Contents

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The Academy of the Social Sciences in Australia was established in 1971. Previously, some of the functions were carried out through the Social Science Research Council of Australia, established in 1942. Elected to the Academy for distinguished contributions to the social sciences, the 382 Fellows of the Academy offer expertise in the fields of *accounting, anthropology, demography, economics, economic history, education, geography, history, law, linguistics, philosophy, political science, psychology, social medicine, sociology and statistics.*

The Academy's objectives are:

- to promote excellence in and encourage the advancement of the social sciences in Australia;
- to act as a coordinating group for the promotion of research and teaching in the social sciences;
- to foster excellence in research and to subsidise the publication of studies in the social sciences;
- to encourage and assist in the formation of other national associations or institutions for the promotion of the social sciences or any branch of them;
- to promote international scholarly cooperation and to act as an Australian national member of international organisations concerned with the social sciences;
- to act as consultant and adviser in regard to the social sciences; and,
- to comment where appropriate on national needs and priorities in the area of the social sciences.

These objectives are fulfilled through a program of activities, research projects, independent advice to government and the community, publication and cooperation with fellow institutions both within Australia and internationally.

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President's column

Creative and innovative

The 2002 Symposium 'Building a better future for our children' was undoubtedly the most innovative in a long line of ASSA Symposia. It was innovative in format and in the diversity of participants involved in the program. It included: paper presentations on the symposium theme by leading scholars; a book launch; a 'hypothetical' with a panel of experts and community representatives grappling with the problem of what to do about 'Eugene', a very difficult eight year old; a group of young people making statements about their concerns and interests; a panel of 'stakeholders' from the public service, media, and academe, identifying which single group of children was most at risk and where they would direct additional support to make most difference to children's well being. Of the many highlights, two stand out: Paul Jennings, a writer of children's books, reflecting on children's worlds, and his understanding of children's needs and their anxieties, interspersed with excerpts from his story about Lenny's quest to find his biological mother; and Fiona Stanley's memorable Cunningham Lecture 'Doing more for our children in the twenty-first century'. The response from Fellows was genuinely warm and supportive. At the following day's AGM, one Fellow enjoined everyone to spread the word that the Annual Symposium and Cunningham Lecture had been rich and rewarding events.

Arguably, the topic of the Symposium was conducive to a flexible and open format. It might be harder to achieve that in a symposium on globalisation and its discontents. . .or social and environmental sustainability in rural Australia. . . but it would be worth a try! The point is that ASSA is a continually evolving institution that changes its structure and activities with the times, and it is hoped, in advance of the times. Experimenting with the program and format of ASSA activities is a sign of organisational innovation, and Fellows Margot Prior, Sue Richardson and Fiona Stanley, the convenors of the 2002 Symposium, were highly creative and innovative in their concept and delivery.

The creativity-innovation theme was mentioned at the Annual Dinner by Robin Battterham, Chief Scientist, while speaking about the national research priorities initiative. Dr Batterham recounted his attendance at a forum on innovation policy held in Western Sydney that morning. He observed that nothing disturbed the parade of predictable presentations until someone dared to ask why Australian school children by the age of 12 years seem to have their natural and spontaneous creativity knocked out of them.

Good question. Expect the issue of fostering and maintaining creativity across the lifespan, but especially in childhood, to be on the agenda of the Prime Minister's Science, Engineering, and Innovation Council. After all, creativity is the first step in the tortuous cycle which leads to innovation - and innovation is more than a change in office layout, or installing a better telephone system; it is also the creation and adoption of truly novel ideas and concepts, new processes and products. And dare I say, once again, that social sciences and humanities are as much a part of that endeavour as science and technology, although that message is not always

appreciated. Indeed, having witnessed Paul Jennings' account of the skill and craft of the children's book writer and the magic effect of reading a book (as against for example, watching a television version) on children's empathy, wonderment, and curiosity, I'm in favour of getting Jennings appointed consultant to PMSEIC (on children and creativity) and to DEST (on improving literacy rates and reading standards in schools).

The question 'Are Australian scholars becoming less creative?' has been raised as evidence mounts that Australia is slipping in the proportion of research papers cited in the world's leading academic journals - an indicator of the quality and importance of new research ideas and findings. Of course, we may not have slipped in absolute number of new ideas, theories, findings, and patents produced. But it is small comfort if other nations are surging ahead and our relative influence and impact has declined in the world of knowledge.

ASSA Fellow, Simon Marginson (*What's wrong with the Universities?*), argues that the decline is due to an emphasis in the higher education system on quantity rather than quality of publications which has led to a 'makework' culture in many disciplines, reinforcing what I would call a 'publish much - or perish quickly' mentality. The 'makework' culture diverts attention toward immediate results and relatively quick publication and away from fundamental lines of inquiry with longer term horizons. The system itself is a creature of government funding policy for research infrastructure. Meagre funds trickle to universities in return for easy-to-count evidence of productivity (defined in units of output). This system is bound to shape and influence creativity and how it is directed toward works and products. To survive as an academic researcher, it makes sense for early career researchers, and scholars in impoverished departments, to stay with well-travelled paradigms and methods likely to lead to quick, assured publication even in second tier journals, rather than strike out in new directions, knowing it could be years before the publications auditor needs to enter your name in the annual publications audit.

It is more a case of a dumbing-down of the system than dumbing-down of academics. Academics are learning that in order to survive until conditions improve they must play the 'makework' game. The worry is that survival habits can take on a life of their own. Worse still, is the prospect that universities will begin to reinforce the system by hiring and favouring academics adept at playing the 'makework' game. The parallel is the astute 12 year old who figures that handing in school work which fits the approved template is safe and rewarded, while idiosyncratic work outside the template is risky, at best ignored, and at worst invites rejection.

In 1995 the Department for Industry, Science and Technology (DIST) held a national consultation program on Innovation, and in 2000 the Department of Industry, Science, Resources (DISR) convened a National Innovation Summit on the same issue. The urgent calls from both events, to devise programs and incentives to foster innovation and commercialise its benefits, seem to have sunk without much trace. What odds on a future Creativity Summit, convened by the Department of Education, Science, and Training (DEST) in partnership with the Department of Industry, Tourism and Resources (DITR) attended by government, industry, researchers, educators, creative artists and professionals to work on the nexus between creativity and innovation, and on the question of how to foster and reinforce the kind of creativity that leads to outstanding innovation?

There is a rationale for a Creativity Summit, if one is needed. 'Developing Human Talent' was one of the eight thematic priorities - broad visionary objectives - which emerged out of the Public Consultations on the setting of national research priorities this year (See Consultative Panel Report. DEST, July 2002: 17). And one of the six goals listed under Developing Human Talent was - wait for it - 'Education that retains the joy of discovery'. To be sure, the themes Sustainable Environment, and Healthy Society were far more prominent in the public consultations than Developing Human Talent. But it doesn't take much imagination to figure out how developing human talent and fostering creativity connect to the themes of Sustainable Environment, Healthy Society, and all of the others.

Leon Mann

News from the Academy Research Program

Building a better future for our children

On 4 October the ARC announced the outcomes of the 2003 Learned Academies Special Projects. The Academy proposal 'Building a Better Future for Our Children' (Margot Prior and Sue Richardson) has been granted funding of $102,000. The purpose of the project is to

- Provide a synoptic, multidisciplinary account of what we do and do not know about bringing up healthy and well-adjusted children.
- Provide a deep understanding of the social and economic changes that are occurring in Australia that are making it harder for substantial numbers of parents and for civic society to provide good outcomes for children.
- Share the findings with the scientific community as well as the public and other relevant stakeholders, and develop linkages and exchanges with policy analysts and decision makers.

With a successful workshop and Annual Symposium having now taken place, and the Academy publication of *Investing in our Children: Developing a Research Agenda* (available from the Academy for $22)*,* the research team is looking forward to pursuing its investigations. Papers will be developed around key themes with a series of forums scheduled with children and parents and key policy makers. There will be a meeting in February between project directors and theme leaders to develop and coordinate the research approach.

ARC Linkage-Learned Academies Special Projects 2004

The Academy's Research Committee welcomes research proposals from Fellows for consideration for possible ARC funding in 2004. The first stage of this process is preparing Expressions of Interest for submission in May 2003. For further information please contact John Robertson in the ASSA Secretariat.

Reports from Workshops

Globalisation, Trade Liberalisation and Economic Growth in Asia: Should Labour and Environmental Standards be Part of the Equation? The Case of Bangladesh

Amarjit Kaur

Four decades of rapid economic growth in most parts of Southeast and South Asia have resulted in fundamental economic and social transformations and a reduction in overall poverty. Labour markets and labour systems have also changed as countries move up the ladder to second-tier and next-generation industrialising country ranks. Despite these developments, many observers are finding it difficult to reconcile the low wages, poor working conditions (especially for women and child workers), and a lack of concern for the environment with development strategies. Some groups believe that Asian governments have performed poorly in the two key areas of labour and environmental standards in their drive to be internationally competitive. As the 1990s drew to a close, there was pressure from some quarters for the insertion of clauses into multilateral trade agreements that would allow trade sanctions against countries that did not comply with labour and environmental standards.

The **labour standards** debate revolves around several issues – child labour; health and safety features of the workplace; working conditions and labour rights. The developed countries' rationale for including these standards is "to mitigate potentially adverse effects of international market competition". Developing countries are sceptical of this line of thinking and accuse developed countries of promoting humanitarian concerns when in fact the real motivation for the concern is protection. Given their past colonial histories, developing countries also resent the imposition of rules by developed countries.

The **environmental standards** debate stems from the fact that freer trade and investment have meant that companies and, therefore production, have been encouraged to locate to countries where environmental protection is the most lax. Again, is the aim to pressure developing countries for tighter standards or to impose protection on the products arriving from the developing countries?

Both these concerns are worthy of attention. But in both cases, the problem is one of protection of labour and the environment *per se*, not a matter of trade.

A Workshop jointly sponsored by the Academy and the University of New England Asia Centre was organised to explore labour and environmental issues in Asia. The Workshop was held from 3-4 October 2002 in Armidale and focused on Bangladesh as a case study. Nineteen papers were presented by 23 participants from Australia and overseas.

The opening session was devoted to an overview of economic globalisation, trade liberalisation and labour and environmental norms. Professor Clem Tisdell (Queensland) outlined the Washington consensus favouring policies for structural economic adjustment and liberalisation. He considered claims that such policies would eventually reduce income inequality, lower the incidence of poverty and bring about environmental improvement. He argued that Bangladesh needs environmental standards of its own for its own economic welfare but that these should be lower than in higher income countries. External attempts to enforce environmental standards

ought to be a last resort after avenues of dialogue are exhausted. While labour norms have some place in Bangladesh, they need to be much lower than in developed countries and will probably do little to assist the poor and children. Professor Amarjit Kaur (UNE) outlined the debate on trade liberalisation as development strategy. Her paper explored Asia's past and present interactions with globalisation in the context of the international division of labour and the performance of the Asian economies. She also examined the changing economic role of women in industrialising Asia consistent with the global restructuring of manufacturing, state industrialisation policies and labour standards.

Dr Kenneth Jackson (Auckland) gave a background paper that set the scene for the relationship of the major international institutional structure with Asian nations. He argued that whether members of the World Trade Organisation (WTO) or not, most countries are affected by the impact of the WTO, at least in terms of their regional trading relationships, if not their global ones. Professor Kyoko Sheridan (Adelaide) addressed the role of the state in promoting economic development. Using Japan as a case study, she argued for the inclusion of economic progress, economic stability, economic equity and economic freedom as the four maximisation goals of economic policy.

The second session focused on politics and the political economy of Bangladesh. Papers by Professor John McGuire (Curtin), Dr Habib Zafarullah (UNE) and Dr Moazzem Hossain (Griffith) addressed Bangladesh's place in the global economy, and made important observations on democratisation, decentralisation and development in Bangladesh. After reviewing the way in which Bangladesh experienced capitalist development during the earlier period, McGuire concluded that this had profoundly shaped the social and political relations that characterise Bangladesh today, and this in turn has strongly influenced the manner in which Bangladesh is at present being incorporated into the global economy. Zafarullah argued that the absence of a democratic culture and genuine political commitment of the two major political parties had eroded the capacity of the state to effectively respond to the challenges of social and economic reforms in an era of globalisation. Hossain was equally pessimistic. He stated that the path for economic development was long and hazardous for Bangladesh. The economy was presently at a complete halt and might even be said to be going backwards. The take-off to full economic development had been delayed due to severe turbulence in terms of deteriorating law and order, uncontrolled corruption and political uncertainty, brought about by the unceasing political confrontation and turmoil.

The third session focused on the Bangladesh economy. Papers examined the shrimp export industry; the implications of a South Asian Free Trade Agreement; and labour productivity in Asia. In his paper, Associate Professor Robert Pokrant (Curtin) [co-authored with Professor Peter Reeves (Singapore)], outlined the Bangladesh shrimp export industry in the context of the state's export-led industrialisation drive. The paper drew attention to the diverse forms of work and labour in the industry and addressed the question of the relationship between labour and environmental standards. Associate Professor Mahinda Siriwardana (UNE) explored two plausible trade policy scenarios for free trade in South Asia: the establishment of a free trade area (FTA) and a customs union. He quantified the effects of these two alternatives for the region by simulating GTAP, a multi-country CGE model. Projections were obtained by eliminating all tariff barriers between countries in South Asia to ascertain the implications for the region of a FTA as envisaged by South Asian Free Trade

Agreement (SAFTA). Professor Prasada Rao (UNE) in his paper [co-authored with WF Shepherd (Griffith)], focused on the measurement of labour productivity in the context of international comparisons. The paper presented results drawn from various studies to illustrate the relative position of several Asia-Pacific countries with respect to productivity in agriculture, manufacturing, the services sector and the whole economy. The paper argued in favour of using purchasing power parities (PPPs) of currencies as an alternative to market exchange rates for conversion of gross domestic product and sectoral aggregates in international comparisons.

Session four was devoted to papers on labour conditions, labour rights and organisation, and labour standards. Dr Syeda Sharmin Absar (North South University, Bangladesh and Policy and Program Advisor for Oxfam UK) examined the working conditions of women in the readymade garment sector. She also presented findings on the identification of workers' skills in the context of retraining workers in a post-Multifibre Arrangement (MFA) world. She concluded by stating that it was imperative that the Bangladesh government immediately put in place measures to retrain workers. Mashuda Khatun Shefali (Executive Director of the NGO Nari Uddug Kendra - NUK, Bangladesh) spoke on several key issues faced by women workers in the readymade garment sector. Her paper explored how NGOs like NUK have provided better housing, clean drinking water and basic amenities for women workers in the garment industry. These were as important as improved labour conditions in a poor country like Bangladesh. Shefali also outlined the development of a strategic plan to cover the phase-out of the MFA in Bangladesh, and invited participants and concerned Australians to participate in a World Solidarity Forum for garment workers from LDCs.

Marilyn Rock (Curtin) examined how the establishment of an export-oriented garments industry in Bangladesh represented a significant economic and social development in the country. The industry provides employment for young Bangladeshi women, who have become a highly visible component of the urban-based industrial sector. Although initially these women represented a passive and unorganised workforce, they have now become more active in their attempts to form unions in the industry. These attempts have been difficult and disappointing, but nevertheless, women garment workers have emerged as an active force in the country's industrial working class. In his paper, Dr Denis Wright (UNE) argued that the debate concerning the relationship between child labour in Bangladesh and labour standards is part of a wider and interrelated discussion on child labour in the global economy and outlined how that relates to core labour standards. He also suggested that Bangladesh had been singled out where child labour was concerned principally because of its trading relationship with the United States. He concluded that there were incontestable arguments that both developing and developed countries should aim for internationally recognised labour standards, based on a qualitative, rather than a quantitative approach to the various conventions that drive them.

Associate Professor Howard Brasted (UNE) began with an analysis of the eight core labour standards, which the ILO defined in 1998 as 'fundamental to the rights of human beings at work', irrespective of the level of development of member countries. Since these international standards and conventions were not actually enforceable, compliance was largely honoured in the breach. He argued that although the body of national laws governing the workplace in Bangladesh and India were fine in outline, they afforded no protection at all to over 90 per cent of workers who were employed

in the informal sector of the economy and home-based work. The paper concluded by suggesting that in these circumstances, the most crucial Labour Laws and Conventions were not those governing working conditions at all, but those pertaining to labour relations. Since a mere 8.3 per cent of the workforce was unionised in India and Bangladesh, it was a logical move for unions, workers and NGOs to combine to represent the hitherto underrepresented interests of workers in the large, 'lawless' informal sector.

Two other papers provided an overview of the role of non-governmental organisations in Bangladesh. Roland Lubbett (Last-First Networks) spoke on the changing role of NGOs and how they had evolved rapidly to become the principal anti-poverty actors on the national stage. He analysed their distinctive approach and the issues facing the NGO movement such as issues of legitimacy, dependence on external funding, sustainability, and often turbulent relations with government. He concluded by saying that the impact of NGO programs in Bangladesh was still minor when compared with the scale of rural poverty. However NGOs had established and continue to refine a process of effective intervention to fight poverty, that can be replicated within organisations and within the wider NGO movement. Dr Bert Jenkins (UNE and Greening Australia) focused on NGOs working on environmental issues. His paper outlined the work of NGOs that were involved in assisting the poor in areas affected by flood disasters and also talked of how certain economic activities hindered the work of the NGOs.

The last session was devoted to the environment and environmental standards. Professor Ian Metcalfe (UNE) outlined the principal contributory factors to environmental stress and degradation in Bangladesh as:

- Intense population pressure;
- Unsustainable land use;
- Industrial pollution;
- Greenhouse gas emissions;
- Natural resource depletion;
- Unsustainable energy consumption;
- Air & water pollution;
- Noise pollution;
- Deforestation;
- Loss of ecosystems & biodiversity; and,
- Natural hazards – flooding, drought, cyclones.

He argued that whilst Bangladesh could not have a major role in mitigation of human greenhouse gas emissions, it remained very much on the receiving end and suffered from the consequences. Bangladesh was extremely vulnerable to the effects of global warming and climate change due to its low elevation on a giant delta flood plain. Of particular concern are: drainage congestion and river bank erosion; reduced fresh water availability; increased intensity of major floods; and rising sea-level causing damage to or loss of the Sunderbans forests and increased devastation from cyclones. Mitigation of the world's largest ever known episode of mass poisoning, from naturally occurring arsenic contaminated shallow groundwater is a major challenge for Bangladesh. Industrialisation in Bangladesh also brought responsibilities for ensuring environmentally sustainable development. He concluded that in low income countries like Bangladesh, where feeding the population is still a major problem, where life expectancy, infant mortality, and general health and human development levels are well below acceptable norms, considerations for

environmental sustainability are low priority compared to the need to improve basic qualities of life. In this sense, Bangladesh had a long way to go in the sustainability stakes.

Dr Mohammad Alauddin (Queensland) in the concluding paper underscored the need for innovative processes to reverse the trend of high environment-intensity in South Asian development He also argued for a regional approach to environmental concerns, given the transboundary nature of many environmental spillovers.

Over the two days the Workshop provided an intellectually stimulating environment for exploring the desirability of imposing core labour and environmental standards on developing countries. The following conclusions were reached by the Workshop:

1. From the Bangladesh perspective, improvements in both labour and environmental standards are desirable, other things being equal.
2. These must be achieved in ways that accord with the desires and needs of Bangladesh itself, otherwise they are likely to be either ineffective or undesirable in their total impact.
3. If, in contrast to 2, they are imposed from outside, they may be beneficial, but this is not certain. In the case of labour standards, resulting in a shift of workers to the informal sector, these "outsiders' will lose, offsetting any gain on the part of the "insiders".
4. If international (outside) action is to be taken then this should be done through the mechanism of the ILO and UN Environmental Protection agencies.
5. Arguments *for* using WTO would include the availability of sanctions through dispute resolution and retaliatory measures contained in WTO agreements, making enforcement possible, **but** this was not recommended.

   Reasons for **not** using the World Trade Organisation:
   - Time horizon is long: any new agreement is likely to be long delayed.
   - Implementation is likely to be uneven and more onerous for LDCs than for developed countries
   - At worst it may involve disguised protection of developed countries' trade rather than assistance to the LDCs in raising standards, resulting in some importers of textiles, garments and shrimps imposing standards to apparently meet their obligations whilst in fact being content to see production switched away from LDC members of WTO.
   - The distributional impacts of imposing standards must be considered eg, net income loss to workers made unemployed as result of imposition of standards.
   - Not all the world is covered by WTO. Its coverage is less than that of other international organisations.

Thus while recognising the importance of including labour and environmental standards in the equation, we should resist the temptation of imposing uniform standards through the WTO. A country-specific set of standards would be more practical, functional and desirable. A gradualist approach, through the mechanism of the ILO and international agreements on environmental concerns, is recommended.

The papers will be published in a special issue of *South Asia* in mid-2003.

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Working for the Common Good
Art Stukas & Margaret Foddy

Earlier this year, a diverse group of researchers, selected because of their work studying either *volunteerism* or *social dilemmas*, met at La Trobe University for a two-day workshop entitled, 'Working for the Common Good.' The central aim of the workshop was to bring together scholars from these two ostensibly related areas to share views and research strategies and ultimately to combine efforts to contribute to public policy. Although both research domains focus on actions designed to improve the general welfare of society, broadly speaking, they have yet to be integrated in a theoretical or empirical way. By bringing together scholars who have studied 'working for the common good' from different perspectives, we began this integration.

Some background

In the last decade, both in Australia and internationally, government expenditure for welfare and other community services has been reduced, often drastically. As a consequence, organisations that provide services (and those relying on the provision of these services) have become increasingly dependent on the contributions, work, and continuing commitment of *volunteers*. While recognising that transferring the costs of the provision of these public goods and services to individuals (and away from governments) is a contentious issue, it has been a societal norm that action on behalf of others is to be regarded as a moral and/or political imperative. Further, such actions have the long-term consequence of creating stronger social cohesion, a point underlined in the massive response of volunteers to the 11 September attacks in New York. Therefore, it is important to have a systematic understanding of the factors that encourage citizens to provide services to those in need, and to make themselves available to community organisations, even when governmental supports and control are available, but especially when such resources have been reduced.

Despite any moral imperative, however, a large literature suggests that people often act explicitly in their own self-interest - and not for the common good - even to the extent that publicly-owned or shared resources are depleted. Such problems are known as *social dilemmas* – these are defined as incentive structures in which willingness to contribute to the collective good (eg, public radio; blood banks), or to refrain from the overuse of common resources (eg, water; fisheries) is overridden by individual self-interest. Research on social dilemmas over the last several decades has focused on ways to reframe or reorganise dilemmas (by making cooperative action equivalent to self-interest through emphasising common group identity, for example). Strengthening social norms or trust in institutions or authorities and increasing awareness of the problems associated with depleted resources (such as blood banks or water supplies) or with a lack of volunteers have also been promoted as strategies. Such solutions target the collective nature of the problem.

Researchers who study volunteerism (and, in particular, motivations to volunteer) use a more individualistic strategy to analyse the problem of inaction toward the common good. In focusing on the specific reasons and purposes that individuals have for their volunteerism, these researchers have come to the conclusion that this activity has the potential to satisfy both self-interested (egoistic) and other-interested or collective (altruistic) goals simultaneously. Satisfaction with volunteer work and duration as a volunteer have been linked to the extent to which volunteers actually have their goals (both personal and collective) satisfied through their activities. Recently, work on volunteerism has been taking into account the links between volunteers and the

organisations for which they work, suggesting that such concepts as value congruence and organisational social identity may be important.

The Workshop

With this background in mind, social scientists and public policy experts came together to discuss their work and, perhaps more importantly, to absorb and to respond to the work of others. To facilitate this discussion, we organised the two days by research area, with the volunteerism researchers taking the first day and the social dilemmas researchers the second. In retrospect, it might have been better to intersperse the two topics across the two days, because the structure we used naturally called for the second set of researchers to respond to the presentations of the first day (thus, social dilemmas presentations were 'forced' to incorporate earlier points about volunteerism - rather than vice versa).

Volunteerism

Dr Judith Brett (La Trobe University) opened the Workshop on behalf of the Academy, informing her introductory comments with a view from her position as a political historian. She urged participants to recognise that current calls for citizens to become more involved in their communities exist within a political context that often contrasts obligations and entitlements for citizens. Her comments set the stage for *Professor Mark Snyder* (University of Minnesota) who provided a review of his programmatic research into the motivational foundations of volunteerism, with a specific focus on the antecedents, experiences, and consequences of volunteerism. Snyder suggested that connections to the community might lead both to increased volunteerism and to such related behaviours as contributing to common goods, despite one's self-interest to use one's money or resources elsewhere. As he pointed out, volunteerism, too, involves a trade-off wherein volunteers suffer 'opportunity costs' because they are unable to use their time and energy for other (more self-interested) pursuits. *Dr Gianni Zappala* (the Smith Family) presented recently collected results of a survey of Smith Family volunteers designed to highlight the characteristics of those volunteers who are 'highly committed' in terms of the amount of time they give (as compared to those who are less committed). Intriguingly, he found that Australians from lower socio-economic groupings were more represented among highly-committed volunteers with those from the more affluent groups choosing instead to donate money rather than time. Other results also flew in the face of past research, suggesting that older models of volunteerism, focusing on discretionary time or dominant status, may be changing. *Dr Jennifer Wilkinson* (Cumberland College of Health Sciences, University of Sydney) and *Mr Michael Bittman* (Social Policy Research Centre, University of New South Wales) collaborated to present a paper that examined whether working for the common good was underscored by an ethic of care, and if so, how to promote such an ethic. Data presented demonstrated that, whereas such 'care' clearly exists in the bonds between family members and friends, 'care' toward strangers is less likely.

Robert Putnam's important analysis of social capital - *Bowling Alone: The Collapse and Revival of American Community* (New York: Simon & Schuster, 2000) - both bridging and bonding varieties, was used to suggest a possible route to increasing 'care' by increasing our 'generalised reciprocity' toward others through increased trust and fair play. *Dr Art Stukas* (La Trobe University) presented data from a study of 'mandatory volunteerism' as implemented in educational initiatives (known as service-learning programs) in the USA, suggesting that such programs may have the

negative effect of reducing future intentions to volunteer by participants who feel that such requirements are unduly controlling of their behaviour. Potential moderators of such ill effects, including those that might alleviate them - such as greater autonomy, matching of volunteer goals to activities, and collegial relationships between supervisors and volunteers - were also discussed. Following directly from these studies of 'mandatory volunteerism', *Dr Jeni Warburton* (University of Queensland) brought our attention to the possible political consequences of increased promotion of volunteerism, particularly the possible reductions in social service provision by the government when volunteers take over some of these responsibilities. Mutual obligation programs, such as Work for the Dole, came under specific scrutiny, removing what is seen to be an essential element of volunteerism, free will. The benefits of volunteerism and the drawbacks of encouraging it exist in a paradoxical relationship that has not been carefully examined in current government policies, according to Warburton.

Associate Professor Sue Kenny (Deakin University) called for participants to take more care when using the terms 'volunteerism' or 'voluntary associations', suggesting that, cross-culturally, or within different sectors in society, the terms might have different meanings. Indeed, voluntary action may perform different functions for society depending upon its guiding 'operating framework,' offering examples such as the activist, charity, welfare state, and market frameworks that construct voluntary action differently. The distinction between volunteering to provide direct care services and actively participating in voluntary associations was made even more clear by *Professor Mark Lyons* (University of Technology, Sydney) who offered a distinction between 'member-serving' and 'public-serving' organisations that caught the attention of workshop participants. Whereas many researchers had been discussing volunteerism as synonymous with 'direct care', Lyons pointed out that the majority of volunteer labour actually goes toward sustaining member-serving organisations by performing administrative chores or committee work. Declines in organisational membership and voluntary association/action now make it increasingly unlikely that some organisations will be able to sustain themselves - which may place Australia in a similar situation to the USA, in which Putnam has already demonstrated decreases in memberships and correspondingly, social capital.

Social dilemmas

Associate Professor Margaret Foddy (La Trobe University) began the second day with an overview of work by economists, sociologists, political scientists, and social psychologists on 'the tragedy of the commons'. She pointed out that, despite a longstanding view amongst policy analysts that individuals tend to act on their self-interest and that 'working for the common good' is inherently irrational, there was growing evidence that people do volunteer, cooperate, contribute, and even engage in acts of altruism. Her work focused on increasing perceptions of trust and trustworthiness as a way of encouraging willingness to both contribute to common goods and refrain from overusing the same. *Dr Sherry Schneider* (Monash University) oriented participants to the business sector and the increase in employee volunteer programs, designed to encourage organisational citizenship behaviours. Her work highlighted the combined influence of collectivist (as compared with individualistic) personal orientations and organisational identification on these extra-role behaviours that might be seen as akin to volunteerism in many ways. Obviously, promoting organisational identification may be a key to increasing effort on behalf of the group - and participants quickly extended these notions to ask whether increasing

identification with a community might do the same in the public sphere. *Dr Janine Webb* (Deakin University) presented a paper that represented the 'other side' of social dilemmas research, focused on whether individuals choose to 'work for the common good' based on the outcomes they receive from the common resource. That is, she addressed the possibility that different groups in society may differentially contribute to or receive benefits from the 'common good.' She reminded participants that inequitable distribution of any shared resource may only serve to reduce motivation to contribute by those who feel they are unfairly treated. *Dr Michael Platow* (La Trobe University) presented the results of several recent empirical studies focused on procedural fairness and resource distributions, suggesting that individuals will accept inequitable resource distributions, if they are allowed to voice their opinions as part of the process. Surprisingly, the effect of voicing one's opinions on accepting inequitable outcomes still held even when participants were told explicitly that their opinion would have no impact on the outcomes (ie, the decision was already made). This research stirred the group into discussing the implications of ensuring procedural fairness in determining public policies designed to promote community involvement and civic engagement (but all felt that voices of the community should be allowed to have real impact, if possible).

Professor Toshio Yamagishi (Hokkaido University) then presented cross-cultural research (conducted in Australia, the USA, and Japan) on risk-taking, trust, and willingness to cooperate with others. He argued that western cultures are marked more by Putnam's bridging capital (loose networks of weak ties that produce high rates of volunteerism) whereas eastern cultures are marked by bonding capital (tight networks of strong ties that produce low rates of volunteerism). These social structural differences may lead westerners to trust strangers more as a way of seeking opportunities to establish partnerships with others for mutual benefit and easterners to trust strangers less but instead to form strong committed bonds with individuals already known to them as a way of ensuring cooperation (based on constraint rather than choice). Finally, *Dr Toko Kiyonari* (Hokkaido University/La Trobe University) presented her work (with Toshio Yamagishi) on the Social Exchange Heuristic, an implicit rule in human interactions that encourages trust and mutual cooperation based on generalised reciprocity norms. That is, individuals who believe that they are in an exchange relationship with another person will seek to cooperate rather than act in strictly selfish ways because they implicitly understand that such relationships provide for greater long-term benefit if all individuals cooperate. Her research demonstrates that 'real' (as opposed to merely described) situations, like the Prisoner's Dilemma, often yield higher rates of cooperation than is usually depicted in the research literature.

Conclusions

After two days of talks and some vigorous discussion (both formal and informal) by presenters and our non-presenting participants (postgraduate students and staff from La Trobe and neighbouring institutions), larger themes uniting the two areas of research concern began to emerge. For example, researchers in both areas have naturally separated into those who take a 'utilitarian' perspective and those who take a 'communitarian' focus; that is, individual motivations and cost/benefit analyses have been contrasted with societal outcomes and the greater 'good.' Several of the talks focused on ways that such perspectives might be brought together. For example, does developing a sense of community or identifying with the community (or particular groups within the community) heighten one's willingness to contribute

one's time or money? Do efforts to increase 'trust' or 'generalised reciprocity' (that is, social capital) increase volunteerism and voluntary organisation participation? Or is it the other way around (as Putnam suggests)? If the latter, is it possible to use 'utilitarian' methods to engage people in volunteer work as a way of building social capital for 'communitarian' ends? These questions and similar others, which arose from our Workshop and which span research areas and disciplines, are now the focus of ongoing discussions and collaborations that should, at least, result in an edited volume of work on the topic and, at best, influence public policy and social life in Australia and abroad. In between these two aims lie a number of possibilities: new research studies, symposia at professional meetings, further workshops, other written work - all of which we are actively pursuing and hope to bring steadily to fruition.

Dr Art Stukas and Professor Margaret Foddy are both from the School of Psychological Science at La Trobe University.

Workshop Program

The Workshop Program supports the Academy's Mission Statement that its research programs provide and promote the dissemination of its outcomes in such a way as to ensure they are open to scrutiny by other scholars. To this end, five publications have arisen from workshops in 2002, and a number of individual workshop participants have published their papers in books and professional journals. The Program provides a unique venue for inter-disciplinary interaction among a broad range of social scientists.

Topics have ranged widely across the social sciences, and have included workshops on Australia-focused issues such as investigations into the links between community voluntary activity, sociability and care; workplace practices and working futures for Australians; a three year assessment of Australia's strengths and weaknesses in a democratic society; and developing a research agenda to improve the future for our children. Other workshops have looked at Australia's international responsibilities – an education viewpoint of re-visioning identity, citizenship and ethics after 11 September 2001; and a debate on globalisation, trade liberalisation and economic growth in Asia focusing on the labour standards and environmental standards in Bangladesh.

A new initiative for selected collaborative workshops with the National Institute of Social Sciences (NISS) and with the Australian Academy of the Humanities has allowed the Program to expand and support additional proposals. NISS has jointly sponsored Professor Don Byrne's 'Occupational Stress in Australia in the 21st Century: Health, social and economical costs' and that of Dr James Weiner and Professor Francesca Merlan: 'Custom: The fate of non-western law and indigenous governance in the 21st century'.

The Workshop Committee met at the end of October to consider twelve new proposals for the 2003-04 Workshop Program. Successful proposals will be published on the ASSA website and in the next issue of *Dialogue.*

In his November report to the Executive Committee, Professor Saunders expressed his appreciation of the hard-working members of this Committee and praised Ms Rider on her highly effective and efficient work on behalf of the Committee. The Committee will meet in April 2003. Initial contact with expressions of interest on particular themes should be made to Sue Rider (sue.rider@anu.edu.au).

Revisiting Human Rights

'Taking Rights Seriously' in Australia[1]

Laksiri Jayasuriya

Introduction

The explosion of public concern about the fate of asylum seekers seeking refuge from oppression and harassment[2], the blatant violation of human rights and freedoms in the name of national security by the introduction of draconian legislative provisions (eg, Anti Terrorism Bill), have rekindled the latent and dormant concern about human rights in the Australian polity. Although we proudly claim to be a mature advanced western liberal democracy, we stand out uniquely in the western world as the only liberal democracy without a Bill of Rights. This has become all the more embarrassing with the passage of the Human Rights Act of 1998 in the UK. This, was a notable decision of the Blair government fulfilling a longstanding British Labor Party commitment to incorporating the European Convention on Human Rights into the UK national law.[3]

The simple answer to the question why we need some form of statutory or constitutional guarantee of rights and freedoms is, as many have observed, 'our common law does not guarantee the rights and freedom of the individual'.[4] Thus, Wayne Martin QC, reviewing immigration legislation in Australia comments that in 'recent years [there] have been significant inroads into systems for review of migration decisions which did not serve the important purpose of protecting basic human rights'[5]. Hence, we remain exposed to continued gross violations of basic human rights and freedoms such as the tragic stories of the Stolen Generation, removal of organs of stillborn babies taken for experimentation, and the blatantly racist ideologies advocated by the likes of Pauline Hanson and One Nation. In short, there is no well founded and reasonably assured guarantee for ordinary citizens of individual rights and freedoms - civil liberties and protection of minority groups.

What statutory safeguards that exist for human rights are confined strictly to common law provisions and anti discrimination legislative measures - race, disability and sex. It must also be acknowledged that there has been some minimal enhancement of human freedoms and rights when Australian judges, like the late Justice Murphy, have strained to discover 'implied rights' in the Australian Constitution. Likewise, another positive development as regards rights has been through provisions made in the Senate and also some State Parliaments for Parliamentary scrutiny of new legislation to ensure that these are not in contravention of international norms and standards, particularly those in the UN *International Bill of Human Rights,* ie, the Universal Declaration of Human Rights, International Covenant on Economic, Social, Cultural Rights (ICESCR), the International Covenant on Civil and Political Rights (ICPR) and 2 Optional Protocols of ICPR.[6] However, as Justice Malcolm has rightly observed, there are clearly important limits on 'the judicial development of the common law by reference to international standards'.[7]

On the matter of the protection of the rights of minority groups, Australian anti-discrimination legislation (Federal and State) provides some limited safeguards for minority groups on the grounds of race, disability and sex.[8] The Federal anti-discrimination legislation, in particular, the *Racial Discrimination Act* (RD Act *1975),* has played an important role in protecting minority rights and in ensuring that we are not in contravention of the international norms and standards as embodied in the UN

International Bill of Human Rights.[9] Nevertheless, the existing discrimination legislation, all being Acts of Parliament, are subject to the vagaries of political fortunes in our system of parliamentary government, especially the doctrine of parliamentary sovereignty and majoritarian rule. This was well demonstrated with *The Native Title Amendment Act* of 1998 which qualified the scope of the pathfinding Wik case in 1996, granting Native Title over pastoral leases. This tells its own story of the effectiveness of the existing legislation, and confirms that the existing anti discrimination legislation is very limited and inadequate especially in meeting our international obligations.[10]

In this regard, it is ironic that, while proclaiming ourselves to our recalcitrant neighbours as a rights based liberal democracy for the region, we turn a blind eye to the racist provisions in Sec 51 (xxvi) of the Constitution. How can we in the 21st century, supposedly as a model democracy and one committed to racial equality, defend the view in the Constitution that the government has the power to enact laws that may discriminate against people on the basis of their race? The landmark *Hindmarsh Island Case* has clearly shown that governments are not averse to invoking the 'race' power inherent in the constitution whenever it suits them.[11] Indeed, the final Hindmarsh court determination does not only indicate the constitutional limitations as regards human rights but more seriously, demonstrates that constitutionally a government may 'well establish a system of racial discrimination or indeed [violate] any human rights'.[12]

It is perhaps worth recalling that the question of human rights in the form of a Bill of Rights was canvased at the time of Federation. In 1896, Inglis Clark, the Tasmanian Attorney General, in his Draft for the Australian Constitution, argued for the inclusion of some rights based on the US model.[13] There were many objections to this proposal for a variety of reasons, but perhaps the strongest argument, and one, which prevailed, came from the Premier of WA, Sir John Forrest. Forrest objected to the Clark proposal on the grounds that the inclusion of 'an equal protection clause would create particular difficulties with coloured residents of the State [of WA]'.[14] What Forrest feared was that any Federal Constitution with an equal protection clause would restrict the State's power to enact legislation to prevent 'the introduction of coloured persons' as required by the WA State factory legislation, which restricted the employment of Asian workers.

The rights to discriminate against racial groups was a matter of State's rights, and was more fundamental to the Australian political culture than was respect for human rights and freedoms. Ironically, with the passage of the draconian security legislation by the Australian Government in 2002 we are witnessing the re-enactment of our constitutional history of a century ago where the right to discriminate was regarded as integral to the sovereignty of the states - the difference today is that this argument extends to the political sovereignty of the Australian state, as the justification for overriding all consideration of basic human rights and freedoms.

The Australian experience

A characteristic feature of the Australian political culture is that the Australian Constitution has no explicit mention of citizenship or rights of citizenship. Yet some claim that 'citizenship is at the heart of Australian politics'.[15] Presumably, this refers to the principle of universal citizenship with a strong emphasis on equality, based on a common law understanding as formal equality or procedural equality. In the absence of a Bill of Rights this conferred a common law enjoyment of 'negative rights'[16], ie, an

obligation cast on the state to prevent infringement of basic rights. Admittedly, the Australian Constitution does guarantee five important freedoms - viz, the Right to Vote, (s41), Trial by Jury (s80), Freedom of Religion (s116), Rights of 'out of' state' Residents (s117) and Freedom of Interstate Trade (s92). These, except for the last two, apply only to laws as passed by the Commonwealth. Perhaps it is worthwhile drawing attention to the position of the Constitution regarding freedom of religion (s16) as this has been recently reviewed in a notable Report (*Article 18*) by Chris Sidoti, the former Human Rights Commissioner of HREOC.[17]

This HREOC Report draws pointed attention to the shortcomings of the existing constitutional provisions and recommends the enactment of a *Federal Religious Freedom Act* which will, among other things, address the provisions of ICCPR (Article 18) on the enjoyment of religion and protection against vilification and incitement to hatred on the basis of religion. Incidentally, Tasmania is 'the only State to provide for religions freedom in its Constitution.[18] This significant human rights document, *Article 18,* has, not unexpectedly, been summarily dismissed by the Howard government and confined to the archives.

Following the early attempt at the time of Federation for a Bill of Rights, as a part of the Australian Constitution, the late Dr Evatt as Labor Attorney General in 1944, sought to introduce a Bill of Rights relating to guarantees of free speech and freedom of religion. The Referendum relating to this and other matters was defeated. Since then, there have been three other attempts at introducing a Statutory Bill of Rights in Australia as a precursor to constitutional provisions. The first was in 1973 by the late Justice Murphy followed by Gareth Evans in 1983 and Lionel Bowen in 1985.[19] All these were unsuccessful and were followed by the Hawke Government's Constitutional Referendum of 1988.[20]

This Constitutional Referendum arose as a result of the work of the Constitutional Commission of 1987,[21] and was intended to coincide with the bicentenary celebrations. It was envisaged as a constitutional change relating to Rights, and consisted of four proposals put forward at the 1988 Referendum. Three of these dealt with procedural rights - a four year maximum term for parliament, constitutional recognition of State level government, and a guarantee of 'one vote, one value' by which the total voting strength in any electorate should not deviate by more than 20 per cent from that in any other electorate. The other proposal sought to extend existing guarantees in the Constitution such as the provisions guaranteeing trial by jury, and extending religious freedom provisions to the laws passed by the State and Territories. All these Referendum proposals were defeated and constituted a severe setback to the introduction of Rights by constitutional reform.

Despite the Referendum setback, it should be borne in mind that the Final Constitutional Commission Report of 1988[22], drawing heavily from the *Canadian Charter of Rights and Freedoms*, for the first time, recommended constitutionally entrenched rights (a new Ch VIA of the Constitution - Rights and Freedoms) for inclusion in the Australian Constitution. This proposal is now only of historical value in the light of the recent Republican debate being almost exclusively focused on the minimalist position of how best to determine the Head of State. It seems unlikely that constitutional reform, especially the prospect of a constitutionally entrenched Bill of Rights, will form part of the Republican debate.

The Australian approach to human rights is not only limited and patchy, but also considerably weaker than in many other western liberal democracies. We stand out in

the democratic world as laggards in defending Rights. The inescapable conclusion that can be drawn from an overview of the state of human rights and freedom in Australian is that the current legal system is seriously inadequate in protecting civil liberties - individual rights and freedom, as well as 'many of the rights of the most vulnerable and disadvantaged groups in community'.[23] Even the eminent jurist Sir Anthony Mason, who is not a proponent of a Bill of Rights, agrees that 'the common law is not as invincible a safeguard against violations of fundamental rights as it was once thought'.[24] In brief, not only is the Australian human rights approach much weaker than in many other western liberal democracies but as Charlesworth observes, 'our complacency about the protection of human rights is our greatest weakness'.[25]

A Bill of Rights – pros and cons

There is indeed, a compelling case for us to devise ways and means of strengthening the rights elements in our political culture. But, first and foremost, we need to reaffirm strongly our commitment to a liberal view of rights, which explicitly states that rights exist morally and logically prior to duties and not vice versa. One of the main planks of the neo-liberal political thinking, characteristic of political regimes which cut across the left/right political spectrum - from Margaret Thatcher and John Howard to Tony Blair, and Kim Beazley - has been the attempt to impose the new political philosophy that the rights of citizenship are contingent upon duties, ie, the rights we enjoy reflect the duties we owe as citizens. This neo conservative view is vividly reflected in the proposal to rename the *Human Rights and Equal Opportunities Commission* as the *Human Responsibilities and Rights Commission!* In short, this new language of public policy discourse on mutual or reciprocal obligations leads to a marginalisation of rights and a distortion of the social contract.[26]

Citizenship rights theory has traditionally evolved within a framework of liberal political theory[27] which recognises that duties and responsibilities are inherent in the claims to Human Rights which constitute 'the rock bottom of human existence',[28] and provide the conditions necessary for people to lead their lives with dignity, respect, and value. There should be no requirement that, as Hilary Charlesworth puts it bluntly, 'human rights need to be earned by good behaviour or performance of duties'.[29]

The pursuit of rights is not something antithetical to Australia's democratic political culture but an intrinsic element of collective self determination in a political sense. Rights, in addition, provide a basis for defining the boundaries of the political community and also serve as a vehicle for contestation over the boundaries of rights.[30] Given that the concept of rights has been framed within a particular socio-historical context and influenced by a variety of traditions and institutions, rights are constantly being contested or expanded – for example, rights of women, minority groups and indigenous people. The endorsement of rights within a given society is governed by the interplay of a multiplicity of values, needs, and social consequences. In this sense, what is most important is the 'right to have rights'.[31] This notion of rights takes us beyond some of the simplistic assumptions that are implicated in natural rights thinking of an earlier era.[32]

In providing an institutional basis for a rights based democratic political system in the Australian context, Williams has summarised neatly the arguments for and against a Bill of Rights[33]: (see overleaf)

From the above, it will be clear that the case for having a legal guarantee of human rights and freedom to protect individual rights as well as those of minorities is overwhelming. A great deal of the rationale underlying objections to a Bill of Rights is based on the questionable assumption that legal guarantees for rights and freedom necessarily infringe on the principle of parliamentary sovereignty in a liberal

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For

- Australian law does not protect fundamental freedoms.
- A Bill of Rights would give recognition to certain universal rights.
- A Bill of Rights would give power of action to Australians who are otherwise powerless.
- A Bill of Rights would bring Australia into line with the rest of the world.
- A Bill of Rights would meet Australia's international obligations.
- A Bill of Rights would enhance Australian democracy by protecting the rights of minorities.
- A Bill of Rights would put rights above politics and arbitrary governmental action.
- A Bill of Rights would improve government policy-making and administrative decision making.
- A Bill of Rights would serve an important educative function.
- A Bill of Rights would promote tolerance and understanding in the community.

Against

- Rights are already well protected in Australia.
- The High Court is already protecting rights through its interpretation of the Constitutional and the common law.
- Rights listed in the Constitution or Acts actually make little or no difference in protecting rights.
- The political system itself is the best protection of rights in Australia.
- A Bill of Rights would actually restrict rights, that is, to define a right is to limit.
- A Bill of Rights would be undemocratic to give unelected judges the power to override the judgment of parliament.
- A Bill of Rights would politicise the Australian judiciary.
- A Bill of Rights would be very expensive given the amount of litigation it should generate.
- A Bill of Rights would be alien to our tradition of parliamentary sovereignty.
- A Bill of Rights would protect some rights (for example, the right to bear arms) that might not be so important to future generations.

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democracy. This was clearly evident in the view of Sir Robert Menzies who argued that 'the ultimate guarantee of justice and individual rights' rested with Parliament.[34]

Similar sentiments have been voiced across the political spectrum, the most recent being that of the NSW Premier, Bob Carr, in his outright rejection of proposals for a NSW State Bill of Rights. According to Carr, 'a Bill of rights is an admission of the failure of parliaments, governments and the people to behave in a reasonable, responsible and respectful manner. I do not believe that we have failed'.[35] One wonders whether Premier Carr may have changed his view in this regard following the recent political events surrounding the *Tampa*, the sorry saga of the children overboard scandal, and the introduction of extra-parliamentary powers relating to border protection and anti-terrorism.

This is very unlikely, given the vigour and conviction with which the vast majority of Australian politicians place their trust in the ability of majoritarian parliamentary systems of government to defend human rights and freedoms against the so called

danger of entrusting these to an unelected judiciary. Another objection is that the judiciary which will have ultimate constitutional responsibility for a bill of rights is socially ill-equipped to make determinations of 'the most pressing legal, moral and political questions of the day.'[36] But are we willing, as a free and independent people's democracy, to leave the fate of basic freedoms in the hands of politicians who are governed either by the dictates of party allegiance or those of populist sentiment manipulated by demagogues, media personalities or other vested interests?

However, what is controversial and problematic for a variety of reasons - philosophical, administrative and strategic - is the best way of achieving this desired objective of building rights and freedom into the Australian political culture. Central to any discussion of how we should proceed in this regard is to determine the institutional character of the legal guarantees, characterised as a Bill of Rights or Charter of Rights. This concerns the crucial question of whether we strive for a Bill of Rights in the classical form of the US Bill of Rights or in some other form as in the more recent examples of the Bill of Rights in countries such as Canada, South Africa or New Zealand. We clearly have a choice between a constitutionally entrenched, or, a statutory Bill of Rights as in the UK or Canada.

Much of the thinking critical of a Bill of Rights is often founded on the mistaken assumption that there is only one model for legal guarantees for human rights and freedom, *viz*, the US model of a Bill of Rights with its own distinctive historical antecedents and philosophical stance. Clearly, there is a choice today of more than one model of a Bill or a Charter of Rights which protects specified human rights and freedoms. The UK Bill, for example, is an Act of Parliament – not a piece of entrenched constitutional legislation as in the US. This model of a Statutory Bill of Rights has been commended as being worthy of consideration in Australia, on the grounds that it does 'not usurp or hijack the role of Parliament'.[37]

It is imperative that in devising the nature and form of Australian legal guarantees for human rights, we examine the different models that currently exist, and the context in which these models have evolved. Charlesworth has recently identified three models: the *Canadian Charter of Freedom and Rights* (1982), *The South African Bill of Rights* (1996), and the *UK Human Rights Act* (1998), from which we may draw useful guides and pointers for an Australian version.[38] Her own preference for a Australian Bill of Rights is one modelled on aspects of the Canadian model for which she recommends 'a two-stage procedure, a statutory scheme of rights protection followed by constitutional reform'.[39] Williams is another leading rights advocate who also appears inclined towards an adaptation of the Canadian model but differs from Charlesworth as regards the nature and scope of the provisions to be included in a Charter.[40]

Williams' answer to the question, 'what rights do we need to protect?' is to confine these 'to a few core rights that are obviously regarded as basic and fundamental to Australian democracy'.[41] These are mainly 'the right to vote, freedom of expression freedom from discrimination on the basis of race, sex or disability'. He adds, with some hesitation, 'even rights such as the cultural rights of Australia's indigenous peoples'. As regards the scope of these legal provisions an important issue for consideration is the public/private issue, ie, whether they should focus on the public acts by governments or whether they should also provide for the rights of citizens in the private domain such as in relation to actions of a non governmental nature. As Charlesworth observes, 'there appears to be no reason why all private persons and entities should not be required to act consistently with human rights standards'.[42]

On the question of the content of rights, Charlesworth, however, differs sharply from

Williams as she argues convincingly that an Australian Bill of Rights should not be confined to civil and political rights (First Generation Rights) that is, mainly 'negative rights', but include reference to economic, social, and cultural rights (Second Generation Rights). The latter are 'positive rights'[43] which pertain to issues of social justice; it is a means to social justice. In this regard, the Canadian model warrants careful consideration because it extends the civil liberties and individual rights perspective to include social justice and a normative view of citizenship rights in a multicultural society. Charlesworth succinctly expresses the merit of the Canadian Charter by drawing attention to its unique character as 'a mechanism to promote a multi-layered discussion and dialogue between the institutions of government and the people on the basic conditions of a good life'.[44]

Strategy and rationale for Australian legislation

The 'multi-layered' character of the Canadian Charter is particularly relevant in the Australian context as it provides not only a mechanism, but also a philosophical basis, for reformulating the orthodoxy of Australian multiculturalism. The 'liberal multiculturalism' which has been developed over the past two decades with bi-partisan support is steeped in a universalism and political equality (ie, formal equality before the law). Its major limitation is that this form of multiculturalism is unable to confront 'difference' and permit differential treatment, where necessary, with recourse to special measures'.[45]

In short, the Canadian Charter enables us, in reformulating Australian multiculturalism, to re-negotiate the classical liberal view of a common citizenship as a legal status, which embodies the fundamental rights of citizenship protected within the common law tradition. Within this new paradigm of a democratic pluralism we are able to formulate a more radical inclusive view of citizenship as a 'differentiated citizenship'[46] along with its corollary of group differentiated rights for indigenous minorities. It is this more inclusive notion of citizenship in a multicultural society which confers a sense of membership and belonging in a political community which is characterised by 'difference', associated with disadvantaged or oppressed groups, eg, the gay and lesbian groups, the aged, disabled, immigrant minorities and indigenous groups.[47]

One of the distinctive features of Canadian multiculturalism is that it subscribes to a form of 'corporate pluralism' that is better equipped to accommodate 'difference' and differential treatment as an aspect of public policy. But, importantly, the substance and meaning of this corporate pluralism resides in the concept of equality enshrined in the Canadian Charter.[48] The Canadian Charter, therefore, needs to be seen as an important instrument of Canadian multiculturalism that is built around a four-tier equality provision[49] in addition to the basic fact of *'equality before the law'* as in the Australian common law tradition. The other two tiers —*'equality under the law'* and *'equal protection of the law'* - which among other considerations, enable ethnic minorities to be protected for instance, from being discriminated against as a result of their identification as a legislative category or recognition as a status classification. A fourth tier – *'equal benefit of the law'* provides an additional benefit of some considerable significance by proscribing laws that have an unequal impact upon minority groups, eg, those arising from institutional or systemic discrimination.

This four-tier notion of equality provides a more thorough guarantee of the legal status of ethnic minorities (indigenous and non-indigenous) by entertaining a minimalist view of 'group rights'; it is one which is understood essentially in

individualistic terms, but recognises that individuals may be denied their rights or discriminated against by virtue of being identified as belonging to a collectivity or group based on criteria such as race, national or ethnic origins, or religion. By comparison, in Australia, the only legislative provision catering to difference is contained in the 'special measures' provisions of the RDA Sec 8(1). This in turn is heavily circumscribed by the criteria laid out by judicial decisions on which a 'special measure' may be constituted.[50]

When one considers the protection of ethnic minority groups - be they indigenous or non-indigenous - clearly there is a need for 'special measures' or special entitlements because of the social history and placement in society of particular groups - be they indigenous or non-indigenous or ethnic - what is in question is the meaning attached to 'equality' and its cognate notion of equality of opportunity in contemporary citizenship theorising. Multicultural societies, such as Australia, which do not accord formal acknowledgement of group differences, will need to move away from the *politics of universalism,* characteristic of conventional liberal thought, towards a concept of the *politics of difference,* which recognises mixed and multiple identities of individuals.[51]

Moves towards a 'politics of difference'[52] within the framework of a rights culture would also have the added benefit of helping to overcome one of the major shortcomings of Australian multiculturalism, *viz*, the disjunction in public policy terms between the multicultural consciousness and aboriginal discourse. The Aboriginal people have rightly been lukewarm and indifferent to the current ideology of multiculturalism that has been framed specifically to cater for the needs and aspirations of immigrant settlers.[53] At the same time, immigrant ethnic groups too have failed, until very recently, to recognise and acknowledge the special status of Aboriginal people and promote their concerns. There is no doubt that the theory and practice of Australian multiculturalism masks the exclusion and oppression of Aboriginal Australians. A meaningful convergence between the indigenous Aboriginal and multicultural discourse would, however, be made possible through a Charter of Rights as in the Canadian Charter which permits the acceptance of the concept of a differentiated citizenship and the cognate concept of 'collective rights'.[54]

Given that 'citizenship and rights were not constitutionalised' but left to governments and parliaments (Commonwealth and State), there is an urgent need to re-negotiate the terms and conditions of Australian citizenship for 'the formal status of the subject … to the substantive attributes of citizenship'.[55] However, a prior requirement of any such renegotiation of citizenship is an acceptance and reframing of the principle of equality, characteristic of liberal democratic theory. Indeed, as Taylor[56] observes, there is provision within a democratic concept of universal rights to accommodate difference in a manner consistent with liberal political theorising.

Therefore, a critical issue is evolving a policy paradigm for a new multicultural philosophy that incorporates indigenous and non-indigenous minorities, to determine *'how we treat all members as equal, and also recognise their separate identities'.*[57]

The commitment to a radical, differentiated, but inclusionary citizenship in a civic republican sense, becomes a form of identification that confers rights and responsibilities, which need to be guaranteed and protected in a constitutional or statutory document.[58] This requires, above all, that 'people have a large degree of security and independence from the state'.[59] Unfortunately, the Australian Constitution and the State / Territory Constitutions provide only very limited security

and minimal protection of the fundamental rights and freedoms which constitute the basis of our kind of liberal democracy in a multicultural society.

The Queensland government was the first State government to introduce (in 1980) a Constitutional Bill of Rights (Declaration of Rights). Surprisingly, this was an initiative of the Country Party / Liberal Coalition. This Bill sought to protect basic civil liberties and the independence of the judiciary but was abandoned due to opposition from the Australian Labor Party. The NSW Parliament Legislative Standing Committee Report of 2001 documents a recent inquiry into whether it is appropriate and in the public interest to enact a statutory NSW Bill of Rights and/or whether amendments should be made to the Interoperation Act 1987 to require courts to take into account rights contained in International Conventions. While this Report did not recommend a Bill of Rights, it agreed that 'the common law is not a sufficient protection of individual rights in the absence of legislative action'[60].

The NSW Report is exhaustive and well documented, and confirms the view[61] that 'over time a statutory Bill of Rights [may] be preceded by statutory Bill of Rights enacted by State and Territory governments [and that this] would contribute positively to a rights culture within Australian society'. This strategy is one which governments in the States and Territories may well wish to follow, bearing in mind the historical precedent of the SA Dunstan Labor Government of 1966 which steered the way for the Federal Government's RD Act of 1975 by pioneering anti discrimination legislation in Australia. An innovative move in this direction may set in process the creation of a new culture of rights and freedom that will provide the building blocks for a new philosophy of multiculturalism. This would be based, not on the failed identity politics of the past, but a politics of identity able to incorporate Aboriginal and multicultural discourse within a political community governed by an new vision of a differential citizenship in a multicultural society committed to nation building, unity and social integration.

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Australian Quarterly Essays 5.

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Solidarity Rights Give Way to Solidifying Rights

Roland Rich

The field of human rights is vast, debated in international conferences, domestic courts and the many spaces inhabited by civil society. In this essay, an attempt is made to discern where the intellectual energy in the field is being directed currently, by looking at the international agenda, certain domestic legal processes and aspects of the academic literature.

Solidarity rights

The categorisation of human rights into three generations originated with Karel Vasak[1] when he held the position of UNESCO Legal Advisor (1977). He put forward an attractive argument that the *first generation* of rights flowed from the American Declaration of Independence of 1776 and the French Declaration of the Rights of Man of 1789. These are rights owed to the individual, to be protected from arbitrary action by the state. The first generation rights correspond to the rights elaborated in the International Covenant on Civil and Political Rights (ICCPR, 999 UNTS 171, 1966).

The *second generation* rights flowed from the Soviet revolution of 1917 and they find their articulation in international law in the International Covenant on Economic, Social and Cultural Rights (ICESCR, 993 UNTS 3, 1966), the companion covenant to ICCPR. The second generation rights comprise rights owed to the individual by the state such as the right to be provided a primary level education. The dichotomy between 'protected from' and 'provided by' led to an unfortunate further categorisation of these rights as negative rights and positive rights. The negative rights - civil and political - required governments to refrain from breaching individual rights. The positive rights - economic, social and cultural - required action from those same governments to achieve them.[2]

The two generations of rights had a pleasing political flavour in the Cold War years. Each side could claim to have parented one of the generations, each side could point to the fruit of its conceptualisation in one of the Covenants and neither side was able to claim that one set of rights had priority over the other.[3] But where did this process leave the developing world?

Vasak argued that a *third generation* of rights was emerging. These were peoples' rights, and the main candidates for elevation to the status of human rights were the right to development, the right to peace and the right to a healthy environment. Vasak called these the solidarity rights because their realisation could not be achieved without the concerted efforts of the international community as a whole, given the phenomenon of global interdependence.[4]

One of the first criticisms of the third generation concept, and the rights of peoples in general, was the widely held view that human rights devolve upon individuals, not peoples. But the right of self-determination was enshrined in Article 1 of both Covenants and it devolves necessarily upon a people or 'self-determination unit'.[5] Thus if there were a third generation of people's rights then the right of self-determination would be the first born of that generation.[6]

Implementing solidarity rights

The other major criticism of solidarity rights turned on their utility. Did this generation of rights have something concrete to contribute to the promotion and protection of human rights? In theory, a positive response beckoned. Globalisation is making

national borders less relevant and national governments less able unilaterally to meet their peoples' needs. Solidarity among the nations of the world is an appropriate response to this challenge. Further, solidarity rights appeared to offer an organising principle around which to promote all human rights. By being directed at nations and their governments it encouraged governments to view issues of peace and development from a human rights perspective. The sequencing of the creation of the rights did not appear to engender competition among these rights but, rather, to encourage reinforcement of the earlier generations of rights. Politically, the linking of the solidarity rights with the right of self-determination and emphasis given to the right to development excited great interest in the subject of human rights in developing countries and their governments in the 'South'. It provided a means of 'ownership' by the 'South' of a significant part of the human rights discourse that had previously been monopolised by the 'North'.[7]

Emboldened by the prospect of placing human rights issues at centre stage, academics, activists and representatives put their energies in the formal articulation of the solidarity rights and in fleshing out their meaning. The result was two significant declarations: The Declaration on the Right of Peoples to Peace of 12 November 1984 (UNGA Resolution 39/11) and the Declaration on the Right to Development of 4 December 1986 (UNGA Resolution 41/126). UN General Assembly resolutions are not binding in international law but they have persuasive authority, especially if they take the form of solemn declarations and if they have strong, preferably consensus, support. Neither of these declarations enjoyed consensus support. Virtually all western countries, including Australia, abstained on the right to peace and the United States voted against the right to development while 8 others abstained, though Australia voted in support. References to these rights continued to appear in further hortatory instruments, but there was insufficient support to take the next step and draft binding implementing treaties.

Another solidarity rights candidate is the right to a clean environment. The issue has been discussed at length in international forums, including at the 1992 Rio Earth Summit, but no instrument analogous to the declarations on the right to peace and development has emerged. In 1994 a group of experts prepared a Draft Declaration of Principles on Human Rights and the Environment, which asserted, "all persons have the right to a secure, healthy and ecologically sound environment." The 1995 Vienna Declaration and Programme of Action of the World Conference on Human Rights also spoke of the right to development meeting the "environmental needs of present and future generations." But generally, debate on environment protection moved away from the human rights context and into its own specialist domain.

The right to peace never had much chance of gaining substantial implementation in human rights law. The UN Charter already set down the limits of the use of force and Chapter VII of the Charter established implementing machinery based on the powers of the UN Security Council. The Declaration itself with its four short operative paragraphs is eloquent testimony of its lack of substance. With the end of the Cold War and the 'outbreak of peace', the right to peace was quietly forgotten.

The decolonisation process had given powerful meaning to the right of self-determination and the best candidate to bolster the category of solidarity rights was the right to development.[8] The factors in favour of implementation were weighty. Developing countries had been accepted as a distinct category of nations in international law in instruments dealing with trade preferences and the law of the sea;

the phenomenon of official development assistance was a well-established practice; and the right of self-determination had already cemented in international law the concept of peoples' rights. The value of the right to development was to bring human rights concepts into economic development by making the individual the subject of development and by judging the quality of development through a human rights prism.

In an attempt to give the right to development meaning and rigour the UN Commission on Human Rights has over the last ten years established an intergovernmental working group of experts, an open-ended working group and appointed an independent expert, Arjun Sengupta of India.[9] Sengupta's recommendation was to give the right to development concrete force by focusing it as an international compact to implement the rights to food, primary health care and primary education. This is a most worthy proposal but it tends to make the right to development a simple echo of rights already contained in ICESCR. It has not found enthusiastic support. The international debate has now begun to overtake the right to development in its concentration on the newly articulated concept of rights-based development.[10]

The passage of time has therefore not been complemented by tangible progress in establishing solidarity rights. The rhetoric of solidarity rights finds ample expression in preambular paragraphs whenever diplomats and UN officials gather to draft new instruments, but ever fewer practitioners look to them as a vehicle for finding solutions to everyday problems. There may, however, be one exception.

Indigenous rights on the human rights agenda

One collective right that did not figure prominently on the human rights agenda at the time of the conceptualisation of the third generation of human rights concerned the rights of indigenous peoples. The United Nations had sporadically considered issues pertaining to indigenous peoples but it was not until 1986 that the UN system was forced to accept that there were specific and serious problems of human rights affecting the world's 300 million indigenous peoples.[11]

We can today conclude that indigenous rights have arrived on the UN human rights agenda, in view of the following developments;

- The June 1993 second World Conference on Human Rights held in Vienna adopted a Declaration and Programme of Action which recognized the "inherent dignity and the unique contribution of indigenous people to the development and plurality of society" and reaffirmed "the commitment of the international community to their economic, social and cultural well-being and their enjoyment of the fruits of sustainable development".[12]
- A Working Group on Indigenous Populations prepared a draft declaration on the rights of indigenous peoples and submitted it to the Sub-Commission on Prevention of Discrimination and Protection of Minorities. By its resolution 1994/45 of 26 August 1994, the Sub-Commission adopted the draft declaration and submitted it to the Commission on Human Rights for consideration.[13]
- Following a recommendation by the World Conference on Human Rights, the General Assembly, by its resolution 48/163 of 21 December 1993, proclaimed the International Decade of the World's Indigenous People (1995-2004). The goal of the Decade is to strengthen international cooperation for the solution of problems faced by indigenous people in such areas as human rights, the environment, development, education and health.

- In 2000 the United Nations Economic and Social Council established the Permanent Forum on Indigenous Issues. The Permanent Forum is a high-level advisory body that deals solely with indigenous issues. The Forum is composed of sixteen members, eight of whom are indigenous experts. The mandate of the Forum is to address indigenous issues related to economic and social development, culture, the environment, education, health and human rights.

While there is considerable activism, there remains a substantial unresolved theoretical problem that goes to the heart of this issue - are indigenous people 'peoples' within the meaning of the human rights covenants and thus do they enjoy the right of self-determination set down in common Article 1 of ICCPR and ICESCR? *viz* 'All peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development'.

The right of self-determination was one of the great organising principles of the post-World War II decolonisation process and at least one author has described it as limited to this field.[14] Indigenous rights supporters point out that this concept is ahistorical in that it only takes into account the later stages of imperial colonialism but not the earlier examples of settler colonialism.[15] The extension of the right of self-determination to indigenous people raises the important issue of the effect on a sovereign state of a decision by indigenous people to "freely determine their political status" such as to give them a different status than as citizens of the settler state. Taking this matter to its ultimate logic, the issue of secession arises. Settler states such as Australia, Canada, New Zealand and the United States do not accept secession as a possible outcome.

An attempt to reconcile the positions of the indigenous peoples and of the settler states is in the concept of 'internal self-determination'[16] which, though having no impact on the issue of borders of an existing state or the emergence of new states, nevertheless provides the people of a state a continuing right of self-determination in the choice of political systems and leaders. The application of the concept of internal self-determination to indigenous people has been suggested as a means to recognise indigenous peoples as possessing collective rights and achieving political voice without necessarily having a right of secession.[17] Canada is moving in this direction in its dialogue with its First Nations.

The matter of indigenous rights has thus found a mention in the human rights agenda, but with the possible exception of Canada, the international community has not accepted that indigenous groups possess collective rights as 'peoples'. At this stage in the development of human rights law, indigenous people are entitled to all the benefits of human rights protection as individuals. In addition, under the Convention on the Elimination of Racial Discrimination (CERD, 660 UNTS 195, 1969) individual indigenous persons are entitled not to be discriminated against for reason of 'race, colour, descent, or national or ethnic origin' (Art 1(1)) and are also entitled to 'special measures taken for the sole purpose of securing adequate advancement' (Art 1 (4)). The concept of special measures is the basis for the Australian Native Title Act 1993.

Enhanced collective enforcement of human rights

The emphasis on 'new' human rights in the policy debates of the 70s and 80s, inherent in the development of solidarity rights, carried with it a danger that the

largely unfinished work of ensuring compliance with the first and second generation rights would languish.[18]

Ideally, respect for human rights would be assured by democratically elected national governments heeding the wishes of an informed citizenry, with no need for extra-national machinery. Yet even in Europe, a region of the world where democracy has become a norm, the need for extra-national structures has been accepted. The European Convention on Human Rights 1950 (ETS 55) is the most advanced example of collective enforcement of human rights norms. It establishes a process for individuals to appeal to an independent European Court of Human Rights whose decisions are immediately applicable. The 1998 Human Rights Act incorporating the European Convention as part of United Kingdom law demonstrates eloquently the value of collective enforcement in a common law democracy.

A parallel but far less rigorous system of collective enforcement of human rights is being constructed at the international level. As in Europe, the system is built on the concurrence of states but it is clear that globally, states are less inclined to accept strong enforcement machinery. There are two key elements. One involves periodic national reports submitted by states party to the six major international human rights covenants and conventions, each of which has an elected committee to examine and comment on the reports. The system is insufficiently resourced but nevertheless has considerable accomplishments. Australia has been a recent critic.[19]

The other involves a process of complaints to these committees from individuals in countries that have accepted the various procedures. Complaints procedures are possible under ICCPR through its First Optional Protocol (999 U.N.T.S. 302, 1966) with 102 states parties including Australia; under Article 14 of CERD which 39 states parties, including Australia, have accepted; under Article 22 of the Convention against Torture (CAT, 1465 UNTS 113, 1984) which 51 states parties, including Australia, have so accepted; and under the Optional Protocol to the Convention on the Elimination of all forms of Discrimination against Women which came into force in December 2000 (U.N. Doc. A/54/49 (Vol. I) (2000)) and has 42 states parties but which Australia has rejected.[20]

An important new piece of machinery in the process of collective enforcement of human rights is the system established under the Draft Optional Protocol to the Convention against Torture (E.CN.4.RES.2002/33). The draft Optional Protocol proposes the establishment of a subcommittee which will have the right to visit "any place under the jurisdiction and control (of states parties) where persons are or may be deprived of their liberty" with a view to protection of those persons against torture. This is a far more rigorous process than the current 'confidential inquiry' process established in Article 20 of the Convention against Torture under which the state being investigated is invited to cooperate with the committee. Outside the treaty framework there are similar arrangements in place where rapporteurs of the Commission of Human Rights or representatives of the UN High Commissioner for Human Rights seek permission to visit a country to investigate matters. The Optional Protocol, however, envisages that the subcommittee will have the right under the treaty to undertake such visits without seeking the approval of a state, that blanket approval having already been given by becoming a party to the Optional Protocol. While Australia had not previously excluded the operation of the Article 20 process, it has now rejected the proposed new inquiry approach by voting against the adoption of the text of the optional protocol at the UN, a fact criticised by Hilary Charlesworth

who noted that "this is the first time Australia has overtly opposed the strengthening of the international human rights system."[21]

Australia played a far more positive role, however, in the drafting, adoption and entry into force of the Rome Statute of the International Criminal Court (UN Doc No A/CONF.183/9, July 17, 1998) which aims to make the perpetrators of some of the greatest human rights abuses subject to trial and punishment either domestically or internationally. In one of the great examples of Australian deliberative democracy, the community and the parliament debated the issues and came to the decision to become an original party to the Statute.

Solidifying rights at the international level through strengthened enforcement machinery is sure to remain a priority on the agenda of the UN human rights system. While collective enforcement therefore remains important, a recent study suggests that the most exciting development in strengthening human rights is coming from domestic courts.

Justiciability of human rights in domestic courts

One study has traced the critical impact of the six human rights treaties in influencing the human rights agenda and setting the terminology in many domestic jurisdictions.[22] The greatest impact is when treaty norms are internalised in the domestic legal and cultural system. Enforcement then rests more fully on the domestic judicial and political processes. Australia has a curiously ambiguous place in this context.

Internalising treaty norms is best achieved by incorporating them in constitutions or entrenched legislation. South Africa's 1996 Constitution and Canada's 1982 Charter of Rights and Freedom are good examples. The New Zealand Bill of Rights 1990 and the UK Human Rights Act 1998 are examples of legislative enactment of international human rights norms. Australia does not have a Bill of Rights but the major international human rights treaties have nevertheless had an impact by being referred to in various pieces of Federal legislation including the Human Rights and Equal Opportunities Commission Act 1986; the Native Titles Act 1993; the Aboriginal and Torres Strait Islander Commission Act 1989; the Workplace Relations Act 1996; the Industrial Relations Reform Act 1993; the Evidence Act 1995; and the Sex Discrimination Act 1984.[23]

The study also counted the number of times international human rights treaties were referred to in judicial decisions in various jurisdictions.[24] Although Australia adopts a dualist interpretation of international law whereby treaties are not self-executing but must be incorporated into domestic legislation for their substance to have effect, Australian jurists have been active in finding interpretations, such as the 'legitimate expectations' doctrine[25] that refer back to the provisions of international human rights treaties. In the period between January 1999 and June 2000 Australian courts referred to one or other of the six international human rights treaties 844 times. Interestingly, in the country most comparable to Australia, Canada, there were only 169 references, perhaps pointing to the fact that without a Bill of Rights Australian courts find themselves more in need of having to refer to the originally formulated international norms.

The language of human rights also needs to find its place outside the legal system and within the social and political culture of a society. Of the twenty countries researched on the issue of reference to international treaties in newspaper articles in the period under review, more than 800 were reported in Australia with the next

closest country being Canada with references in just over 100 newspaper reports.[26] Again, this is probably a reflection of the absence of an Australian Bill of Rights and the resultant need to go to the source treaties.

The most striking development in the justiciability of human rights in domestic courts concerns the incorporation of economic, social and cultural rights in the South African Constitution of 1996. Among the fundamental rights guaranteed in Chapter 2 are:

* The right to an "environment that is not harmful to their health and wellbeing (sec 24)
* The right of access to adequate housing (sec 26)
* The right of access to health care services, sufficient food and water, and social security (sec 27)
* The right to basic education (sec 29)
* The right to "use the language and to participate in the cultural life of their choice" (sec 30)

A right without a remedy for the abuse of that right is hollow. This has placed particular pressure on the Constitutional Court of South Africa to enforce the economic, social and cultural rights in the Constitution. The Treatment Action Campaign Case, decided in July 2002, provides a decisive example of the capacity of judicial bodies to make orders in cases of economic and social rights.[27] In that case, the Constitutional Court ordered the government of South Africa to give HIV-infected pregnant women access to the drug nevirapine that could prevent the transmission of the virus to their babies. Thus, while the International Covenant on Economic, Social and Cultural Rights only goes so far as to require that such rights be "progressively implemented", domestic courts applying domestic law can make positive orders to enforce the rights immediately.

Conclusion

Whereas the concept of peoples' rights provided a hopeful dimension to the development of human rights in the 70s and 80s, practice and precedent over the last decade have left those hopes unfulfilled. The right to development may yet develop further substantive content under the direction of Arjun Sengupta, but the signs to date are not encouraging. The one exception may be in the field of indigenous rights where proponents of a right of internal self-determination, as a right of peoples, remain joined in battle with sceptical governments.

The human rights agenda has moved more forcefully towards solidifying rights by establishing stronger enforcement machinery both at the international level and, in many jurisdictions, at the domestic level. The establishment of the International Criminal Court and the new complaints and inquiry mechanisms in international human rights treaties provide potent examples of the growing strength of collective enforcement processes.

One of the most exciting developments, however, is the justiciability of economic and social rights at the domestic level. Examples of the enforcement of cultural rights in the form of language rights exist in Canada and Europe, but economic and social rights have long been seen as matters of policy and thus open to being given low prioritisation. Elevating these from the arena of policy to the realms of rights opens a new dimension, which can put substantive meaning in the concept of the indivisibility of all human rights.

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1   Vasak, Karel (1977). 'A 30-year Struggle', *The UNESCO Courier*, November.

2   In reality, governments are required to make strenuous efforts to secure individuals' civil and political rights. They must institute a system of rule of law administered by trained and disciplined police, competent courts and humane prisons and devise a system of good governance to guarantee civil and political rights. Criticism of the positive/negative terminology has been made cogently by Holmes, Stephen and Sunstein, Cass (1999), *The Cost of Rights. Why Liberty Depends on Taxes*. New York: Norton.

3   This was achieved formally in 1977 when United Nations General Assembly Resolution 32/130 stated, "all human rights and fundamental freedoms are indivisible and interdependent."

4   In a further flourish he pointed out that each generation mirrored respectively the battle cry of the French revolution: liberty, equality and fraternity. See Vasak, Karel (1984) 'Pour une troisième generation des droits de l'homme' in Swinarski, Christophe (ed) *Studies and Essays on International Humanitarian Law and Red Cross Principles*.

5   As described by Australia's noted international lawyer, James Crawford (1979). *The Creation of States in International Law*. Oxford: Clarendon Press.

6   A view recently noted with approval by human rights theorist Carl Wellman (2000) 'Solidarity, the Individual and Human Rights' in *Human Rights Quarterly* 22.3.

7   Rich, Roland (1988), 'The Right to Development: A Right of Peoples?' in Crawford, James *The Right of Peoples*, Oxford: Clarendon Press.

8   As argued in Rich, Roland (1983), 'The Right to Development as an Emerging Human Right' in 23 *Virginia Journal of International Law*.

9   Sengupta, Arjun (1999) Study on the current state of progress in the implementation of the right to development submitted by Mr. Arjun K Sengupta, independent expert, pursuant to Commission resolution 1998/72 and General Assembly resolution 53/155 E/CN.4/1999/WG.18/2, 27 July.

10 Overseas Development Institute Briefing Paper 3 (1999) 'What can we do with a Rights-Based Approach to Development', http://www.odi.org.uk/briefing/3_99.html

11 In the Cobo report: Cobo, Jose R Martinez (1986) "Study of the problem of discrimination against indigenous populations", issued in consolidated form in five volumes as document E/CN.4/Sub.2/1986/7 and Add.1-4. Volume V.

12 Vienna Declaration and Programme of Action (1993), World Conference on Human Rights, Vienna, 14-25 June 1993, U.N. Doc. A/CONF.157/24 (Part I) para 20.

[13] Draft Declaration of Principles on Human Rights and the Environment (1994)
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      International Law Achievements and Prospects, 1205-1218 UNESCO.

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      Imagination: A Plea' in *Human Rights Quarterly* 18.4.

[16] Cassese, Antonio (1995). *Self-Determination of Peoples: A Legal Reappraisal*. Cambridge
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[17] By Scott *op cit*.

[18] The alarm bells were tolled by the Australian human rights expert Philip Alston (1984)
      'Conjuring up New Human Rights: A Proposal for Quality Control' in *American Journal of
      International Law*, 78, 3. While acknowledging the dynamism of human rights, Alston
      argued for the need to maintain the integrity and credibility of the human rights tradition.
      This points to the need to find improved ways of ensuring respect for civil and political
      rights and encouraging the progressive implementation of economic, social and cultural
      rights.

[19] Joint Media Release FA97 (2000). 'Improving the Effectiveness of the United Nations
      Committees', 29 August.

[20] *ibid.*

[21] Charlesworth, Hilary (2002) 'A negative vote on torture puts Australia in dubious company',
      Sydney Morning Herald, 30 July.

[22] The study by Heyns, Christof and Viloen, Frans (2001) 'The Impact of the United Nations
      Human Rights Treaties on the Domestic Level' *Human Rights Quarterly 23.3* traced the
      critical impact of the six human rights treaties (ICCPR, ICESCR, CERD, CAT, the
      Convention for the Elimination of all forms of Discrimination against Women (CEDAW
      1249 U.N.T.S. 13, 1979), the Convention on the Rights of the Child (CROC 1577 UNTS
      44, 1989)) in influencing the human rights agenda and setting the terminology in many
      domestic jurisdictions.

[23] Heyns and Viljoen *ibid*: 501.

[24] Heyns and Viljoen *ibid*: 502.

[25] For example, the Teoh Case (1995) 128 ALR 353.

[26] Once again, the study found Australia in the lead. Heyns and Viljoen *ibid*: 499-500.

[27] Treatment Action Campaign Case CCT8/02 5 July 2002.

'The Paradox of Affluence'
Peter Saunders

Introduction

Between the recession of the early-1990s and the end of the millennium, the Australian economy grew at an average rate of over 4 per cent a year and real national income increased by more than one-third. Thus, even after allowing for higher prices, by 2000, many Australians had incomes that could buy more than a decade before – often substantially more.

Yet when asked in May 1999 about changes in their quality of life, over one-third of Australians thought that it was getting worse, close to two-fifths saw little change and only a quarter thought that it was improving. Two years earlier, when asked to identify important national priorities, over 80 per cent mentioned factors such as good education and health care and broad access to work and an acceptable society – particularly for children. Only slightly more than half referred to maintaining a high standard of living and keeping up with changes in technology as important priorities.[1]

Exploring the paradox between the statistical measures of economic success and the perceptions of social disquiet involves examining how economic and social trends and ideas are portrayed in public debate and influence community attitudes. The role of research in influencing the climate of public opinion through its engagement with the media is also important. Perceptions matter. Economists generally assume that the world is occupied by rational beings with the ability to process the information needed to make optimal choices. By ignoring the factors that determine how perceptions are formed and the mechanisms through which they can be influenced, social scientists have been unable to provide a complete understanding of the relationship between the economy and society.

The problem is not that economic success alone cannot generate contentment and social stability. The principle that *other things constant* people always prefer more to less, at least in terms of material goods, services and activities, remains an important source of motivation and understanding. Rather, the issue is that in striving to maximise economic outcomes, many of the things that have to be sacrificed are more highly valued *at the level of society* than the resulting increase in individual economic prosperity.

The increased emphasis given to how people relate to each other as economic actors has seen a lack of attention paid to other important relational factors. The relations between people and the institutions of state and market have become increasingly based on a form of economic rationality that emphasises choice, self-interest and profit. Increasingly, the role of the state has shifted from provider to regulator that, in conjunction with the increased competition necessary to realise the benefits of the 'invisible hand', has been necessary to promote trust in the instruments of the market.

At the same time as public confidence in the functioning of markets has increased, other aspects of trust have been eroded by increasing individualism and commercialisation. It is ironic that the decline of trust in other people (as social beings rather than as economic agents) as well as in social institutions generally has been shown to reduce the ability of government to work with the market sector to promote social capital and economic development.[2]

The neo-liberal agenda

Trying to ensure that economic activity and the processes that underlie it are consistent with good social outcomes has long been a core policy objective in liberal democracies.[3] In Australia, the emergence of economic rationalism as the dominant policy paradigm has threatened this goal. The doctrine of economic rationalism states that: 'markets and prices are the *only reliable* means of setting a value on anything, and, further, that markets and money can *always*, at least in principle, deliver better outcomes that states and bureaucracies'.[4]

Implicit in this definition is a challenge to all forms of state intervention, including the policies and programs of the welfare state. Yet the propositions identified with economic rationalism reflect a social philosophy that is founded on the idea of a libertarian state. It is this underlying philosophy rather than its application of economic reasoning that makes economic rationalism so hostile to state intervention.[5]

However, the attack on neo-liberalism will not succeed if the solutions it offers represent a return to collective provision within a bureaucratically organised and centrally controlled welfare state underpinned by a large public sector. Many of the assumptions underlying the development of the welfare state are no longer valid. Some of its ideas were never adequately explored, while many of its programs have not achieved what was expected of them, or gave rise to unanticipated costs and undesirable effects. In promoting a set of citizens' 'rights' that offered protection against unexpected but largely unavoidable misfortune, the welfare state paid too little attention to the role of individual responsibility and its connection with personal autonomy.[6]

The politics of economic reform

The basic intellectual message of the Keynesian revolution – that unemployment is a structural feature of capitalist economies that requires governments to manage aggregate demand – has been lost as the neo-liberal agenda portrayed unemployment as a consequence of labour market disequilibrium. The solution was to remove the institutional barriers to labour market competition and provide increased flexibility through greater reliance on market forces. Deregulation of the economy made the arguments for state intervention increasingly difficult to sustain because it interfered with market forces and undermined competitiveness.

Macroeconomic policy is now based on the view that there can be no growth without increased productivity and international trade, no trade without improvements in competitiveness and no hope of achieving these without dismantling the barriers to competition. In a few years, the institutional foundations of the 'Australian settlement'[7] – wage arbitration, tariff protection and strict controls on labour supply through immigration policy – were swept aside as policy focused on setting a 'level playing field' for market forces to function.

What was missing from the new approach was any acknowledgment of the human suffering imposed on those people whose jobs were put at risk by the new policy paradigm. In political terms, this strategy was effective because it cast those who suffered from the adjustment in terms of lost income, lost employment and lost identity against the larger numbers who would potentially benefit from a more vibrant and competitive economy. Those who resisted economic reform were seen to be

acting against the common good by preventing others from reaping the fruits of structural adjustment policies.

What was missing from the policy debate was any serious consideration of the role that social policy could – and should - play as part of the reform process. Its role was reduced to picking up the pieces left behind by the sweep of market forces. The resources devoted to social policy were also constrained in the name of fiscal responsibility and the policies themselves were allowed a greater role for choice and competition at the expense of setting minimum standards and guaranteed provision. The welfare state and its escalating budget were seen as the greatest obstacles to what most politicians saw as the route to electoral success – tax cuts for the middle classes.

Underlying these policy shifts is a view about the importance of economic ideas and argument described by Bourdieu in the following terms:

> A whole set of presuppositions is being imposed as self-evident: it is taken for granted that maximum growth, and therefore productivity and competitiveness, are the ultimate and sole goal of human actions; or that economic forces cannot be resisted. Or again – a presupposition that is the basis of all the presuppositions of economics – a radical separation is made between the economic and the social, which is left to one side, abandoned to sociologists, as a kind of reject.[8]

In order to assess how well the economy has performed it is necessary to look beyond the economic indicators to examine how social indicators have changed. It is also important to take account of changes in both the objective conditions that affect the standard of living and subjective measures that reveal how people have reacted to the changes taking place. When this is done, a picture emerges that casts a different light on the claimed economic successes resulting from neo-liberal policies.

Has the economy delivered?

Table 1: Comparisons of Australian and OECD Macroeconomic Performance

Indicator	Australia		OECD	
	1983-90	1992-99	1983-90	1992-99
Economic growth (real GDP, EG)	3.7	4.2	3.3	2.6
Inflation (consumer prices, IF)	7.3	1.6	7.1	4.3
Employment growth (total, EM)	2.5	1.6	1.5	0.9
Unemployment rate (national, UR)	7.9	9.0	7.3	7.3
'Happiness Index' (HI = EG plus EM)	6.2	5.8	4.8	3.5
'Misery Index' (MI = IF plus UR)	15.2	10.6	14.4	11.6
'Net Misery Index' (NMI = MI minus HI)	9.0	4.8	9.6	8.1

Source: OECD Economic Outlook, *Reference Statistics, various issues.*

Table 1 compares Australian growth, inflation and labour market performance since 1983 with that of the OECD area as a whole. The figures show in terms of the summary 'Happiness' and 'Misery' indices, that Australia out-performed the OECD in both decades, particularly the 1990s, although this is largely attributable to the rapid decline in the Australian inflation rate. This decline has been accompanied by rising unemployment in Australia, compared with the stability experienced in other countries - hardly cause for celebration. Although the market has had a greater say in all OECD economies, its voice has brought little comfort to those economies that have engineered its increasing importance.

Economic growth and household incomes

The economic growth of recent decades has resulted in higher levels of household income and rising levels of private consumption expenditure. After adjusting for increases in population size and in prices, household income (in real, per capita terms) virtually doubled between 1960 and 2000, while real per capita household consumption rose even faster, clear indications of increased economic prosperity.

However, the fact that average household size has also been declining steadily throughout the post-war period, particularly since the 1960s[9], the financial cost of supporting a given *standard of living* within households has increased. Fewer persons per household reduces the benefits from economies of scale in living costs, implying that the aggregate increase in household income exaggerates the increase in the benefits that economic growth has produced for individual household members.

Other factors have also had a profound effect. Many of the policies introduced over the 1980s and 1990s have resulted in a more market-oriented economy that has generated increased levels of output against the background of high unemployment, growing economic insecurity and rising inequality. These developments have obvious implications for living standards, not just for those directly affected, but also for those who perceive these conditions to be a potential future threat.

Unemployment

Increased unemployment hangs like a dark cloud of despair and lost opportunity over the growing material prosperity implied by other economic trends. Many of those who have experienced the increased levels of income, consumption and living standards associated with a growing economy have done so (if unintentionally) on the backs of the unemployed.

Economic growth has not succeeded in bringing the level of unemployment down to anything close to an acceptable level, with the result that mass unemployment has become a permanent feature of the economic landscape. This situation is accepted in part because unemployment is concentrated among specific groups, specific industries and specific regions, so that its impact is economically unequal and (potentially) socially divisive. It also reflects a mindset that nothing better can be done, although the data used in Table 1 dispute the claim that unemployment does not vary (at times substantially), even among OECD countries.

Recent economic experience has shown how economic recession can lead to escalating unemployment, particularly long-term unemployment.[10] Long-term unemployment has pernicious consequences for those affected by it, including loss of self-esteem, a decline in psychological well-being and the financial stress of living on a very low income for a prolonged period.[11] It also feeds on itself, particularly in a

competitive labour market, where long periods of unemployment cause skills to become obsolete, while employers are reluctant to take on those labelled 'suspect' or 'inferior' workers by the rhetoric of welfare reform.

Economic insecurity

As globalisation and trade liberalisation have made domestic companies more prone to external competition, increasing numbers of workers perceive their jobs to be under threat. Changing jobs often involves having to acquire new skills, having to move house, and losing contact with friends and community links. New relationships have to be developed, in the workplace as well as in the neighbourhood.

These negative social effects considered by those who emphasise the beneficial economic effects of structural adjustment policies. Increasingly, people may be better-off but not feel better-off because of the costs (real and anticipated) involved in experiencing the reality of economic deregulation and increased labour market flexibility.

Changes in economic insecurity have been the subject of recent intense debate in Australia, yet the evidence on how it has changed is sparse and open to alternative interpretation. While public opinion data supports the view that perceptions of job insecurity increased in Australia in the 1990s[12], the objective labour market indicators show that actual job stability has increased.[13] Evidence reported by Pusey[14] indicates that job security is an issue for 'middle Australia' yet many feel that there is little that government can do to improve things.[15]

These concerns find similar expression in the views of the 'silent majority' which show that many Australians 'feel powerless to control their lives in the face of rapid economic restructuring and social change'.[16] Despite the problems inherent in defining and measuring economic insecurity (and thus in evaluating how it has changed over time), the evidence suggests that a considerable portion of the population is adversely affected by the perception of economic insecurity.

Economic inequality

How incomes are distributed in society does not affect people in quite the same way as unemployment or economic insecurity. Although well-being mainly depends upon one's own income, its continuity and what it can buy, how it compares with the income of others is also important. How widely incomes are dispersed will affect the nature of the society, including the types of goods that can be purchased and the kinds of activities that can be enjoyed, and will thus affect how a given income can be translated into the pleasures associated with owning and doing things. The desire to 'keep up with the Jones's' confirms the reality that relative living standards matter, as do popular understandings of what it means to be defined as either rich or poor.

Although there are many dimensions of inequality, differences in income are of particular significance in capitalist societies where income provides access to the fruits of economic progress. Largely for this reason, governments throughout the world have a long history of implementing tax and social programs to reduce income inequality. One of the key trends of recent decades has been for market incomes to become more widely dispersed, reflecting growing earnings differentials, particularly at the top of the distribution.[17]

These pressures have not resulted in a common pattern of distributional change across nations, because of the role of redistributional policies. As Atkinson[18] has

emphasised, growing inequality is not inevitable, but depends on how institutions and values, as well as policies, change. Even so, many countries have experienced increased inequality and this has given rise to community concern over the associated social costs.

Poverty and financial stress

Although there is some dispute about how to define poverty and concern over aspects of the quality of the statistics used to measure it, the evidence shows clearly that poverty has increased over the last two decades.[19] Some critics have argued that this reflects the increased generosity of a poverty line that has risen in absolute (purchasing power) terms, although this is a natural consequence of defining (income) poverty in relative terms. The real incomes of the poor have risen, but so too has the poverty rate, reflecting the growth in economic inequality.

Other evidence confirms more directly that pockets of disadvantage still exist. A recent study by the Australian Bureau of Statistics (ABS) reveals a disturbing picture of deprivation in the midst of Australian prosperity.[20] Households were asked whether or not they had experienced each of a range of conditions associated with financial stress, including spending more than their income, not being able to raise up to $2,000 in an emergency, not being able to pay bills on time, having to pawn something, going without meals and seeking assistance from a welfare or community organisation.

Almost one-fifth of households were unable to raise $2000 if they needed to within a week, while a significant proportion had spent more than they received or could not pay their bills on time, and around one in ten had sought financial help from friends or family or could only afford second hand clothes. Overall, around one-quarter of all households in the bottom quintile of the income distribution had experienced *five or more* of fifteen separate financial stress indicators, while very few households in the top quintile had experienced financial stress and those that had, faced less than four separate conditions

These results highlight the inequality that exists in the economic fortunes of Australian households and show how the switch to a more market-oriented economy has not benefited everyone equally – even over a period of sustained economic growth. But while the reality of growing inequality has not affected everyone adversely, its existence can give rise to concerns that are widely spread. As noted by the Productivity Commission:

> [W]hile the economic trends have been positive and strong in the 1990s, other 'quality of life' issues also concern a large section of the community.[21]

This highlights the importance attached to the social conditions that influence people's standards of living over and above the impact of economic factors such as income and material consumption. The framework of free market individualism is incapable of capturing these kinds of effects.

Market forces, market failures

The above discussion suggests that economic policy has focused on the technical task of achieving an efficient allocation of resources and become disconnected from the actual living conditions and aspirations of the population. The balance between market and state in producing and distributing resources is of critical importance. Increased reliance on the theory of perfect competition supports the view that efficiency requires the removal of all barriers that impede market forces. By setting

perfect competition as the benchmark against which to assess efficiency, this approach ignores market failure and the many other imperfections that exist in all capitalist economies.

To assess state interventions against a benchmark that ignores a major reason for their existence is not a sensible basis on which to judge their overall (economic and social) impact. Policy prescriptions derived from the market model favour market-type solutions that reflect the assumptions on which the model itself is based. Not surprisingly, social policy is seen as imposing heavy economic costs (in terms of distorted price signals and disincentive effects) because its interventions are a departure from a textbook model that assumes away the problems that social policy is attempting to address.

While the focus of economic policy has been on improving material conditions (including the circumstances that produce them), social policy has traditionally been concerned with how the resources (and opportunities) are distributed, rather than with the efficiency with which they are used. But economic policy cannot ignore distributional aspects any more than social policy can ignore its impacts on incentives and efficiency.

The distinction between the concern with efficiency in resource usage and equity in the distribution of resources has often been used to contrast the technical, objective focus of economic policy with the normative, subjective basis of social policy. This is an entirely false dichotomy. Economic policy involves making choices about ends and means and this cannot be done without making normative judgments. What distinguishes economic and social policy is not whether each is free of value judgements, but how much effort goes into making these judgments explicit and central. Economists have been very effective at portraying themselves as technocrats, leaving it to others to determine which judgments should inform social choices. Yet most economic reforms have adverse (including distributional) effects that are rarely identified, so that their desirability cannot be determined without making normative judgments.

There is confusion between ends and means that is endemic to much of the policy debate which compounds the artificial separation of economic and social policy. The basic problem (identified in the earlier quote from Bourdieu) is that economic and social policy decisions are seen as occurring in a linear sequence, in which it is necessary to 'get the economy right' *before* considering how to influence social conditions through social policy. But economic and social policy cannot be disconnected in this way, since the economy is part of society, not the other way round.

The ends and means of the welfare state

The welfare state is both a means and an end of social policy. As a means, it represents the institutional structures that were designed to make a reality of a collective commitment to equality and the social rights of citizenship. As an end, it signifies the achievements of many decades of political struggle to protect and enhance the living conditions and opportunities of the most vulnerable groups in society. It is, however, important to separate the role of the welfare state as a means

and as an end in the context of the debate surrounding the efficiency and effectiveness of social policy.

Unless ends are distinguished from means, the task of reforming the welfare state in response to changes in its external environment will become more, not less difficult. Many supporters of the welfare state have not paid adequate attention to investigating the impacts of past policies when assessed against their own objectives. Too much time has been devoted to defending the ends of welfare and too little to highlighting where its means have been ineffective. In contrast, by not acknowledging the achievements of the welfare state, many neo-liberal, market-oriented economists who have been critical of its adverse effects on incentives and efficiency have not had to demonstrate that the *overall balance of effects* is negative.

In emphasising the distinction between ends and means, the possibility that the two can find expression in a single action should not be overlooked. Amartya Sen has argued that freedom is both the primary end and the principal means of development and that this consideration must inform the assessment of the development process.[22] It is tempting to argue that this is also true for equality, but this presumes too a narrow view of social policy and the welfare state.

While all social programs seek to alter social and market forces in some way, not all are aimed at, or actually produce, greater equality. To judge them all against a single benchmark would thus be inappropriate and, at times, misleading. It is necessary to identify the ends to which each program is geared and judge its performance against those ends.

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Status of Social Science Research in Papua New Guinea

Angela Mandie-Filer

Papua New Guinea entered the new millennium with renewed enthusiasm for reform in all her development sectors. Reforms have been implemented in education, health, the public service and in politics and governance processes. But what is Papua New Guinea reforming from and what does it hope to achieve from these reform programs? Who is doing research and what research and information gathering process is in place for the government to effectively monitor and evaluate the outcomes of its reform efforts and know what is actually going on? More importantly, what role is research playing in guiding the reform and other governance processes? The above and many such questions lie at the heart of concerns regarding the status of research in general and more specifically social science research in PNG.

The government's major sources of research and information are the National Research Institute (NRI), the Institute of Medical Research (IMR) and Higher Education Institutions such as the universities. Since 1996 successive governments' budget measures have resulted in the complete removal of the government's own research capacity when it required bodies like IMR and NRI to be self-financing overnight.

The National Research Institute, for example, has lost many of its key researchers, and its status as a key research and information gathering machinery for the government has also diminished rapidly in recent times. Currently, it may be said that the Institute does not stand apart from other government bureaucratic structures for its research prowess. This state of affairs at the NRI means that the government may be starved of vital information. The lack of relevant research and appropriate information gathering processes means that much of government policy including planning, formulation, implementation and evaluation and monitoring efforts is either based on outdated information or guesswork. Without research, the government is working on development that is beneficial by chance.

Higher education institutions, particularly the universities, were also sources of research and information available to the government. However, higher education does not enjoy the status and support it had prior to the push to divert education funding to the lower levels of primary and secondary education. In recent times manpower aid from donors comes in the form of ready-made manpower, thus reducing the role of higher education in producing manpower with aid. The reduction of funding to higher education and the downsizing of the Commission for Higher Education, particularly its research division, limited its capacity to facilitate research in and on higher education. The higher education sector is no longer as active in research as previously, and therefore cannot function as the government's research and information source.

In 1997 the PNG Public Service had over 3000 designated research officer positions scattered throughout its bureaucracy. However, their status as researchers has been blurred and many research officer positions have been removed during restructuring in the public service. The recent public sector reform, particularly the downsizing and reduction of personnel in the public service has not only reduced the number of researchers in, and the research capacities of the public service; it is now doubtful the public service knows what it is doing, let alone is able to inform government and others regarding policy decisions.

The low priority given to research is also reflected in the census information on occupation. There are over 1000 different occupational types listed in the census occupation categories. Researchers and research officers, however, are not listed as a separate category. This failure to identify researchers as a category of occupation can mean two things: one is that persons in other occupations are presumed to be researchers and are carrying out research as well; and secondly, that doing research is not important or is not a legitimate occupation in contemporary PNG. Both assumptions may be ill conceived, given the very important link that must exist between research and development for effective, efficient and meaningful administration of that development.

Research appears not to be high on the government list of commitments and priorities. The government's resources for research continue to diminish yearly, and the research aspect of development is not perceived to be politically significant or rewarding. Politicians, consultants and senior bureaucrats may even find fundamental research threatening. The research that is conducted in PNG is best characterised as pragmatic. Information gathering is *post facto* and fundamental research rare; further opportunities for such research are fast diminishing. It seems unrecognised that fundamental social science research is crucial because it must be the basis of any people-centred development efforts.

The days when actual fieldwork was a prerequisite to any social science research have gone. Most research and government information documents are produced on the basis of consultations between national bureaucrats who themselves have not left their offices in Waigani and consultants who spent their time in five star hotels. Both have little or no knowledge on what is happening on the ground.

Senior bureaucrats and consultants know little about the impact of government policies on the lives of most of the country's peoples. For example, during the five months I was in the field I did not see any government official coming to the schools to discover how the free education policy was affecting the children in that area. Under Free Education Policy the government calculated the amount of subsidies to schools on the basis of the number of enrolment in the previous school year. This was based on the assumption that all schools had a full complement of teachers and that the schools had the maximum number of school students it could facilitate the previous year. In reality, the most urgent concerns for many remote schools are a lack of teachers and – related to the first - many children are too old to remain in primary school before they receive adequate schooling. In schools where there were fewer children the previous terms because of lack of teachers, lower subsidies were allocated than to those which already had a full teaching complement and many more children were enrolled. However, even if the subsidies were fairly allocated, in areas where schools have been closed or operational on paper only, subsidies were often used on school equipment rather than on providing educational instructions and schooling for the children. In practice, free education is only beneficial to a very small number of children thus far. Most of these children happen to be the children of those who make allocation and evaluation decisions of education resources, including that of free education.

Many questions that may facilitate a more widespread benefit from the free education policy remain unanswered. For example, questions such as "What is happening in the many schools that are closed due to lack of teachers? What about schools that had one teacher and the rest of the school age children were at home waiting for teachers

to arrive? How long have these children been waiting and how much longer will they wait for teachers? While waiting for teachers to arrive year in year out, many amongst these children reach as much as 19 years old, still waiting to complete primary schooling.

The government may have formulated alternative policies if it were provided with relevant information on the implications of current policy on those children whose educational needs required different government assistance from that the free education policy could deliver. Perhaps a policy initiative such as rural hardship allowance or special incentive funds to attract teachers to rural schools may have been more relevant or appropriate to the children in the category described above.

The government may have wrongly assumed that all schools are at the same operational level and such blanket policy as free education can benefit all children equally throughout the whole country. What is clear however, is that the free education policy either intentionally or unintentionally enhanced the educational opportunities of those in the urban and semi-urban areas. In order to increase or enhance the educational opportunities of the many thousands in rural schools the government needs to introduce alternative benefit strategies from free education or some other incentive scheme to complement the free education policy in order to enable more children to benefit from it.

The above example highlights the fact that governance and development administration processes in PNG suffer from lack of up-to-date information and appropriate data. Accompanying this, meaningful data analyses and interpretation knowledge and skills may also be lacking. The gap between government development initiatives and its impact on the intended population can only be narrowed if research is thorough and comprehensive.

Research in PNG needs to be revived and accorded the crucial role it deserves. The government cannot continue to base its development plans on the information it receives from donor project reports or as part of donor development assistance. These sources more often than not provide a snapshot or a bird's eye view account of the whole situation. Often they are accounts of what fly-in and fly-out consultants discover in a day or two from visiting Port Moresby. Information from such sources suffers from lack of wider local knowledge and experience. Often the PNG government is only a secondary beneficiary of such information anyway, since it is not paying for the actual research and information. The PNG government must appreciate that 'he who pays the piper determines the tune'. Therefore, if it is serious about the importance of research and information for itself, it must be prepared to not only pay for it, but also own and value its use.

Having just returned from five months in the field, it is my observation that social science research in PNG does not exist. The current lack of research capacity must change, and immediately, because PNG can not continue to plan and formulate sustainable development programs based on guesswork and chance. Research plays a critical role in separating and/or matching rhetoric and reality. Without research, the gap between rhetoric and reality may widen without the government even being aware of it.

The type of services favoured by the centre does not always serve the diverse needs of the communities such as those found in PNG. 'Reforms' do not mean the same to all, and the development needs and aspirations of those 80 per cent in the rural areas are often the last to be placed on the national development framework and the first to be removed when resources become scarce. Lack of research accounts for the

serious mismatch between development administration and positive development outcomes. As has been pointed out by a number of researchers, one of the main reasons why it is hard to relate social policy objectives to sectoral planning mechanism is that there is a serious lack of information about the status and behaviour of relevant sections of the PNG population. Even today government planners know very little about what has been happening in the rural communities; one of the main reasons why they have lost the ability to focus their attention on specific forms of rural poverty and other development concerns.

Information on implementation and policy outcomes is crucial for decision-making regarding the future of development programs; otherwise how is it possible to avoid terminating potentially successful programs or expanding programs inappropriately?

In order to make research a prominent partner in research and development, particularly people-centred development, the government and its external allies such as international research organisations and donor agencies must act now to promote and fund research so that it can guide the shape of development initiatives in PNG.

Angela Mandie-Filer is a postgraduate researcher in the National Centre for Development Studies at the Australian National University and is currently doing fieldwork in Papua New Guinea. She contributed a version of this paper to the recent UNESCO Social Science Network conference on the Pacific.

Dr Elspeth Young, Australian National University, died on 10 August 2002. Her obituary appeared in the *Annual Report*.

Emeritus Professor Peter Scott, AO, OBE, formerly of the University of Tasmania died on 27 August 2002. His obituary will appear in the *Annual Report 2003*.

Professor Richard Snape, formerly of the Productivity Commission died on 4 October 2002. His obituary will appear in the *Annual Report 2003*.

Academy News

Research Program

Postgraduate training in the social sciences

In January 2003 the University of Queensland Press (UQP) is publishing research arising from this project, in a book edited entitled *Investing in Social Capital,* edited by Simon Marginson. The book will appear as an issue of the *Journal of Australian Studies*, No 74 and can be ordered for $22.50 through UQP: rosiec@uqp.uq.edu.au.

This is a work about 'the future of Australia as a knowledge economy and learning society [and] a critical discussion of postgraduate education in the social sciences…'

Chapters on the disciplines include Anthropology, Economics, Psychology, Public Health, Management and Business, Law, Education, Indigenous Studies and Australian Studies/Australian History.

The sustainability of Australian rural communities

Professor Chris Cocklin (Monash) and his research team ecently completed research for the six rural case studies arising from its investigation into rural sustainability: Narrogin (WA); Tarra/Yarram (Victoria); the Gilbert Valley (SA); Guyra (NSW); Tumbarumba (NSW); and Monto (QLD). The case studies which explore the nature and dimensions of rural socioeconomic change and community sustainability will be published in January 2003 by Charles Sturt University and will appear under the title *Community Sustainability in Rural Australia: A Question of Capital?* (eds Chris Cocklin and Margaret Alston). Those case studies selected represent examples both of communities that are faring well in the face of change and those that appear to be in decline. Final draft chapters for a forthcoming book will be completed by next month, to enable the editing process to commence early in 2003.

Rethinking wellbeing

As outlined in the last issue of *Dialogue* the final workshop for the Wellbeing project was held in Melbourne on 16-17 September at which draft chapters were discussed and presentations made including via video conferencing to the University of Bath. There has been some refining of contributors and chapter outlines as a result of fruitful discussions. It is anticipated that final chapters will be completed by March/April, when the editing process will begin for a forthcoming book entitled *Rethinking Wellbeing – Critiques of Disablement and Disadvantage.*

International Program

Australia-China Exchange Program

The Academy welcomes *Professor Dong Lisheng*, Institute of Political Science, Chinese Academy of Social Sciences for a 2 week visit under the Exchange Program. Professor Dong will be hosted in Sydney by Dr Judy Johnston, School of Management, University of Technology Sydney and Dr Ross Curnow, Department of Government and International Relations at the University of Sydney. In Melbourne, Professor Dong will meet with Professor Owen Hughes, Department of Management, Monash University to discuss issues of Australian local government. Professor Dong is also scheduled to pay a courtesy call to meet the Academy Secretariat in Canberra.

2002 Sino-British-Australian Summer School in Philosophy

Graham Priest, FAHA, Boyce Gibson Professor of Philosophy at the University of Melbourne, has provided this report from the most recent School:

The Sino-British-Australian Summer School in Philosophy is a biannual event organised by Dr Nicholas Bunnin of Oxford University and Prof Qiu Renzong of the Chinese Academy of Social Sciences. It is funded by several bodies, and is hosted by different Chinese universities on each occasion. Funding from the Academy of the Social Sciences in Australia takes the form of return travel to China for the Australian philosopher who participates.

The school lasts for about three weeks, during which time British and Australian philosophers teach a course on some area of Western philosophy. Those taking the course are students (and some academic staff) from all over China. Teaching is very intense, and is in English. The course concludes with a written exam.

The Summer School in 2002 was held from 29 July to 15 August and was hosted by the University of Sichuan, in Chengdu. The topic was the *Philosophy of Language*. The teachers were Dr Anita Avrimides (University of Oxford), Dr Brad Armour-Garb (State University of New York, recently at Oxford University), Professor Chris Hookaway (University of Sheffield) and Professor Graham Priest (University of Melbourne).

The philosophy of language is not a well-known area in China; consequently, many of the students on the course had little prior knowledge of the area. It is also a tough area, requiring some knowledge of logic. It is made harder for Chinese students by the fact that much of the standard discussion makes reference to examples and features of English and other European languages that may not be present in Chinese. For three weeks, the students taking the course had four and a half hours of lectures and a one and a half hour seminar/reading class each day. The English competence of students varied from basic to good, but all had to work in English, including making oral presentations. The program was very demanding, on students and teachers alike. But the students were exceptionally dedicated (as, I might add, were the teaching staff!); and, especially concerning the inherent difficulties, the level of performance was high. It was gratifying to note the high level of satisfaction expressed by students at the end of the course.

The University of Sichuan and its Philosophy Department were most congenial hosts for the Summer School. They particularly went out of their way to welcome and assist the visiting teachers. Much of this was done by Dr Liu Shin. They helped in all things from providing teaching facilities to finding postage stamps (not a trivial exercise when you don't speak Chinese and have no idea of what a Chinese post-office looks like). They also arranged for the visitors to be shown the local sights and tastes. (Sichuan has a distinctively hot and spicy cuisine). In particular, for a few days after the Summer School, they arranged for the visitors to be taken on a tour of some of the more beautiful parts of Sichuan, including mountains and national park areas - liberally sprinkled with Buddhist and Daoist temples, and other fascinating sights.

This was the ninth Summer School of its kind, and over its years the School has established a very successful reputation all round. By general agreement, the 2002 Summer School continued and enhanced this success.

The Australian participant in the 2004 Siummer School of Philosophy, on the 'Philosophy of Law', will be *Peter Cane, Professor of Law* in the Research School of Social Sciences, Australian National University.

On 27 November 2002, the Chairman of the **Indian Council of Social Science Research** in New Delhi, Professor VR Panchamukhi, Dr Arun Bali and Mr Bhaskar Chatterjee, Director-General of ICSSR will be visiting Australia. The delegation will meet with the Secretariat to explore issues of common interest.

UNESCO Social Science Network

The UNESCO Social Science Network is pleased to report that two projects submitted via the Network for funding in 2003 from the UNESCO Australian National Commission have been successful. They are:

• *Qualities of Peacemakers,* a pilot project involving the gathering of research data from children and their teachers in Australia with the focus on concepts of the qualities of peacemakers. Project team includes Professor Margot Prior, previous Chair of the LaTrobe University Institute for Peace Research; Associate Professor Di Bretherton, Director of the International Conflict Resolution Centre and Ms Yung Le who has been involved in developing and promoting Associated Schools Programs activities in Viet Nam through her work in the UNESCO Hanoi Office.
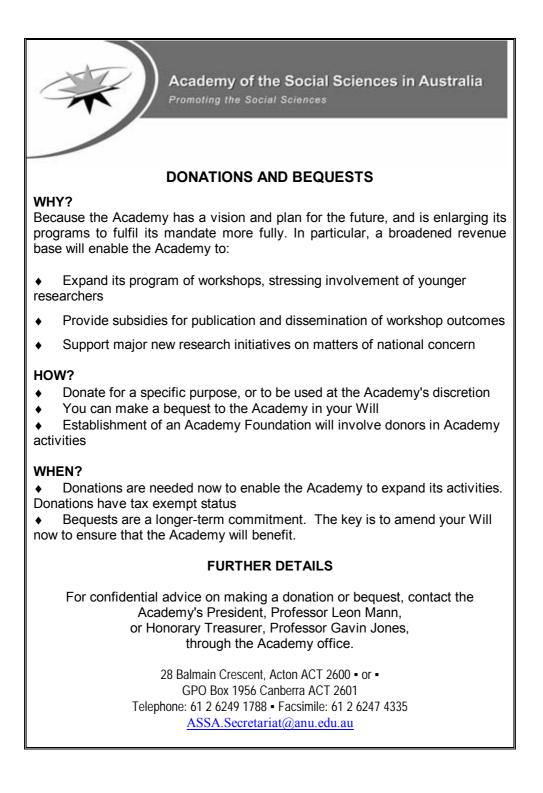
• *Gender, Migration and Governance in Asia.* This interdisciplinary, internationally comparative project will examine feminised migration in Asia in the context of rising civil activism at both national and transnational levels. The project directors are Associate Professor Robyn Iredale, APMRN Secretariat, University of Wollongong, Dr Nicola Piper, Regulatory Institutions Network, Research School of Social Sciences, ANU and Dr Keiko Yamanaka, Department of Ethnic Studies and Institute for the Study of Social Change, University of California, Berkeley.

The Network welcomes proposals or expressions of interest on the following UNESCO priority topics. ● Reducing poverty ● Coping with globalization ● Developing information and communications technology (ICT) ● Achieving sustainable development ● Preventing the transmission of HIV/AIDS and reducing the impact of the epidemic; and ● Establishing a culture of peace.
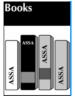
Convenors are encouraged to take an interdisciplinary response to the areas, and although the seed funding by UNESCO Australian National Commission is limited (up to $5,000 per project), previous successful project directors have been able to use it to garner further sponsorship.

Australia – The Netherlands Exchange

Dr Irene van Kamp is a specialist in envrionmental psychology (irene.van.kamp@rivm.nl) who visited Australia under this Scheme in July-August. Her host at the University of Sydney *Dr Soames Job* and colleague *Julie Hatfield* have cooperated to submit a report on her research. The full report is to be found on the Academy website www.assa.edu.au.

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Books

Working Futures: The Changing Nature of Work and Employment Relation in Australia. Edited by Ron Callus and Russell D Lansbury. The Federation Press, 2002.

Labour market change has been a topic of intense interest among economists in recent years. They have documented the changes that have taken place, debated their origins and impact and generally argued that, largely reflecting increased competition and flexibility, they have been both necessary and desirable. Many of the contributors to this book are less convinced about the merits of the changes that have taken place, and a number of concerns are raised about their desirability, as well as the need for an approach that steps outside of the (neoclassical) economics textbook and engages more directly with the practical and policy issues that now shape employment relations in the contemporary Australian labour market.

In the Introduction, the editors emphasise the book's multidisciplinary perspective that draws on insights from 'historians, economists, lawyers, sociologists, psychologists and industrial relations specialists'. They express the hope that the combination of academic, practical and policy perspectives will 'influence the public debate and the policies and practices which are adopted in the Australian workplace'. However, it is clear that there is little agreement amongst the contributors (including those who provide a commentary on the chapters) about the nature of many of the issues, their underlying causes and what kinds of responses are required. Potential readers should thus be warned not to expect solutions from this book, but rather a series of - often high quality, but nonetheless at times contradictory - analyses of what is happening, and why.

What is striking about many of the debates that arise throughout the book is how immune the nature of the disagreements are to the changes that all contributors acknowledged have been fundamental. To give but one example – there are many others – the editors state unequivocally in the final chapter (p 242) that: 'Job insecurity has become a common source of social anxiety during the late 1990s', yet Wooden, in Chapter 4 (p 59) is equally adamant that; 'there is little evidence of an upward trend in job security'. It is true that commentator John Burgess takes issue with Wooden's analysis in his comments, but the subtleties and complexities he introduces are not reflected in later chapters.

This example illustrates that the book contains the same series of largely unchanged contributions to the workshop (sponsored by the Academy's Workshop Program) on which it is based, with no attempt by individual authors or the editors (perhaps through an extended Introduction and/or Conclusion) to reconcile some of the issues and discrepancies that are raised in individual papers. By not doing so, the book misses an opportunity to make the kind of valuable contribution that one might have expected from the excellent array of speakers that were assembled for the project.

Having said this, it is important to stress that Working Futures contains a number of very useful contributions. The papers by Hancock and Wooden on labour market change, while differing in their attitudes to the changes they describe, provide excellent accounts of the macro (Hancock) and micro (Wooden) dimensions of labour market change. Both deserve to be widely read, as do the later contributions from

Bettina Cass (on employment time and family time) and Dexter Dunphy and Doug Stace (on changing forms of organisation and management). Ron McCallum emphasises the need for reform of employment relations so as to protect the circumstances of contract workers, a theme that is taken up in several other chapters.

What about the role of the trade union movement? In Chapter 6, Michael Crosby asserts the role of organised labour, arguing that: 'Without that organisation, the market is a dictator, blindly widening the gap between rich and poor' – though many would see more truth in commentator Stephen Long's observation that: 'To maintain optimism about the future of unions, you need to have faith, moral conviction and a belief that miracles can happen'. The ACTU and Simon Crean, take note!

Overall, the book has all the appearances of being far too rushed through the publication process. It would have benefited from a more reflective set of revisions that incorporated some of the debate that obviously took place at the workshop on which it is based. There are far too many signs of poor editing, with several commentaries referring to page numbers that were obviously in the original versions of the paper, not the published version. The first half of the chapter by Dexter Dunphy and Doug Stace is written in the first person, while the commentary by Joe Isaacs cites an article in the Reference list that has '[title of article?] inserted in bold, and it is unforgivable that this was not picked up prior to publication.

These are minor irritations, but they could so easily have been avoided by a professional editing job. More significant is the absence of a thorough Conclusion that brings together the key issues, identifies areas of disagreement and sets out an agenda for resolving them. This would have added to the value of the many good contributions that are contained in Working Futures and expanded its value and influence.
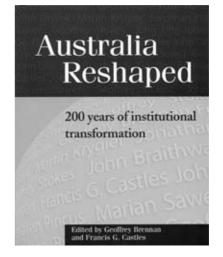
Peter Saunders

Australia Reshaped. 200 Years of Institutional Transformation Edited by Geoffrey Brennan and Francis G Castles. Cambridge, Cambridge University Press, 2002.

The Reshaping Australian Institutions Project of the Australian National University has previously published some fifteen books. The sixteenth, the final of the series, gathers an outstanding group of scholars seeking 'to understand how institutions work in order to make them work "better"' (p 6). Rather than isolating the important institutions in Australian public life, the authors take up various themes with a view to assessing the impact of certain forces upon Australian institutional development. The editors' Introduction provides a thoughtful account of Bob Goodin's impressive analysis of institutional design, but the substantive chapters are not always explicit about the nature of the particular institutions under discussion.

Yet the themes of this book may be traced in the confident expectation that they will have an important place in Australian political analysis for years to come. Not surprisingly, there is a strong concentration on the nature of democracy. John S Dryzek ('Including Australia: a democratic history') sees democracy as unfinished business, a work in progress never to be completed while any groups are excluded from an effective share in power. Castles ('Australia's institutions and Australia's welfare'), while offering an empirical and economic case for preferring democracy

over other forms, echoes a too familiar rejection of 'majoritarianism' without fully accounting for objections to its polar alternative: 'minoritarianism'. In a superb exposition of social liberalism, Marian Sawer ('Waltzing Matilda: gender and Australian political institutions') cautions against the adversarial style of politics. John Uhr ('Political leadership and rhetoric') gives an elegant justification for the place of leadership within democracies as an antidote to bald 'majoritarian' accounts, at the same time providing excellent insights into the praxis of rhetoric under the prime-ministerships of Deakin, Menzies and Keating.

Throughout this volume there is a pervading awareness that imported institutions have not done well at treating with the indigenous population. Dryzek, Uhr, Martin Krygier ('The grammar of colonial legality: subjects, objects, and the Australian rule of law'), and Geoffrey Stokes ('Australian democracy and indigenous self determination') make especially incisive comments on this institutional failure. Warning of the inherent tendency of liberal democracy towards political assimilation, Stokes urges indigenous peoples, in the face of this awareness, not to give up on self-determination (p 213).

This collection is replete with provocative insights. John Braithwaite ('Globalisation and Australian institutions') makes a stunning contrast between the early success of governmental experimentation and the failure of the corporate sector to invest. And many an economic dry would do well to heed the advice: '...a strong welfare state, understood as compliance with safety-net labour standards, is an advantage in global competition, not a liability' (p 108).

It is of great interest that the editors are prepared to take issue with their contributors as, for example, when they suggest that Dryzek's proposed privileging of non-human subjects (such as the environment) under democratic institutions might bring the notion of government by the people under excessive strain (p 16). Yet their characterisation of some contributions, which argue that institutions have not always changed for the better, as 'nostalgic', strikes an uncomfortable dissonance. Castles (as editor, perhaps not one of the nostalgic) points out that recent economic change has left Australians less well protected economically than they used to be; Braithwaite documents the demise of egalitarianism in Australia; Sawer laments the dilution of social justice advocacy; Dryzek points out that the recent fashion for privatisation is not conducive to citizenship. By contrast, Brennan and Jonathan Pincus's contribution ('Australia's economic institutions') is 'probably the least nostalgic in the volume' (p 10). They argue that the economic changes under the Hawke and Keating governments — financial deregulation, tariff reform, competition policy, labour market regulation and industry assistance — were necessary and beneficial changes.

Another contradiction left unreconciled is that between the accounts of Castles and Krygier: Castles argues that 'the continuity of British forms is now the real aberration of Australian constitutional design' (p 31); whereas Krygier, taking a broader view of the constitution, sees an Australia 'thick with laws' transplanted from the colonising power. This is not merely a passing quirk of history. Krygier's brilliant piece, while

quoting fellow-contributor Braithwaite to say that 'during the nineteenth century, Australia was transformed from being a high crime frontier society to a low crime society, while the US was transformed from a low to a high crime society' (p 240), goes on to hope that the rule of law might continue to restrain and civilise power.

It is curious that socialist influences upon our institutions have been airbrushed out of the picture. Nevertheless, students and scholars of all persuasions will find here much to engage with for years to come.

Graham Maddox

Future Seekers: Refugees and the Law in Australia. By Mary Crock and Ben Saul. Sydney: Federation Press, 2002.

Refugee law has grown rapidly in Australia and overseas as the numbers of refugees and asylum seekers have escalated. Refugee status is governed by the 1951 and 1967 UN Convention and Protocol, to both of which Australia adheres. A refugee must be outside the borders - and unwilling to avail themselves of the protection - of their own state because of a genuine fear of persecution. Australia has recently and unilaterally changed this definition to require actual physical harm or persecution. Nor does the definition include the many millions escaping from civil wars and their aftermath. Australia may include these within its broader 'humanitarian' category depending on the support which they can obtain from Australian relatives or organisations. When minister Ruddock declares that most now in detention are "not refugees" he means they are not legally so within the narrow limits set by current Australian law.

Unvisaed asylum seekers now also need to have remained for less than seven days in a transit country. Even so, they are interned until their case is finally resolved. If accepted as refugees they are given temporary protection visas. If not, they are deported. They may also be removed from ships at sea and relocated in states and areas which are not legally part of Australia for immigration purposes. This removes their right to resettlement in Australia, even if they are deemed to be 'genuine refugees'. These recent changes make it almost impossible to achieve permanent settlement in Australia other than by selection overseas by Australian authorities. A lucky few who have entered on a non-refugee visa may still become permanent residents.

Some of these recent changes - post-*Tampa* - are covered by Mary Crock and Ben Saul of Sydney University Law School in this useful book. In her view Australia is effectively evading its obligations under the Convention, while narrowly adhering to the letter of the law as defined by Australia itself. They set out an agenda for reform in the last chapter. But current policy has moved in the opposite direction. Australia is now canvassing support for more restrictive approaches internationally. Australia is

also hawking refugees around the world who have landed up on Nauru and Manus Island - even approaching Norway of all places. This book helps to explain how we got into this situation. But it will need a later edition to follow the continuing story.
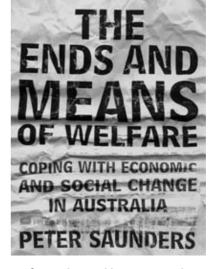
James Jupp

The Ends and Means of Welfare: Coping with Economic and Social Change. By Peter Saunders. Cambridge University Press, 2002.

Sadly books that set out to give the reader 'all that you need to know about….' generally make heavy reading. Saunders' book is the splendid exception. It is organised and written with great clarity and acuity. Given that this book provides a comprehensive and authoritative presentation of the ends and means of Australian welfare provisions and policy there is no doubt that it will be used for many years to come as the most important single source on this subject.

The still greater strengths of the book are announced in the subtleties of the title and the subtitle. The book addresses the 'ends and means of welfare' construed in the wider sense that the best economists have always understood as wellbeing, or quality of life. The reader will quickly appreciate that the subtitle is not heuristic or perfunctory and that Saunders delivers on his promise to examine how Australians in every stratum of society are 'coping with economic and social change'. In this purpose the book draws heavily on evidence from the Social Policy Research Centre's state of the art national survey of that title. It is on the basis of this and other evidence that Saunders examines the impacts of neo-liberal policies on the living standards and conditions of all Australians – not just welfare recipients in the usual sense.

Saunders begins with a chapter on 'the paradox of affluence' that addresses a central issue of our times. He wants to know why it is that increasing economic growth seems to produce falling quality of life. This and other questions — all of them going to the heart of what is wrong with neo-liberal economic policies — are pursued first through a clutch of two chapters dealing with Australia's economic and social performance. The second section on 'The Changing Socioeconomic Landscape' section holds the core of the book with, for this reviewer, two especially outstanding chapters, respectively, on Income and Living Standards, and Inequality. In these chapters, and others, the reader is given a great welter of beautifully presented data on every facet of income (market, disposable, final, etc), their distribution and consumption. The contributions of state, markets, and families to economic and social wellbeing are covered comprehensively and set out with an array of data that specialist and non-specialist alike will welcome as an indispensable resource for all evaluations of economic and social wellbeing in Australia.

There is also another lesson that some neo-liberal economists especially might profitably take to heart from this work. It is impeccably respectful of other positions as

it carefully seeks to present and weigh the arguments for and against what are typically today politically loaded arguments for contending economic dispensations and conditions. Saunders is as fair as he is fearless. The arguments are always explicitly grounded in their appropriate social and sociological, political and theoretical contexts to bring out the deeper meanings and impacts of economic and social policies. Further, the historical and international context is there too, giving a full picture of what is distinctive about Australian policies.

This is a work of great scope and strength that will appeal to specialist and non specialist readers alike in a number of disciplines and fields with common interests in the economic and social life of Australia.

Michael Pusey

Faithlines: Muslim Conceptions of Islam and Society. By Riaz Hassan. Karachi: Oxford University Press, 2002.

Since the tragic events of 11 September 2001, a number of books have come out which seek to make sense of those events, in relation both to Islam and to the Muslim world's reaction to them. The book under review is not one of them. *Faithlines* has been in the making for some time and is the product of laborious and time-consuming research conducted by Riaz Hassan over many years. The book essentially is a sociological study of Islam and Muslim religious and social attitudes in a number of Muslim countries. It investigates the relationship between Muslims' religious commitments and attitudes towards political Islam, and how these attitudes are shaped by a set of complex 'interaction[s] between Islamic values and local social conditions'. It does so by taking into account a number of variables, ranging from the role of gender and attitudes towards veiling and patriarchy, to Muslim perception of the 'other'.

Although based on empirical data collected through a variety of methods, including questionnaires, on a country-by-country basis, the book is skilfully woven around a number of themes which strongly underline not only its cohesion, but also its difference from many other books which exist about Islam and Muslim societies. It is rich in its empirical depth and findings, and in this it fills a major gap in the literature. Its breadth of coverage draws on a large number of countries in the Muslim domain, testifying to the author's unrelenting efforts to have a global approach to the subject matter of his study.

While many of its conclusions may not strike us as entirely new, the importance of the book lies in the fact that it empirically confirms some of the beliefs which had been widely held about Muslims but hitherto had not been researched to the extent that this book does. One of its important conclusions is that there is 'robust evidence of strong [religious] commitment among a majority of Muslims from all walks of life' and this commitment 'influences their everyday activities'; and 'that religious piety is socially constructed'. This social construction, Hassan argues 'is influenced by global and societal conditions. At the global level, the hegemonic cultural patterns of the West appear to provoke strong resistance in Muslim populations which expresses itself in the reasserting of Islamic identity, which in turn reinforces cultural pride and self-esteem as well as consciousness of an Islamic history which once bore the signature of superior cultural tradition'.

Faithlines is not a book necessarily for general readership, but rather a piece of scholarship with much to offer to specialists, and those students of Islam and Muslim societies who are in quest of a serious empirical study of their dimensions.
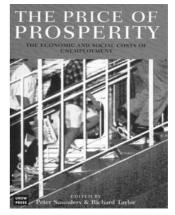
Amin Saikal

The Price of Prosperity: The Economic and Social Costs of Unemployment. Edited by Peter Saunders and Richard Taylor. Sydney: University of NSW Press, 2002.

This book - the outcome of an Academy project funded by the ARC - demonstrates convincingly the Academy's capacity to bring the insights of diverse disciplines to bear on issues of national significance. Notwithstanding the different backgrounds of the chapter authors, their joint product has a cohesion that makes the whole decidedly greater than the sum of the parts. There is no bad chapter.

In comparison with most other studies of unemployment, this seeks to shift the focus somewhat, but not wholly, away from causes and remedies toward consequences. An underlying presumption, however, is that high unemployment has macroeconomic causes – specifically, a deficiency of aggregate demand. There may be *some* scope for reducing unemployment by microeconomic and supply-side measures, and these could complement demand-side policies that might otherwise encounter structural impediments in the labour market. But to emphasise the supply side is to misunderstand the problem. John Nevile, in particular, argues strongly for this perception.

The composition of the unemployed population, its evolution and its relation to other labour market aggregates, including labour force participation and concealed unemployment, are important to an appreciation of the effects of employment levels that are too low to satisfy people's desires for paid work. Stephen Bell provides an excellent overview of these and related topics.

The unemployed population comprises people who have been retrenched (or otherwise dismissed), people who have voluntarily left jobs but have failed to find others, and people who have not found work since joining the labour force. The three groups may well sustain different 'costs'. No doubt because the necessary data are unobtainable, the book does not explore these differences. But two of its chapters are case studies of the effects of retrenchment. Michael Webber and Sally Weller investigate retrenchments from the textile, clothing and footwear industries. On the basis of a sample of 605 people drawn from a population of 28,000 retrenchments, they report: 'Many retrenched workers fared poorly: less than two thirds . . . ever found another job (that is, paid employment of one hour or more) and at least 20 per cent of those were long-term unemployed before finding work.' Lois Bryson and Ian Winter provide a dismal account of the experiences of a Melbourne suburb severely affected by retrenchments in manufacturing.

Janet Taylor discusses the impact of unemployment on family life. In 2000, over 300,000 families with children under 15 had no family member in paid work; and

families whose breadwinner was unemployed had poverty-level incomes and living standards. Bruce Chapman and Matthew Gray deal with youth unemployment and the various measures adopted to ameliorate its effects. It is their view that these supply-side measures, though in some instances useful, 'are not likely to be a panacea'. The problem is essentially a demand issue. Boyd Hunter and John Taylor describe the impact of unemployment on indigenous Australians. One remarkable statistic is that unemployed indigenous people are almost eight times more likely to be imprisoned than other indigenous adults.

Richard Taylor and Stephen Morell consider the health effects of unemployment; Bruce Headey discusses the psychological impact; and Don Weatherburn deals with the effects on crime. These chapters are sophisticated social science, recognising the difficulties of identifying the lines of causation (if any) between correlated variables.

A recurrent question is the meaning and relevance of the idea of social 'exclusion'. The concept is, perhaps, less in the mainstream of social analysis in Australia than in Europe; but it is gaining credence. There is an argument that 'exclusion' adds little or nothing to 'poverty' – that lack of resources is a constraint causing people to do without various things, and that no good purpose is served by categorising the unmet needs, especially when the category is so ill-defined. This happens to be my opinion. The consensus of the authors who refer to exclusion is that the concept *does* have content. Peter Saunders, for example, writes that it is 'not possible to discuss Australian welfare policy without reference to exclusion and its opposite, participation'. He acknowledges, however, that 'we are a long way from understanding what exclusion is and identifying the processes that sustain it' and that 'until more is known about these issues, the precise nature of the links between unemployment and social exclusion will remain uncertain'. Exactly!

The Price of Prosperity expands significantly the debate about labour market policies in Australia. The ARC's money was well spent. Pity about the title.

Keith Hancock

Recent ACADEMY Publications

Volunteers and Volunteering Edited by J Warburton & M Oppenheimer. The Federation Press, 2000.

1901: The Forgotten Election Edited by Marian Simms, University of Queensland Press Australian Studies, 2001.

Speaking for the People: Representation in Australian Politics Edited by Marian Sawer and Gianni Zappalà, Melbourne University Press, 2002.

Working Futures: The Changing Nature of Work and Employment Relations in Australia Edited by Ron Callus and Russell Lansbury, The Federation Press, 2002.

'Mutual Obligations Special Issue', guest edited by Deborah Brennan and Bettina Cass, *Australian Journal of Social Issues*, 37, 3, 2002.

2001: The centenary election Edited by John Warhurst and Marian Simms, University of Queensland Press Australian Studies Series, 2002.

Investing in our Children: Developing a Research Agenda Edited by Margot Prior, Academy of the Social Sciences in Australia, 2002.

Opinion

Ethics of Non-Medical Human Experimentation
Robert AM Gregson

Historical context

Members of various scientific disciplines have performed hundreds of systematic experiments on human or animal subjects over the last 200 years, and the majority of such experiments, whether conducted by autonomous individual researchers or by a research team within an institution, have not become the focus of ethical concern. Many behavioural experiments are not intended directly to have any medical connotations, though any results relating to human behaviour or physiological performance may in turn be taken up and used subsequently, validly or otherwise, by other scientists (who are not necessarily themselves psychologists) in a clinical context, as baseline data to define normal functioning.

From before the time of the Second World War, the actions of some medical 'researchers' in various countries had become so grossly offensive that international concerns led to the establishment of the Helsinki Declaration, a protocol on the conduct of research that has subsequently gone through various revisions. It is important to note that this declaration is about medical research, it is about the conduct of clinical trials, and was not motivated by concern over purely behavioural research. Indeed, psychological research is rarely involved, except for the special case of psychosurgery. We must note immediately that psychosurgery is not performed by psychologists, but the cognitive and behavioural sequelae of such surgery may be studied in detail by psychologists interested in brain function. It is the types of research that experimental psychologists pursue that are in the deliberately restricted focus of this review.

I think it is important to note that psychological research, specifically called that, has a much longer history than the Helsinki Declaration of 1964. In 1879 the first psychological laboratory was opened in Leipzig, a development not welcomed by the verbal philosophical tradition, one writer remarking that psychophysics was so boring that only Germans could have invented it and only Americans persevered with it. It was boring precisely because it involved neither risks nor direct benefits to the participants. My mention of costs and benefit is deliberate, because it is the assessment of those two variables which is a central issue in ethical reviews in more informed practice overseas.

In 1905 the first psychological laboratory in Australasia was opened at what is now Victoria University of Wellington in New Zealand, by the man who later became vice-chancellor Sir Thomas Hunter. Ethical codes for psychology as done by a laboratory researcher have long been in existence, drafted by psychology's national and international bodies, and these antecede the recent attempted interventions in Australia by the National Health and Medical Research Council (NHMRC) and its clones. From *Psychological Abstracts*, I calculate that there have been over a million psychological experiments conducted since the mid 19th century. Any uninformed

outside attempt to teach experimental psychologists their ethics thus needs some open and public justification.

The current scene

The current disputes about the ethics of non-medical psychological experimentation arise in Australia due to the activities of the Health Research Ethics Committee (HREC) and its committee structures and guidelines. That body has sought to extend its jurisdiction to disciplines outside medicine, in part by its control of research funding. It is proper to question these developments, both on ethical and on scientific grounds, and I would think that there is a right and a responsibility for social scientists to do just that.

The recent guidelines of the HREC have extended their arguments to include the 'principle' that research that is a waste of the time of the participants is intrinsically unethical. These guidelines assert that (September, 2001) 'The ethical principle underlying this paragraph is that it is unethical to impose on humans the burden of participation, however light that burden might be, in research that is so poorly designed that it will generate neither benefit to those participants nor knowledge'.

An amusing counter example is the sort of deliberately badly designed little experiment which students participate in as part of their training in order to be able to criticise and find out what poor design actually looks like in the real laboratory situation. This is not a burden, it is part of learning to be a competent experimenter, and is often seen as fun to do, and even provides the new student with congenial surprises about how his or her perceptual and cognitive functions actually operate. Students sign up for such a course because it is an intrinsic and necessary part of learning. Ethical committees have, however, tried to assert their right to control such teaching in some universities.

In order to decide what is a waste of time one has recourse to opinions, hopefully informed, on the scientific worth of the proposed research. Such informed opinions are not, on the explicit admission of the HREC, necessarily to be found within the membership of its self-appointed committees, so others may be asked. As this 'principle', which on the face of it seems eminently reasonable and fair, is not a derivative of the Helsinki Declaration at least in so far as psychological research is concerned, it needs a little more consideration.

It does mean, because real people are used and not laboratory hardware or cosmological events as the source of data, that the need for replication studies, at the core of scientific method, impede us from deciding what was a waste of the time of the participants until long after the work is done. But there is another sense in which 'waste of time' is open to perverse use by attempted censorship. If I use 10 kg of copper wire in an experiment and the experiment fails I do not then say this was a waste because the wire could perhaps have been used for 500 metres of telephone wire in aid to a Third World country. I do not say if a psychological experiment fails that the participants' time was wasted because they could instead have been playing tennis, and tennis is good exercise. What constitutes waste depends on what alternatives uses of time are available, what the substitution probabilities of those uses are, what choices the participants made about participation, what the payoffs are for each of the alternatives, and what reward in the psychological experiment was given to the participants. One often pays a small sum for volunteers' time, which runs to about the same duration as taking lunch. Such payment in itself has created blatantly irrational objections from some ethical committees, who start from the

commendable principle that one should not bribe poor and vulnerable people into unwittingly taking part in dangerous drug or surgical medical experiments, and then invalidly extrapolate to the notion that paying subjects to look at words on a computer screen (which is what many psychological experiments consist of) is also unethical coercion and biases the findings. It is also worth noting that the effects of rewards, financial or social, on performance are a subject of extensive empirical research, not a topic for dogmatic pronouncements by individuals who have not been thoroughly versed in the complex findings in the area of the psychology of decision and choice behaviour.

The questions of the ethics of reward and of informed consent do naturally interact. To make any sense of them in the context of a psychological experiment, it is necessary to go back to basics and ask what actually is done in such an experiment, why and how?

Most psychological experiments create small situations which are as close as possible to the tasks that our environment presents to us in everyday life. We are asked, for example, to look at colours or geometrical shapes, or guess at the size of collections of small objects, or remember words or poetry, or predict what will happen next in a series of apparently related events, or guess at the beliefs of other people in different social group, or sing out of tune, or throw balls through hoops. The tasks may be done at various paces, and may be repeated to look at consistency of execution. A minority of experiments may involve behaviour under drugs such as alcohol or cannabis, for example to study car driving skills and their degradation under fatigue. It is those relatively few experiments that involve ethical problems, and problems in design to protect the participants, which necessarily and properly can be reviewed by interdisciplinary bodies.

In reality, the great majority of psychological experiments are probably conducted as part of market research. They do not come before HREC committees, because they are not done in research institutions and do not seek funding from NHMRC. This does not mean that there are no ethical standards for market research; on the contrary, there are for the standards of research design and for the protection of community interests, but they are not ethical notions or guidelines devised by the HREC.

Informed consent

The issue of informed consent arose in the first instance because many of the unfortunates who had been used in medical experiments were political prisoners, or in situations where they had no right to refuse to participate, or did not know that they were being used. The experiments had no discernible benefits to the participants, and the risks were never revealed. As some experiments were done on children held in institutions, with only the agreement of their holders, and some children were mentally defective and unable to give consent to something they would not understand, their use might not be revealed until years later.

The notion of informed consent is itself rather opaque, both for the meaning of 'information' and that of 'consent'. Consent is perhaps easier to pin down; it is taken to mean there is no fraud or deception in initially telling persons what the purpose of the experiment might be, and what *a priori* known risks might arise, and what rights they have to withdraw at any stage from the experiment, so that they can then decide to join in. In experiments with possible risks, particularly drug trials, this makes sense. At the same time drug trial are made to be double-blind, which means that information has to be withheld from not only subjects but also the experimenters

themselves to legitimise subsequent statistical analysis of the comparative effects of controls and treatments groups. Information is withheld to stop cheating; cheating is unethical. But in experiments with no risk, but in which telling the purpose of the experiment will seriously alter the subsequent behaviour of some participants, information may be withheld by being buried in bland superficialities. And that is precisely what may be the situation in psychological experiments. The whole strategy of experimental psychology can be one in which behaviour under restricted information conditions is studied to see how and where stimulus processing is limited or breaks down.

It is not generally realised that informed consent is not invariably demanded in an ethically screened experiment, indeed Ilgen and Bell (2001) comment that 'informed consent is neither necessary nor sufficient to guarantee protection (of the participants)'. I cannot do better than quote them as revealing the situation in the USA: ' In spite of the ubiquitous demand for informed consent, those who have carefully considered the ethical treatment of human participants recognise that there are times when participants face little or no risk, and informed consent is difficult or even impossible to obtain. Thus, both APA (American Psychological Association) and federal (USA) regulations allows for exceptions to informed consent. Informed consent can be waived when the first three of the following requirements are met and the fourth is considered:

1. the research involves no more than minimal risk to the subjects;

2. the waiver or alteration will not adversely affect the rights and welfare of subjects;

3. the research could not practically be carried out without the waiver or alteration; and

4. whenever appropriate, the subjects will be provided with additional pertinent information after participation. (Protection of Human Subjects, 1991, Section 46,116,d).'

The problem with unquantified risk-benefit analyses is that there is no valid way of offsetting risk against benefit. Suppose that one is tempted to try the equation

$$\text{Value of experiment} = \text{benefit/risk} \qquad \text{Eqn [1]}$$

This is obvious nonsense because if there is no risk - as is usual in practically all mainstream experimental psychology, as compared with clinical trials - it would imply that the value is infinite, and if there is no benefit and no risk then the quotient is indeterminate, or by convention the experiment has a value of unity in some obscure units. If one writes

$$\text{Value of experiment} = v(\text{benefit}) \times p(\text{benefit}) - v(\text{risk}) \times p(\text{risk}) \qquad \text{Eqn [2]}$$

Where v = value and p = probability, then a bit more sense is created, and some resemblance to decision theory appears. I do not know of any case where an HREC ethics committee has produced its estimates of the four terms in this equation, which would be evidence of an attempt at rational decision making, but that is perhaps too much to ask given the limited quantitative competence of the persons typically appearing on ethics committees. Interestingly, in some medical journals, where drug manufacturers take full page advertisements, a partial analysis is presented. I have seen one case where the manufacturer claimed that its new drug for depression was beneficial in 78 per cent rather than 63 per cent of cases, and had no significant increase in adverse side effects, as nausea using its new drug only increased from 1

per cent to 5 per cent as compared with the drug in prevailing use. The use of the term 'significance' is dubious statistical inference, one could equally well say that the new drug induced a five-fold increase in nausea, and that would be above a critical ratio in other statistical methods, and hence counter-indicated. The deception, of course, is in not revealing the linkage between nausea and diminution of depression. Are the patients who get more cheerful also the ones who vomit more? One can redefine benefit in scientific as well as in clinical work in terms of an increase in knowledge resulting from an experiment; marginal increases do not justify big risks, negligible risks justify small increments in knowledge, for fixed costs. One may therefore redefine Eqn [2] not in terms of p and v but in the changes in p and v from one experiment to the next analogous experiment.

As a recent statement by senior Australian scientists (8 June 2001, SMH) says: 'academic freedom is a right and a responsibility to freely discuss teach, assess, . . . research and publish (and) also to freely express opinions about the institutions in which they work. This right reflects the historical role of universities as 'critics and conscience of society'.

This right extends to criticising the views, policies, rationality and actions of ethical committees. The ethical questions about the actual behaviour of ethics committees and their motivation and/or hidden agendas is indeed an *olla vermium*, or more precisely an *olla vermiflua*, (can overflowing with worms) and this deservedly needs some exposure.

Deductions

From the evidence assembled here, and contextual knowledge, some deductions may be offered.

1. There is no dispute that some ethical constraints have to be imposed on any research involving human or animal subjects. Such constraints are embodied in laws, or in the regulations which scientific and professional bodies draft, and in nearly all cases the latter regulations are agreed with and accepted voluntarily by psychologists as a precondition for doing responsible research.

2. There is no justification whatsoever for creating a situation in which the medical or legal professions constitute an overriding ethical authority. Most violations of ethical conduct involving experiments on human subjects have been done by or in the name of medicine, and non-medical researchers in the behavioural sciences have a right to evaluate and publish their opinions on medical research proposals in all cases.

3. The fundamental asymmetry is obvious and may be simply stated: ***during the conduct*** of experiments on human subjects, every medical experiment has psychological components embedded in it, but only a minority of psychological experiments have medical components. .

4. The Academy should never uncritically endorse, or be seen to have endorsed, the actions of HREC when those actions are extended to or imposed upon the behavioural sciences. The HREC has no special competence to draft or advocate ethical standards for psychological research, and probably none for the other behavioural sciences.

5. The ethical notions proclaimed by the HREC are essentially based on a medical model, one possibly appropriate for some drug or surgical experiments. It should be replaced by a risk-benefit model. There is an obligation on all parties involved,

both researchers and ethical committees, to make clear how and why they assess both potential risks and benefits. If there exist valid bases for quantifying such risks and benefits, they should be used in preference to mere verbal assertions.

6. Experiments which are zero risk in both physiological and psychological senses, and are known from extensive methodological precedents, reported in reputable scientific journals to be so, should not routinely come before HREC committees.

7. Tests of religious belief are not admissible in appointing individuals to ethical review committees; they violate the sense and intent of the charters of some universities that explicitly exclude tests of political or religious belief to appointees. Individual researchers are free to adopt or to reject religious beliefs without prejudice to their research proposals being ethically assessed.

8. The actions of ethical committees should not be immune from criticism or appeal against their decisions, and they should not be used as an instrument of censorship. Any ethical committee which is concerned to adjudicate on experiments from one or more of the behavioural sciences must have on it at least one, and preferably two, senior persons from the relevant disciplines, from considerations of equity.

Emeritus Professor Robert AM Gregson reported to the Executive Committee of the Academy of the Social Sciences in Australia earlier in 2002 on this issue. This article is a shortened and revised version of that report.

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