pat Turner, declared that the Howard Government was using the issue of child sexual abuse as 'the Trojan horse' to resume control of Aboriginal lands in the Northern Territory. The similarities between the emergency intervention and the legend of the Trojan horse are indeed stark. Like the Trojans and their adversaries, the Greeks, the Howard Government has been engaged in a protracted battle against Aboriginal people. Aboriginal land is central to this conflict, because of its mineral wealth, but also because land is the life-force of our identity. In essence, Aboriginal people cannot be assimilated unless our relationships with our lands are assimilated as well.

This conflict has been fought simultaneously on two battlegrounds; the *Native Title Act* and the *Aboriginal Land Rights (Northern Territory) Act*.

One of the most enduring catch cries of the 1996 election was the pledge of the former deputy Prime Minister, Tim Fisher, to deliver 'bucket loads of extinguishment'. His promise was realised with the *Native Title Amendment Act 1998 (Cth).* Not content with mass extinguishment, the Commonwealth subsequently adopted a litigious approach to native title claims when it was politically expedient to do so. Who could forget the false claims made by Phillip Ruddock in the wake of the *Single Noongar Claim* in 2006? The day after the Federal Court recognised the Noongar community's meagre native title, the Attorney-General argued that the decision would result in the

loss of public access to beaches and parklands; an assertion that was without legal foundation.

One of the defining characteristics of this conflict has been the lack of respect for the fallen warriors of the land rights struggle. This effrontery came to the fore when the *Aboriginal Land Rights (Northern Territory) Amendment Bill 2006 was* passed into law on 17 August 2006. The Bill represented the most dramatic reform of the legislation since its enactment. However, the Community Affairs Committee that was responsible for scrutinising the Bill had such a tight reporting frame that it could hold only one public hearing in the entire Northern Territory.

A week after the Bill was rushed through the Parliament the descendents of Gurindji strikers celebrated the fortieth anniversary of their strike, the most prominent legacy of which was the *Aboriginal Land Rights (Northern Territory) Act 1976* (Cth). Adding insult to injury, Minister Brough declined an invitation to attend the celebrations. In a tragic irony, the national emergency intervention legislation was also passed within days of the most recent anniversary of the Gurindji people's strike.

In spite of the Commonwealth's omnipotence, I am optimistic that Aboriginal people will not share the fate of the Trojans. I concede that the Commonwealth will in all likelihood succeed in seizing legal control of our lands, not because of any fault on the part of Aboriginal people, but because our legal system offers such a poor arsenal with which to protect human rights.

However, when it comes to the battle over assimilation, Aboriginal people are the clear victors. In the past two centuries, we have had every weapon imaginable fired at us in an attempt to force us to assimilate. Our lands have been stolen from us, our loved ones brutalised and institutionalised and our culture demonised. Yet in spite of everything, we have never conceded our identity. And we never will.

Most recently, this incredible resilience has seen the formation of the National Aboriginal Alliance; a new independent Aboriginal organisation that will provide the strong political voice that has been missing since the abolition of ATSIC. In September I had the privilege of attending the first meeting of this new body. For three days we were overwhelmed by a unity and determination reminiscent of the 1970s.

One of the things that I took away from that meeting was the power of language so adeptly used by our leaders. On the final day, one of our leaders said something that left an indelible impression on me. He said, 'We don't mind sharing this country with white people. We don't mind living under their government. But we do not want to become white people'. I cannot think of a message that is more crucial and yet more neglected in the current debate.

Review

Coercive Reconciliation: Stabilise, Normalise, Exit Aboriginal Australia.

Edited by Jon Altman and Melinda Hinkson. North Carlton, Arena Publications Association, 2007.

An outstanding feature of Jon Altman's career at the Australian National University's Centre for Aboriginal Economic Policy Research (CAEPR) has been his assembling of first-class researchers who work with him to deliver timely and relevant policy-oriented publications. This same skill is evident in *Coercive Reconciliation: Stabilise, Normalise, Exit Aboriginal Australia,* where, along with co-editor Melinda Hinkson, he has drawn together thirty contributors who write about the Commonwealth Government's response to *Little Children are Sacred*, the Northern Territory Government's report into

child sexual abuse. Eight of the writers have stated past or present positions with CAEPR; the remainder are a diverse mix who include lawyers, administrators, bureaucrats, health workers, anthropologists, social workers, government advisors, academics and social commentators. The manuscript for the book was produced within eight weeks of announcement of the Commonwealth's response (the intervention) and most of the contributions were ready before the Parliament hastily passed legislation allowing it to take place. This short production time is in itself an astonishing feat. The generally high quality and focus of the contributions also make for a remarkable book.

An introductory chapter by Melinda Hinkson sets the scene well, clearly articulating the way in which an emergency was declared and outlining the framework which legalised the intervention. Unprecedented laws enable the Commonwealth to override the Northern Territory government, and take direct control of communities, with powers to quarantine welfare payments, abolish the Work for the Dole scheme, compulsorily acquire town leases and abolish the permit system which allows Aboriginal people to control who comes onto their lands. Hinkson links the action to three interrelated themes which have characterised Howard Government policies:

- ongoing attacks on Indigenous cultures, institutions and structures and concomitant attempts to replace them with those of mainstream Australia;
- refusal to listen to or even acknowledge evidence which is contrary to the Government's position no matter how expert that evidence may be; and
- failure to recognise or admit that the precarious situation of many Aboriginal communities is the result of failed past Government policies.

These themes are interwoven and constantly recur through the four Parts which comprise the bulk of the book.

Part One is called ‘A National Emergency?’ and there is indeed a sense of query uniting the nine contributions. Why did it take so long for the Government to act on a situation that had been known about for years? Why did it decide to act just before an election campaign? Why is it necessary to take control of land in order to prevent child abuse? What happened to the reconciliation process and where is the trust that is necessary for building partnerships? How can the Government's approach work without consultation (let alone negotiation)? Will the Government's approach entrench dependency rather than reduce it? There are many other questions and the contributors try to answer them, placing the intervention in the broad historical and political context of Indigenous mistreatment over the last eleven years.

The *Little Children are Sacred* report and issues related to it are the subject of the six essays of Part Two. For both its content, and in the context of the intervention, the contribution of the report's co-author Rex Wilde is salient and very moving. Writing also on behalf of co-author Pat Anderson, Wilde reports how he and Anderson conducted their inquiry and outlines the thrust of their recommendations. The authors gained the trust of communities; they identified the causes of child sex abuse in historically derived dysfunctionality made worse by alcohol abuse. They recommended that long term remedial programs and funding be provided by the Commonwealth Government. They stressed that any attempted solutions must be carried out in consultation with communities, in genuine partnerships not based on government superimpositions from above and outside. Sadly – tragically - these recommendations were not followed and the authors of the report were not even consulted about the intervention.

In the name of protecting the children the Government plans to 'stabilise, normalise and exit' remote Aboriginal communities. Part Three confronts issues surrounding the ways in which the communities are to be 'stabilised and normalised' (and I confess I find it difficult to write that without feeling ill). One of the best of the solid, generally excellent ten contributions in this Part is Maggie Brady's 'Out from the Shadow of Prohibition'. Brady is one of the world's most respected researchers in the area of Indigenous communities and alcohol. Elsewhere she has also used her research, writing and community liaison skills to produce renowned and successful resource materials for communities confronting alcohol problems. Here, in just nine pages, she shows why she is so highly regarded internationally as well as at home, demonstrating deep knowledge and understanding grounded in years of research and community based fieldwork, to present a clear picture of alcohol abuse in the Northern Territory. She points out that most Aboriginal lands are, in fact, alcohol free and in some places where there are problems, significant results have been achieved by communities working within legislative frameworks which they have helped develop. She fears that valuable community initiatives will be swept aside by the failed, and failed again, jackboots approach of prohibition.

Alcohol abuse has long been known as a problem in some Aboriginal communities and its role in child sex abuse is correctly identified in the Northern Territory report. But it seems that the internationally applauded expertise of Brady is being ignored. This is a regrettable, but unfortunately typical, feature of this intervention. As other contributions in this section indicate, with evidence, reason and passion, the Government is taking the same approach with land rights (abolish them and take over), housing (force communities to adopt private rather than community title), and permits to enter Aboriginal land (abolish the permit system which enables Aboriginal owners to have control over who comes onto their lands). In total and in summary the Government is ignoring the advice of people who have the best, deepest and most profound knowledge of relevant issues and is adopting an interventionist approach to remove those institutions and structures which are inherently Indigenous, or which Indigenous people have fought hard and long to develop. 'Stabilise and normalise' clearly means turn those black people white.

One can only speculate as to what the 'exit' part of the Government's intervention may entail or when it may eventuate. In this book it is used as the peg on which to hang the final four contributions. Two of these in particular try to make some sense of the whole matter. Raymond Gaita's article, which began life as a lecture, points to the very real moral dilemmas which must be faced when trying to reconcile black and white, weak and powerful, past and present in the broadest sense but also when there is the immediate problem of keeping children safe. I believe that the Government strategy exacerbates the dilemma by shutting down debate (if you disagree with any part of our policy then you must be in favour of the sexual abuse of children). In the final chapter Jon Altman is highly critical of the intervention and of successive Howard Governments' Indigenous policies, and he is accurate in his analysis of neo-liberal frameworks and how these policies have been influenced by them. His formulation of a hybrid economy to enable Indigenous people and the rest of the economy to coexist in a mutually beneficial way seems a very positive way to move forward.

In the early years of the Howard Government it was common to hear Aboriginal people say 'We go to bed at night knowing that things are as bad as they can get and we wake up next morning to find that they have got worse'. The humour in this coping mechanism joke soon wore thin but the sentiment, like the reality, continued. In many

ways it is the eleven years of things getting worse which constitutes the body of this book. While the Federal Government's intervention in the Northern Territory is its specific subject, all of the essays contribute to our understanding of the multidimensional context in which the intervention takes place. The result is a finely balanced amalgam of history; international, Federal and Northern Territory politics; land rights; economics; health; administration; philosophy; and personality issues which astute minds have been grappling with since the first Howard Government was elected. This volume of essays enables us to see how, in so many ways, the intervention is both a part, and a continuation, of viciously racist policies which have been implemented since 1996.

Dr Bill Jonas *was Aboriginal and Torres Strait Islander Social Justice Commissioner at the Human Rights and Equal Opportunity Commission, 1999-2004.*

LIFETIME ACHIEVEMENT AWARD

JDB (Bruce) Miller has received the inaugural Lifetime Achievement Award from the Australian Political Studies Association for his contribution to the study of politics. Accompanied by his wife Judy, Bruce was guest of honour at a small dinner in Canberra on 24 October to celebrate. *Rod Rhodes*, Treasurer-Secretary of the APSA, expressed appreciation of his significant contribution to political science over a period of almost 50 years from the 1940s to the early 1990s.

Bruce had an early engagement with ABC radio in Sydney (later, Canberra) and continued radio broadcasting throughout his career. Primarily a specialist in international relations, he began his teaching life at the University of Sydney before moving to the London School of Economics in 1953. He became Professor of Politics and (later) Dean of Social Sciences at the University of Leicester, and was visiting professor at various universities, including Columbia, Yale and Princeton before returning to Australia in 1962 as founding Professor of International Relations at the Australian National University. He was Executive Director of the Academy of the Social Sciences in Australia from 1989 to 1991.

Bruce's impressively long list of publications was largely about the Commonwealth of Nations, but he also wrote influential books on Australian government and politics, the nature of politics and the place of states in the international system. Although no longer writing, he remains a fine storyteller with a remarkable memory and an active political critique.

Academy News

Research Program

Australian Bureau of Statistics (ABS) and ASSA Census Project

On 14 September, a workshop was held at the University of Melbourne, for this Academy – ABS census research project, attended by those authors who will be researching and writing essays based on 2006 Census data. Presentations were made on key research topics: Living Alone; Lives of Diversity; Different Lives; The New Social Productivity; Beyond Life Expectancy; Creative Australia; Immigration; and Housing.

The aim of the project is to write engaging stories in essay form about the current circumstances of people's lives and significant changes in key areas of contemporary Australian society.A second workshop to review final papers will be held in Melbourne on 6 June 2008. The aim is to produce material for publication by the end of 2008.

ARC Learned Academies Special Projects 2007

This important and timely research project led by Janet Chan and Leon Mann addresses 'Creativity and Innovation: Social Science Perspectives and Policy Implications'. A multi-disciplinary research team has been assembled comprising: Mark Dodgson (University of Queensland); Simon Ville (University of Wollongong); Andrew Christie (University of Melbourne); John Sweller (University of NSW); Jonathan West (Australian Innovation Research Centre, University of Tasmania); and Emeritus Professor Jane Marceau.

A second workshop for this project was conducted in Sydney on 12 October at which draft papers were presented. Much discussion ensued on definitions, concepts, common goals, common methodology, structure and audience for a proposed book on the subject. Key research questions being considered include:

1. How are creativity and innovation conceptualised and explained in the social sciences?
2. What is the link between creativity and innovation?
3. What are the factors that foster creativity and innovation?
4. What are the implications for policy?

Final draft papers will be considered at a workshop in April 2008 before editing as a published volume scheduled for 2009.

Commissioned research

A number of peer-reviewed policy papers have been published as part of the Academy's *Occasional Paper Series (Policy Papers).* The aim is to present research findings from specialist scholars and stimulate debate on areas of interest to researchers, government and the broader community. The last in this current series is entitled *Population and Australia's Future Labour Force* prepared by Peter McDonald and Glenn Withers. It will be published early in 2008.

International Program

Australia-France Social Sciences Collaborative Research Projects (SSP)

The French Embassy received six applications this year for support under this joint program between France and ASSA. The following projects were granted funding:

Development and testing of data collection techniques to investigate unsafe alcohol consumption among young people in France and Australia; Population Ageing and Social policy: Modelling Our Future; Indentured Labourers in the Pacific: race, classification and social outcomes in colonial and post-colonial contexts (Australia, New Caledonia, Fiji); Comparing the processing of French and English Prosody.

Australia-China Exchange Program

Dr Li Wen, Senior Research Fellow, Head of the Department of Political Studies, Institute of Asia-Pacific Studies, Chinese Academy of Social Sciences, visited Australia from 7-21 October. He was hosted by the Monash Asia Institute, Monash University. His area of research relates to Australia and East Asian regional cooperation and the building of the East Asian community.

Dr Mark King, Centre for Accident Research and Road Safety, School of Psychology and Counselling, Queensland University of Technology has been nominated for a visit to China in October 2008. The primary purpose of his visit is to establish cooperative research on road safety, focusing on the transfer of road safety knowledge and expertise.

Australia-India Exchange Program

Dr Trevor Hogan, Deputy Director, Thesis Eleven Centre for Critical Theory, Sociology and Anthropology Program, School of Social Sciences, La Trobe University will visit India in December 2008. The main purpose is to participate in a three day workshop to consolidate existing research projects and to develop emergent or new initiatives into collaborative ventures between social science researchers in India and Australia.

Workshop Program

The Workshop Program Committee met in Adelaide on Friday 12 October 2007. The Committee agreed to sponsor the following workshops, to be held in the financial year 2008-09:

'Religion and politics: Australian cases and responses'; Alison Mackinnon and James Jupp. To be held at Macquarie University, 2-3 July 2008.
'Positive pathways for couples and families'; Gery Karantzas and Pat Noller. To be held at Deakin University (Warun Ponds Campus, Geelong), 3-4 July 2008.
'The great risk shift? Institutionalisation of individualism'; Greg Marston and John Quiggin. To be held at the University of Queensland, 11-12 July 2008.
'War, commerce and ethics in British international political thought'; Ian Hall, Lisa Hill and Wilfrid Prest. To be held at the University of Adelaide, 22-23 July 2008.
'Sisters of Sisyphus? Human service professions and the new public management'; Gabrielle Meagher, Raewyn Connell and Barbara Fawcett. To be held at the University of Sydney, 1-2 October 2008.
'Climate change responses'; John Martin, Jim Walmsley, Maureen Rogers and Caroline Winter. To be held at La Trobe University (Bendigo), 22-23 November 2008.

Details of the issues these workshops will explore can be found on the Academy's website at: http://www.assa.edu.au/workshop.

Forthcoming Workshops:

'Australia and climate change diplomacy: Towards a post-Kyoto regime'; Shirley Scott and Rosemary Rayfuse (University of New South Wales) 22-23 November, 2007.

'Combating social exclusion through joined up policy: Addressing social inclusion through whole-of-government approaches'; Monsignor David Cappo and Bettina Cass (University of Adelaide), 29-30 November 2007.
'Theoretical, empirical and policy inputs to modelling healthy ageing'; Laurie Buys and Kaarin Anstey (Australian National University), 5-6 December 2007.
'2007 Federal Election' (part of the ASSA Federal Election Workshop Series); Marian Simms.To be held at the Australian National University, 19-20 January 2008.

Reports from workshops conducted under the Workshop Program, including policy recommendations, are published in *Dialogue*, usually in the first issue following the workshop.

Reports from Workshops

Cosmopolitanism. Its Pasts and Practices

Julia Horne, Glenda Sluga and Barbara Caine

The workshop on 'Cosmopolitanism. Its Pasts and Practices', held in August 2007, continued a multi-disciplinary conversation about the history of cosmopolitanism and the possibilities of a cosmopolitan historiography. This workshop had its genesis in discussions begun more than a year ago among historians at the University of Sydney in regard to a body of literature in philosophy and the social sciences on the concept of cosmopolitanism. In the short time between the initiation of those discussions and the workshop itself, there has been a relative explosion of interest in the history of cosmopolitanism, as well as engagement with a cosmopolitan historiography and what that might be. However, the workshop revealed a dearth of histories of cosmopolitanism in contrast with the literature in philosophy and the social sciences (particularly cultural studies, anthropology and sociology and Asian Studies).

The workshop was organised around a series of conversations between historians, philosophers and social scientists that focused on the claims of cosmopolitanism. The presence of scholars already working in the field of cosmopolitanism was extremely useful to thinking historically about the concept. In particular too, the engagement with other disciplines was vital to thinking about what a cosmopolitan historiography might entail. It allowed us to explore more comprehensively the epistemological correspondence between the current historical and social scientific interest in cosmopolitanism and the intellectual developments of the late twentieth century, particularly the post-structuralist destabilisation of the concept of identity, and the post-colonialist challenge to the nation as a dominant analytical and empirical framework for the social sciences. The discussion led to the view that it was important to distinguish between concepts such as multiculturalism, transnationalism, and cosmopolitanism if each of these concepts is to retain scholarly and political significance. The participants from a number of disciplines also shifted the conversation away from cosmopolitanism as the romanticisation of human relationships to a consideration of the operation of prejudice. The dominant view was that it was important to understand the historical specificity and complexity of the idea of cosmopolitanism. To this end, the workshop produced interesting explorations of cosmopolitan societies and subjectivities.

The workshop proceedings were organised around the delivery and discussion of seven papers. Prior to the workshop, a reader was compiled drawing from articles suggested by participants as influential in the conceptualisation of cosmopolitanism. The reader and the papers shared a focus on the interstices of subjectivity and space (or identity and territory) and their destabilisation.

Papers were divided between studies of vernacular cosmopolitan cultures, whether on the borders of eighteenth-century Europe or the modern Malay Peninsula; and of intellectual cultures – a theme with a strong European bias. Ian Coller (University of Melbourne) examined the ways in which, for the historian, the shift from exploring cosmopolitanism as political project or intellectual attitude, to analysing cosmopolitanism as social practice, opens up fertile terrain. Political scientists have often cited past societies as precedents for today's realities: the pre-1914 Ottoman Empire and eighteenth-century Europe are among those most frequently mentioned. But little work has been done on what cosmopolitanism means in a concrete historical sense. Recent social science studies have suggested that patriotism and cosmopolitanism are certainly not mutually exclusive formations, and that a wider range of cosmopolitanisms may exist: moderate, radical, patriotic, universal, political, cultural, moral, economic, legal, romantic, among others. But these typologies have remained largely registers of ideas rather than practices and historians have not yet begun to elaborate any equivalent analysis. In his paper, Coller borrowed a recently proposed opposition between 'thick' and 'thin' cosmopolitanism to suggest that a 'thick' consideration of historical cosmopolitan realities might investigate the particular relationship between the ideas, behaviours and forms of power which constitute their specificity, and thus help us to better understand cosmopolitanisms (and their limits) in both past and present. Utilising this framework he looked at the rigorous controls put in place to prevent French inhabitants of the trading communities in the Ottoman empire from 'losing' their European identity, which in practice meant actively dismantling the cosmopolitan cultural practices of a long-established Levantine 'Frankish' community. The paper, as a result, was able to suggest the consequences of this 'provincialising' of the Europeans of Constantinople, during a period in which 'Europe' was increasingly understood as a paradigm of cosmopolitanism.

Sunil Amrith (Birkbeck) took up the theme of vernacular cosmopolitanisms in South East Asia at the turn of the twentieth century. Rather than treating cosmopolitanism as an ethical and political ideal, he invoked the idea of 'vernacular', or 'local' cosmopolitanism as a way of describing a set of practices - embedded in linguistic exchanges, modes of public performance and worship, practices of consumption and forms of commensality - that allowed Asians to live with difference and maintain openness to Others. Governing and disciplining this unruly cosmopolitanism became a pressing concern of colonial states from the late-nineteenth century. Everywhere, this period saw a proliferation of what Benedict Anderson has called 'bound seriality': rigid categories of classification, inherently limited. This happened through the census, through the enactment of differential legal statuses on the grounds of race; most important, perhaps, it happened through the introduction of representative government, of a very limited sort, in the interwar years. The thrust of this racialised governmentality was to cut open Creole and hybrid communities, to enforce boundaries so as to make populations legible and governable. Nascent nationalist movements in Southeast Asia made this process their own. At the same time, practices of cosmopolitanism remained deeply inscribed in the patterns of everyday life in post-colonial Southeast Asia. Cosmopolitan narratives continued to enrich the

imagination of alternative pasts, and alternative futures, through the age of Bandung and beyond. Marilyn Lake (La Trobe University) explored the ways in which Chinese colonists in Victoria in the late nineteenth century invoked the ideal of 'cosmopolitanism' in disputes with Anglo-Saxonist immigration restrictionists. She argued that their engagement with international law in favour of the 'perfect liberty of locomotion' and the equality of nations, or races, suggests that cosmopolitanism as a theoretical standpoint in historical writing points to possibilities of new genealogies of human rights that marginalise, if not provincialise, Europe.

Barbara Caine (Monash) shifted the focus of the workshop from cosmopolitan spaces to subjectivities, in her case an examination of the self-representation of Joseph Appiah, Kwame Anthony Appiah's father, and a staple motif in Kwame Appiah's discussions of cosmopolitanism. Desley Deacon (ANU) took as her example of cosmopolitan subjectivity the actor Judith Anderson and her fellow theatrical personnel in JC Williamson's stock companies from 1897 to 1918. Her paper presented the view that Australians were 'cosmopolitans at home' in the early years of the twentieth century; that this was part of a world interest in cosmopolitanism at that time; and that Eric Kauffman's concept of 'double consciousness' better characterises Australians' relationship with other valued parts of the world outside their own nation.

The final presentation by Julia Horne (Sydney) and Glenda Sluga (Sydney) investigated specific subjectivities in relation to the crucial juxtaposition of ideas about world citizenship and state sovereignty that developed after the Second World War in the context of the creation of the UN, and a new agenda of human rights. The French jurist René Cassin and the Australian jurist Alice Tay were the two case studies. Each of these individual's lives intersected with the idea and ideals of cosmopolitanism. Each had public careers that were fashioned in relation to programs for human rights. And each was consumed by the conflicting interests of international community or world consciousness and state rights. As jurists they sought out those elements of law that would defend the rights of individuals over and above states, as members of a world community. But the geographical location, generational experience, and gender of each were obviously different. Juxtaposed, their 'world-views' suggest the complexity of cosmopolitanism as an historical concept.

All the papers highlighted the significance of cosmopolitanism as an historiography written against the nation, but also in negotiation of national forms of individual interpellation, and in the context of empire. Cathie Carmichael (UEA), for example, examined cosmopolitanism as an ideal at stake in the genocide trials of the early twentieth century across Europe, particularly in the imposition of cosmopolitan as a derogatory label. These cases, she argued, initiated a discourse in the press and public sphere about the ethnic and cultural composition of the nation, and were seen by contemporaries as a great moral contest between those who believed that a cosmopolitan society was superior to one which drove out some of its citizens on the grounds of race, religion or ethnicity, and those who created the conditions in which mass murder could occur.

Discussants – including Dipesh Chakrabarty, Ghassan Hage, Ned Curthoys, Sheila Fitzpatrick, David Garrioch, Ros Pesman, Sophie Loy-Wilson, Louise McLeod, Julia Kindt, Adrian Vickers, Duncan Ivison, Patricia Clavin and David Walker - took up the point about the specific ways in which the term cosmopolitan is used to make claims to rights, to a superior understanding of difference and otherness; or, alternatively, as a way of arguing about an inevitable disloyalty and incapacity to belong to any polity. When used as a positive term, the discussion ranged over the ways in which it could

be applied to some groups and not others: rarely to individual Jews in the 19th century, regardless of their international connections and experience; not to the Singapore-born Alice Tay in 20th century Australia – although it was applied to her husband Eugene Kamenka who had shared his 'cosmopolitan' interests and experiences with her. Attention was paid particularly to the challenge to the Eurocentrism of the term (and concept) after 1945 - evident for example with René Cassin, whose notion of cosmopolitanism increasingly contracted as he came into contact with persons from outside the European experience. Barbara Caine pointed out the claiming of the concept of cosmopolitanism in some sections of the movement for decolonisation, drawing on her example of Joseph Appiah.

Throughout the workshop, the group kept returning to the questions: how do we do cosmopolitan history, and how do we write the history of cosmopolitanism? The workshop was well able to address these questions because it included historians working on 18th, 19th and 20th century European, Asian, and Australian history, along with some of the philosophers and social scientists who have been most important in contemporary debates regarding the social and political significance of cosmopolitanism. This combining of general and theoretical approaches with the discussion of specific historical periods and case studies was particularly valuable – and we propose to use the notes taken at the discussion as the basis for ongoing work. Indeed, the workshop uncovered the current limitations on the history of cosmopolitanism. Especially noteworthy is the need to locate and do work on a non-European intellectual history of cosmopolitanism and the changing ways in which the term is not only understood but also evaluated as either pejorative or one of praise.

Our next step is to devise and develop a collection of essays, tentatively titled 'Cosmopolitanism Claims: A history from 1700 to the present' that will provide an analytical history of the term across the past three centuries as well as exploring the kinds of political, intellectual, and cultural claims that have been made using it. Some of the participants will be meeting again in late 2008 in a second workshop where the papers are developed in order to work collectively on the Introduction and to ensure coherence of the volume and to discuss individual chapters. The ABC History unit has also expressed an interest in producing a program on Cosmopolitanism and its history drawing on the proceedings of, and participants in the Workshop.

Ultimately, the workshop engaged the question put in a recent presidential address to the American Historical Association, when Linda Kerber has asked 'Is it possible still to imagine a citizenship of the world?' Its contribution was to place more concretely on the historical agenda the significance of claims to cosmopolitanism in the imagining of that citizenship, in the past as well as the present.

Police Professionalism in Australian Police Organisations

Jenny Fleming

In 2005, the Australasian Police Ministers' Council (APMC) endorsed the development of an Australasian Policing Strategy that was subsequently articulated in *Directions in Australasian Policing 2005-2008*. One of the central tenets of this document is 'Professionalism and Accountability', part of which involves enhancing the professional status of policing in the community and the promotion of professionalism within policing.

The issue of police professionalism, what it means and how police can attain it has long been on the Australian police agenda. In 1988, the APMC agreed that a national statement on professionalism should be developed. In 1990, Police Commissioners and representatives of the Attorney General's department developed a number of resolutions relating to full professional status for Australian police officers. Such a status would entail national educational standards, formal higher education qualifications, improved police practices, and the establishment of uniform anti-corruption strategies. In 1993, the National Police Education Standards Council was established. It comprised all Police Commissioners, a representative from the (now) Police Federation and the Australian Institute of Police Management. In 1998, the organisation was renamed the Australasian Police Education Standards Council (APESC).

Since that time APESC has established a number of core standards and national competencies, a national code of ethics has been published and tertiary education for police officers is now formally encouraged by police organisations. In 2005 however, the Police Commissioners' Conference agreed that despite considerable progress there were clearly identifiable deficiencies in existing professionalisation strategies. The APMC established a review to develop strategies to progress policing from an occupation to a profession and in varying degrees, individual Police Commissioners have articulated their support and encouragement for such a process.

In an address to the University of Melbourne in 2006, Christine Nixon (Chief Commissioner of Victorian Police) talked about the importance of training and education and 'career-long learning' in this process. Nixon pointed to new concepts of professional police careers and 'the development of new systems of occupational and collegiate regulation using mechanisms such as professional registration boards, professional institutes, and colleges of policing'. She spoke of research and development systems, 'that provide a built-in capability to critique, research, test and evaluate our activities and their outputs. We will open up the organisation to the wider research community to encourage the growth of this built-in capability '… Professional operational leaders', she said, 'not bureaucrats', will provide direction and leadership (http://www.criminology.unimelb.edu.au/barrylecture/barrylecture2002.html) (accessed 8 August 2006).

The issue of police professionalism has become a major preoccupation in Australian policing in recent years, not only with senior members of Australian police organisations but also with the Unions and Associations themselves. In particular, the Police Federation of Australia has consistently lobbied for national registration and the establishment of a professional body. The Police Professionalism workshop was conceived in this context; bringing together key stakeholders, senior police officers and academics to discuss the somewhat ambiguous and complex issue of professionalism as it applies to policing and the key issues that dominate the debates.

Key issues

Competing definitions

There are competing definitions of professionalism. Scholars have found it difficult to specify the criteria by which 'professionalism' is defined, particularly as it relates to policing. Most definitions encompass a core set of criteria outlining the characteristics of professionalism: the provision of a public service; enhanced service delivery; a code of ethics; the possession of special knowledge and/or expertise; education and training standards, autonomy and self-regulation. Other definitions in the police context encompass aspects of professionalism that will potentially counteract unacceptable police behaviours. Commentators are divided on whether police officers require the type of specialised knowledge normally associated with 'the professional'; others see a new model of professionalism as a potential alternative to the negative aspects of police culture (for example, the much cited, 'code of silence'). Many Australian police leaders, while emphasising the importance of education and training standards, also regard national registration, professional bodies and self-regulation as important components of the professional vision. There are those in policing who disagree with the notion of professional status for police. They ask, does policing have to subscribe to traditional conceptions of professionalism? To what extent will the professionalisation of policing address and enhance service delivery? How could policing effectively administer and regulate itself across eight police jurisdictions?

Police at ground level often have a different view of what professionalism means. For many it equates with more money, more prestige and better conditions, for others it means the emphatic demarcation of the police role. Others are not even aware of the debates. Few see it as changing the way they do business and even fewer link the notion of professionalism to better service delivery.

Policy and management consequences

At an organisational level, the 'doing of' professionalism would have implications for efficiency, technological expertise, performance measurement and standards of excellence in recruitment and training. Codes of conduct, recruitment issues and potential 'mobility' plans would have policy consequences at both the organisational and at the state/territory governance level.

Scholars argue that to change the way a police organisation does business requires cultural change on a number of levels. It is acknowledged that cultural knowledge in any organisation is largely a product of the structural conditions of work. A police professional model in itself would not change culture unless there were significant changes to the existing structural conditions within which police operate. Imposing change through external bodies or from 'the top' potentially creates a number of problems. Such changes do not always deliver the intended consequences and can be costly both in financial and administrative terms. Perhaps more significantly, how to administer and implement such changes across eight different police jurisdictions? How to get consensus about funding and regulation issues across eight different political entities? How to sell a 'professional' model to an increasingly sceptical public whose views have not been sought in this debate?

Regulation and accountability

One of the central issues on the agenda of 'police professionalisation' is registration and the establishment of a professional body. Registration provides a license to practice and supports the monopoly of practice that a procession has over its domain.

In her discussion of enhancing policing capability to the University of Melbourne, Nixon pointed to the importance of 'develop[ing] … new systems of occupational and collegiate regulation using mechanisms such as professional registration boards … that will provide [police officers] with full ownership and responsibility for their professional standards of conduct and compliance with them'.

While registration would focus on individual certification and potentially enhance mobility across Australian police jurisdictions, there are other possible consequences of registration. While advocates of such a scheme talk of 'quality assurance', others suggest that such a term can be 'a rationalisation for self-serving interests'. A professional body would be responsible for the profession's regulation and the maintenance of professional standards. The organisation would have a strong lobbying role both at the legislative and administration level, assert professional standards and manage police complaints. At present state/territory administrations, external oversight bodies, misconduct commissions, Royal Commissions and ombudsmen are all significant players in the regulation of police accountability. To what extent would professionalisation of the police affect or even replace these accountability systems?

Police practice in the 21st century

For many police practitioners, police professionalism is about 'establishing turf' and resisting the incursions of private security and second-tier policing. For them, professionalism means being able to say that particular jobs can only be done by professional police officers. In an era where plural policing, multi-agency approaches to crime and disorder, civilianisation and the privatisation of policing are identifiable trends in the policing industry, such attitudes may prove problematic in any serious discussion about the professionlisation of policing. What is crucial is that opportunities are provided that bring together police practitioners and academics to assess and debate these complex issues. The workshop held by the Tasmanian Institute of Law Enforcement Studies (TILES) at the University of Tasmania in September 2007 provided for such a forum.

The workshop

Organised and chaired by Professor Jenny Fleming (TILE), the workshop brought together academics and practitioners concerned with the concept of professionalism and police practice generally. Eighteen police officers attended the event from most Australian jurisdictions and New Zealand, as well as academics from Australia and the United Kingdom. Participants included senior officers such as Commissioner Mal Hyde (South Australia Police), Assistant Commissioner Alan Davey (Queensland Police), Assistant Commissioner Leigh Gassner (Victoria Police), Superintendent Hamish McCardle (New Zealand Police), senior managers such as Dr Chris Devery (New South Wales Police), union representatives Mark Burgess (Police Federation of Australia) and Greg O'Connor (New Zealand Police Association), Professor Rick Sarre and UK academic, Dr Alison Wakefield. Mr John Valentin APM performed the important role of rapporteur and discussant.

The workshop was structured around the key issues identified above. The participants were asked to consider registration boards, research and implementation, education and training, ethics, private security, accountability and regulation. To begin the workshop, Jenny Fleming provided an overview of the police professionalism debates and foreshadowed the discussions to come. Assistant Commissioner Alan Davey began proceedings with a discussion about the centrality of ethics in professionalism debates and the maintenance of professional standards in police work.

Speakers in the Education and Training sessions explored a number of issues from a variety of perspectives. Dr Chris Devery discussed the ambiguities of definition and prompted some robust discussion when he asked participants 'what separates policing from other professions'? Dr Leigh Gassner asked whether higher education should be a pre-condition of police professionalism and talked about the importance of practical experience in the face of the increasing complexities of policing. Delaine Trofymowych from Charles Sturt University considered the attitudes of Australian police officers to university education and police professionalism generally. Delaine's research identified the diversity of opinions of officers' views and perspectives on education and training and she too emphasised the imperative of integrating the practical with the theoretical.

In his discussion, Dr Mike Ryan, (Manager, Psychology Services, Tasmania Police) talked about the importance of reflection in police work for the development of professional standards and values. David Bradley from Victoria Police argued for the relocation of all police education to the university system. Not only, he contended, to meet the educational and training needs of contemporary policing, but because of the need for an institutional space outside of police bureaucracies which could, through rigorous research, produce, sustain, and add to the knowledge and skills development requirements of policing in the long term.

In reflecting on accountability and regulation, Superintendent Clem O' Reagan's (Queensland Police) paper, 'Guarding the Guardians', explored the idea of traditional professional associations as regulators of their profession, and in particular their effectiveness in controlling the ethical conduct of individuals and systems and considered the growing tension between individual professional autonomy and organisational behaviour demands. He also stressed the importance of community perceptions – 'we can never be professionals if the community doesn't see us that way'. In her paper, Associate Professor Colleen Lewis suggested that if police were to move to a professional model they should consider co-regulation rather than self-regulation – '"trust me"' she said, 'in any professional occupation is no longer acceptable or accepted'.

Police registration was the subject of the first session on the second day. Superintendent Hamish McCardle from New Zealand discussed the registration board established by the new *Police Act* in New Zealand, which initially was operating as an administrative database within the New Zealand Police Force. Mark Burgess from the Police Federation of Australia and Greg O' Connor from the New Zealand Police Association provided a union's perspective of registration boards. While Burgess argued that an Australian registration board would provide for personnel mobility between states and a buffer against private security providers, O'Connor cautioned against the double-edged sword that might deliver mobility for officers but may well also eventually allow all those professions associated with the provision of security to be part of a registration process. This, he argued would inevitably mean the loss of the craft of policing.

In discussing issues of implementation, Dr Susan Harwood (Western Australia) stressed the importance of considering gender in the professional debates and encouraging women generally to be part of the broader debates. Gender, argued Harwood, tends to be overlooked when initiatives such as professionalism are being examined. Inspector Matthew Richman (Tasmania Police) provided an outline of the newly established Australian and New Zealand Policing Support Agency (ANZPSA) that will lead and coordinate the direction and development of policing support services

in Australia and New Zealand. ANZPSA would provide strategic advice for a range of issues including professional development and standards in policing.

The last session of the day was concerned with professionalism and private sector policing from an Australian and UK perspective. Rick Sarre and Alison Wakefield explored the consequences for accountability and standards in the context of plural policing and asked how does the concept of police professionalism 'fit' with current policing trends such as for example, the increase in private security services?

John Valentin, APM, former Assistant Commissioner of the Australian Federal Police and Deputy Commissioner of the Northern Territory Police was the workshop's discussant and at the end of the day, John pulled together the threads of the various discussions and provided participants with a concise summary of the key points identified during the workshop.

Not all participants spoke formally – many, such as Commissioner Mal Hyde, Dr Max Travers (Sociology, University of Tasmania) and Ian Lanyon (APESC) attended and ensured lively discussion and challenging debate. Indeed, the highlight of the two days was the time allowed for discussion – after each session and at each coffee and meal break. We played musical chairs throughout the workshop to ensure that everyone was able to interact sufficiently. This led to highly stimulating dialogue between academics and police practitioners on a number of contentious issues relevant to the police professionalism debate. All participants identified the friendly atmosphere and open environment as the key to a thought-provoking and stimulating two days – together with the private dinner at the Cornelian Bay Boat House on the first night.

We are currently working towards the publication of several of the papers presented at the workshop. We know that the publication will be of interest not only to academics but also to police practitioners, policy-makers and to the community generally.

Successful events are invariably the work of many people. TILES would like to thank Caroline Burridge whose organising skills ensured that the coordination and the administration of this event was, in all senses of the word, professional. The Academy of the Social Sciences in Australia and TILES sponsored the project. The University of Tasmania was also supportive by providing administrative support and infrastructure for the workshop.

Inquiries about the workshop or the papers can be made via Professor Jenny Fleming jenny.fleming@utas.edu.au.

Seen and Heard: Children as Active Agents

Ilan Katz

Introduction

On 11-12 October 2007, the Social Policy Research Centre (SPRC) hosted 'Seen and heard; Children as active agents', as part of the Academy of the Social Sciences in Australia (ASSA) Workshop program, co-sponsored by the Australian Research Alliance for Children and Youth. The workshop brought together a select group of policy makers and scholars from a wide range of disciplines, including social policy, economics, law, psychology, public health, philosophy and sociology. The workshop provided an excellent opportunity for presentation and debate, and stimulated discussion about future collaboration to further explore many of the issues raised over the course of two days.

Background to the workshop

The workshop aimed to bring together four main strands of thinking about children – active participation, productivity, research ethics and family context.

Participation

At a theoretical level, there is increasing discussion of the social construction of children and childhood - as innocents, victims, mini-adults, criminals, economic investments and so on. At the policy level, there are difficult issues relating to children's active participation as citizens, their involvement in institutions such as court proceedings and around issues such as consent and confidentiality. It is also becoming increasingly important for policy makers to elicit children's views of relevant policies and practices. It is interesting that although there is huge debate in Australia about the sexual abuse of children and what should be done about it, there is very little, if any, attempt to gather the views of children themselves – either about their perceptions of the problem or about ways to address it.

Productivity

There has been an enormous surge in interest over the past few years in the investment of resources into children. This interest has come from two separate strands of thought: one focused on time investment in children and another concerned with children as *human capital*. Both view children essentially as passive recipients of resources (time, money, emotional capital) produced by adults, and reflect current protocols relating to research. However, a more rounded view of children is emerging, which portrays them as social and economic actors in their own right. Children contribute to family wellbeing in a number of ways; they undertake tasks within the family, care for and look after siblings, parents and grandparents, volunteer in the community and undertake paid work which contributes to family income. In addition, children provide less measurable, but equally important benefits to adults – access to friends via classmates; status; and, of course, wellbeing.

Thus any true assessment of the investment in human capital should take into account the *current* economic, social and emotional returns which children provide for adults (and for other children), not only the future benefit of children as productive adults in the workforce or resources expended by adults on children.

Research

Children have their own independent views about participation and about the value and meaning of research. In the UK and other developed countries, it is now considered

unethical to ignore children's *voice* in research, even that of the very youngest children. Yet in Australia there is very little research which directly addresses children's views, especially those of younger children. Research ethics and practice generally view children as passive respondents who are unable to give consent, nor to participate actively in the research process. This is based on the assumption that research is potentially damaging for children, and therefore they have to be protected (by adults) from the potential harm from research. Little cognizance is taken in current research protocols, including the most recent Australian ethics guidelines, of the fact that children may benefit from research, and that withholding their voice from the research process could create different sorts of harms.

Families

In many parts of the world children's views are taken into account in court processes in private, public and criminal law, in the planning and delivery of welfare services and even in the political process. Yet Australia lags considerably behind other nations in this respect. However, the 'children's rights' approach often decontextualises children, who may be seen as individual bearers of rights and entitlements. In reality, children are part of families, and therefore the challenge is to develop a view of children as active agents *within the context of their families*.

Challenges

Although most progressive thinking now accepts the active agency of children, there are considerable challenges when viewing children in this way. A move towards engaging actively with children would have considerable implications for policy makers, practitioners and researchers. Many of our basic institutions would have to change. Courts, schools, the media, government programs, neighbourhood regeneration, welfare and health service providers would all have to re-think the basis on which they plan and develop. Policies such as welfare to work, industrial relations, disability and caring benefits would also have to be re-examined, and research priorities and methodologies would have to change. These are made more complex if children are seen as integral parts of families, and not only as individual participants.

Workshop program

The workshop was attended by twenty-three participants and was convened by Professor Ilan Katz, Director of the SPRC. Five sessions of three papers were hosted over the course of the two-day workshop. The papers explored a range of topics including policy-focused research with children and young people; children's and young people's participation in decision-making processes; and representations of children.

One of the important discussions at the workshop concerned research ethics relating to children. Many of the participants identified the discrepancy between research ethics as interpreted by university and departmental ethics committees, and the actual ethical dilemmas presented in research with children and young people. Jan Mason highlighted some of the tensions involved in issues such as consent and confidentiality. Gillian Calvert also discussed the ethical complexities of participatory research that may not always lead to particularly positive experiences for children and young people, or to identifiable benefits, while Natalie Grove argued that research with children should emphasise participation, rather than protection, which is the interest of ethics committees.

The challenges faced by young people growing up in out of home care was explored in a paper by Elizabeth Fernandez who emphasised the importance of conducting research that listens to the voices of children and young people in order to gain an understanding of their lived experiences. Kerryn Boland, the NSW Children's Guardian, reflected on the participation of children and young people in the out of home care sector and Judy Cashmore's paper focused on children's participation in family law matters.

Other workshop papers focused on children's agency. Bettina Cass and Ciara Smyth considered the case of children and young people who provide care for sick or disabled family members. The paper emphasised that the agency of these young carers operated within constraints. This was echoed in Sharon Bessell's paper that drew on research with children in Indonesia and Fiji that explored the issues of child labour and the physical and emotional punishment of children. Ute Eickelkamp explored the concept of 'agency' from the perspective of Aboriginal children, based on her anthropological research in Central Australia.

Anthony Zwi and Ann Dadich both discussed the topic of young people and mental health. Anthony's paper outlined his experience of researching psychosocial and mental health policy and service issues in the aftermath of conflict and disaster in the Solomon Islands and Timor-Leste. Ann explored the issue of young people with mental illness and their participation in self-help support groups. Her paper argued that, despite current government policies highlighting the importance of youth participation and consumer involvement, young people with mental illness are prevented from participating in consumer-driven efforts and research in this area.

Other papers presented at the workshop focused on the nature and extent of participation in arenas outside family settings (Brian Head), representations of children in popular culture and popular discourse (Catherine Lumby) and the importance of identity in policy (Catherine McDonald).

In addition to the presenters, the workshop was attended by other policy makers and academics with a particular interest in child-related issues: Professor Ann Farrell, Head, School of Early Childhood, Queensland University of Technology; Associate Professor Ann Graham, Head of the School of Education, Director of the Centre for Children and Young People, Southern Cross University; Dr Suzanne Hood, Principal Policy Adviser, Child and Family, Office for Children, Victoria; Fran Press, Faculty of Education, Charles Sturt University; Gerry Redmond and Dr Kylie Valentine, both Research Fellows at the Social Policy Research Centre.

Workshop outcomes

In the workshop summation and discussion on day two, participants discussed a range of options to promote the issues that had been raised over the two days. One suggestion was to seek funding to establish a sub-network focusing on children as active agents in research, policy and society. The sub-network would aim to bring together participants to explore the theoretical and practical implications of the increased participation of children and young people. An application for funding has been developed with input and feedback from workshop participants.

At the time of writing, the workshop organisers are pursuing a number of Australian and international publishing options to disseminate the papers presented at the workshop. Participants who did not present papers at the workshop will be invited to contribute to workshop publications.

Book Reviews

Australia's Own Cold War: The Waterfront Under Menzies.

By Tom Sheridan. Carlton, Melbourne University Press, 2006

The status of labour history broadly reflects the vicissitudes of the trade union movement itself. The first histories of labour were distributed to a working class that was on the march. These works were clear challenges to the bourgeois public: affirmations of a distinctive identity, chronicles of a persecuted past, and harbingers of a transformed future. The challenge did not last, however. As the union movement was both tamed and nurtured by the machinery of wage arbitration, so labour's history was also recognised and contained as one part of a wider national story. In this way, academic appointments were made, languages moderated, specialist journals launched, and a respectable sub-discipline formed. Accommodation with the powerful brought apparent security, but threatened marginalisation. And then, not without warning, the hard times returned. As unions have recently been buffeted by legislative attack and undercut by cultural change, so the study of labour has also been abandoned by universities and scorned by major publishers. Most recent contributions to the field have been camouflaged as biographies (personal or institutional) or else reduced to vanity publication. Unions have sponsored a small number of commemorative works. But the future of labour history often seems as doubtful as the membership of these increasingly defensive and beleaguered institutions.

In this context, Tom Sheridan's newest book is especially welcome. Sheridan made his name with a careful study of the Amalgamated Engineering Union, *Mindful Militants* (1975) and succeeded it with a close analysis of industrial relations in the Chifley years, *Division of Labour* (1989). Combining labour sympathy with rigorous scholarship, his publications have been deservedly celebrated as classics of the field. Now, he has turned his attention to industrial relations in the Menzies era, and with it, to the specific history of the waterfront. *Australia's Own Cold War* offers both a continuation of his postwar narrative, and the exploration of a complicated new terrain. Thankfully (and surprisingly), Melbourne University Press has been enticed into publication (though not without a subsidy from the Maritime Union of Australia). What can readers expect?

In fourteen chapters, Sheridan traverses nearly twenty years of turbulent industrial and political history. Part One of *Australia's Own Cold War* introduces the key parties (employers, management, and wharfies) and outlines a combustible mixture of opposing interests and understandings. In Part Two, Sheridan chronologically investigates seven discrete disputes between 1950 and 1956. Part Three of the book takes in a longer span (the decade from 1957), focusing especially on labour demand, workforce discipline and technical change. Together, these chapters tell an expected story of persistent conflict and uneven transformation. More importantly, they also challenge the views of contemporary actors and the verities of accepted scholarship, too.

How, precisely, does *Australia's Own Cold War* challenge existing views? Sheridan disputes dominant understandings of the key actors, motivations, strategies, and rhythms of change. Conventionally, the Waterside Workers' Federation has been depicted as an agent of Communist manipulation, an unwilling negotiator, defender of feather-bedding, and a cause of major economic loss. Echoing his study of the Chifley

years, Sheridan persuasively shows that watersiders were not the passive objects of Bolshevik direction, but the clear-eyed aspirants of economic reward. Their militancy often outflanked Communist leaders, and their electoral decisions evinced close attention to the qualities of individual candidates. Unionists struggled for wage justice, often barely keeping pace with breakneck inflation. Some aims (such as industry pensions) were pursued for more than two decades before eventual success. Their unions were willing to accept new technology, provided that members were adequately compensated. And time lost by strike action was consistently dwarfed by other causes (such as rain and logistical inefficiency) for all of the period under review. These were proud, hardworking, and doggedly independent Australians. They laboured for prosperity, and fought to enjoy its fruits. Frequently derided as Reds and crooks, they emerge from these pages with a humanity, intelligence and moral code rarely granted in previous works.

Who did the unions face? In Sheridan's account, employers were secretive (sometimes refusing to provide information to government inquiries), jealous of managerial prerogative, hierarchical, untrusting, slow to embrace innovation, and eager to point the finger of blame. They were supported by a government anxious to promote modernisation, but fearful of the open play of market forces. It intervened to keep militant labour down, and lied to shape public perceptions. Arbitration was used to constrain the wharfies' bargaining power; legal sanctions developed and applied to corral the rebellious. Yet the interests of state and capital were by no means identical, and coordination was rare. This was no conspiracy of the powerful, merely an alignment of enemies and rhetoric.

Overall, *Australia's Own Cold War* provides a persuasive, if unfashionable narrative of some of the most important conflicts of the Menzies years. Students of industrial relations will be impressed by Sheridan's characteristic immersion in the sources, and by his energetic attack on Cold War mythology. Political scientists will be reminded of the centrality of industrial conflict and the consistently partisan intercession of the State. Historians of the post-war years will be challenged to recognise that this was not simply a period of growing affluence and private withdrawal, but of continuing disadvantage and of open public contention.

Labour historians, for their part, will gratefully acknowledge Sheridan's success. *Australia's Own Cold War* is the product of more than a decade's research. It seamlessly blends political commitment and intellectual detachment, and its publication by Melbourne University Press represents a welcome return of unvarnished 'labour history' to mainstream academic lists. The pessimistic will worry whether the institutional conditions exist for the emulation of Sheridan's achievement. The expectant will hope that the wheel of change (in historical writing, as in politics) is turning once more.

Sean Scalmer, University of Melbourne.

Fresh Water. New Perspectives on Water in Australia

Edited by Emily Potter, Alison Mackinnon, Stephen McKenzie and Jennifer McKay.Melbourne University Press Academic Monologue. 2007. 285pp, $49.95 print on demand, $39.95 e-book.

Fresh Water is very modest in appearance but its achievements are grand. It grew out of a two-day workshop organised by the Hawke Research Institute for Sustainable

Societies at the University of South Australia, supported by the Academy of the Social Sciences and the Academy of the Humanities. As a collection of 18 essays by different writers it is the kind of book that Australian publishers now avoid - for purely commercial reasons - and so MUP has taken the low-risk option of putting it out as an 'academic monograph' that will not attract the eye in any bookshop. It deserves better treatment, because it is a very useful collection of fresh and interesting material that is surely very timely in view of the gathering concerns about the impacts of climate change.

It is always good to read ideas from Debbie Bird Rose, and the collection starts with an essay in which she reflects on 24 years of experience working with Aboriginal people on 'land' claims, that have commonly featured stories about life-giving connections to the flow of water. Rose ends her beguiling essay by recalling a ceremonial dance by a group of women at a Central Australian site called Therreyererte and she notes: 'They are dancing life and they are dancing water and it is the same dance. This is the basis of a living water ethos; the dance of life and the dance of water is the same dance.' (p 18).

In an essay that touches on some similar themes Edith Cowan University academic Rod Giblett notes that in the western imaginary there is a notion of 'death water' that might also be called 'black water'. This is the water that we must fear and 'purify'. In contrast, Giblett notes, the Noongar people of Western Australia see water as a vital force that is *both* 'life-giving' and 'death dealing' and some contemporary Indigenous painters equate the flow of water in the land with the flow of blood through the human body. The theme of what non-Indigenous Australians can learn from Indigenous Australian perspectives on water is taken up in a number of essays in the collection, with particular emphasis on the Ngarrindjeri people of South Australia.

Given that the workshop that spawned this book was held in Adelaide there is a strong emphasis on South Australian experiences and on the sad state of the Murray River that (almost) reaches the sea near Adelaide. The Murray-Darling basin is Australia's most important water catchment and there are a number of important essays in the collection that discuss ways of trying to turn around the degradation of this vital river system. It is very good to see an essay (by Phil Cormack and Barbara Comber from the Hawke Research Institute) on the way that young people are feeling about the sad state of rivers in the Murray-Darling basin because intergenerational anger about what we have done to the rivers is a ticking time-bomb.

There are several essays that highlight some neglected historical narratives about encounters with water and rivers and one of these pays homage to Tom Griffith as a pioneer of a new form of environmental history writing in Australia. There is a very useful essay by National Museum curator Jay Arthur on some absolute treasures that are buried in the national archives concerning past attitudes towards water and past efforts to change attitudes and practices. There is so much more that can be learnt from the multitude of narratives emerging from the ancient and 'modern' stories of human settlement in this rather arid land because we are all now familiar with the 'just add water to dry soils' folly that resulted in such unsustainable agricultural practices. However, Stephen Muecke ends the volume by warning against an unconscious slide into 'apocalyptic narratives' that are deeply rooted in Judaeo-Christian tradition because they always point to a 'redemption' that may not be available to us unless we rethink, much more fundamentally, our attitudes towards nature. Muecke doesn't say this but the volume as a whole suggests that we need a much more polyphonic narrative of our history and our trajectory into the future.

My only gripe with this volume is that the editors probably made the mistake of trying to cram too many essays into it when it may have been preferable to give more space for some of the writers. I also found the concluding comments by Mackinnon and McKay a bit anti-climactic. However, the editors must be congratulated for an excellent effort and it can only be hoped that interest in the book will encourage MUP to release it in a form that will reach a much wider audience.

Martin Mulligan, RMIT.

What Happened to Gay Life?

By R Reynolds. Sydney: UNSW Press, 2007. 205pp.

What Happened to Gay Life? is an elegant exploration of changes over time in the ways homosexual men do gay in inner Sydney. Ten 'life histories' of gay men of various ages are presented to explore how these men understand homosexuality in relation to their own hopes, popular culture, the law, politics and the social mainstream. The histories are formed into eight chapters, with an Introduction and Conclusion. Reynolds uses the life histories to structure a periodised narrative: 'creating gay' (roughly 1968-1990); 'courting power' and 'mainstreaming' (the 1990s); and 'modernising gay life' (late 1990s-).

The life histories are grouped: those who have lived right through the social changes since the 1970s (3 interviewees aged 50+), those who entered gay life in the 1990s (4 interviewees, aged 30+) and those who entered it more recently (3 interviewees, 20+). It makes the men emblematic of generational change and changes in governmentality, setting up a usefully uneasy relation between age, the author's own ambivalences and the varieties of experience made possible by social circumstance. Reynolds concludes that 'the phase of gay life which was centred upon inner-city communities and a discrete, highly commercial gay identity – the age of the uber-gay – has had its cultural moment' (193-194).

While the detail in *What Happened to Gay Life* is Sydney based, the title evokes international versions of the 'post gay' narrative that emerged in the mid 1990s. Social resistance is seen as giving way to social integration, if not assimilation. Reynolds' 2002 *Sydney Morning Herald* feature 'Is gay passé?' prompted UNSW Press encouragement of a book 'for a wider audience'. The result is a lively, pleasurable read that will provoke much discussion amongst social researchers and wider audiences.

Most Australian gay men still live in the inner suburbs of three cities: Sydney, Brisbane and Melbourne. They report relatively high levels of gay community attachment irrespective of how that community is changing and the ways they interact with it; hence the link between the life histories and an account of what is meant by the passing of 'uber gay' based around Mardi Gras and dance, drug and sex party cultures. In Reynolds' hands, 'gay life' locates the individual 'doing of gay' in a discussion of changing cultural and political values. Reynolds' forte is as a genealogist of the present. His research informs the discussion, creating resonance with the readership but challenging its comforts. The book knows what counts.

Reynolds asks a lot of his ten life histories. There is a strong productive tension between detailing their lives through quotes and paraphrase, and the creation of a narrative that weaves commentary on Sydney, Australia and global gay identity politics into an analysis of the relation between past radical politics and contemporary neo-

liberal mainstreaming. The final chapters and conclusion exhibit a lively tendentiousness, partly centred on the issue of same sex marriage.

As required, the book wears its scholarship lightly. A 'Notes on Sources' section precedes a subject Index. I know some of his interviewees and my work is included in the sources.

In his earlier monograph *From Camp to Queer* (MUP 2002) Reynolds referred to that 'critical tension in late modern life – how to reconcile creative invention of the self with the art of being in common'. In this later book he gestures toward a dissolution of the tension by identifying and preferring an emerging laconic individualism amongst some gay men and an 'indie' sensibility rather than a communitarian identity (188). He acknowledges that the life histories indicate both are likely to co-exist in a context of loosened connection between 'two strands of gay life: group identity and individual lifestyle' (153). In both cases, 'the expectation of equality is in their bones' (194).

The general shape of this argument is indisputable. It sometimes underestimates the effects of the ongoing work of community-based organisations at the expense of an emphasis on 'homogenised blandness'. It involves an often rueful re-estimation of the cultural valency of gay; it is not special in the ways it used to be.

These are new beginnings, not an ending. Gay sex cultures sit as uneasily with a normative gay politics that trades respect for respectability, as they did with conservative moralities. Gay men often have sex outside of their relationships by agreement and most engage in group sex at some point. For many gay men marriage as a practice will have only a nominal similarity with how that institution is conventionally understood.

Michael Hurley, La Trobe University.

Association of Asian Social Science Research Councils

Professor Jeff Bennett, Crawford School of Economics and Government, Australian National University delivered the paper on behalf of Australia at the 17th Biennial Conference of the Association of Asian Social Science Research Councils (AASSREC) held in Nagoya, Japan 27-30 September. His paper 'Economic development and the environment in Australia; conflict or synergy' was among the papers presented by delegates of the fourteen AASSREC nations on the theme *Economic Development and Environmental Issues in Asia: Perspectives from the Social Sciences*. The conference was generously hosted by the Science Council of Japan and the Japan Association for Human and Environmental Symbiosis. In its role to enhance the visibility and impact of the social sciences in our region, AASSREC has engaged ASSA to provide its secretariat support. ASSA Executive Director John Beaton is now Secretary General of AASSREC. The 18th Biennial Conference will be held in Thailand in September 2009. The theme has yet to be determined.

Early Career Award 2007

Combating Terrorist Finance

JC Sharman

Immediately after the terrorist attacks of September 2001 President Bush declared: 'Money is the lifeblood of terrorist operations. We're asking the world to stop payment'.[1] The notion that terrorist organisations could be disrupted, or even defeated, but attacking their financial underpinnings has exercised a powerful hold on policy-makers' imaginations. Although the international effort to counter the financing of terrorism was born before September 2001, it was vastly expanded after the attacks on the United States.

This paper seeks to trace the development of the international campaign to block terrorist finance. It describes the important policy shifts that have taken place since 2001, the consequences for terrorists, but also the impact these developments have had on the legitimate financial services industry. It is argued that despite the scope and intensity of the response, the nature of terrorist financing means that it is largely invulnerable to the sort of counter-measures now being deployed.

In policy terms the effort to counter the finance of terrorism shows much more of a balance between US unilateralism and genuine multilateralism than has been the case in many other facets of the Bush administration's national security and foreign policies. There has certainly been a muscular assertion of US national power in the financial front of the 'War on Terror'. This can be seen in particular in the extra-territorial features included in the USA Patriot Act passed in October 2001. But the United States has also worked within international organisations, and in important instances deferred to these bodies, rather than relying on *ad hoc* 'coalitions of the willing' familiar from the invasion and occupation in Iraq.

Furthermore, as much as the shock of September 11 threw open the policy agenda and radically broadened the scope of potential policy measures deemed acceptable, countering the financing of terrorism (CFT) is in some ways most notable for its generic nature and derivative solutions. The specific measures taken to interdict terrorists' money replicate almost exactly those put in place from the late 1980s onwards to combat money laundering as part of the 'War on Drugs'. Although the difficulty of amassing evidence makes a conclusive judgment impossible, it seems that the first set of policy instruments to hand, anti-money laundering regulations, are not especially well suited to tackle the distinct problem of terrorist finance.

The first section presents an overview of international co-operation to counter the financing of terrorism, while the second section surveys the US response to the same problem, particularly as embodied in the USA Patriot Act. The third looks at the specifics of policies to counter the financing of terrorism, and in particular the striking similarity between current measures to disrupt terrorists' finance and standards earlier developed to attack the laundering of money derived from the international drug trade. The fourth section argues that despite this emphasis on the similarities between money laundering and terrorist finance in the policy response, there are important

differences between the two. The last section gives a preliminary, and necessarily tentative, verdict on the success of efforts so far.

Overview of the international response

Efforts to strike at terrorism by 'following the money' were not born in 2001, although interest in the issue has increased exponentially since that point. Britain had a long running campaign to halt the flow of funds to the Irish Republican Army from sympathisers in the United States. Often transferred through what were at least ostensibly charities, the United States authorities extended little co-operation in shutting down these flows. Similarly, the Liberation Tigers of Tamil Eelam have long raised funds amongst the Tamil diaspora, with the Sri Lankan government appealing to third countries to block this fund-raising activity.

The Council of Europe, one of the first international organisations to use the term 'money laundering', did so in 1980 in connection with the fight against leftwing terrorists in West Germany and Italy.[2] The United Nations had even gone so far as to draw up an International Convention for the Suppressing of Financing Terrorism in 1999, though an indicator of the low priority accorded to this issue is the fact that only four countries had signed up prior to September 2001;[3] by April 2004 this number had increased to 117.[4] Relating to al-Qaeda specifically, United Nations Security Council Resolution 1267 (15 October 1999) obliged members to freeze assets of members of the organisations or individuals associated with it.

After the shock of the attacks, there was a stampede of international organisations looking to become involved in advancing international cooperation to stop terrorist finance. The G7 finance ministers' meeting issued a statement on the need to combat the financing of terrorism on 25 September 2001. Despite being barred from either a security or a criminal justice role, both the World Bank and International Monetary Fund began incorporating anti-money laundering and anti-terrorist finance components in their reviews of the adequacy of member states' financial supervision and regulation. Other bodies like the United Nations Office on Drugs and Crime, the Commonwealth and the Council of Europe began incorporating an anti-terrorist aspect into their existing anti-money laundering programs. Indeed, it is almost easier to specify those international organisations that did *not* weigh in on the subject from September 2001 than list all those that did.

The United Nations Security Council passed Resolution 1373. The Resolution first created a Counter Terrorism Committee to oversee the UN's work in this area. In turn, the Committee required all states to pass legislation making the finance of terrorism a crime in and of itself. It further required that all states set up Financial Intelligence Units or equivalent bodies to link law enforcement authorities with banks and other private financial intermediaries. States are asked to ensure that they have the legal mechanisms in place to freeze suspected terrorist funds. The Committee instituted regular reporting obligations to gauge members' progress in this area, which had elicited a highly unusual degree of almost perfect compliance. By mid-2004 the Counter Terrorism Committee had fielded requests for technical assistance in this area from 160 countries.[5]

However the institution that was able to claim the lead in standard setting and monitoring in this area was the Financial Action Task Force (FATF). The FATF was founded to coordinate the fight against money laundering with particular reference to the drug trade in the wake of the 1989 G7 heads of state summit. Its membership includes most of the OECD countries as well as certain 'strategically important'

developing states. The FATF's small secretariat is hosted by the OECD in Paris. The most notable product of the FATF has been the 40 Recommendations, first released in 1990, and revised periodically since then. Reflecting the expanding scope of the anti-money laundering regime, from 1996 the FATF devoted itself to combating money laundering associated with all serious crimes, not just drug-related offences.

The FATF 40 Recommendations now constitute internationally accepted best practice for the control of money laundering. Rather than working by binding international law, the FATF at first worked to raise standards among its members by a process of peer review and mutual evaluation.[6] Later, however, a more coercive approach was adopted; as from June 2000 the organisation created the Non-Co-operative Countries and Territories blacklist for non-member jurisdictions adjudged to be derelict in their anti-money laundering (AML) duties.[7]

In October 2001 the FATF drew up the Eight Special Recommendations on the financing of terrorism, with an extra recommendation on bulk cash smuggling added shortly thereafter. However the June 2002 initial deadline for applying pressure against non-members who failed to comply had to be dropped after almost all FATF member states themselves, including the US, realised that they would not meet their own deadline.[8] Since that time the FATF has included terrorist financing issues in its regular series of assessments of both member and non-member states.

The Special Recommendations call for states to ratify the UN convention against terrorist financing and to criminalise this practice, as well as extending the use of anti-money laundering measures like suspicious transaction reporting and mutual legal assistance to terrorist finance. Special Recommendations 6, 8 and 9 are the most ambitious.

Recommendation 6 calls for practitioners of alternative remittance systems to be brought within the coverage of existing AML procedures relevant to banks and other financial institutions. Alternative remittance systems, such as the South Asian *hawalah* or Chinese *chop,* are trust-based systems of cash transfer often used among ethnic diasporas. Being cheap and reliable, *hawalah* and its equivalents provide a highly economical means by which, for example, Indian workers in the Persian Gulf can remit money to their families at home. The fees for using these alternative systems are typically significantly lower than wire transfer companies such as Western Union, and in addition their coverage may extend to regions outside formal banking networks, like Somalia.

But because there is little formal accounting and no electronic transfers, the lack of a paper trail and consequent anonymity is seen as providing a means by which terrorists can compensate for being shut out of international banking networks. Given the informal nature of such operations, the weak government presence in countries where alternative remittance schemes are strongest, and the lack of affordable alternatives in the formal banking system, this Recommendation poses serious implementation challenges. Although in the immediate aftermath of the 2001 attacks there was talk of trying to shut down alternative remittance systems completely, given their crucial legitimate economic role in the developing world this extreme response (which would have posed major implementation difficulties) was dropped. Currently the goal is to draw these schemes into the formal economy, and thus into official record-keeping and reporting systems.

Reflecting concerns about Islamic charities, Special Recommendation 8 calls for non-profit organisations to be regulated to ensure they are not abused as fronts for terrorist organisations. Once again this tends to presage a further expansion of the institutions subject to the reporting requirements drawn up initially to fight drug trafficking. Saudi Arabia in particular has been on the receiving end of strong US pressure in relation to this issue.[9] But like alternative remittance systems, regulating charities has posed a substantial implementation headache.

The last Special Recommendation seeks to halt the undeclared flow of bulk cash across borders. Cash smuggling has been a concern in Western countries in relation to drug traffickers (where the weight and bulk of cash generated by drug sales may exceed the weight and bulk of the drugs themselves). But the recent emphasis on bulk cash transfers reflects the realisation that developing economies are far more cash dependent than those of the average FATF member state, where electronic transfers are the norm.

The United States' unilateral response

The overall aim pronounced by President Bush after signing the executive order to freeze al-Qaeda assets was clear: 'We will starve the terrorists of funds'.[10] As noted earlier, although the fight against terrorist finance has to some extent been unusual in the degree to which the United States has been willing to work through formal multilateral organisations, this has been complemented by a robust series of unilateral measures. The most important of these are contained in the USA Patriot Act. But rather than proceeding in parallel, there have been important intersections and complementarities in the US unilateral and multilateral efforts. International organisations like the FATF have benefited from the suspicion that compliance with its standards not only confers international legitimacy, but also provides some protection against the threat of being singled out for punitive action by the US government. Thus in defying the FATF the tiny Pacific state of Nauru ultimately came into conflict with the United States. Conversely, the United States has incorporated the language and standards of international organisations in its domestic legislation, as well as delegating important national policy prerogatives to such bodies.

The rather unlikely case of Nauru came to the attention of the FATF because of its shell banks. Desperate for a source of economic viability after the collapse of its phosphate industry, the government of Nauru turned to selling offshore banking licences, with few if any checks on the customers. Though these banks had no physical presence beyond a plastic name plate on the wall of a small shed in Nauru, the licence did grant purchasers access to correspondent banking accounts. About 400 such licences were sold, though because a large proportion of the US$7,500 fee per bank was stolen by individual government employees, it is impossible to determine the exact number. From 1999 there were well-publicised accusations that these shell banks had been purchased by criminals in order to launder money. The Russian Central Bank (no paragon of financial rectitude itself) claimed that up to US$70 billion had been laundered through Nauru's banks. As a result, Nauru was placed on the first issue of the FATF's Non-Co-operative Countries and Territories list in June 2000.

Nauru's government was unimpressed by international efforts to compel it abolish its offshore sector. The Prime Minister demanded US$10 million as compensation, and when this sum was not forthcoming indicated that there was no prospect of compliance. Pressure mounted sharply in October 2002, however, when immediately after the Bali bombings Secretary of State Colin Powell stated that Nauru's offshore

banks, and its practice of selling its passports, both created a terrorist risk. It was alleged that members of an Islamic terrorist group had been apprehended in the possession of Nauruan passports. Citing the FATF's listing, the United States placed Nauru under a financial embargo by unplugging it from the network used to process electronic banking transactions. Once this had happened, money could only be brought into or out of the country by physically carrying it. Because of the stigma of being on the FATF's blacklist, most foreign financial institutions had already decided that the reputational risk of processing transactions coming from, going to, or routed through Nauru were simply not worth it.

In March 2003 Nauru's government buckled, and abolished both the offshore banking licence regime and the economic citizenship program.[11] Third countries were quick to draw the lesson that rather than being an irrelevant talk shop, the FATF was backed by the financial power of the United States. This realisation also extended to financial matters only tenuously related to the financing of terrorism, as many tax havens became distinctly more willing to exchange information on tax matters.[12]

The USA Patriot Act (or to give it its full name, the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act) contained a series of measures affecting US domestic institutions. Many of the clauses related to banks and other financial intermediaries collecting information on their customers for the benefit of the government, had been proposed unsuccessfully by the Federal Deposits Insurance Commission, as the Know Your Customer regulation from 1998. The measure had foundered after opposition based on privacy concerns, and complaints from the banking industry that the requirements would be excessively costly and burdensome. But it is the extra-territorial reach of the Act that is most noteworthy, allowing it to generate international 'cooperation', if of a less than spontaneous kind.

Section 311 of the Act empowers the Treasury Secretary to require all US institutions with correspondent relations with foreign banks in jurisdictions 'of primary money laundering concern' (with money laundering in this context including the financing of terrorism), to either collect more information on those using the correspondent accounts, or even sever these accounts altogether. US banks having correspondent relations with foreign banks have to establish the ownership of these foreign banks, and find out with which other banks the foreign bank in question has correspondent accounts. Furthermore, the Act prohibits relations with shell banks, that is, those like in the case of Nauru, that have no physical presence by way of an office or employees. As a result of these changes, many US banks have simply refused to deal with transactions that come from foreign jurisdictions that, for one reason or another, have come under a cloud of suspicion, even when they are not formally listed as being of primary money laundering concern.

The most radical aspect, however, is section 319. This provision empowers US authorities to confiscate the assets of foreign banks maintained in the United States if funds subject to seizure under American law are deposited with these banks anywhere in the world. There is no requirement that the actual money seized in the US be associated with the crime, or even that the bank was aware of the crime. Foreign banks with correspondent relations with a US institution must also hand over information on foreign customers of interest to the United States government, or else have those correspondent relations cut. This requirement applies even when the

foreign bank would be breaking the laws of its home country to hand over such information.[13]

It is worth noting that the USA Patriot Act is by no means the only source of enhanced powers to collect information from foreign jurisdictions in contravention of local laws. From late 2001 the US Treasury's Office of Foreign Asset Control acting on behalf of the Central Intelligence Agency issued secret administrative subpoenas to the Society for Worldwide Interbank Financial Telecommunications (SWIFT) for details of inter-bank transactions. On an average day the Belgium-based SWIFT handles 10 million instructions on transfers worth $6 trillion to and from almost every country in the world. After the program was made public by the media in 2006,[14] it was found to be illegal under Belgian and European Union law, as well as contravening privacy regulations in other third countries. As in the case of 'extraordinary renditions', however, it is unclear whether allied governments did not know or merely turned a blind eye to this use of SWIFT data.

If the example of Nauru shows how an international organisation benefited from the power of the US, there are also examples where the US has depended on the expertise of international organisations. The most of important of these is in deciding which jurisdictions qualify as being 'of primary concern' in relation to money laundering and terrorist finance. In making this crucial judgement, the Patriot Act defers to the authority of 'credible international organizations or multilateral groups of experts'(section 5318A), in practice especially the FATF.

The United States has so far been reluctant to use the full force of its new powers, instead preferring to rely on the powerful threat these new legal powers represent. Indeed, the mere possibility of ending up on the wrong side of the Patriot Act provisions has secured wide-spread cooperation from foreign jurisdictions. But the Council on Foreign Relations[15] has been critical of the Bush administration for being to slow to use the punitive provisions, particularly against Saudi Arabia. These same critics seem oblivious to the very patchy record the United States has itself on meeting international standards to counter money laundering and terrorist finance. It is now easier to establish anonymous corporate vehicles and associated bank accounts which obscure the true owner in certain US states than in almost any foreign tax haven.[16]

Anti-money laundering laws in the 'war on terror'

The specific policy measures designed to counter the finance of terrorism are almost a direct copy from measures developed since the mid-1980s to counter money laundering. The relevant policy-making bodies at the national level, but even more so among international organisations active in the area, have explicitly acted on the assumption that money laundering and terrorist finance essentially share the same nature. Following from this logic, the dominant belief has been that the two problems demand essentially identical policy responses. So closely have money laundering and terrorist finance been identified that they are generally known in combination by the unlovely acronym: AML/CFT (Anti-Money Laundering/Countering the Finance of Terrorism). Thus despite the way the terrorist financing burst on to the agenda as a policy problem in 2001, the regulatory regime drawn up as a result is remarkable for the degree of continuity exhibited with the global anti-money laundering regime that has evolved over the preceding two decades.

Money laundering occurs after a predicate offence has brought money into the hands of criminals. Predicate offences such as robbing a bank, selling heroin or people

trafficking are motived by criminals' desire for profits, but may leave the offenders with the problem of re-introducing large sums of money into the legitimate financial system without arousing the suspicions of law enforcement officials.

The first international institution founded specifically to counter money laundering, the FATF once again grew out of a concern with the 'war on drugs'. The organisation was founded after the 1989 G7 heads of state summit. An intensive process of meetings between government officials and regulators followed in late 1989 and early 1990. Aside from the G7 members, participation was soon extended to the other OECD member states, though the FATF has since been very reluctant to expand beyond a few more 'strategically important' developing countries.

Despite its tiny secretariat and its lack of formal legal standing, the FATF has had a far-reaching influence by way of its 40 Recommendations.[17] Revised in 1996 and 2002, in combination the Recommendations place primary emphasis on requiring private financial intermediaries to collect information on their customers. Authorities must legislate in order that they can find, freeze and ultimately confiscate the illicit funds that are the proceeds of crime, as well as its working capital.

The most basic requirement of the Recommendations is that countries criminalise money laundering, following the lead of the United States which was the first country to do so in 1986. Much of the burden of stripping away the veil of secrecy that aids criminal enterprises falls on private institutions which must adopt Know Your Customer requirements. This refers to such practices as specifying that all new customers must provide photo identification before opening a bank account. Where more complex financial activity is involved, such as setting up a company or trust, financial intermediaries must search for information on their clients' backgrounds, and ensure they are not on any of the various national or international blacklists of terrorists. Intermediaries must establish the identity of the ultimate beneficial owners of all such corporate vehicles, possibly requiring a process of working back through a chain of corporations.

Private firms must also report all instances of suspicious transactions to law enforcement authorities, or more usually a dedicated Financial Intelligence Unit linking the financial sector and law enforcement bodies. Suspicious transactions might include banking large amounts of cash, moving funds rapidly though a large number of accounts for no apparent purpose, or transacting with suspicious persons, firms or jurisdictions. At first limited to banks, the duty to report suspicious transactions has steadily been expanded to include accountants, stock brokers, insurance providers, lawyers engaged in financial dealings and even casinos and jewellers. In each case these intermediaries face criminal prosecution if they either fail to report a suspicious transaction when they reasonably ought to have done so, or if they tip off their customer that they have submitted such a report.

In keeping with the borderless nature of the underlying problem, a key priority of the 40 Recommendations is to facilitate international cooperation in the pursuit of financial crime. Thus governments are enjoined to legislate to remove obstacles that may prevent the free flow of all this extra information from one country to another, usually via their Financial Intelligence Units. The key features that comprise the heart of AML measures (Know Your Customer, suspicious transaction reporting obligations, freezing and confiscating funds, blacklists) now also define CFT standards in the same way.

Differences between money laundering and terrorist finance

Despite the tendency to adopt policies designed to counter money laundering almost unchanged in fighting the war against terrorist financing, there are important differences between the two activities. Recalling that AML policies themselves were created to stop drug trafficking, the logic was that money provides both the means (operating capital) and even more so, the motive (profit) for crime. As such, it was calculated that efforts to disrupt criminal finance should be effective in reducing the incidence of crime overall. Yet both of these points are problematic when applied to terrorism. Although terrorists are sometimes sensitive to their pay and material rewards,[18] terrorism is clearly not a profit-driven activity in the way it is for the illegal sale of drugs or arms. Few terrorists live in luxury; if anything their illicit activity will make their lives much less, rather than more, comfortable.

Perhaps even more importantly, terrorism is cheap. Even the September 11 attacks were funded on something like US$500,000, an essentially trivial sum of money. The coordinated bombings in Bali, Madrid and London cost only one-tenth of this amount. Suicide bombings like those in Israel and Iraq may cost as little as US$1000-3000. Terrorists only need very small sums of money to continue their activities, and thus they are generally insensitive to anything less than a near 100 per cent effective financial cut-off. Such a result is very unlikely to be achieved under current or any conceivable future AML/CFT laws.

The small sums of money also make detection particularly difficult, for the unsurprising reason that they have the same profile as most other kinds of financial transactions. Thus in the run-up to the September 11 attacks, the hijackers stayed in cheap motels, prepared their own food and washed their own clothes to save money.[19] The major expenses were air travel and pilot training. Their funds came through the rather mundane channels of legal cheque and credit card accounts held with local US banks. Mohammed Atta did receive US$70,000 via wire-transfer from the United Arab Emirates (UAE), and a Suspicious Transaction Report was lodged, but never read. Other funds from the UAE were sent via wire offices by al-Qaeda associates in Dusseldorf and Hamburg.

A further basic difference between money laundering and the financing of terrorism is that the former, by definition, involves the proceeds of a criminal offence, whereas the latter does not. Laundering money is hiding the criminal origins of that money. Although terrorist activities may also be funded by the proceeds of crime, much and perhaps most (there is a lack of evidence) of the money sustaining terrorist movements comes from legitimate sources. It is widely suspected that al-Qaeda and other Islamic terrorist groups are funded via donations to charities, though again conclusive evidence is lacking. The donors and charities may or may not be aware of the nature of the final recipients. Because the money is freely donated there is no predicate offence. Aside from donations by individuals and charitable foundations, Shapiro identities further legal sources of finance for terrorist groups in state sponsorship and profits from legitimate business activities.[20]

Putting these differences between the two kinds of crime to one side, however, there are prominent concerns about the effectiveness of anti-money laundering techniques even on their own terms. A widely-cited UN report on the subject notes that money laundering is ‘an area usually characterized by criminal successes and law enforcement failures’.[21] Judging by the small number of convictions, the meagre totals of assets confiscated, and the continuing problem of drug trafficking and other

manifestations of organised crime, many other analysts have portrayed anti-money laundering policies as suffering from serious shortcomings at best, and at worst being entirely useless.[22]

The results so far

In the second half of September 2001 some of the first responses from the US government to the attacks were financial, as assets belonging to, or more usually associated with, al-Qaeda and the Taliban were frozen. The UN's al-Qaeda and Taliban Sanctions Committee reported the freezing of $110 million worth of assets. However, the same committee also noted that as a response to this pressure al-Qaeda had largely moved out of the formal banking system and was instead relying on cash couriers and alternative remittance systems. Even though cash reporting requirements are an important component of the standard AML/CFT package of policies, in general these policies were drawn up with modern electronic banking systems in mind. Given that the OECD countries initially drew up these policies and standards, it is not surprising that they reflect the assumptions and features common to first world financial systems. But these same assumptions render AML/CFT regulations of dubious value when applied in the developing world, where credit cards and electronic transactions are rare, banks are distrusted, and transactions are generally conducted using cash or barter.

Aside from the inherently secretive nature of terrorists themselves, the selective nature of publicity concerning the campaign against the financing of terrorism is also an obstacle to assessing its effectiveness. There is a common tendency for more or less spectacular accusations to be made or reported, but the subsequent lack of confirmations is ignored. Arrests have often received widespread coverage, but when those taken into custody are prosecuted on lesser charges unrelated to terrorism (such as immigration violations), the media has moved on, and the authorities have little incentive to publicise their mistakes. Thus the median sentence of those convicted in 'international terrorism' cases in the United States since 2001 is only 20-28 days.[23] But because the initial sensational allegations have been cited back and forth so many times they are often then taken to be established facts.

Thus in the immediate aftermath of the September 11 attacks there was widespread speculation that al-Qaeda had profited from selling shares in airline and insurance companies only days before it struck, but these allegations turned out to be unfounded. Naylor details a long list of supposed al-Qaeda financing operations, said to involve diamonds, tanzanite, gold, cigarettes and other commodities, that generally turned out to be the product of unrelated crime, or were completely baseless.[24]

Further muddying the waters, governments all over the world have been keen to 'find' an al-Qaeda presence, financial or physical, to demonstrate their commitment to the cause and to smear domestic opponents. The ultimate example of such was the Macedonian government's admission in May 2004 that two years previously its police had kidnapped and executed seven refugees, framing the victims as al-Qaeda members in league with local ethnic Albanian separatists, in order to burnish the country's anti-terrorist credentials.[25]

Meanwhile, in the West a massive private industry has grown up to assist firms in complying with the slew of new regulatory requirements in this area. Private firms have had to take on new staff to ensure compliance, as well as re-training existing staff. Firms must gather, store and exchange more information on their clients, as well as

purchasing expensive new software. The author of a report on the impact of these new regulations for accounting firm KPMG holds that as a result: 'The cost to our global economy is so large, [terrorists have] already had the effect they wanted. The increasing costs of compliance and technology are a form of terrorism. We're damaging ourselves'.[26]

In this vein, there is a growing suspicion among both policy-makers and private banking and financial services firms that the regulations designed to make life harder for the financiers of terrorism are imposing disproportionate costs on the public purse, private firms and individual citizens. But the fear of being cast as 'soft on terrorism' has tended to stifle criticism that might otherwise have broken forth. Instead, disappointing results in disrupting terrorist finance has conventionally been portrayed as necessitating a re-doubling of efforts.

Small and developing states are increasingly adopting the same expensive CFT regulatory regime rushed through by OECD members from September 2001. These reforms entail hiring and training staff in central banks, Financial Intelligence Units, insurance supervisory offices, finance ministries, company registrars, and so on. Private sector firms also must acquire the necessary complement of Money Laundering Reporting Officers and data-monitoring processes. The combined public and private burden of this new apparatus imposes significant costs on countries whose resources are already stretched meeting other pressing challenges.[27]

One unequivocal result of the ratcheting up of requirements has been the greatly increased number of suspicious transactions reported. Yet this may create problems of information overload, as analysts seek to sift through the mountain of data to establish meaningful patterns. After all, it is worth remembering that the transactions to Mohammed Atta from the United Arab Emirates in the lead up to the 2001 attacks were reported as suspicious, but such was the number of reports that this one was not processed until after the attacks.

All this is not to say that the effort expended by international organisations and state authorities has failed to yield any results. The extra information has proved very helpful in building up a picture of terrorist operations after attacks have occurred.[28] Bank transfers and credit card receipts enable law enforcement bodies to discern the planning and preparation process in the lead-up to attacks. But this is still far from the goal of being able to prevent such attacks from being carried out in the first place.

It is possible to venture some tentative predictions about the future shape of efforts to counter terrorism by starving terrorist groups of the funds they require to mount attacks against civilians and ensure organisational survival. Policy solutions designed in the West and imposed globally will continue to use the template of anti-money laundering to respond to the financing of terrorism, despite the important differences between the two activities described above. The key to fighting both sorts of crime is seen as being the collection of ever-greater quantities of information, though a more risk-based approach may lead to some kinds of data, involving certain countries, particular patterns of transactions, and specific individuals, receiving much higher priority than others. Increased financial transparency will continue to be the overarching aim. Despite only modest tactical, even less strategic success, anti-terrorist efforts in this areas will become increasingly costly, with most of the burden borne by the private sector and citizens rather than the state. Despite regulatory and technological advances in the United States and across the globe, the modest financial flows that

constitute the lifeblood of terrorism are likely to continue to circulate for many years to come.

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1 (2005). 'Looking in the Wrong Places', *Economist*, 20 October.
2 Pieth, Mark (2002). 'Financing of terrorism: Following the money', *European Journal of Law Reform* 4, 2: 365-76.
3 Rider, Barry AK (2004). 'Law: The war on terror and crime and the offshore centres: The "new" perspective', in Masciandaro, Donato (ed) *Global Financial Crime: Terrorism, Money Laundering and Offshore Centres*. Aldershot: Ashgate: 62.
4 Council on Foreign Relations (2004). 'Update on the Global Campaign Against Terrorist Financing'. New York: 9.
5 *ibid*: 11.
6 Levi, Michael and Gilmore, William (2002). 'Terrorist finance, money laundering and the rise and rise of mutual evaluation: A new paradigm for crime control?' *European Journal of Law Reform* 4, 2: 337-364.
7 Johnson, Jackie (2001). 'Blacklisting: Initial results, responses and repercussions'. *Journal of Money Laundering Control* 4, 2: 211-225.
8 (2002). 'Follow the Money', *Economist*, 30 May.
9 Council on Foreign Relations (2002). 'Terrorist Financing'. New York; CFR (2004) *op cit*.
10 (2004). *9/11 Investigations.* New York: Public Affairs: 506.
11 Van Fossen, Anthony (2003). 'Money laundering, global financial instability and tax havens in the Pacific Islands'. *Contemporary Pacific* 15, 2: 237-275.
12 Sharman, JC (2006). *Havens in a Storm: The Struggle for Global Tax Regulation.* Ithaca: Cornell University Press.
13 Preston, Ethan (2002). 'The USA Patriot Act: New adventures in American extraterritoriality'. *Journal of Financial Crime* 10, 2: 104-116.
14 (2006). 'Bank Data is Sifted in Secret by US to Block Terror', *New York Times*, 22-23 June.
15 CFR (2002), (2004) *op cit*.

[16] US Treasury (2005). 'Money laundering threat assessment'. Washington DC; Government Accounting Office (2006). 'Company formation: Minimal company ownership information is collected and available'. Washington DC.

[17] Gilmore, William C (1995). *Dirty Money: The Evolution of Money Laundering Counter-Measures.* Strasbourg: Council of Europe; Sica, Vincent (2000). 'Cleaning the laundry: States and the monitoring of the financial system'. *Millennium* 29, 1: 47-72.

[18] Shapiro, Jacob (2006). 'Terrorist organizations: Inefficiencies and vulnerabilities'. Paper presented at the International Studies Association conference, San Diego, 22 March.

[19] Naylor, RT (2004). *Wages of Crime: Black Markets, Illegal Finance and the Underworld Economy*, (revised edition). Ithaca: Cornell University Press.

[20] Shapiro (2006) *op cit*: 6.

[21] United Nations (1998). *Financial Havens, Bank Secrecy and Money Laundering.* Prepared by Jack A Blum, Michael C Levi, R Thomas Naylor and Phil Williams. Vienna: United Nations Office on Drug Control and Crime Prevention: 3.

[22] Cueller, Mariano-Florentino (2003). 'The tenuous relationship between the fight against money laundering and the disruption of criminal finance'. Research Paper 64, Stanford Law School, Stanford; Naylor (2004) *op cit*; Pieth (2002) *op cit*; Rider (2004) *op cit*.

[23] (2006). 'Study finds sharp drop in number of terrorism cases prosecuted', *New York Times*, 4 September.

[24] Naylor (2004) *op cit*; compare with Ehrenfeld, Rachel (2003). *Funding Evil: How Terrorism is Financed–And How to Stop It.* Chicago: Bonus Books: 33-70.

[25] (2004). '"Terrorists" killed to impress US', *Daily Telegraph*, 1 May.

[26] See note 1; see also KPMG (2004). 'Global anti-money laundering survey 2004: How banks are facing up to the challenge'. KPMG International.

[27] Sharman, JC and Mistry, Percy S (2006). *Developmental Implications of Recent International Taxation and AML/CFT Initiatives.* London: Commonwealth.

[28] Winer, Jonathan M (2002). 'Globalization, terrorist finance, and global conflict: Time for a white list?' *European Journal of Law Reform* 4, 2: 276.

National Scholarly Communications Forum 2007

The 2007 National Scholarly Communications Forum, 'Improving Access to Australian Publicly Funded Research – Advancing knowledge and the Knowledge Economy', supported by the Academy of the Humanities, the Commonwealth Department of Education Science and Training and the National Academies Forum, was held in July.

The Forum focused on the appropriateness and benefits of making the findings of publicly funded research both freely and, more importantly, easily available in the public domain. Different kinds of Open Access for digital dissemination of publicly funded research have emerged as the main methods of dissemination:

- 'Green' Open Access refers to the collection of research outputs into publicly accessible 'digital repositories'. These repositories are usually operated at the level of the institution; including ones at Curtin University of Technology, the University of Queensland and the University of Newcastle.
- 'Gold' Open Access refers to the use the existing third party system, whereby independent publishers disseminate research findings. Under this system, the cost is borne at the point of input, and articles published are made freely available in the public domain.

Professor Brian Fitzgerald (QUT) spoke about the University's Open Access to Knowledge (OAK) Law Project. This project has produced a report which provides an overview of copyright law, contract law, confidentiality laws and other legislation on privacy and freedom of information, as they relate to making data and other research available in an 'Open Access environment', such as one of the aforementioned digital repositories.

The OAK Law Project Report, and two associated guides, suggest a range of possible end-user agreements which researchers can attach to material that they wish to make publicly available. The work of the Project goes some way to facilitating Open Access in the social sciences. Researchers who are interested in the legal aspects of making their findings publicly available (and especially those who wish to use a digital repository to do so) can find the OAK Law Project Report online at http://www.oaklaw.qut.edu.au/. Also available is a guide to research students drawn from the findings of the OAK Law Project, which outlines the necessary information for those wishing to deposit their theses in a digital repository.

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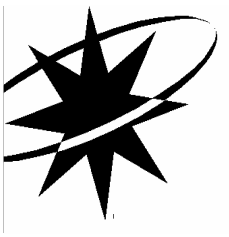

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